UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) February 7, 2007

Commission File Number	Registrant, State of Incorporation, Address and Telephone Number	I.R.S. Employer Identification Number
001-32206	**Great Plains Energy Incorporated** (A Missouri Corporation) 1201 Walnut Street, Kansas City, Missouri 64106 (816) 556-2200	43-1916803

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

x Written communications pursuant to Rule 425 under the Securities Act

x Soliciting material pursuant to Rule 14a-12 under the Exchange Act

o Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act

o Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act

Item 1.01 Entry into a Material Definitive Agreement.

Summary

On February 6, 2007, Great Plains Energy Incorporated ("Great Plains Energy") entered into an Agreement and Plan of Merger (the "Merger Agreement") pursuant to which Gregory Acquisition Corp., a wholly-owned subsidiary of Great Plains Energy, will merge into Aquila, Inc. ("Aquila"), a Delaware corporation, causing Aquila to become a wholly-owned subsidiary of Great Plains Energy. Each share of Aquila common stock will be converted into the right to receive $1.80 in cash and 0.0856 of a share of Great Plains Energy common stock. Immediately prior to the consummation of the merger, Black Hills Corporation, a South Dakota corporation ("Black Hills") will acquire from Aquila its Colorado electric utility assets and Colorado, Iowa, Kansas and Nebraska gas utility assets pursuant to an Asset Purchase Agreement and a Partnership Interests Purchase Agreement, both dated as of February 6, 2007 (collectively, the "Asset Sale Agreements") for a total of $940 million in cash, subject to adjustment (the "Asset Sale"), so that, as a subsidiary of Great Plains Energy, Aquila will retain its Missouri electric utility assets and remaining merchant operation. Each transaction is contingent on the completion of the other transaction, meaning that one transaction will not be completed unless the other transaction is completed.

Merger Transaction

Great Plains Energy entered into the Merger Agreement with Aquila, Gregory Acquisition Corp., and Black Hills, pursuant to which Gregory Acquisition Corp. will merge into Aquila, and Aquila will become a wholly-owned subsidiary of Great Plains Energy.

At the effective time of the merger, each share of Aquila common stock (other than shares owned by Aquila or Great Plains Energy, or by any shareholders who are entitled to and who properly exercise appraisal rights under Delaware law) will be cancelled and converted into the right to receive (i) 0.0856 of a share of common stock, no par value, of Great Plains Energy and (ii) a cash payment of $1.80. The exchange ratio is fixed and will not be adjusted to reflect stock price changes. Upon consummation of the merger, the shareholders of Aquila and Great Plains Energy are expected to own approximately 27% and 73%, respectively, of the combined company's outstanding common stock on a fully-diluted basis.

The parties have made customary representations, warranties and covenants in the Merger Agreement. Great Plans has agreed, subject to certain exceptions set forth in the Merger Agreement, to conduct its business in the ordinary course during the period between the execution of the Merger Agreement and consummation of the Merger, to refrain from paying certain dividends (other than its regular quarterly cash dividend of $0.415 per share of common stock, and regular dividends on preferred stock), to refrain from adopting a plan of reorganization, to refrain from or otherwise limit its engaging in certain transactions and activities during this interim period, to limit the disposition of material property or assets, and to use its reasonable best efforts to hold a shareholders' meeting as promptly as possible to consider approval of the issuance of Great Plains Energy stock in the merger. Great Plains Energy and Aquila have also agreed, subject to customary exceptions, that (i) each party's board of directors will recommend that its shareholders approve the transactions and (iii) neither party will solicit proposals relating to alternative business combination transactions.

Consummation of the merger is subject to a number of conditions, including (i) approval by the shareholders of Aquila and Great Plains Energy; (ii) approval of the Federal Energy Regulatory Commission; (iii) approval of the Kansas Corporation Commission and the Missouri Public Service Commission; (iv) the expiration or termination of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended; (v) the completion of the asset sale transactions; and (vi) the absence of a material adverse effect on Aquila, excluding the businesses to be sold to Black Hills.

The Merger Agreement contains certain termination rights for both Great Plains Energy and Aquila, including the right to terminate the Merger Agreement if the merger has not closed within 12 months following the date of the Merger Agreement (subject to extension to up to 18 months for receipt of regulatory approvals required to consummate the Merger and the Asset Sale). Great Plains Energy and Aquila each have the right to terminate the Merger Agreement to enter into a superior transaction after giving the other party six business' days notice and an opportunity to revise the terms of the Merger Agreement. If the Merger Agreement is terminated under specified circumstances (including a termination to enter into a superior transaction), Great Plains Energy or Aquila will pay the other a $45 million termination fee, with up to $15 million of the termination fee from Aquila paid to Black Hills. In addition, if Great Plains Energy owes Aquila a termination fee, it would pay a termination fee of up to $15 million to Black Hills.

Asset Sale

Aquila entered into the Asset Sale Agreements with Black Hills pursuant to which, immediately before the completion of the Merger, Black Hills will acquire from Aquila the assets and liabilities comprising its gas utility operations in Iowa, Kansas and Nebraska, and, through the acquisition of two newly-formed limited partnerships, its gas and electric utility operations in Colorado. The Asset Sale Agreements provide for the payment in cash of a base purchase price of $940 million, subject to working capital and other adjustments. The consummation of the Asset Sale is contingent on the ability and readiness of Aquila and Great Plains Energy to complete the merger immediately after the completion of the Asset Sale.

The foregoing descriptions of the Merger Agreement, Asset Sale Agreements and the transactions contemplated thereby do not purport to be complete and are qualified in their entirety by reference to the Merger Agreement and the Asset Sale Agreements, copies of which are filed as exhibits to this Form 8-K. Each agreement contains representations and warranties of the parties made to (and solely for the benefit of) the other parties, and the assertions embodied in those representations and warranties are qualified by confidential information in schedules that the parties have exchanged with each other. Accordingly, investors and security holders should not rely on the representations and warranties as characterizations of the actual state of facts, because they were made as of the date of each agreement and are modified in important part by the disclosure schedules.

Item 8.01 Other Events.

On February 7, 2007, Great Plains Energy, Aquila and Black Hills issued a joint press release announcing the execution of the Merger Agreement, the Asset Sale Agreements, and the transactions contemplated by those agreements. A copy of the joint press release is attached as Exhibit 99.1 to this Form 8-K and is incorporated herein by reference.

Additional Information

This information is not a solicitation of a proxy from any holder of Aquila or Great Plains Energy. In connection with the proposed transaction, Great Plains Energy will file a registration statement, including a joint proxy statement of Aquila and Great Plains Energy, with the Securities and Exchange Commission (the "SEC"). **Investors are urged to read the registration and joint proxy statement (including all amendments and supplements thereto) when they become available because it will contain important information about Aquila, Great Plains Energy and the proposed transaction.** Investors may obtain free copies of the registration and joint proxy statement when it becomes available, as well as other filings containing information about Great Plains Energy and Aquila, without charge, at the SEC's Internet site (www.sec.gov). These documents may also be obtained for free from Great Plains Energy's Investor Relations web site (www.greatplainsenergy.com) or by directing a request to Great Plains Energy at: Corporate Secretary, Great Plains Energy Incorporated, 1201 Walnut, Kansas City, Missouri 64106. Copies of Aquila's filings may be obtained for free from Aquila's Investor Relations Web Site (www.aquila.com) or by directing a request to Aquila at: Corporate Secretary, Aquila, Inc., 20 West Ninth, Kansas City, Missouri 64105.

Great Plains Energy and Aquila and their respective directors and executive officers and other members of management and employees are potential participants in the solicitation of proxies from Great Plains Energy and Aquila shareholders in respect of the proposed transaction. Information about Great Plains Energy's executive officers and directors is available in Great Plains Energy's 2005 Annual Report on Form 10-K filed with the SEC on March 8, 2006, and definitive proxy statement for the Great Plains Energy 2006 Annual Meeting of Shareholders filed with the SEC on March 20, 2006. Information about Aquila's executive officers and directors is available in Aquila's 2005 Annual Report on Form 10-K filed with the SEC on March 7, 2006, and definitive proxy statement for the Aquila 2006 Annual Meeting of Shareholders filed with the SEC on March 24, 2006. Additional information regarding the interests of such potential participants in the proposed transaction will be included in the registration and joint proxy statement filed with the SEC when it becomes available.

Information Concerning Forward-Looking Statements

Statements made in this release that are not based on historical facts are forward-looking, may involve risks and uncertainties, and are intended to be as of the date when made. Forward-looking statements include, but are not limited to, statements regarding projected delivered volumes and margins, the outcome of regulatory proceedings, cost

estimates of the comprehensive energy plan and other matters affecting future operations. In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, Great Plains Energy is providing a number of important factors that could cause actual results to differ materially from the provided forward-looking information. These important factors include: future economic conditions in the regional, national and international markets, including but not limited to regional and national wholesale electricity markets; market perception of the energy industry and Great Plains Energy; changes in business strategy, operations or development plans; effects of current or proposed state and federal legislative and regulatory actions or developments, including, but not limited to, deregulation, re-regulation and restructuring of the electric utility industry; decisions of regulators regarding rates its subsidiaries can charge for electricity; adverse changes in applicable laws, regulations, rules, principles or practices governing tax, accounting and environmental matters including, but not limited to, air and water quality; financial market conditions and performance including, but not limited to, changes in interest rates and in availability and cost of capital and the effects on pension plan assets and costs; credit ratings; inflation rates; effectiveness of risk management policies and procedures and the ability of counterparties to satisfy their contractual commitments; impact of terrorist acts; increased competition including, but not limited to, retail choice in the electric utility industry and the entry of new competitors; ability to carry out marketing and sales plans; weather conditions including weather-related damage; cost, availability, quality and deliverability of fuel; ability to achieve generation planning goals and the occurrence and duration of unplanned generation outages; delays in the anticipated in-service dates and cost increases of additional generating capacity; nuclear operations; ability to enter new markets successfully and capitalize on growth opportunities in non-regulated businesses and the effects of competition; application of critical accounting policies, including, but not limited to, those related to derivatives and pension liabilities; workforce risks including compensation and benefits costs; performance of projects undertaken by non-regulated businesses and the success of efforts to invest in and develop new opportunities; the ability to successfully complete merger, acquisitions or divestiture plans (including the acquisition of Asteroid and the sale of assets to Blue); and other risks and uncertainties. Other risk factors are detailed from time to time in Great Plains Energy's most recent quarterly report on Form 10-Q or annual report on Form 10-K filed with the Securities and Exchange Commission. This list of factors is not all-inclusive because it is not possible to predict all factors.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

2.1	Agreement and Plan of Merger among Aquila, Inc., Great Plains Energy Incorporated, Gregory Acquisition Corp., and Black Hills Corporation dated as of February 6, 2007. *
10.1	Asset Purchase Agreement by and among Aquila, Inc., Black Hills Corporation, Great Plains Energy Incorporated, and Gregory Acquisition Corp., dated February 6, 2007. *
10.2	Partnership Interests Purchase Agreement by and among Aquila, Inc., Aquila Colorado, LLC, Black Hills Corporation, Great Plains Energy Incorporated, and Gregory Acquisition Corp., dated February 6, 2007. *
99.1	Joint press release dated February 7, 2007.

* The disclosure letters and related schedules to this agreement are not being filed herewith. The registrant agrees to furnish supplementally a copy of any such disclosure letters and schedules to the SEC upon request.

Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

GREAT PLAINS ENERGY INCORPORATED

By: /s/ Mark G. English
Mark G. English
General Counsel and Assistant Secretary

Date: February 7, 2007

EXECUTION COPY

Exhibit 2.1

AGREEMENT AND PLAN OF MERGER

among

AQUILA, INC.,

GREAT PLAINS ENERGY INCORPORATED,

GREGORY ACQUISITION CORP.

and

BLACK HILLS CORPORATION

Dated as of February 6, 2007

TABLE OF CONTENTS

ARTICLE VI

REPRESENTATIONS AND WARRANTIES

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of February 6, 2007 (this "Agreement"), among Aquila, Inc., a Delaware corporation (the "Company"), Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub"), and Black Hills Corporation, a South Dakota corporation (the "Asset Purchaser").

RECITALS

WHEREAS, the Boards of Directors of the Company, Parent and Merger Sub have adopted resolutions approving, and the Boards of Directors of the Company and Merger Sub have adopted resolutions declaring the advisability of, this Agreement providing for the merger of Merger Sub with and into the Company (the "Merger");

WHEREAS, the Board of Directors of Parent has resolved to submit to the stockholders of Parent for their approval the issuance of shares of Parent Common Stock (as defined below) in the Merger and in respect of the Company Options (as defined below) and the Company Awards (as defined below), the Board of Directors of the Company has resolved to submit this Agreement to the stockholders of the Company for their adoption, and immediately after the execution and delivery of this Agreement, Parent will adopt this Agreement in its capacity as the sole stockholder of Merger Sub;

WHEREAS, pursuant to the Asset Sale Agreement and the Partnership Interests Purchase Agreement (both as defined below), immediately prior to the closing of the Merger, the Asset Purchaser has agreed to purchase certain assets and partnership interests owned by the Company; and

WHEREAS, the parties desire to make certain representations, warranties, covenants and agreements in connection with this Agreement.

NOW, THEREFORE, in consideration of the premises, and of the representations, warranties, covenants and agreements contained herein, the parties agree as follows:

•

DEFINITIONS AND INTERPRETATION

1.1 Definitions. For purposes of this Agreement, the following terms have the meanings set forth below:

"Acquisition Proposal" means any proposal or offer to acquire in any manner, including by merger, consolidation, tender offer or otherwise, directly or indirectly, 20% or more of the Company Shares or Parent Common Stock, as applicable, or 20% or more of the consolidated assets (including equity interests of Subsidiaries) of the Company or Parent, as

applicable, taken as a whole; provided that in no event will a proposal or offer made by or on behalf of Parent or the Company or any of their respective affiliates to the other or any of its affiliates be deemed to constitute an "Acquisition Proposal."

"Active Affected Employees" means any Affected Employee other than a former employee of the Company or any of its Subsidiaries.

"Affected Employees" means those individuals who as of the Effective Time are employees or former employees of the Company or any of its Subsidiaries.

"Agreement" is defined in the Preamble.

"Asset Purchaser" is defined in the Preamble.

"Asset Purchaser Confidentiality Agreement" means the confidentiality agreement, dated July 11, 2006, between the Asset Purchaser and the Company.

"Asset Purchaser Disclosure Letter" means the disclosure letter delivered to the Company by the Asset Purchaser at the time of entering into this Agreement.

"Asset Purchaser Financing" means the financing of the Asset Purchaser to be used to pay the aggregate amount of consideration payable in the Asset Sale Transactions.

"Asset Purchaser Material Adverse Effect" means any event, effect, change or development that, individually or in the aggregate, prevents or materially delays or impairs the ability of the Asset Purchaser (directly or indirectly) to consummate the Asset Sale Transactions.

"Asset Sale Agreement" means the Asset Purchase Agreement dated as of the date of this Agreement, between Merger Sub, Parent, the Asset Purchaser, and the Company, as such agreement may be amended in accordance with the terms of such agreement.

"Asset Sale Transactions" means the sale transactions contemplated by the Asset Sale Agreement and the Partnership Interests Purchase Agreement.

"Bankruptcy and Equity Exception" means bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and general equity principles.

"By-Laws" means any by-laws or similar instrument.

"Certificate" is defined in Section 5.1(a).

"Certificate of Merger" is defined in Section 2.3.

"Charter" means any certificate of incorporation, articles of incorporation or similar organizational instrument.

"Closing" means the closing of the Merger.

"Closing Date" means the date on which the Closing occurs.

"Code" means the Internal Revenue Code of 1986.

"Company" is defined in the Preamble.

"Company Adverse Recommendation Event" is defined in Section 9.4(a).

"Company Award" means any compensatory award of any kind consisting of, or denominated or payable in, Company Shares that is outstanding under the Company's stock-based plans (excluding Company Options).

"Company Compensation and Benefit Plans" means any benefit and compensation plan, contract, policy or arrangement maintained, sponsored or contributed to by the Company or any of its Subsidiaries covering Affected Employees and current or former directors of the Company, including "employee benefit plans" within the meaning of Section 3(3) of ERISA (whether or not subject to ERISA), and any severance, retention, "change in control," incentive, bonus, deferred compensation, stock purchase, restricted stock, stock option, stock appreciation rights or stock-based compensation plans and each severance, employment, retention, "change in control" or similar agreement to which the Company or any Subsidiary is a party.

"Company Covered Proposal" means an Acquisition Proposal for the Company Shares or assets of the Company (substituting 50% for each reference to 20% in the definition of Acquisition Proposal).

"Company Disclosure Letter" means the disclosure letter delivered to Parent by the Company at the time of entering into this Agreement.

"Company ERISA Affiliate" is defined in Section 6.1(h)(iii).

"Company Material Adverse Effect" means any event, effect, change or development that, individually or in the aggregate, (i) other than for purposes of Section 8.2(a) (but including for purposes of references to 8.2(a) under Section 9.4(c)), prevents or materially delays or impairs the ability of the Company to consummate the Transactions (including the consummation of the Asset Sale Transactions by the Surviving Company) or (ii) is materially adverse to the financial condition, properties, assets, liabilities (contingent or otherwise), business or results of operations of the Post-Sale Company and its Subsidiaries, taken as a whole, in each case, excluding any effect on, change in, or development caused by, or event, effect or development resulting from, or arising out of, (A) factors generally affecting the economy, the financial markets, the capital markets, or the commodities markets, except to the extent the Post-Sale Company and its Subsidiaries, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated companies; (B) factors, including changes in Law, generally affecting any industry or any segment of any industry in which the Company or its Subsidiaries operate, except to the extent the Post-Sale Company and its Subsidiaries, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated participants in such industry or such segment of such industry; (C) the execution, announcement or performance of this Agreement, the Asset Sale Agreement

or the Partnership Interests Purchase Agreement, including, in each case, the impact thereof on relationships, contractual or otherwise, with Governmental Entities, customers, suppliers, licensors, distributors, partners or employees; (D) the commencement, occurrence, continuation or intensification of any war, sabotage, armed hostility or terrorism, other than any matter or event occurring in the geographic region served by the Post-Sale Company or any of its Subsidiaries; (E) any event, circumstance or condition disclosed in Section 1.1(a) of the Company Disclosure Letter; or (F) any action taken by the Company or any of its Subsidiaries with Parent's written consent referring to this subsection (F).

"Company Material Contracts" means Contracts that affect the Post-Sale Company and (A) would be required to be filed by the Company with the SEC pursuant to Item 601(b) (1), (2), (4) or (10) of Regulation S-K of the SEC, or Item 1.01 of Form 8-K under the Exchange Act; (B) provide for the rights of the partners under, material partnerships or joint ventures, or which provide for material acquisitions or dispositions; (C) contain covenants of the Company or any of its Subsidiaries purporting to limit in any material respect any material line of business, industry or geographical area in which the Company or its Subsidiaries may operate (other than limitations on franchises or other rights granted under the same agreement) or granting material exclusive rights to the counterparty thereto; (D) individually or in the aggregate with other Contracts, would or would reasonably be expected to prevent, materially delay or materially impede the Company's ability to timely consummate the Transactions; or (E) are indentures, mortgages, loans, guarantees or credit agreements of any kind under which the Company or any of its Subsidiaries has outstanding indebtedness or an outstanding note, bond, indenture or other evidence of indebtedness for borrowed money or otherwise or any guaranteed indebtedness for money borrowed by others, in each case, for or guaranteeing an amount in excess of $25 million, other than any such indebtedness between the Company (whether as creditor or debtor) and any of its wholly-owned Subsidiaries, or between any of the Company's wholly-owned Subsidiaries.

"Company Option" means any outstanding compensatory option to purchase Company Shares from the Company or any of its Subsidiaries.

"Company Recommendation" is defined in Section 6.1(c).

"Company Reports" means forms, statements, reports, schedules and other documents required to be filed or furnished by the Company with or to the SEC pursuant to applicable Laws and policies since January 1, 2005.

"Company Requisite Vote" means the approval of this Agreement by holders of a majority of the outstanding Company Shares.

"Company Share" means shares of common stock, par value $1.00 per share, of the Company.

"Company Stock Unit" means Company Awards consisting of rights (other than Company Options) to receive, with the passage of time or under certain circumstances, Company Shares.

"Company Stockholders Meeting" means a meeting of holders of Company Shares to consider and vote on this Agreement and any adjournment or postponement of that meeting.

"Company Termination Fee" means $45 million.

"Computer Software" means all computer software and databases (including source code, object code and all related documentation).

"Contracts" means written, oral or other agreements, leases, subleases, contracts, subcontracts, settlement agreements, binding understandings, instruments, notes, options, bonds, mortgages, indentures, trust documents, loan or credit agreements, warranties, purchase orders, licenses, sublicenses, insurance policies, benefit plans and legally binding commitments or undertakings of any nature.

"Convertible Debentures" means the 6.625% Convertible Subordinated Debentures due 2011 of the Company.

"Current Premium" is defined in Section 7.12(c).

"D&O Insurance" means a policy or policies of officers' and directors' liability insurance for acts and omissions occurring prior to the Effective Time.

"DGCL" means the General Corporation Law of the State of Delaware.

"Dissenting Shares" is defined in Section 5.3(a).

"Effective Time" is defined in Section 2.3.

"Environmental Circumstance" means any circumstances forming the basis of any actual or alleged violation of, or liability under, any Environmental Law or Environmental Permit.

"Environmental Claim" means any and all administrative, regulatory or judicial actions, suits, orders, demands, demand letters, directives, claims, liens, investigations, proceedings or notices of noncompliance, liability or violation by any person or entity (including any Governmental Entity) alleging potential liability (including 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 the presence or Release into the environment of any Hazardous Substance at any location; or any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the presence or Release of, or exposure to, any Hazardous Substance.

"Environmental Law" means any Law relating to (i) the protection, investigation or restoration of the environment, health, safety, or natural resources, (ii) the handling, use, presence, disposal, release or threatened release of any Hazardous Substance, or (iii) pollution,

contamination or any injury or threat of injury to Persons or property in connection with any Hazardous Substance.

"Environmental Permits" means Permits required under Environmental Law.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Case" means the litigation captioned In re Aquila ERISA Litigation, Case No. 04-cv-00865 (DW), filed in the United States District Court for the Western District of Missouri.

"ERISA Insurers" means the underwriters of the insurance policies set forth in Section 1.1(b) of the Company Disclosure Letter.

"ERISA Plan" means each Company Compensation and Benefit Plan or Parent Compensation and Benefit Plan, other than a Multiemployer Plan, subject to ERISA.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exchange Agent" means any exchange agent selected by Parent with the approval of the Company (such approval not to be unreasonably withheld).

"Exchange Fund" is defined in Section 5.2(a).

"Exchange Ratio" means 0.0856.

"Excluded Company Shares" means Company Shares that are owned immediately prior to the Effective Time by Parent or by the Company or any Subsidiary of Parent or the Company and, in each case, not held on behalf of third parties.

"FCC" means the United States Federal Communications Commission.

"FERC" means the United States Federal Energy Regulatory Commission.

"Final Order" means an action by the relevant Governmental Entity that has not been reversed, stayed, set aside, annulled or suspended and with respect to which, any waiting period prescribed by applicable Law before the Merger may be consummated has expired (but without the requirement for expiration of any applicable rehearing or appeal period).

"GAAP" means generally accepted accounting principles in the United States.

"Governmental Entity" means any governmental or regulatory authority, court, agency, commission, body or other legislative, executive or judicial governmental entity.

"Hazardous Substance" means any substance that is listed, classified or regulated pursuant to any Environmental Law, including any petroleum product or by-product, asbestos-containing material, lead-containing paint, polychlorinated biphenyls and radioactive materials.

"HSR Act" means the Hart-Scott Rodino Antitrust Improvements Act of 1976.

"Indemnified Parties" means present and former directors and officers of the Company or any of its Subsidiaries, and present and former directors or employees of the Company or any of its Subsidiaries who are or were (or who are or were alleged to be) fiduciaries under Company Compensation and Benefit Plans (or trusts thereunder).

"Information Technology" means the computers, Computer Software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines and all other information technology equipment and elements, and associated documentation.

"Intellectual Property" means, collectively, all (i) trademarks, service marks, brand names, certification marks, collective marks, d/b/a's, Internet domain names, logos, symbols, trade dress, assumed names, fictitious names, trade names, and other indicia of origin, all applications and registrations for the foregoing, and all goodwill associated therewith and symbolized thereby, including all renewals of same; (ii) inventions and discoveries, whether patentable or not, and all patents, registrations, invention disclosures and applications therefor, including divisions, continuations, continuations-in-part and renewal applications, and including renewals, extensions and reissues; (iii) trade secrets and confidential information and know-how, including processes, schematics, business methods, formulae, drawings, prototypes, models, designs, customer lists and supplier lists; (iv) published and unpublished works of authorship, whether copyrightable or not (including databases and other compilations of information), copyrights therein and thereto, and registrations and applications therefor, and all renewals, extensions, restorations and reversions thereof; (v) moral rights, rights of publicity and rights of privacy; and (vi) all other intellectual property or proprietary rights.

"IRS" means the United States Internal Revenue Service.

"KCP&L" means Kansas City Power & Light Company, a wholly-owned subsidiary of Parent.

"Knowledge of Parent" means the actual knowledge of the Persons identified in Section 1.1(a) of the Parent Disclosure Letter.

"Knowledge of the Company" means the actual knowledge of the Persons identified in Section 1.1(c) of the Company Disclosure Letter.

"Laws" means any law, rule, statute, ordinance, regulation, judgment, determination, order, decree, injunction, arbitration award, license, authorization, opinion, agency requirement or permit of any Governmental Entity.

"Letter of Intent" means the letter of intent, dated November 21, 2006, between Parent and the Asset Purchaser.

"Liens" means any liens, pledges, mortgages, security interests, claims, options, rights of first offer or refusal, charges, conditional or installment sale contracts, claims of third parties of any kind or other encumbrances.

"Material Asset Purchaser Regulatory Consents" is defined in Section 6.3(c).

"Material Company Regulatory Consents" is defined in Section 6.1(d)(i).

"Material Parent Regulatory Consents" is defined in Section 6.2(d)(i).

"Merger" is defined in the Recitals.

"Merger Consideration" means the fraction of a share of Parent Common Stock equal to the Exchange Ratio (and any cash in lieu of fractional shares) and the cash into which a Company Share is converted in the Merger.

"Merger Regulatory Closing Consents" means all Material Company Regulatory Consents, Material Parent Regulatory Consents, and the consents referred to in Section 6.3(c)(i)(A)(1).

"Merger Sub" is defined in the Preamble.

"Multiemployer Plan" is defined in Section 6.1(h)(ii).

"NYSE" means the New York Stock Exchange.

"Option Exchange Ratio" means (x) the Exchange Ratio plus (y) the ratio derived by dividing the Per Share Cash Amount divided by the Parent Common Stock Value.

"Order" is defined in Section 8.1(c).

"Parent" is defined in the Preamble.

"Parent Adverse Recommendation Event" is defined in Section 9.3(a).

"Parent Common Stock" means the common stock, no par value, of Parent.

"Parent Common Stock Value" means the average of the closing sale prices (calculated to the nearest tenth of a cent) for a share of Parent Common Stock on the NYSE Composite Transactions Tape (as reported by The Wall Street Journal (Northeast edition), or, if not reported thereby, as reported by any other authoritative source) over the 5 consecutive trading days ending with the second complete trading day prior to the Closing Date (not counting the Closing Date).

"Parent Compensation and Benefit Plan" means any benefit and compensation plan, contract, policy or arrangement maintained, sponsored or contributed to by Parent or any of its Subsidiaries covering current or former employees of Parent and its Subsidiaries and current or former directors of Parent, including "employee benefit plans" within the meaning of Section 3(3) of ERISA, and incentive and bonus, deferred compensation, stock purchase, restricted stock, stock option, stock appreciation rights or stock-based compensation plans.

"Parent Confidentiality Agreement" means the confidentiality agreement, dated June 28, 2006, between Parent and the Company, as amended by the letter agreement dated September 5, 2006, between Parent and the Company.

"Parent Covered Proposal" means an Acquisition Proposal for the shares of Parent Common Stock or assets of Parent (substituting 50% for each reference to 20% in the definition of Acquisition Proposal).

"Parent Disclosure Letter" means the disclosure letter delivered to the Company by Parent at the time of entering into this Agreement.

"Parent ERISA Affiliate" is defined in Section 6.2(h)(ii).

"Parent Material Adverse Effect" means any event, effect, change or development that, individually or in the aggregate, (i) other than for purposes of Section 8.3(a) (but including for purposes of references to Section 8.3(a) in Section 9.3(c)), prevents or materially delays or impairs the ability of Parent to consummate the Transactions or (ii) is materially adverse to the financial condition, properties, assets, liabilities (contingent or otherwise), business or results of operations of Parent and its Subsidiaries, taken as a whole, in each case, excluding any effect on, change in, or development caused by, or event, effect or development resulting from or arising out of, (A) factors generally affecting the economy, the financial markets, the capital markets, or the commodities markets, except to the extent Parent and its Subsidiaries, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated companies; (B) factors, including changes in Law, generally affecting any industry or any such segment of any industry in which Parent or its Subsidiaries operates, except to the extent Parent and its Subsidiaries, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated participants in such industry or segment of such industry; (C) the execution, announcement or performance of this Agreement, the Asset Sale Agreement or the Partnership Interests Purchase Agreement, including, in each case, the impact thereof on relationships, contractual or otherwise, with Governmental Entities, customers, suppliers, licensors, distributors, partners or employees; (D) the commencement, occurrence, continuation or intensification of any war, sabotage, armed hostility or terrorism, other than any matter or event occurring in the geographic region served by KCP&L; or (E) any action taken by Parent or any of its Subsidiaries with Company's written consent referring to this subsection (E).

"Parent Material Contracts" means Contracts of Parent which (A) would be required to be filed by Parent with the SEC pursuant to Item 601(b) (1), (2), (4) or (10) of Regulation S-K of the SEC, or Item 1.01 of Form 8-K under the Exchange Act; (B) provide for the rights of the partners under, material partnerships or joint ventures, or which provide for material acquisitions or dispositions; (C) contain covenants of Parent or any of its Subsidiaries purporting to limit in any material respect any material line of business, industry or geographical area in which Parent or its Subsidiaries may operate (other than limitations on franchises or other rights granted under the same agreement) or granting material exclusive rights to the counterparty thereto; (D) individually or in the aggregate with other agreements or contracts, would or would reasonably be expected to prevent, materially delay or materially impede Parent's ability to timely consummate the Transactions; or (E) are indentures, mortgages, loans, guarantees or credit agreements of any kind under which Parent or any of its Subsidiaries has

outstanding indebtedness or an outstanding note, bond, indenture or other evidence of indebtedness for borrowed money or otherwise or any guaranteed indebtedness for money borrowed by others, in each case, for or guaranteeing an amount in excess of $25 million, other than any such indebtedness between Parent (whether as creditor or debtor) and any of its wholly-owned Subsidiaries, or between any of Parent's wholly-owned Subsidiaries.

"Parent Option" means any outstanding option to purchase shares of Parent Common Stock from Parent or any of its Subsidiaries.

"Parent Recommendation" is defined in Section 6.2(c).

"Parent Reports" means forms, statements, reports, schedules and other documents required to be filed or furnished by Parent with or to the SEC pursuant to applicable Laws and policies since January 1, 2005.

"Parent Requisite Vote" means approval of the Share Issuance by the stockholders of Parent by a majority of votes cast, provided that the total vote cast represents over 50% of all of the outstanding shares of Parent Common Stock.

"Parent Stockholders Meeting" means a meeting of the stockholders of Parent to consider and vote on the Share Issuance and any adjournment or postponement of that meeting.

"Parent Termination Fee" means $45 million.

"Partnership Interests Purchase Agreement" means the Partnership Interests Purchase Agreement, dated as of the date hereof, among the Company, Parent, Merger Sub, Aquila Colorado, LLC and the Asset Purchaser, as such agreement may be amended in accordance with the terms of such agreement.

"Pension Plan" is defined in Section 6.1(h)(ii).

"Per Share Cash Amount" means $1.80 in cash.

"Permits" means permits, licenses, certifications, approvals, registrations, consents, authorizations, franchises, variances, exemptions and orders issued or granted by a Governmental Entity.

"Person" means any individual, corporation (including not-for-profit), general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, Governmental Entity or other entity of any kind or nature.

"Post-Sale Company" means the Company and, after the Effective Date, the Surviving Company, in each case after giving effect to (a) the Asset Sale Transactions and (b) the payment of the cash portion of the Merger Consideration by the Surviving Company following the Merger, as though such transactions had been completed, but disregarding (1) the Subsequent Merger, (2) any variations in the manner in which such transactions are carried out from the manner described herein in the Asset Sale Agreement or in the Partnership Interests Purchase Agreement and (3) any other transaction which may occur following the Effective

Time. For the avoidance of doubt, subject to the terms of the Asset Sale Agreement and the Partnership Interests Purchase Agreement, the Post-Sale Company includes the assets and liabilities of the Company principally related to the Company's electric utility operations in the State of Missouri and all of the Company's Subsidiaries, all assets and liabilities associated primarily with the Company's corporate shared services, and all rights and obligations of the Company under completed asset disposition agreements, but does not include any assets principally related to any of the Company's gas utility operations in Iowa, Kansas or Nebraska that are to be acquired by the Asset Purchaser pursuant to the Asset Sale Agreement or its electric or gas utility operations in the State of Colorado that are to be acquired by the Asset Purchaser pursuant to the Partnership Interests Purchase Agreement, or the liabilities associated with any such operations.

"Power Act" means the Federal Power Act.

"Premium Income Equity Securities" means the premium income equity securities of the Company, each of which represents $25 in principal amount of the Company's 6.75% mandatorily convertible senior notes.

"Prior Plan" is defined in Section 7.10(b).

"Prospectus/Proxy Statement" is defined in Section 7.3(a).

"PUC" means any state public utility or service commission.

"PUHCA" means the Public Utility Holding Company Act of 1935 as in effect prior to its repeal.

"Registered Company Share" is defined in Section 5.1(a).

"Registration Statement" is defined in Section 7.3(a).

"Regulatory Material Adverse Effect" is defined in Section 7.5(a)(ii).

"Release" means any releasing, spilling, leaking, pumping, pouring, placing, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment, whether intentional or unintentional, negligent or non-negligent, sudden or non-sudden, accidental or non-accidental.

"Representatives" of a Person means that Person's directors, officers, employees, investment bankers, attorneys, accountants and other advisors or other representatives.

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002.

"SEC" means the United States Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933.

"Share Issuance" means the issuance of the shares of Parent Common Stock required to be issued in the Merger.

"Subsequent Merger" means the merger of the Surviving Company with and into KCP&L, which may occur following the consummation of the Asset Sale Transactions.

"Subsidiary" means, with respect to any Person, any other Person of which at least a majority of the securities or ownership interests having by their terms ordinary voting power to elect a majority of the board of directors or other persons performing similar functions is directly or indirectly owned or controlled by that Person and/or one or more of its respective Subsidiaries.

"Successor Plan" is defined in Section 7.10(b).

"Superior Proposal" means a bona fide Acquisition Proposal (for this purpose substituting 50% for each reference to 20% in the definition of "Acquisition Proposal") that the Board of Directors of the Company or Parent, as applicable, determines in good faith (after consultation with its financial advisors and outside legal counsel) is reasonably expected to be consummated in accordance with its terms, taking into account all legal, financial and regulatory aspects of the proposal and the Person making the proposal and, if consummated, would result in a transaction more favorable to the stockholders of the Company or Parent, as applicable, from a financial point of view than the transaction contemplated by this Agreement (after taking into account any revisions to the terms of the transaction contemplated by this Agreement agreed to by Parent and Asset Purchaser pursuant to Section 7.2(b)(ii)).

"Superior Proposal Action" is defined in Section 7.2(b)(ii).

"Surviving Company" is defined in Section 2.1.

"Takeover Statute" is defined in Section 6.1(l).

"Tax" means any federal, state, local and foreign income, profits, franchise, gross receipts, environmental, customs duty, capital stock, severance, stamp, payroll, sales, employment, unemployment, disability, use, property, withholding, excise, production, value added, occupancy and other tax, duty or assessments of any nature whatsoever, together with all interest, penalties and additions imposed with respect to those amounts and any interest in respect of those penalties and additions.

"Tax Return" means all returns and reports (including elections, declarations, disclosures, schedules, estimates and information returns) required to be supplied to a Tax authority relating to Taxes.

"Termination Date" is defined in Section 9.2.

"Transactions" means the transactions contemplated hereby, including the Merger, the Asset Sale Transactions, the transfer of the capital stock of the Surviving Company by Parent to KCP&L and the Subsequent Merger, except that references to "Transactions" in Section 7.5(a)

shall include the Subsequent Merger only if Parent shall have provided notice to the Company of Parent's election that the Subsequent Merger be so included.

"Transition Services Agreement" means the Transition Services Agreement, dated the date hereof, between Parent, Merger Sub and the Asset Purchaser.

1.2 Interpretation. The table of contents and headings in this Agreement are for convenience of reference only, do not constitute part of this Agreement and will not be deemed to limit or otherwise affect any of the provisions of this Agreement.

(a) The parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.

(b) For purposes of this Agreement, except where otherwise expressly provided or unless the context otherwise necessarily requires: (i) references to this Agreement will include a reference to all disclosure letters, schedules and exhibits hereto; (ii) the words "hereof," "herein" and "hereto," and words of similar import, when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement; (iii) references to Company Disclosure Letter, Parent Disclosure Letter, Asset Purchaser Disclosure Letter, Articles, Sections or Exhibits are to disclosure letters, articles, sections or exhibits to this Agreement; (iv) whenever the words "include," "includes" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation" and will not be construed to mean that the examples given are an exclusive list of the topics covered; (v) meanings specified in this Agreement are applicable to both the singular and plural forms of these terms and to the masculine, feminine and neuter genders, as the context requires; (vi) references to a Person includes its successors and assigns; (vii) references to any agreement, instrument or other document means that agreement, instrument or other document as amended, modified or supplemented from time to time, including by waiver or consent, and all attachments thereto and instruments incorporated therein; (viii) references to any Law is a reference to that Law and the rules and regulations adopted or promulgated thereunder, in each case, as amended, modified or supplemented as of the date on which the reference is made, and all attachments thereto and instruments incorporated therein; (ix) references to times of day or dates are to local times or dates in New York, New York; and (x) references to currency are references to the lawful money of the United States.

•

THE MERGER; CLOSING; EFFECTIVE TIME

2.1 The Merger. Upon the terms and subject to the conditions set forth in this Agreement, at the Effective Time, Merger Sub will be merged with and into the Company and the separate corporate existence of Merger Sub will thereupon cease. The Company will survive in the Merger (being sometimes hereinafter referred to in such capacity as the "Surviving Company"),

and the Company will continue its separate corporate existence under the laws of the state of Delaware, and all of the Company's rights, privileges, immunities, powers and franchises will continue in the Company. The Merger will have the effects specified in the DGCL.

2.2 Closing. The Closing will take place at the offices of Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004 at 10:00 a.m. on the first business day after the conditions set forth in Article VIII have been satisfied or waived in accordance with this Agreement (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions), unless another date or time is agreed by the parties hereto.

2.3 Effective Time. At the Closing, the Company will cause a Certificate of Merger (the "Certificate of Merger") to be executed, acknowledged and filed with the Secretary of State of the State of Delaware as provided in the DGCL, and the Company and Merger Sub will make all other filings and recordings required under the DGCL to effect the Merger. The Merger will become effective at the time when the Certificate of Merger has been duly filed with the Secretary of State of the State of Delaware or such other time as set forth in the Certificate of Merger in accordance with the DGCL (the "Effective Time").

•

ORGANIZATIONAL DOCUMENTS
OF THE SURVIVING COMPANY

3.1 Organizational Documents. The Charter and the By-Laws of the Company in effect at the Effective Time will be the certificate of incorporation and by-laws, respectively of the Surviving Company, until thereafter amended in accordance with their terms and applicable Law.

•

OFFICERS AND DIRECTORS

4.1 Directors of Surviving Company. The directors of Merger Sub at the Effective Time will, from and after the Effective Time, be the directors of the Surviving Company, each to hold office in accordance with the Surviving Company's certificate of incorporation, by-laws and applicable Law.

4.2 Officers of Surviving Company. The officers of Merger Sub at the Effective Time will, from and after the Effective Time, be the officers of the Surviving Company, each to hold office in accordance with the Surviving Company's certificate of incorporation, by-laws and applicable Law.

**EFFECT OF THE MERGER ON CAPITAL STOCK;
EXCHANGE OF CERTIFICATES**

5.1 Effect on Capital Stock. At the Effective Time, as a result of the Merger and without any action on the part of the holder of any capital stock of the Company:

(a) Conversion of Securities and Merger Consideration. Each Company Share issued and outstanding immediately prior to the Effective Time (other than Excluded Company Shares and Dissenting Shares) will be converted into the right to receive

(i) the Per Share Cash Amount, without interest; and

(ii) a fraction of a share of Parent Common Stock equal to the Exchange Ratio.

At the Effective Time, all Company Shares will be cancelled and retired, and will cease to exist, and (x) each certificate (a "Certificate") formerly representing any of these Company Shares (other than Excluded Company Shares) and (y) each uncertificated Company Share (a "Registered Company Share") registered to a holder on the stock transfer books of the Company (other than Excluded Company Shares), will thereafter represent only the right to the Merger Consideration into which the Company Shares have been converted pursuant to this Section 5.1(a) and any distribution or dividend pursuant to Section 5.2(c), in each case without interest.

(b) Cancellation of Shares. Each Excluded Company Share will, by virtue of the Merger and without any action on the part of the holder, be cancelled and retired without payment of any consideration and will cease to exist.

(c) Merger Sub. At the Effective Time, each of the outstanding shares of common stock of Merger Sub shall be converted into one share of common stock of the Surviving Company.

5.2 Exchange of Certificates for Shares.

(a) Exchange Agent. As of the Closing, Parent will deposit or cause to be deposited with the Exchange Agent, for the benefit of the holders of Company Shares (other than Excluded Company Shares and Dissenting Shares), certificates representing the shares of Parent Common Stock to be exchanged for Company Shares in the Merger and the aggregate amount of cash to be paid in the Merger pursuant to Sections 5.1 in exchange for Company Shares (the cash and certificates for shares of Parent Common Stock, together with dividends or other distributions payable with respect to those shares of Parent Common Stock pursuant to Section 5.2(c), being hereinafter referred to as the "Exchange Fund").

(b) Exchange Procedures. Parent will cause transmittal materials reasonably agreed upon by Parent and the Company prior to the Closing to be mailed as soon as practicable after the Effective Time by the Exchange Agent to each holder of record of Company

Shares (other than Excluded Company Shares and Dissenting Shares) as of the Effective Time represented by Certificates. The transmittal materials will advise the holders of Company Shares of the effectiveness of the Merger and the procedure for surrendering Certificates representing the Company Shares to the Exchange Agent. Upon the surrender by a holder of Company Shares of a Certificate representing such Company Shares (or affidavit of loss in lieu thereof in accordance with Section 5.2(g)) to the Exchange Agent in accordance with the terms of the transmittal materials, each holder of Company Shares will be entitled to receive, pursuant to Section 5.1 in exchange therefor (i) a certificate representing that number of whole shares of Parent Common Stock that the holder is entitled to receive pursuant to this Article V, and/or (ii) a check in the amount (after giving effect to any required tax withholdings) of (A) any cash payable pursuant to Section 5.2(e) in lieu of fractional shares, plus (B) cash payable pursuant to Section 5.1, plus (C) any unpaid dividends or other distributions with respect to the Parent Common Stock that the holder has the right to receive pursuant to Section 5.2(c), and, in each case, the Certificate so surrendered will forthwith be cancelled. No interest will be paid or accrued on any amount payable upon due surrender of the Certificates. If a transfer of ownership of Company Shares formerly represented by a Certificate is not registered in the transfer records of the Company, a certificate representing the proper number of shares of Parent Common Stock, together with a check for any cash to be paid upon due surrender of the Certificate and any other dividends or distributions in respect of the Certificate, shall be issued and/or paid to such a transferee if the Certificate is presented to the Exchange Agent, accompanied by all documents required to evidence and effect the transfer and to evidence that any applicable stock transfer Taxes have been paid. If any certificate for shares of Parent Common Stock is to be issued in a name other than that in which the Certificate surrendered in exchange therefor is registered, it will be a condition of the exchange that the Person requesting the exchange will pay any transfer or other Taxes required by reason of the issuance of certificates representing shares of Parent Common Stock in a name other than that of the registered holder of the Certificate surrendered, or will establish to the satisfaction of Parent or the Exchange Agent that the Tax has been paid or is not applicable.

(c) Distributions with Respect to Unexchanged Shares; Voting.

(i) Whenever a dividend or other distribution is declared by Parent in respect of the shares of Parent Common Stock, the record date for which is at or after the Effective Time, that declaration must include dividends or other distributions in respect of all shares of Parent Common Stock issuable pursuant to this Agreement and the dividends or other distributions payable in respect of any such shares of Parent Common Stock not then issued in exchange for surrendered Certificates. No dividends or other distributions in respect of Parent Common Stock will be paid to any holder of any unsurrendered Certificate until the Certificate is surrendered for exchange in accordance with this Article V. Subject to applicable Laws, following surrender of the Certificate, there will be issued and/or paid to the holder of the certificates representing whole shares of Parent Common Stock issued in exchange therefor, without interest, (A) at the time of such surrender, the dividends or other distributions with a record date after the Effective Time theretofore payable with respect to those whole shares of Parent Common Stock and not previously paid to the holder and (B) at the appropriate payment date, the dividends or other distributions payable with

respect to those whole shares of Parent Common Stock with a record date after the Effective Time but with a payment date subsequent to surrender.

(ii) Registered holders of unsurrendered Certificates will be entitled to vote after the Effective Time, at any meeting of Parent's stockholders with a record date at or after the Effective Time, the number of whole shares of Parent Common Stock represented by those Certificates, as the case may be, regardless of whether those holders have surrendered their Certificates or delivered duly executed transmittal materials.

(d) Transfers. After the Effective Time, there will be no transfers on the stock transfer books of the Company of the Company Shares that were outstanding immediately prior to the Effective Time.

(e) Fractional Shares. Notwithstanding any other provision of this Agreement, no fractional shares of Parent Common Stock will be issued and any holder of Company Shares entitled to receive a fractional share of Parent Common Stock but for this Section 5.2(e) will be entitled to receive an amount in cash (without interest) determined by multiplying this fraction (rounded to the nearest one-hundredth of a share) by the average of the closing price of a share of Parent Common Stock, as reported in The Wall Street Journal (Northeast edition), for the five trading days ending on the trading day immediately prior to the Effective Time.

(f) Termination of Exchange Period; Unclaimed Stock. Any portion of the Exchange Fund (including the proceeds of any investments and any shares of Parent Common Stock) that remains unclaimed by the stockholders of the Company one year after the Effective Time will be delivered to Parent. Any stockholders of the Company who have not theretofore complied with this Article V will thereafter look only to Parent for delivery of any shares of Parent Common Stock and payment of any cash, dividends and other distributions in respect thereof payable or deliverable pursuant to Section 5.1, Section 5.2(c) and Section 5.2(e) upon due surrender of their Certificates (or affidavits of loss in lieu thereof), in each case, without any interest. Notwithstanding the foregoing, none of Parent, the Surviving Company, the Exchange Agent or any other Person will be liable to any former holder of Company Shares for any amount properly delivered to a public official pursuant to applicable abandoned property, escheat or similar Laws.

(g) Lost, Stolen or Destroyed Certificates. If any Certificate has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming the Certificate to be lost, stolen or destroyed and the posting by that Person of a bond in the form customarily required by the Company as indemnity against any claim that may be made against it with respect to such Certificate, Parent will issue the shares of Parent Common Stock, and the Exchange Agent will issue any cash, dividends and other distributions in respect thereof issuable and/or payable in exchange for the lost, stolen or destroyed Certificate pursuant to this Agreement.

(h) Registered Company Shares. Parent, without any action on the part of any holder, will cause the Exchange Agent to (i) issue, as of the Effective Time, to each

holder of Registered Company Shares that number of whole shares of Parent Common Stock that the holder is entitled to receive pursuant to this Article V and (ii) mail to each holder of Registered Company Shares (other than Excluded Company Shares and Dissenting Shares) a check in the amount (after giving effect to any required tax withholdings) of any cash payable in respect of the stockholder's Company Shares pursuant to Sections 5.1 and 5.2(e). Parent will also cause the Exchange Agent to mail to each such holder materials (in a form to be reasonably agreed by Parent and the Company prior to the Effective Time) advising the holder of the effectiveness of the Merger and the conversion of the holder's Company Shares into Merger Consideration pursuant to the Merger.

(i) Source of Funds. Notwithstanding anything to the contrary in this Agreement, Parent agrees that at least $5 million of the cash transferred by Parent to the Exchange Fund shall come from funds owned by Parent prior to the Closing Date.

5.3 Dissenters' Rights; Adjustments to Prevent Dilution.

(a) Notwithstanding anything in this Agreement to the contrary, Company Shares that are issued and outstanding immediately prior to the Effective Time and which are held by stockholders properly exercising appraisal rights available under Section 262 of the DGCL (the "Dissenting Shares") will not be converted into or be exchangeable for the right to receive the Merger Consideration, unless and until such holders have failed to perfect or have effectively withdrawn or lost their rights to appraisal under the DGCL. Dissenting Shares will be treated in accordance with Section 262 of the DGCL. If any such holder fails to perfect or effectively withdraws or loses such right to appraisal, such holder's Company Shares will thereupon be converted into and become exchangeable only for the right to receive, as of the later of the Effective Time and the time that such right to appraisal has been irrevocably lost, withdrawn or expired, the Merger Consideration without any interest thereon. The Company will give Parent (a) prompt notice of any written demands for appraisal of any Company Shares, attempted withdrawals of such demands and any other instruments served pursuant to the DGCL and received by the Company relating to rights to be paid the "fair value" of Dissenting Shares, as provided in Section 262 of the DGCL and (b) the opportunity to participate in and direct all negotiations and proceedings with respect to demands for appraisal under the DGCL. The Company will not, except with the prior written consent of Parent, voluntarily make or agree to make any payment with respect to any demands for appraisals of capital stock of the Company, offer to settle or settle any such demands or approve any withdrawal of any such demands.

(b) If prior to the Effective Time there is a change in the number of Company Shares or shares of Parent Common Stock or securities convertible or exchangeable into or exercisable for Company Shares or shares of Parent Common Stock issued and outstanding as a result of a distribution, reclassification, stock split (including a reverse split), stock dividend or distribution, recapitalization, merger, subdivision, issuer tender or exchange offer, or other similar transaction, the Exchange Ratio will be equitably adjusted to eliminate the effects of this event on the Merger Consideration.

5.4 Company Stock-Based Plans.

(a) As of the Effective Time, each then-outstanding Company Option, whether vested or unvested, will be converted into an option to acquire a number of shares of Parent Common Stock equal to the product (rounded to the nearest whole number) of (i) the number of Company Shares subject to the Company Option immediately prior to the Effective Time and (ii) the Option Exchange Ratio, at an exercise price per share (rounded to the nearest whole cent) equal to (A) the exercise price per Company Share of that Company Option immediately prior to the Effective Time, divided by (B) the Option Exchange Ratio; provided that the exercise price and the number of shares of Parent Common Stock purchasable pursuant to the Company Options will be determined in a manner consistent with the requirements of Section 409A of the Code; and provided, further, that in the case of any Company Option to which Section 422 of the Code applies, the exercise price and the number of shares of Parent Common Stock purchasable pursuant to the option will be determined in accordance with the foregoing, subject to those adjustments as are necessary in order to satisfy the requirements of Section 424(a) of the Code. Except as specifically provided above following the Effective Time, each converted Company Option will continue to be governed by the same terms and conditions as were applicable under the Company Option immediately prior to the Effective Time.

(b) At the Effective Time, each Company Award will be converted into the right to acquire, or receive benefits measured by the value of the number of shares of Parent Common Stock equal to the product of (i) the number of Company Shares subject to such Company Award (or the number of Company Shares with respect to which the Company Award is denominated) immediately prior to the Effective Time and (ii) the Option Exchange Ratio, and each right will otherwise be subject to the terms and conditions applicable to that right under the relevant Company Stock Plan or other Company Compensation and Benefit Plan.

(c) At or prior to the Effective Time, the Company's Board of Directors (or a committee thereof) will adopt amendments to, or make determinations with respect to, the Company's stock-based plans, individual agreements evidencing the grant of Company Awards or Company Options, and Company Compensation and Benefit Plans, if necessary, to implement the provisions of this Section 5.4.

(d) Parent will take all actions as are necessary for the assumption of the Company's stock-based plans and the individual agreements of the Company or any of its Subsidiaries evidencing the grant of Company Options or Company Awards pursuant to this Section 5.4, including the reservation, issuance (subject to this Section 5.4(d)) and listing of Parent Common Stock as necessary to effect the transactions contemplated by this Section 5.4. If registration of any interests in the Company's stock-based plans or individual agreements evidencing the grant of Company Options or Company Awards or the shares of Parent Common Stock issuable thereunder is required under the Securities Act, Parent will file with the SEC, prior to the Effective Time, a registration statement on Form S-8 (or any successor form) with respect to those interests or Parent Common Stock, will cause the registration statement to be effective as of the Effective Time and will use reasonable best efforts to maintain the effectiveness of the registration statement (and to maintain the current status of the prospectus or prospectuses contained in that registration statement and comply with any applicable state securities or "blue sky" laws) for so long as the relevant converted Company Options or Company Awards, as applicable, remain outstanding and the registration of interests or the shares of Parent Common Stock issuable thereunder (and compliance with any state laws)

continues to be required. Promptly after the Closing, Parent will deliver to the holders of Company Options and Company Awards appropriate notices setting forth the holders' rights pursuant to the respective Company stock-based plans and agreements evidencing the grant of the Company Options and Company Awards, and stating that the Company Options and Company Awards and agreements have been assumed by Parent and will continue in effect on the same terms and conditions subject to the adjustments provided for in this Section 5.4 and after giving effect to the Merger and the terms of the Company's stock-based plans and the applicable agreements.

5.5 Withholding Rights. Each of Parent and Exchange Agent shall be entitled to deduct and withhold from the Merger Consideration otherwise payable pursuant to this Agreement to any holder of Company Shares such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code, or any provision of state, local or foreign Tax law. To the extent that amounts are so withheld by Parent or Exchange Agent, as the case may be, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder in respect of which such deduction and withholding was made by Parent or Exchange Agent, as the case may be.

•

REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties of the Company. Except as set forth in the Company Disclosure Letter or, to the extent the relevance of such disclosure is readily apparent therefrom, the Company Reports filed with the SEC prior to the date of this Agreement, the Company hereby represents and warrants to Parent and Merger Sub that:

(a) Organization, Good Standing and Qualification. Each of the Company and its Subsidiaries is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization as indicated in Section 6.1(a) of the Company Disclosure Letter and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and is qualified to do business and is in good standing as a foreign legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires this qualification, except where the failure to be so organized, qualified or in good standing, or to have such power or authority, has not had and would not reasonably be expected to have a Company Material Adverse Effect. The Company does not directly or indirectly own any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for any equity or similar interest in, any person other than its Subsidiaries. Prior to the date of this Agreement, the Company has made available to Parent a complete and correct copy of the Company's Charter and By-Laws (which have not been amended since the date on which they were provided to Parent).

(b) Capital Structure. (i) The authorized capital stock of the Company consists of 400,000,000 Company Shares, of which 374,107,972 Company Shares were issued and outstanding as of January 15, 2007, 20,000,000 shares of Class A common stock, par value $1.00

per share, none of which were outstanding as of the date of this Agreement, and 10,000,000 shares of preference stock, no par value, 600,000 shares of which have been designated “Preference Stock, $2.4375 Series,” 400,000 of which have been designated “Preference Stock, $2.6125 Series,” and 320,000 of which have been designated “Preference Stock, $4.125 Series.” No shares of preference stock were issued or outstanding as of the date of this Agreement. All of the outstanding Company Shares have been duly authorized and validly issued and are fully paid and nonassessable. The Company has no Company Shares reserved for issuance, except that (A) as of January 15, 2007, there was an aggregate of 1,019,164 Company Shares reserved for issuance upon conversion of the 103,955 Premium Income Equity Securities outstanding as of January 15, 2007, (B) as of January 15, 2007, there were an aggregate of 135,898 Company Shares reserved for interest reinvestment and issuance upon conversion of the Convertible Debentures, with an aggregate outstanding principal amount of $1,992,000 as of January 15, 2007 and (C) as of January 15, 2007, there were an aggregate of 10,198,703 Company Shares reserved for issuance pursuant to the Company’s stock-based plans and individual agreements related to deferred director compensation or evidencing the grant of Company Options and Company Stock Units. Section 6.1(b) of the Company Disclosure Letter contains a correct and complete list as of January 15, 2007 of (1) the number of outstanding Company Options, the exercise price of each such Company Option and number of Company Shares issuable at such exercise price, (2) the number of outstanding Company Stock Units and the number of Company Shares subject thereto and (3) the number of Company Shares issuable upon conversion of the Convertible Debentures. From January 15, 2007 to the date of this Agreement, the Company has not issued any Company Shares except pursuant to the exercise, settlement or conversion of Company Options, Company Stock Units, Premium Income Equity Securities or Convertible Debentures, and since January 15, 2007 to the date of this Agreement, the Company has not issued any Company Options, Company Stock Units, Premium Income Equity Securities or Convertible Debentures. Except as set forth in this Section 6.1(b), as of the date of this Agreement, there are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, puts, commitments or rights of any kind that obligate the Company or any of its Subsidiaries to issue, purchase or sell any shares of capital stock or other equity securities of the Company or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to sell to, subscribe for or acquire from the Company or any of its Subsidiaries, any equity securities of the Company, and no securities or obligations of the Company or any of its Subsidiaries evidencing those rights are authorized, issued or outstanding. Except as set forth in this Section 6.1(b), as of the date of this Agreement, the Company does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote with the stockholders of the Company on any matter.

(ii) Each of the outstanding shares of capital stock or other equity securities of each Subsidiary of the Company has been duly authorized and validly issued and is fully paid and nonassessable and owned by the Company or by a wholly-owned Subsidiary of the Company, free and clear of any Lien, except for those Liens as would not reasonably be expected to have a Company Material Adverse Effect. There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, puts, commitments or rights of any kind that obligate the Company or any of its Subsidiaries to issue,

purchase or sell any shares of capital stock or other equity securities of any of the Company's Subsidiaries or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to sell to, subscribe for or acquire from the Company or any of its Subsidiaries, any equity securities of any of the Company's Subsidiaries, and no securities or obligations of the Company or any of its Subsidiaries evidencing those rights are authorized, issued or outstanding. There are no 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 owned by the Company or any of its Subsidiaries.

(c) Corporate Authority; Approval and Fairness. The Company has the requisite corporate power and authority to, and has taken all corporate action necessary to, execute, deliver and perform its obligations under this Agreement and consummate the Merger, subject, in the case of the consummation of the Merger, to the Company Requisite Vote. This Agreement has been duly executed and delivered by the Company and is a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to the Bankruptcy and Equity Exception. The Board of Directors of the Company has (i) unanimously adopted resolutions approving this Agreement and the Merger and the other transactions contemplated hereby, declaring the advisability of this Agreement and recommending the adoption of this Agreement by the holders of Company Shares by the Company Requisite Vote (the "Company Recommendation"), (ii) received the separate opinions of Evercore Group, Inc., Lehman Brothers, Inc. and The Blackstone Group L.P., the Company's financial advisors, each dated as of the date of this Agreement, to the effect that the Merger Consideration to be received by the holders of the Company Shares in the Merger is fair to those holders from a financial point of view and (iii) directed that this Agreement be submitted to the holders of Company Shares for the purpose of acting on the Agreement. The Company Requisite Vote is the only vote of the stockholders of the Company required in connection with the Merger.

(d) Governmental Filings; No Violations. (i) No consent, approval, order, license, permit or authorization of, or registration, declaration, notice or filing with, any Governmental Entity is necessary or required to be obtained or made by or with respect to the Company or any Subsidiary of the Company in connection with the execution and delivery of this Agreement, the performance by the Company of its obligations under this Agreement and the consummation by the Company of the Merger, except for those (A) required by (1) Section 2.3, (2) the HSR Act, (3) the Exchange Act and the Securities Act, (4) Environmental Laws, (5) NYSE rules and regulations, (6) the FERC under Section 203 of the Power Act, (7) the PUCs identified in Section 6.1(d)(i) of the Company Disclosure Letter pursuant to applicable Laws regulating utilities, and (8) pre-approvals of license transfers by the FCC (the items set forth in clauses (2), (6), and (7) above being the "Material Company Regulatory Consents"); or (B) that the failure to make or obtain would not reasonably be expected to have a Company Material Adverse Effect. As of the date of this Agreement, to the Knowledge of the Company, there are no facts or circumstances relating to the Company or any of its Subsidiaries that, in the Company's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Material Company Regulatory Consents.

(ii) The execution, delivery and performance of this Agreement by the Company do not, and the consummation of the Transactions will not, constitute or result in (A) a breach or violation of the Charter or By-Laws of the Company, (B) a breach or violation of the certificate of incorporation, by-laws or similar organizational documents of any Subsidiaries of the Company, (C) a breach or violation of, or a default or termination (or right of termination) under, the acceleration of any obligations under, or the creation of any Lien on the Company's assets or the assets of any of its Subsidiaries (with or without notice, lapse of time or both) pursuant to, any Contract binding upon the Company or any of its Subsidiaries or, assuming the filings, notices, reports, consents, registrations, approvals, permits and authorizations referred to in Section 6.1(d)(i) are made or obtained, any Law or governmental or non-governmental permit or license to which the Company or any of its Subsidiaries is subject or (D) any change in the rights or obligations of any party under any of the Company's or any of its Subsidiaries' Contracts, except, in the case of clauses (B), (C) and (D), for any breach, violation, termination, default, acceleration, creation or change that has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(e) Reports and Financial Statements. The Company has filed or furnished with the SEC all Company Reports. Each Company Report, when and as filed or furnished with the SEC, complied in all material respects with the applicable requirements of the Securities Act, the Exchange Act and Sarbanes-Oxley. As of their respective dates (and, if amended or supplemented, as of the date of any such amendment or supplement) and as filed, the Company Reports did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

(i) The Company maintains disclosure controls and procedures as required by Rule 13a-15 under the Exchange Act. These disclosure controls and procedures were designed by the management of the Company, or caused to be designed under their supervision, to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the management of the Company by others within those entities, and to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including policies and procedures that (A) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company, (B) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company, and (C) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on its financial statements. The Company's management has disclosed to the Company's outside auditors and the audit committee of the Board of Directors of the Company (A) all significant

deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal control over financial reporting, in the case of clause (A) or (B), to the extent such deficiencies, weaknesses or fraud was discovered by the Company's management as part of its most recent evaluation of internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act). Any material change in internal control over financial reporting required to be disclosed in any Company Report has been so disclosed.

(ii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in or incorporated by reference into the Company Reports as filed with the SEC 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 GAAP applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and present fairly in all material respects the financial position of the Company and its Subsidiaries, as of their dates, and the results of operations and cash flow for the periods set forth therein (subject to the notes and, in the case of unaudited statements, normal year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to the Company), in each case in conformity with GAAP consistently applied during the periods involved, except as may be noted in the Company Reports as filed with the SEC.

(iii) Each of the principal executive officer and the principal financial officer of the Company (or each former principal executive officer and each former principal financial officer of the Company, as applicable) has made all certifications required by Rule 13a-14 and 15d-14 under the Exchange Act or Sections 302 and 906 of Sarbanes-Oxley with respect to the Company Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" have the meanings ascribed to those terms under Sarbanes-Oxley. Since the effectiveness of Sarbanes-Oxley, neither the Company nor any of its Subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of Sarbanes-Oxley.

(iv) All filings required to be made by the Company or any of its Subsidiaries since January 1, 2005, under the PUHCA, the Energy Policy Act of 2005, the Power Act and applicable Laws governing public utilities have been filed with the SEC, the FERC or the applicable PUCs, as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements pertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and as of

their respective dates, all of these filings complied with all requirements of applicable Law, except for filings the failure of which to make, or the failure of which to make in compliance with all requirements of applicable Law, individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(f) Absence of Certain Changes; Absence of Undisclosed Liabilities. To the extent affecting the Post-Sale Company:

(i) Since the date of the most recent consolidated balance sheet included in the Company Reports filed with the SEC prior to the date of this Agreement, no event, change or development has occurred which, individually or in the aggregate, has had, or would reasonably be expected to have, a Company Material Adverse Effect.

(ii) There are no obligations or liabilities (whether absolute, contingent, accrued or otherwise) that would be required to be reflected on a consolidated balance sheet of the Post-Sale Company prepared in accordance with GAAP, except obligations, liabilities or contingencies (A) reflected on the consolidated balance sheets of the Company included in the Company Reports as filed with the SEC prior to the date of this Agreement, (B) incurred (1) in the ordinary course of business consistent with past practice prior to the date hereof, or (2) in the ordinary course of business or as otherwise expressly permitted under this Agreement, on or after the date hereof, in each case since the date of the most recent consolidated balance sheet included in the Company Reports filed with the SEC prior to the date hereof, or (C) that would not reasonably be expected to have a Company Material Adverse Effect. Except as disclosed in the Company Reports filed or furnished with the SEC prior to the date of this Agreement, the Company has no off balance sheet arrangements (as defined in Item 303(a)(4) of Regulation S-K of the SEC).

(iii) Since the date of the most recent consolidated balance sheet included in the Company Reports filed with the SEC prior to the date of this Agreement through the date of this Agreement, (A) the Company and its Subsidiaries have conducted their businesses in the ordinary course of businesses; (B) the Company has not declared, set aside or paid any dividend or distribution payable in cash, stock or property in respect of any of its capital stock or other equity interests, or split, combined or reclassified any of its capital stock or other equity interests; and (C) the Company and its Subsidiaries have not taken any action which, if taken (without consent) between the date hereof and the Effective Date, would constitute a breach of Section 7.1(a), other than actions in connection with entering into this Agreement.

(g) Litigation. There are no civil, criminal or administrative actions, suits, arbitrations, claims, hearings, investigations or proceedings pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries, except for those that have not had and would not reasonably be likely to have a Company Material Adverse Effect. As of the date of

this Agreement, none of the Company or any of its Subsidiaries is subject to any order, writ, judgment, injunction, decree or award that would reasonably be expected to have a Company Material Adverse Effect. Neither the Company nor any of its Subsidiaries is subject to any order of any Governmental Entity that, individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect. The Company provided timely and proper notice to the ERISA Insurers of the claims asserted in the ERISA Case.

(h) Employee Benefits.

(i) Section 6.1(h)(i) of the Company Disclosure Letter sets forth a list, as of the date of this Agreement, of each Company Compensation and Benefit Plan. Each Company Compensation and Benefit Plan that has received a favorable determination letter from the IRS has been separately identified in Section 6.1(h)(i) of the Company Disclosure Letter. True and complete copies of each Company Compensation and Benefit Plan listed in Section 6.1(h)(i) of the Company Disclosure Letter have been provided or made available to Parent.

(ii) Each Company Compensation and Benefit Plan, other than "multiemployer plans" within the meaning of Section 3(37) of ERISA (each, a "Multiemployer Plan"), has been operated in all material respects in accordance with its terms and is in substantial compliance with, to the extent applicable, ERISA, the Code, and other applicable Laws. Each ERISA Plan that is an "employee pension benefit plan" within the meaning of Section 3(2) of ERISA (a "Pension Plan") and that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS or has applied to the IRS for a favorable determination letter and no event has occurred and no condition exists which could reasonably be expected to materially and adversely affect the qualified status of such plan. There is no pending or, to the Knowledge of the Company, threatened claims relating to the Company Compensation and Benefit Plans, other than the Multiemployer Plans, except for routine claims for benefits and immaterial claims. Neither the Company nor any of its Subsidiaries has engaged in a transaction with respect to any ERISA Plan that would subject the Company or any of its Subsidiaries to any material tax or penalty imposed by either Section 4975 of the Code or Section 502(i) of ERISA. Neither the Company nor any of its Subsidiaries has incurred or reasonably expects to incur any material tax or penalty imposed by Section 4980F of the Code or Section 502 of ERISA.

(iii) No material liability under Subtitle C or D of Title IV of ERISA has been or is reasonably expected to be incurred by the Company or any of its Subsidiaries with respect to any Company Compensation or Benefit Plan currently or formerly maintained by any of them, or the single-employer plan of any entity which is considered one employer with the Company under Section 4001 of ERISA or Section 414 of the Code (a "Company ERISA Affiliate"). The Company and its Subsidiaries have not incurred and do not expect to incur any withdrawal liability with respect to a Multiemployer Plan under Subtitle E of Title

IV of ERISA (including in connection with the consummation of the Transactions), except as would not reasonably be expected to have a Company Material Adverse Effect.

(iv) As of the date of this Agreement, all contributions required to be made under each Company Compensation and Benefit Plan have been timely made and all obligations in respect of each Company Compensation and Benefit Plan have been properly accrued and reflected to the extent required by GAAP on the most recent consolidated balance sheet filed or incorporated by reference in the Company Reports as filed with the SEC prior to the date of this Agreement, except, in the case of each of the foregoing, as would not reasonably be expected to have a Company Material Adverse Effect. Neither any Company Pension Plan nor any single-employer plan of any Company ERISA Affiliate has an "accumulated funding deficiency" (whether or not waived) within the meaning of Section 412 of the Code or Section 302 of ERISA and no Company ERISA Affiliate has an outstanding funding waiver. Neither the Company nor any of its Subsidiaries has provided, or is required to provide, security to any Pension Plans or to any single-employer plan of any Company ERISA Affiliate pursuant to Section 401(a)(29) of the Code.

(v) Neither the Company nor any of its Subsidiaries has any obligations for retiree health or life benefits under any ERISA Plan or collective bargaining agreement, except as required by Section 4980B of the Code or Section 601 of ERISA. No condition exists that would prevent the Company or any of its Subsidiaries from amending or terminating, without liability in excess of previously accrued benefits, any Company Compensation and Benefit Plan providing health or medical benefits in respect of any active or former employee of the Company or any of its Subsidiaries.

(vi) There has been no amendment to or announcement by the Company or any of its Subsidiaries relating to any Company Compensation and Benefit Plan that would increase materially the expense of maintaining any plan above the level of the expense incurred therefor for the most recent fiscal year, except as required by Law. Except as provided in this Agreement or as may be required by Law or by any of the Company Compensation and Benefit Plans listed on Section 6.1(h)(i) of the Company Disclosure Letter, none of the negotiation or execution of this Agreement, stockholder approval of this Agreement, receipt of approval or clearance from one or more Governmental Entities of the Merger or the other transactions contemplated by this Agreement, or the consummation of the Merger and the other transactions contemplated by this Agreement will (A) entitle any employees of the Company or its Subsidiaries to severance pay or any increase in severance pay upon any termination of employment after the date of this Agreement; (B) accelerate the time of payment or vesting or result in any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, or increase the amount payable or result in any other material obligation pursuant to, any Company Compensation and Benefit Plan; or (C) limit or restrict the right of the Company, or, after the

consummation of the transactions contemplated by this Agreement, Parent, to merge, amend or terminate any of the Company Compensation and Benefit Plan.

(vii) Each Company Compensation and Benefit Plan to which the provisions of Section 409A of the Code apply has been operated in good faith compliance with such section and the guidance issued thereunder.

(i) Compliance with Laws; Permits. The Company and its Subsidiaries have not violated any Law, except for violations that have not had and would not reasonably be likely to have a Company Material Adverse Effect. No investigation or review by any Governmental Entity with respect to the Company or any of its Subsidiaries is pending or, to the Knowledge of the Company, threatened, except as would not reasonably be expected to have a Company Material Adverse Effect. Each of the Company and its Subsidiaries has obtained and is in compliance with all Permits necessary for the lawful conduct of its business as presently conducted, except for those the absence of which, or the failure to be in compliance with, have not had and would not reasonably be expected to have a Company Material Adverse Effect. The Company is, and has been, in compliance in all material respects with Sarbanes-Oxley and the applicable listing standards and corporate governance rules and regulations of the NYSE. This Section 6.1(i) does not relate to matters with respect to employee benefits, which are the subject of Section 6.1(h), environmental matters, which are the subject of Section 6.1(m), tax matters, which are the subject of Section 6.1(n), or labor matters, which are the subject of Section 6.1(o).

(j) Company Material Contracts. The Company has filed or furnished to the SEC in the Company Reports, or provided to Parent prior to the date hereof, true and complete copies of all Company Material Contracts entered into since January 1, 2005. All Company Material Contracts are valid and in full force and effect and enforceable in accordance with their respective terms, subject to the Bankruptcy and Equity Exception, except to the extent that (i) they have previously expired or otherwise terminated in accordance with their terms or (ii) the failure to be in full force and effect would not reasonably be expected to have a Company Material Adverse Effect. Neither the Company nor any of its Subsidiaries, nor, to the Knowledge of the Company, any counterparty to any Company Material Contract, has violated any provision of, or committed or failed to perform any act which, with or without notice, lapse of time or both, would constitute a default under the provisions of any Company Material Contract, except in each case for those violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Company Material Adverse Effect. No Company Material Contract has been amended or modified prior to the date of this Agreement (other than immaterial amendments or modifications), except for amendments or modifications which have been filed or furnished as an exhibit to a subsequently filed or furnished Company Report, or provided to Parent prior to the date hereof.

(k) Property. All properties and assets of the Company and its Subsidiaries, real and personal, material to the conduct of their businesses as of the date of this Agreement are, except for changes in the ordinary course of business since the date of the most recent consolidated balance sheet included in the Company Reports as filed with the SEC prior to the date hereof, reflected, in all material respects in accordance with GAAP, and to the extent required thereby, on the most recent consolidated balance sheet of the Company included in the Company Reports as filed with the SEC. Each of the Company and its Subsidiaries has legal title to, or a leasehold

interest, license or easement in, its real and personal property reflected on such balance sheet or acquired by it since the date of such balance sheet, free and clear of all Liens other than those Liens which are recorded as of the date hereof or which have not had and would not reasonably be expected to have a Company Material Adverse Effect.

(l) Takeover Statutes. Assuming the truth of the representations set forth in Section 6.2(u), the Board of Directors of the Company has taken all appropriate and necessary actions so that Section 203 of the DGCL will not apply to the Merger or the other transactions contemplated hereby. Assuming the truth of the representations set forth in Section 6.2(u), no other "fair price," "moratorium," "control share acquisition" or other similar anti-takeover statute or regulation (each, a "Takeover Statute") of the Laws of Delaware is applicable or purports to be applicable to the Merger or the other transactions contemplated by this Agreement. No anti-takeover provision contained in the Company's Charter or By-Laws is applicable to the Merger or the other Transactions.

(m) Environmental Matters. Except for those matters that would not reasonably be expected to have a Company Material Adverse Effect: (i) each of the Company and its Subsidiaries is in compliance with all applicable Environmental Laws; (ii) each of the Company and its Subsidiaries has obtained or timely applied for all Environmental Permits necessary for their operations as currently conducted and are in compliance with any Environmental Permits; (iii) to the Knowledge of the Company, there have been no Releases or threatened Releases of any Hazardous Substance at, on, under or from any real property currently or formerly owned, leased or operated by the Company or its Subsidiaries, except for any such Release or threatened Release that is not reasonably likely to require any investigation and/or remediation under any Environmental Law; (iv) there is no Environmental Claim pending, and, to the Knowledge of the Company, there is no Environmental Claim threatened, or Environmental Circumstance pending or threatened, against the Company or any of its Subsidiaries or, to the Knowledge of the Company, against (x) any real property currently or formerly owned, leased or operated by the Company or its Subsidiaries or (y) any person or entity whose liability for such Environmental Claim or Environmental Circumstance has been retained or assumed either contractually or by operation of law by the Company or any of its Subsidiaries; (v) to the Knowledge of the Company, neither the Company nor any of its Subsidiaries has received any written notice, demand, letter, claim or request for information alleging that the Company or any of its Subsidiaries may be in violation of or liable under any Environmental Law; and (vi) neither the Company nor any of its Subsidiaries is subject to any orders, decrees or injunctions issued by any Governmental Entity or is subject to any indemnity or other agreement with any third party imposing liability under any Environmental Law.

(n) Tax Matters. Except as would not reasonably be expected to have a Company Material Adverse Effect, the Company and each of its Subsidiaries (i) have duly and timely filed (taking into account any extension of time within which to file) all Tax Returns required to be filed by any of them on or prior to the date of this Agreement and all filed Tax Returns are complete and accurate in all material respects; and (ii) have paid or remitted all Taxes that are required to be paid or that the Company or any of its Subsidiaries are obligated to withhold from amounts owing to any employee, creditor or third party, except with respect to matters contested in good faith or for which reserves have been established in accordance with GAAP. Except as would not reasonably be expected to have a Company Material Adverse Effect, as of the date of this

Agreement there are no audits, examinations, investigations or other proceedings in respect of Taxes or Tax matters, in each case, pending or, to the Knowledge of the Company, threatened in writing (other than, in each case, claims or assessments for which reserves have been established in accordance with GAAP). Neither the Company nor any of its Subsidiaries has constituted either a "distributing corporation" or a "controlled corporation" within the meaning of section 355(a)(1)(A) of the Code in any distribution intended to qualify for tax-free treatment under section 355 of the Code occurring during the last 30 months. Since December 31, 2001, or, to the Knowledge of the Company, at any earlier time, neither the Company nor any of its Subsidiaries has been a member of any affiliated group within the meaning of Section 1504(a) of the Code, or any similar affiliated or consolidated group for Tax purposes under state, local or foreign law (other than a group, the common parent of which is the Company). Except as would not reasonably be expected to have a Company Material Adverse Effect, neither the Company nor any of its Subsidiaries is liable for any Tax imposed on any other person or entity under Treasury regulation section 1.1502-6 (or any similar provision of state, local or foreign tax law) as a transferee or successor, or is bound by or has any obligation under any Tax sharing, Tax indemnification, or similar agreement, contract or arrangement, whether written or unwritten. Except as would not reasonably be expected to have a Company Material Adverse Effect, no jurisdiction where the Company or any of its Subsidiaries does not file a Tax Return has made a claim in writing to the Company that the Company or any Subsidiary is required to file a Tax Return for such jurisdiction.

(o) Labor Matters. Except in each case as would not reasonably be expected to have a Company Material Adverse Effect, (i) neither the Company nor any of its Subsidiaries is the subject of any proceeding asserting that the Company or any of its Subsidiaries has committed an unfair labor practice or seeking to compel the Company to bargain with any labor union or labor organization, and (ii) there is no pending or, to the Knowledge of the Company, threatened, nor has there been for the past five years, any labor strike, dispute, walkout, work stoppage, slow-down or lockout involving the Company or any of its Subsidiaries. Section 6.1(o) of the Company Disclosure Letter sets forth a list of all collective bargaining agreements to which the Company or any of its Subsidiaries is a party or is bound or is in the process of negotiating as of the date of this Agreement. Since January 1, 2003, neither the Company nor any of its Subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the Worker Adjustment Retraining and Notification Act or any comparable state or local law, without complying with the notice requirements of such laws.

(p) Intellectual Property. Each of the Company and its Subsidiaries owns or has a valid right to use all Intellectual Property and Information Technology necessary to carry on its business as operated by it on the date of this Agreement, except where the absence of these rights has not had and would not reasonably be expected to have a Company Material Adverse Effect. Neither the Company nor any of its Subsidiaries is infringing or otherwise in conflict with asserted rights of others with respect to any Intellectual Property of third parties which would reasonably be expected to have a Company Material Adverse Effect, and to the Knowledge of the Company, neither the Company nor any of its Subsidiaries has received any notice of any such infringement or conflict, except as has not had and would not reasonably be expected to have a Company Material Adverse Effect. To the Knowledge of the Company, no third party is infringing or otherwise in conflict with the Intellectual Property owned by the Company or its Subsidiaries,

except as has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(q) Affiliate Transactions. As of the date hereof, there are no transactions, arrangements or Contracts between the Company and its Subsidiaries, on the one hand, and its affiliates (other than its wholly-owned Subsidiaries) or other Persons, on the other hand, that would be required to be disclosed under Item 404 of Regulation S-K of the SEC.

(r) Foreign Corrupt Practices and International Trade Sanctions. To the Knowledge of the Company, neither the Company, nor any of its Subsidiaries, nor any of their respective directors, officers, agents, employees or any other Persons acting on their behalf, has, in connection with the operation of their respective businesses, (i) used any corporate or other funds for unlawful contributions, payments, gifts or entertainment, or made any unlawful expenditures relating to political activity to government officials, candidates or members of political parties or organizations, or established or maintained any unlawful or unrecorded funds in violation of Section 104 of the Foreign Corrupt Practices Act of 1977, as amended, or any other similar applicable foreign, Federal or state law, (ii) paid, accepted or received any unlawful contributions, payments, expenditures or gifts, or (iii) violated or operated in noncompliance with any export restrictions, anti-boycott regulations, embargo regulations or other applicable domestic or foreign laws and regulations.

(s) Insurance. Except for failures to maintain insurance coverage that have not had and would not reasonably be expected to have a Company Material Adverse Effect, since January 1, 2005, the Company and its Subsidiaries have maintained continuous insurance coverage with reputable insurers or self-insured, in each case in those amounts and covering those risks as are in accordance with normal industry practice for companies of the size and financial condition of the Company engaged in businesses similar to that of the Company or its Subsidiaries. Neither the Company nor any of its Subsidiaries has received any notice of cancellation or termination with respect to any insurance policy of the Company or any of its Subsidiaries, except with respect to any cancellation or termination in accordance with the terms of the applicable insurance policy that has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(t) Rights Agreement. The Company has no “rights plan,” “rights agreement” or “poison pill” in effect.

(u) Brokers and Finders. None of the Company, its Subsidiaries or any of their respective officers, directors or employees has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders fees in connection with the Merger or the other transactions contemplated in this Agreement, except that the Company has retained Evercore Group, Inc., Lehman Brothers, Inc. and The Blackstone Group L.P. as the Company’s financial advisors, the arrangements with which have been disclosed to Parent prior to the date of this Agreement.

(v) Regulation as a Utility. The Company is regulated as a public utility by the FERC and the PUCs of the states of Colorado, Kansas, Iowa, Missouri and Nebraska. Except as set forth above, neither the Company nor any Subsidiary of the Company is subject to regulation as a

public utility (or similar designation) by any state in the United States or any foreign country or any other Governmental Entity. Neither the Company nor any of its Subsidiaries owns, directly or indirectly, any interest in any nuclear generation station or manages or operates any nuclear generation station.

(w) No Other Representations and Warranties. Except for the representations and warranties of the Company contained in this Agreement, the Asset Sale Agreement, the Partnership Interests Purchase Agreement or any of the exhibits, schedules or other documents attached hereto or thereto or delivered pursuant to any of the foregoing, the Company is not making and has not made, and no other Person is making or has made on behalf of the Company, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby or thereby, and no Person is authorized to make any representations and warranties on behalf of the Company.

6.2 Representations and Warranties of Parent and Merger Sub. Except as set forth in the Parent Disclosure Letter or, to the extent the relevance of such disclosure is readily apparent therefrom, the Parent Reports as filed with the SEC prior to the date of this Agreement, Parent and Merger Sub hereby represent and warrant to the Company that:

(a) Organization, Good Standing and Qualification. Each of Parent and its Subsidiaries is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization as indicated in Section 6.2(a) of the Parent Disclosure Letter and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and is qualified to do business and is in good standing as a foreign legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where the failure to be so organized, qualified or in good standing, or to have such power or authority, has not had and would not reasonably be expected to have a Parent Material Adverse Effect. Parent does not directly or indirectly own any equity or similar interest in, or any interest convertible into or exchangeable or exercisable for any equity or similar interest in, any person other than its Subsidiaries. Prior to the date of this Agreement, Parent has made available to the Company a complete and correct copy of Parent's and Merger Sub's Charter and By-Laws (which have not been amended since the date on which they were provided to the Company).

(b) Capital Structure. (i) The authorized capital stock of Parent consists of 150,000,000 shares of Parent common stock, of which 80,354,744 shares of Parent Common Stock were issued and outstanding as of January 15, 2007, and 390,000 shares of preferred stock, par value $100 per share, 100,000 shares of which have been designated "3.80% Cumulative Preferred Stock" of which 100,000 shares were issued and outstanding as of January 15, 2007, 100,000 shares of which have been designated "4.50% Cumulative Preferred Stock" of which 100,000 shares were issued and outstanding as of January 15, 2007, 120,000 shares of which have been designated "4.35% Cumulative Preferred Stock" of which 120,000 shares were issued and outstanding as of January 15, 2007 and 70,000 shares of which have been designated "4.20% Cumulative Preferred Stock" of which 70,000 shares were issued and outstanding as of January 15, 2007. All of the outstanding shares of Parent Common Stock have been duly authorized and validly issued and are fully paid and nonassessable. Parent has no Parent Common Stock reserved for issuance, except that as of January 15, 2007, there was an aggregate of 1,878,929

shares of Parent Common Stock reserved for issuance pursuant to Parent's stock-based plans and individual agreements evidencing the grant of awards under such plans, 952,221 shares of Parent Common Stock reserved for issuance through Parent's Dividend Reinvestment and Direct Stock Purchase Plan, 5,750,000 shares of Parent Common Stock reserved for issuance pursuant to common stock purchase contracts associated with Parent's FELINE PRIDES, and 1,775,000 shares of Common Stock reserved for issuance pursuant to a forward sale agreement with Merrill Lynch Financial Markets, Inc., and as of December 31, 2006, there were 1,171,073 shares of Parent Common Stock reserved for issuance under Parent's Cash or Deferred Arrangement ("Employee Savings Plus") Plan. Section 6.2(b) of the Parent Disclosure Letter contains a correct and complete list as of January 15, 2007 of (A) the number of outstanding Parent Options, the exercise price of each such Parent Option and number of shares of Parent Common Stock issuable at such exercise price and (B) the number of outstanding Parent performance shares and the number of shares of Parent Common Stock subject thereto. From January 15, 2007 to the date of this Agreement, Parent has not issued any shares of Parent Common Stock except pursuant to its Cash or Deferred Arrangement ("Employee Savings Plus") Plan and its Dividend Reinvestment and Direct Stock Purchase Plan, and since January 15, 2007 to the date of this Agreement Parent has not issued any Parent Options, Parent performance shares, or any shares of its preferred stock. Except as set forth in this Section 6.2(b), as of the date of this Agreement, there are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, puts, commitments or rights of any kind that obligate Parent or any of its Subsidiaries to issue, purchase or sell any shares of capital stock or other equity securities of Parent or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to sell to, subscribe for or acquire from Parent or any of its Subsidiaries, any equity securities of Parent, and no securities or obligations of Parent or any of its Subsidiaries evidencing those rights are authorized, issued or outstanding. Except as set forth in this Section 6.2(b), as of the date of this Agreement, Parent does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote with the stockholders of Parent on any matter.

(ii) Each of the outstanding shares of capital stock or other equity securities of Merger Sub and each Subsidiary of Parent has been duly authorized and validly issued and is fully paid and nonassessable and owned by Parent or by a wholly-owned Subsidiary of Parent, free and clear of any Lien, except for those Liens as would not reasonably be expected to have a Parent Material Adverse Effect. There are no preemptive or other outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, puts, commitments or rights of any kind that obligate Parent or any of its Subsidiaries to issue, purchase or sell any shares of capital stock or other equity securities of any of Parent's Subsidiaries or any securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to sell to, subscribe for or acquire from Parent or any of its Subsidiaries any equity securities of any of Parent's Subsidiaries, and no securities or obligations of Parent or any of its Subsidiaries evidencing these rights are authorized, issued or outstanding. There are no voting trusts, proxies or other commitments, understandings, restrictions or arrangements in favor of any person other than Parent or a Subsidiary wholly-owned, directly or

indirectly, by Parent with respect to the voting of or the right to participate in dividends or other earnings on any capital stock of any Subsidiary of Parent owned by Parent or any of its Subsidiaries.

(iii) All of the issued and outstanding shares of capital stock of Merger Sub are owned by Parent, and there are (A) no other equity interests or voting securities of Merger Sub, (B) no securities of Merger Sub convertible into or exchangeable for equity interests or voting securities of Merger Sub and (C) no options or other rights to acquire from Merger Sub, and no obligations of Merger Sub to issue, any equity interests, other voting securities or securities convertible into or exchangeable for equity interests or other voting securities of Merger Sub.

(c) Corporate Authority; Approval. Parent and Merger Sub each have the requisite corporate or similar power and authority to, and each has taken all corporate or similar action necessary to, execute, deliver and perform its obligations under this Agreement, the Asset Sale Agreement and the Partnership Interests Purchase Agreement and to consummate the transactions contemplated by this Agreement, the Asset Sale Agreement and the Partnership Interests Purchase Agreement, subject only, in the case of the consummation of the Merger, to the approval of this Agreement by Parent in its capacity as the sole stockholder of Merger Sub, which will occur immediately after the execution and delivery of this Agreement by Merger Sub, and subject in the case of the Share Issuance to the Parent Requisite Vote. Each of this Agreement, the Asset Sale Agreement and the Partnership Interests Purchase Agreement has been duly executed and delivered by Parent and Merger Sub and are valid and binding agreements of Parent and Merger Sub, enforceable against each of Parent and Merger Sub in accordance with their terms, subject to the Bankruptcy and Equity Exception. The shares of Parent Common Stock, when issued pursuant to this Agreement, will be validly issued, fully paid and nonassessable, and no stockholder of Parent will have any preemptive right of subscription or purchase in respect thereof. The Board of Directors of Parent has (i) unanimously adopted resolutions approving this Agreement and the other transactions contemplated hereby, including the issuance of the shares of Parent Common Stock required to be issued in the Merger and in respect of Company Options and Company Awards and recommending that the holders of Parent Common Stock vote in favor of the Share Issuance (the "Parent Recommendation"), (ii) received the separate opinions of Credit Suisse Securities (USA) LLC and Sagent Advisors, Inc., financial advisors to Parent, to the effect that, as of the date of such opinions, the Merger Consideration to be paid by Parent is fair to Parent from a financial point of view, and (iii) directed that this Agreement be submitted to the holders of Parent Common Stock for the purpose of acting on a proposal to approve the issuance of the shares of Parent Common Stock required to be issued in the Merger. The Parent Requisite Vote is the only vote of the stockholders of Parent required in connection with the Merger.

(d) Governmental Filings; No Violations. (i) No consent, approval, order, license, permit or authorization of, or registration, declaration, notice or filing with, any Governmental Entity is necessary or required to be obtained or made by or with respect to Parent or any of its Subsidiaries in connection with the execution and delivery of this Agreement or the Asset Sale Agreement, the performance by Parent or its Subsidiaries of its obligations under this Agreement and the Asset Sale Agreement, and the consummation by Parent or its Subsidiaries of the Merger, the Share Issuance or the Asset Sale Agreement, except for those (A) required by (1) Section 2.3,

(2) the HSR Act, (3) the Exchange Act and the Securities Act, (4) Environmental Laws, (5) NYSE rules and regulations, (6) the FERC under Section 203 of the Power Act, and (7) the PUCs identified in Section 6.2(d)(i) of the Parent Disclosure Letter pursuant to applicable Laws regulating utilities (the items set forth above in clauses (2), (6) and (7) above being referred to as the "Material Parent Regulatory Consents"), and (B) that the failure to make or obtain would not reasonably be expected to have a Parent Material Adverse Effect. As of the date of this Agreement, to the Knowledge of Parent, there are no facts or circumstances relating to Parent or any of its Subsidiaries that, in Parent's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Material Parent Regulatory Consents.

(ii) The execution, delivery and performance of this Agreement by Parent and Merger Sub do not, and the consummation by Parent and Merger Sub of the Transactions will not, constitute or result in (A) a breach or violation of the Charter or By-Laws of Parent or Merger Sub, (B) a breach or violation of the certificate of incorporation, by-laws or similar organizational documents of the Subsidiaries of Parent, (C) a breach or violation of, or a default or termination (or right of termination) under, the acceleration of any obligations under, or the creation of any Lien on Parent's assets or the assets of any of its Subsidiaries (with or without notice, lapse of time or both) pursuant to, any Contract binding upon Parent or any of its Subsidiaries or, assuming the filings, notices, reports, consents, registrations, approvals, permits and authorizations referred to in Section 6.2(d)(i) are made or obtained, any Law or governmental or non-governmental permit or license to which Parent or any of its Subsidiaries is subject or (D) any change in the rights or obligations of any party under any of Parent's, Merger Sub's or any of their respective Subsidiaries' Contracts, except, in the case of clauses (B), (C) and (D), for any breach, violation, termination, default, acceleration, creation or change that has not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(e) Reports; Financial Statements. (i) Parent has filed and furnished with the SEC all Parent Reports. Each Parent Report, as and when filed or furnished with the SEC, complied in all material respects with the applicable requirements of the Securities Act, the Exchange Act and Sarbanes-Oxley. As of their respective dates and as filed with the SEC (and, if amended or supplemented, as of the date of any such amendment or supplement) the Parent Reports did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

(ii) Parent maintains disclosure controls and procedures as required by Rule 13a-15 under the Exchange Act. These disclosure controls and procedures were designed by the management of Parent, or caused to be designed under their supervision, to ensure that material information relating to Parent, including its consolidated subsidiaries, is made known to the management of Parent by others within those entities, and to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, including policies and procedures that (A) pertain to the maintenance of records that in reasonable

detail accurately and fairly reflect the transactions and dispositions of the assets of Parent, (B) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of Parent are being made only in accordance with authorizations of management and directors of Parent, and (C) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of Parent's assets that could have a material effect on its financial statements. Parent's management has disclosed to Parent's outside auditors and the audit committee of the Board of Directors of Parent (A) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect Parent's ability to record, process, summarize and report financial information and (B) any fraud, whether or not material, that involves management or other employees who have a significant role in Parent's internal control over financial reporting in the case of clause (A) or (B), to the extent such deficiencies, weaknesses or fraud was discovered by Parent's management as part of its most recent evaluation of internal control over financial reporting (as defined in Rule 13a-15(f) of the Exchange Act). Any material change in internal control over financial reporting required to be disclosed in any Parent Report has been so disclosed.

(iii) The audited consolidated financial statements and unaudited interim consolidated financial statements (including, in each case, the notes, if any, thereto) included in or incorporated by reference into the Parent Reports as filed with the SEC 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 GAAP applied on a consistent basis during the periods involved (except as may be indicated therein or in the notes thereto and except with respect to unaudited statements as permitted by Form 10-Q of the SEC) and present fairly in all material respects the financial position of Parent and its Subsidiaries, as of their dates, and the results of operations and cash flow for the periods set forth therein (subject to the notes and, in the case of unaudited statements, normal year-end audit adjustments that were not or are not expected to be, individually or in the aggregate, materially adverse to Parent), in each case in conformity with GAAP consistently applied during the periods involved, except as may be noted in the Parent Reports as filed with the SEC.

(iv) Each of the principal executive officer and the principal financial officer of Parent (or each former principal executive officer and each former principal financial officer of Parent, as applicable) has made all certifications required by Rule 13a-14 and 15d-14 under the Exchange Act or Sections 302 and 906 of Sarbanes-Oxley with respect to the Parent Reports. For purposes of the preceding sentence, "principal executive officer" and "principal financial officer" have the meanings ascribed to those terms under Sarbanes-Oxley. Since the effectiveness of Sarbanes-Oxley, neither Parent nor any of its Subsidiaries has arranged any outstanding "extensions of credit" to directors or executive officers within the meaning of Section 402 of Sarbanes-Oxley.

(v) All filings required to be made by Parent or any of its Subsidiaries since January 1, 2005, under the PUHCA, the Energy Policy Act of 2005, the Power Act and applicable Laws governing public utilities have been filed with the SEC, the FERC or the applicable PUCs, as the case may be, including all forms, statements, reports, agreements (oral or written) and all documents, exhibits, amendments and supplements pertaining thereto, including all rates, tariffs, franchises, service agreements and related documents, and as of their respective dates, all of these filings complied with all requirements of applicable Law, except for filings the failure of which to make, or the failure of which to make in compliance with all requirements of applicable Law, individually or in the aggregate, has not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(f) Absence of Certain Changes; Absence of Undisclosed Liabilities.

(i) Since the date of the most recent consolidated balance sheet included in the Parent Reports filed with the SEC prior to the date of this Agreement, no event, change or development has occurred which, individually or in the aggregate, has had, or would reasonably be expected to have, a Parent Material Adverse Effect.

(ii) There are no obligations or liabilities (whether absolute, contingent, accrued or otherwise) that would be required to be reflected on a consolidated balance sheet of Parent prepared in accordance with GAAP, except obligations, liabilities or contingencies (A) reflected on the consolidated balance sheets of Parent included in the Parent Reports as filed with the SEC prior to the date of this Agreement, (B) incurred in the ordinary course of business consistent with past practice since the date of the most recent consolidated balance sheet included in the Parent Reports filed with the SEC prior to the date hereof, or (C) incurred prior to the date of this Agreement that are or would not reasonably be expected to have a Parent Material Adverse Effect. Except as disclosed in the Parent Reports as filed or furnished prior to the date of this Agreement, Parent has no off balance sheet arrangements (as defined in Item 303(a)(4) of Regulation S-K of the SEC).

(iii) Since the date of the most recent consolidated balance sheet included in the Parent Reports filed with the SEC prior to the date of this Agreement through the date of this Agreement, (A) Parent and its Subsidiaries have conducted their businesses in the ordinary course of businesses; (B) Parent has not declared, set aside or paid any dividend or distribution payable in cash, stock or property in respect of any of its capital stock (other than quarterly cash dividends of no more than $0.415 per share of Parent Common Stock, and dividends in respect of each class of preferred stock of Parent in accordance with its terms) or other equity interests, or split, combined or reclassified any of its capital stock or other equity interests; and (C) Parent and its Subsidiaries have not taken any action which, if taken (without consent) between

the date hereof and the Effective Date, would constitute a breach of Section 7.1(b), other than actions in connection with entering into this Agreement.

(g) Litigation. There are no civil, criminal or administrative actions, suits, arbitrations, claims, hearings, investigations or proceedings pending or, to the Knowledge of Parent, threatened against Parent or any of its Subsidiaries, except for those that have not had and would not reasonably be likely to have a Parent Material Adverse Effect. As of the date of this Agreement, none of Parent or any of its Subsidiaries is subject to any order, writ, judgment, injunction, decree or award that would reasonably be expected to have a Parent Material Adverse Effect. Neither Parent nor any of its Subsidiaries is subject to any order of any Governmental Entity that, individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect.

(h) Employee Benefits.

(i) Each Parent Compensation and Benefit Plan, other than Multiemployer Plans, is in substantial compliance with, to the extent applicable, ERISA, the Code, and other applicable Laws. Each Parent Compensation and Benefit Plan which is an ERISA Plan that is a Pension Plan and that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the IRS or has applied to the IRS for a favorable determination letter and no event has occurred and no condition exists which could reasonably be expected to adversely effect the qualified status of such plan. As of the date of this Agreement, there is no pending or, to the Knowledge of Parent, threatened litigation relating to Parent Compensation and Benefit Plans, other than the Multiemployer Plans, except for routine claims for benefits and immaterial claims. Neither Parent nor any of its Subsidiaries has engaged in a transaction with respect to any ERISA Plan that would subject Parent or any of its Subsidiaries to any material tax or penalty imposed by either Section 4975 of the Code or Section 502(i) of ERISA. Neither Parent nor any of its Subsidiaries has incurred or reasonably expects to incur any material tax or penalty imposed by Section 4980F of the Code or Section 502 of ERISA.

(ii) No material liability under Subtitle C or D of Title IV of ERISA has been or is expected to be incurred by Parent or any of its Subsidiaries with respect to any ongoing, frozen or terminated "single-employer plan," within the meaning of Section 4001(a)(15) of ERISA, currently or formerly maintained by any of them, or the single-employer plan of any entity which is considered one employer with Parent under Section 4001 of ERISA or Section 414 of the Code ("Parent ERISA Affiliate"). Parent and its Subsidiaries have not incurred and do not expect to incur any withdrawal liability with respect to a Multiemployer Plan under Subtitle E of Title IV of ERISA (regardless of whether based on contributions of Parent ERISA Affiliate), except as would not reasonably be expected to have a Parent Material Adverse Effect.

(iii) As of the date of this Agreement, all contributions required to be made under each Parent Compensation and Benefit Plan have been

timely made and all obligations in respect of each Parent Compensation and Benefit Plan have been properly accrued and reflected to the extent required by GAAP on the most recent consolidated balance sheet as filed or incorporated by reference in Parent Reports prior to the date of this Agreement, except, in the case of each of the foregoing, as would not reasonably be expected to have a Parent Material Adverse Effect. Neither any Parent Pension Plan nor any single-employer plan of any Parent ERISA Affiliate has an "accumulated funding deficiency" (whether or not waived) within the meaning of Section 412 of the Code or Section 302 of ERISA and no Parent ERISA Affiliate has an outstanding funding waiver. Neither Parent nor any of its Subsidiaries has provided, or is required to provide, security to any Pension Plans or to any single-employer plan of any Parent ERISA Affiliate pursuant to Section 401(a)(29) of the Code.

(i) Compliance with Laws; Licenses. Parent and its Subsidiaries have not violated any Law, except for violations that have not had and would not reasonably be likely to have a Parent Material Adverse Effect. No investigation or review by any Governmental Entity with respect to Parent or any of its Subsidiaries is pending or, to the Knowledge of Parent, threatened, except as would not reasonably be expected to have a Parent Material Adverse Effect. Each of Parent and its Subsidiaries has obtained and is in compliance with all Permits necessary for the lawful conduct of its business as presently conducted, except for those the absence of which, or the failure to be in compliance with, have not had and would not reasonably be expected to have a Parent Material Adverse Effect. Parent is, and has been, in compliance in all material respects with Sarbanes-Oxley and the applicable listing standards and corporate governance rules and regulations of the NYSE. This Section 6.2(i) does not relate to matters with respect to employee benefits, which are the subject of Section 6.2(h), environmental matters, which are the subject of Section 6.2(m), tax matters, which are the subject of Section 6.2(n), or labor matters, which are the subject of Section 6.2(o).

(j) Parent Material Contracts. Parent has filed or furnished with the SEC in the Parent Reports or provided to Company prior to date hereof, true and complete copies of all Parent Material Contracts entered into since January 1, 2005. All Parent Material Contracts are valid and in full force and effect and enforceable in accordance with their respective terms, subject to the Bankruptcy and Equity Exception, except to the extent that (i) they have previously expired or otherwise terminated in accordance with their terms or (ii) the failure to be in full force and effect would not reasonably be expected to have a Parent Material Adverse Effect. Neither Parent nor any of its Subsidiaries, nor, to the Knowledge of Parent, any counterparty to any such Parent Material Contract, has violated any provision of, or committed or failed to perform any act which, with or without notice, lapse of time or both, would constitute a default under the provisions of any Parent Material Contract, except in each case for those violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Parent Material Adverse Effect. No Parent Material Contract has been amended or modified prior to the date of this Agreement, except for amendments or modifications which have been filed or furnished with the SEC as an exhibit to a subsequently filed or furnished Parent Report, or provided to the Company prior to the date hereof.

(k) Property. All properties and assets of Parent and its Subsidiaries, real and personal, material to the conduct of their businesses as of the date of this Agreement are, except for

changes in the ordinary course of business since the date of the most recent consolidated balance sheet included in the Parent Reports as filed prior to the date hereof, reflected, in all material respects in accordance with GAAP, and to the extent required thereby, on the most recent consolidated balance sheet of Parent included in the Parent Reports as filed with the SEC. Each of Parent and its Subsidiaries has legal title to, or a leasehold interest, license or easement in, its real and personal property reflected on such balance sheet or acquired by it since the date of such balance sheet, free and clear of all Liens other than those Liens which are recorded as of the date hereof or which have not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(l) Takeover Statutes. No Takeover Statute of the Laws of Missouri, or anti-takeover provision contained in Parent's or Merger Sub's Charter or By-Laws, is applicable or purports to be applicable to the Merger or the other Transactions.

(m) Environmental Matters. Except for those matters would not reasonably be expected to have a Parent Material Adverse Effect: (i) each of Parent and its Subsidiaries is in compliance with all applicable Environmental Laws; (ii) each of Parent and its Subsidiaries has obtained or timely applied for all Environmental Permits necessary for their operations as currently conducted and are in compliance with any Environmental Permits; (iii) to the Knowledge of Parent, there have been no Releases or threatened Releases of any Hazardous Substance at, on, under or from any real property currently or formerly owned, leased or operated by Parent or its Subsidiaries, except for any such Release or threatened Release that is not reasonably likely to require any investigation and/or remediation under any Environmental Law; (iv) there is no Environmental Claim pending, and, to the Knowledge of Parent, there is no Environmental Claim threatened, or Environmental Circumstance pending or threatened, against Parent or any of its Subsidiaries or, to the Knowledge of Parent, against (x) any real property currently or formerly owned, leased or operated by Parent or its Subsidiaries or (y) any person or entity whose liability for such Environmental Claim or Environmental Circumstance has been retained or assumed either contractually or by operation of law by Parent or any of its Subsidiaries; and (v) to the Knowledge of Parent, neither Parent nor any of its Subsidiaries has received any written notice, demand, letter, claim or request for information alleging that Parent or any of its Subsidiaries may be in violation of or liable under any Environmental Law; and (vi) neither Parent nor any of its Subsidiaries is subject to any orders, decrees or injunctions issued by any Governmental Entity or is subject to any indemnity or other agreement with any third party imposing liability under any Environmental Law.

(n) Tax Matters. Except as would not reasonably be expected to have a Parent Material Adverse Effect, Parent and each of its Subsidiaries (i) have duly and timely filed (taking into account any extension of time within which to file) all Tax Returns required to be filed by any of them on or prior to the date of this Agreement and all filed Tax Returns are complete and accurate in all material respects; and (ii) have paid or remitted all Taxes that are required to be paid or that Parent or any of its Subsidiaries are obligated to withhold from amounts owing to any employee, creditor or third party, except with respect to matters contested in good faith or for which reserves have been established in accordance with GAAP. Except as would reasonably be expected to have a Parent Material Adverse Effect, as of the date of this Agreement, there are no audits, examinations, investigations or other proceedings in respect of Taxes or Tax matters, in each case, pending or, to the Knowledge of Parent, threatened in writing

(other than, in each case, claims or assessments for which reserves have been established in accordance with GAAP). Neither Parent nor any of its Subsidiaries has constituted either a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A) of the Code in any distribution intended to qualify for tax-free treatment under Section 355 of the Code occurring during the last 30 months. Except as would not reasonably be expected to have a Parent Material Adverse Effect, neither Parent nor any of its Subsidiaries is liable for any Tax imposed on any other person or entity under Treasury regulation section 1.1502-6 (or any similar provision of state, local or foreign tax law) as a transferee or successor, or is bound by or has any obligation under any Tax sharing, Tax indemnification, or similar agreement, contract or arrangement, whether written or unwritten.

(o) Labor Matters. Except in each case as would not reasonably be expected to have a Parent Material Adverse Effect, (i) neither Parent nor any of its Subsidiaries is the subject of any proceeding asserting that Parent or any of its Subsidiaries has committed an unfair labor practice or seeking to compel Parent to bargain with any labor union or labor organization, and (ii) there is no pending or, to the Knowledge of Parent, threatened, nor has there been for the past five years, any labor strike, dispute, walkout, work stoppage, slow-down or lockout involving Parent or any of its Subsidiaries. Section 6.2(o) of the Parent Disclosure Letter sets forth a list of all collective bargaining agreements to which Parent or any of its Subsidiaries is a party or is bound or is in the process of negotiating as of the date of this Agreement. Since January 1, 2003, neither Parent nor any of its Subsidiaries has engaged in any "plant closing" or "mass layoff," as defined in the Worker Adjustment Retraining and Notification Act or any comparable state or local law, without complying with the notice requirements of such laws.

(p) Affiliate Transactions. As of the date hereof, there are no transactions, arrangements or Contracts between Parent and its Subsidiaries, on the one hand, and its affiliates (other than its wholly-owned Subsidiaries) or other Persons, on the other hand, that would be required to be disclosed under Item 404 of Regulation S-K of the SEC.

(q) Foreign Corrupt Practices and International Trade Sanctions. To the Knowledge of Parent, neither Parent, nor any of its Subsidiaries, nor any of their respective directors, officers, agents, employees or any other Persons acting on their behalf, has, in connection with the operation of their respective businesses, (i) used any corporate or other funds for unlawful contributions, payments, gifts or entertainment, or made any unlawful expenditures relating to political activity to government officials, candidates or members of political parties or organizations, or established or maintained any unlawful or unrecorded funds in violation of Section 104 of the Foreign Corrupt Practices Act of 1977, as amended, or any other similar applicable foreign, Federal or state law, (ii) paid, accepted or received any unlawful contributions, payments, expenditures or gifts, or (iii) violated or operated in noncompliance with any export restrictions, anti-boycott regulations, embargo regulations or other applicable domestic or foreign laws and regulations.

(r) Insurance. Except for failures to maintain insurance coverage that have not had and would not reasonably be expected to have a Parent Material Adverse Effect, since January 1, 2005, Parent and its Subsidiaries have maintained continuous insurance coverage with reputable insurers or self-insured, in each case, in those amounts and covering those risks as are in accordance with normal industry practice for companies of the size and financial condition of

Parent engaged in businesses similar to that of Parent or its Subsidiaries. Neither Parent nor any of its Subsidiaries has received any notice of cancellation or termination with respect to any insurance policy of Parent or any of its Subsidiaries, except with respect to any cancellation or termination in accordance with the terms of the applicable insurance policy that has not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(s) Brokers and Finders. None of Parent, its Subsidiaries, or any of their respective officers, directors or employees has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finders fees in connection with the Merger or the other transactions contemplated in this Agreement, except that Parent has retained Credit Suisse Securities (USA) LLC and Sagent Advisors Inc. as its financial advisors.

(t) Regulation as a Utility. Parent or certain of its Subsidiaries are regulated as public utilities by the FERC and the PUCs of the states of Kansas, Missouri, California, Connecticut, Delaware, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island and Texas and the District of Columbia. Except as set forth above, neither Parent nor any Subsidiary or affiliate of Parent is subject to regulation as a public utility (or similar designation) by any state in the United States or in any foreign country or by any other Governmental Entity.

(u) Ownership of Shares. As of the date of this Agreement, neither Parent nor any of its affiliates or associates owns (beneficially or of record) any Company Shares, and neither Parent nor any of its affiliates or associates is a party to any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of Company Shares.

(v) Asset Sale Transactions. As of the date of this Agreement, Parent has no reason to believe that it will not be able to satisfy on a timely basis any of its obligations contained in the Asset Sale Agreement or the Partnership Interests Purchase Agreement. As of the date of this Agreement, this Agreement, the Asset Sale Agreement and the Partnership Interests Purchase Agreement, the Transition Services Agreement and the Letter of Intent are the sole agreements between Parent and Asset Purchaser and their affiliates with respect to the Transactions.

(w) Operations of Merger Sub. Merger Sub has been formed solely for the purpose of engaging in the Transactions and, prior to the Effective Time, will have engaged in no other business activities, will have no other assets and will have incurred no liabilities or obligations other than as contemplated by this Agreement.

(x) No Other Representations and Warranties. Except for the representations and warranties of Parent and Merger Sub contained in this Agreement, the Asset Sale Agreement and the Partnership Interests Purchase Agreement, or any of the exhibits, schedules or other documents attached hereto or thereto or delivered pursuant to any of the foregoing, Parent and Merger Sub are not making and have not made, and no other Person is making or has made on behalf of Parent or Merger Sub, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby or thereby, and no Person is authorized to make any representations and warranties on behalf of Parent or Merger Sub.

6.3 Representations and Warranties of the Asset Purchaser. Except as set forth in the Asset Purchaser Disclosure Letter, the Asset Purchaser hereby represents and warrants to the Company that:

(a) Organization, Good Standing and Qualification. The Asset Purchaser is a corporation duly organized, validly existing and in good standing under the Laws of the State of South Dakota and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted and is qualified to do business and is in good standing as a foreign legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except where the failure to be so organized, qualified or in good standing, or to have such power or authority, would not reasonably be expected to have an Asset Purchaser Material Adverse Effect.

(b) Corporate Authority; Approval. The Asset Purchaser has the requisite corporate power and authority to, and it has taken all corporate action necessary to, execute, deliver and perform its obligations under this Agreement. This Agreement has been duly executed and delivered by the Asset Purchaser and is a valid and binding agreement of the Asset Purchaser, enforceable against the Asset Purchaser in accordance with its terms. No vote or approval of the stockholders of the Asset Purchaser is required in connection with the execution, delivery or performance by the Asset Purchaser of its obligations under this Agreement.

(c) Governmental Filings; No Violations. (i) No consent, approval, order, license, permit or authorization of, or registration, declaration, notice or filing with, any Governmental Entity is necessary or required to be obtained or made by or with respect to the Asset Purchaser or any of its Subsidiaries in connection with the execution and delivery of this Agreement and the performance by the Asset Purchaser of its obligations under this Agreement, except for those (A) required by (1) the HSR Act, (2) the Exchange Act and the Securities Act (in connection with the Asset Purchaser Financing), (3) Environmental Laws, (4) NYSE rules and regulations, (5) the FERC under Section 203 of the Power Act, and (6) the PUCs identified in Section 6.3(c)(i) of the Asset Purchaser Disclosure Letter pursuant to applicable Laws regulating utilities (the items set forth above in clauses (1), (5) and (6) being the "Material Asset Purchaser Regulatory Consents"), or (B) that the failure to make or obtain would not reasonably be expected to have an Asset Purchaser Material Adverse Effect. As of the date of this Agreement, the Asset Purchaser does not know of any facts or circumstances relating to the Asset Purchaser or any of its Subsidiaries, that, in the Asset Purchaser's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Material Asset Purchaser Regulatory Consents.

(ii) The execution, delivery and performance of this Agreement by the Asset Purchaser will not constitute or result in (A) a breach or violation of the Charter or By-Laws of the Asset Purchaser, (B) a breach or violation of, a default or termination (or right of termination) under, or the acceleration of any obligations under, or the creation of any Lien on the Asset Purchaser's assets or the assets of any of its Subsidiaries (with or without notice, lapse of time or both) pursuant to, any Contract binding upon the Asset Purchaser or any of its Subsidiaries or, assuming the filings, notices, reports, consents, registrations, approvals, permits and authorizations referred to in Section 6.3(c)(i)

are made or obtained, any Law or governmental or non-governmental permit or license to which the Asset Purchaser or any of its Subsidiaries is subject, or (C) any change in the rights or obligations of any party under any of the Asset Purchaser's Contracts, except, in the case of clauses (B) and (C), for any breach, violation, termination, default, acceleration, creation or change that would not reasonably be expected to have an Asset Purchaser Material Adverse Effect.

(d) No Other Representations and Warranties. Except for the representations and warranties of the Asset Purchaser contained in this Agreement, the Asset Sale Agreement, the Partnership Interests Purchase Agreement, or any of the exhibits, schedules or other documents attached hereto or thereto or delivered pursuant to any of the foregoing, the Asset Purchaser is not making and has not made, and no other Person is making or has made on behalf of the Asset Purchaser, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby or thereby, and no Person is authorized to make any representations and warranties on behalf of the Asset Purchaser.

•

COVENANTS

7.1 Interim Operations. (a) The Company covenants and agrees as to itself and its Subsidiaries that, from and after the date of this Agreement and prior to the Effective Time, unless Parent otherwise approves in writing (which approval will not be unreasonably withheld or delayed), or except as otherwise expressly contemplated by this Agreement, disclosed in the Company Disclosure Letter or required by Law:

(i) Ordinary Course of Business. The Company will, and will cause each of its Subsidiaries to, conduct the businesses of the Post-Sale Company in all material respects in the ordinary course and, to the extent consistent with past practices, the Company and its Subsidiaries will use commercially reasonable efforts to preserve the Post-Sale Company's and its Subsidiaries' business organizations intact, maintain their existing relations and goodwill with customers, suppliers, regulators, distributors, creditors, lessors, employees and business associates, and retain the services of current key officers and employees;

(ii) Charter Documents. The Company will not amend or allow to be amended the Charter or By-Laws of the Company or any of its Subsidiaries;

(iii) Dividends, Distributions, etc. The Company will not, and will not permit any of its Subsidiaries to: (A) split, combine, subdivide or reclassify its outstanding shares of capital stock; (B) declare, set aside or pay any dividend or distribution payable in cash, stock or property in respect of any capital stock or other equity interests, other than dividends or distributions by a wholly-owned Subsidiary of the Company to its parent; or (C) repurchase, redeem

or otherwise acquire any shares of its capital stock, equity interests, or any securities convertible into or exchangeable or exercisable for any shares of its capital stock or other equity interests, provided that (1) the Company may acquire Company Options, Company Stock Units and other Company Awards upon their exercise or settlement, (2) the Company may acquire Premium Income Equity Securities or Convertible Debentures upon their conversion or exchange, and (3) each wholly-owned Subsidiary of the Company may repurchase, redeem or otherwise acquire shares of its capital stock or securities convertible into or exchangeable or exercisable for any shares of its capital stock;

(iv) Mergers and Consolidations. The Company will not merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or adopt a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization except for (A) any such transactions between wholly-owned Subsidiaries of the Company or between the Company and any wholly-owned Subsidiary of the Company, provided the Company is the surviving entity, and (B) dispositions and acquisitions permitted by clauses (viii) and (x) below, respectively, effected by a means of a merger or consolidation of a Subsidiary of the Company;

(v) Compensation and Benefits. None of the Company or any of its Subsidiaries will terminate, establish, adopt, enter into, make any new, or accelerate any existing, grants or awards of stock-based compensation or other benefits under, amend or otherwise modify, or grant any rights to severance, termination or retention benefits under any Company Compensation and Benefit Plans or increase the salary, wage, bonus or other compensation of any directors, officers or employees, except for (A) grants of equity or equity based awards in the ordinary course of business, provided that awards shall not be made with respect to more than 350,000 Company Shares, and shall be made in accordance with Section 7.1(a) of the Company Disclosure Letter; (B) increases in salary or grants of annual bonuses in the ordinary course of business in connection with normal periodic performance reviews (including promotions) and the provision of individual compensation and benefits to new and existing directors, officers and employees of the Company and its Subsidiaries consistent with past practice (which shall not provide for benefits or compensation payable solely as a result of the consummation of the Transactions); (C) actions necessary to satisfy existing contractual obligations under Company Compensation and Benefit Plans existing as of the date of this Agreement; or (D) bonus payments to executives in compensation bands E through G, up to an aggregate of $500,000;

(vi) Indebtedness. None of the Company or any of its Subsidiaries will incur or modify (other than immaterial modifications not affecting the timing or amounts of payments due thereunder) any indebtedness for borrowed money or guarantee such indebtedness of another Person, or issue or sell any debt securities of the Company or any of its Subsidiaries except for (A) indebtedness or guarantees for borrowed money incurred to finance investments the Company is required to make under any Contract to which the Company is a

party as of the date hereof as previously disclosed to Parent in writing; (B) indebtedness or guarantees for borrowed money incurred in the ordinary course of business to finance capital expenditures permitted by Section 7.1(a)(vii) or by Section 7.1 of the Company Disclosure Letter, to the extent not otherwise permitted by clause (A) above; (C) short-term indebtedness for working capital requirements; (D) indebtedness for money borrowed by any of the Company's wholly-owned Subsidiaries, other than Aquila Colorado, LLC or the partnerships to be formed under the Partnership Interests Purchase Agreement, or any Subsidiary thereof, from the Company, or by the Company from any of its wholly owned Subsidiaries other than Aquila Colorado, LLC or the partnerships to be formed under the Partnership Interests Purchase Agreement, or any Subsidiary thereof; (E) indebtedness for borrowed money made in connection with the refinancing of existing indebtedness for borrowed money or indebtedness for borrowed money permitted to be incurred hereunder at a lower cost of funds and otherwise on terms that, in the aggregate, are not less favorable to the Company or its Subsidiaries than the terms of the indebtedness to be replaced, either at or prior to its stated maturity; or (F) interest rate hedges on customary terms not to exceed $150,000,000 of notional debt in the aggregate relating to the Company's investment in the Iatan 1 and 2 electric generation stations, provided such hedges expire or otherwise terminate on or before the second anniversary of the date of this Agreement;

(vii) Capital Expenditures. None of the Company or any of its Subsidiaries will make or commit to any capital expenditures relating to (A) the Post-Sale Company in excess of the amounts reflected on the "Grand Total (After Adjustments)" line of the Company's capital expenditure budget (set forth in Section 7.1(a)(vii) of the Company Disclosure Letter) for the year in which those capital expenditures are made, plus an incremental amount of up to $26 million in 2007 and $27 million in 2008, respectively, and or (B) the Company's Kansas electric operations in excess of the amounts reflected on the "Kansas Electric" line of the Company's capital expenditure budget (as set forth in Section 7.1(a)(vii) of the Company Disclosure Letter) for the year in which those capital expenditures are made, plus an incremental amount of up to $4 million in 2007 and $10.2 million in 2008, respectively, except for capital expenditures (1) required under any Contract to which the Company or any of its Subsidiaries is a party as of the date of this Agreement and a copy of which has been made available to Parent; or (2) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance) necessary to provide or maintain safe, adequate and reliable electric and natural gas service to its utility customers, provided that the Company shall consult, if reasonably possible, with Parent prior to making or agreeing to make any such expenditure;

(viii) Dispositions. None of the Company or any of its Subsidiaries will transfer, lease, sublease, license, sell, mortgage, pledge guarantee, or encumber or otherwise dispose of any material property or assets (including capital stock of any of its Subsidiaries) applicable to the Post-Sale

Company except for (A) transfers, leases, licenses, subleases, Liens, sales, guarantees or other dispositions in the ordinary course of business, (B) Liens to secure indebtedness for borrowed money and hedges permitted to be incurred pursuant to this Section 7.1(a), or (C) transfers, leases, subleases, licenses, sales, guarantees, Liens, or other dispositions required under any Company Material Contract to which the Company or any of its Subsidiaries is a party as of the date of this Agreement and copies of which have been made available to Parent; provided that the expenditure of cash by the Company and its Subsidiaries on matters permitted under this Agreement will not be regarded as a disposition of assets under this clause (viii);

(ix) Share Issuances. None the Company or any of its Subsidiaries will issue, pledge, dispose or encumber, deliver or sell shares of its capital stock or any other voting securities, or any securities convertible into, or any rights, warrants or options to acquire, any such shares except (A) any Company Shares issued pursuant to Company Options and Company Awards outstanding on the date of this Agreement, awards of Company Options and other Company Awards granted in accordance with this Agreement and Company Shares issuable pursuant to such options or awards, (B) the pro rata issuance by a Subsidiary of the Company of shares of its capital stock, or any securities convertible into, or any rights, warrants or options to acquire, any such shares, to its stockholders or the issuance of such shares, securities, rights, warrants or options to the Company or any Subsidiary of the Company, and (C) the issuance of Company Shares pursuant to the conversion of any Premium Income Equity Securities or Convertible Debentures;

(x) Acquisitions. None of the Company or any of its Subsidiaries will spend in excess of $5,000,000 individually or $20,000,000 in the aggregate to acquire any business which would be in included in the Post-Sale Company, whether by merger, consolidation, purchase of property or assets or otherwise (valuing any non-cash consideration at its fair market value as of the date of the execution of a binding agreement for the acquisition);

(xi) Accounting. None of the Company or any of its Subsidiaries will make any change to its accounting policies or procedures, except as required by changes in GAAP, applicable Law or regulatory accounting standards and practice;

(xii) Taxes. None of the Company or any of its Subsidiaries will (A) make any Tax election or take any position on any Tax Return filed on or after the date of this Agreement or adopt any method therefor that is inconsistent in any material respect with elections made, positions taken or methods used in preparing or filing similar Tax Returns in prior periods or (B) enter into any closing agreement, settle or resolve any Tax controversy or consent to any extension or waiver of the limitation period applicable to any claim or assessment in respect of Taxes, with respect to any such controversy, claim, assessment or amount otherwise in dispute greater than $1,000,000 individually or

$10,000,000 in the aggregate. The Company and its Subsidiaries will use commercially reasonable efforts to continue to wind down in a tax-efficient manner any remnant foreign entities and operations existing as of the date of this Agreement;

(xiii) Business Activities. None of the Company or any of its Subsidiaries will enter into any line of business in any geographic area other than the current and related lines of business of the Company or any of its Subsidiaries (which will include the current operations of Aquila Merchant Services, Inc. to the extent necessary for the cessation of its merchant trading business, but not the ongoing conduct of such business), and in geographic areas in which the Company or any of its Subsidiaries is currently conducting business, including the wind-down of the trading book of Aquila Merchant Services, Inc., but not further investments in such business; provided, however, that the restrictions in this Section 7.1(a)(xiii) will not apply to activities that do not relate to the Post-Sale Company;

(xiv) Loans and Investments. Other than (A) investments in marketable securities and the provision of goods, commodities and services by the Company and its Subsidiaries to their respective customers in the ordinary course of business, (B) to the extent permitted by Section 7.1(a)(vii), capital investments in projects jointly owned by the Company or one of its wholly-owned Subsidiaries with any Person, and (C) to the extent permitted by Section 7.1(a)(x), none of the Company or any of its Subsidiaries will make any loans, advances or capital contributions to, or investments in, any Person (other than the Company or any wholly-owned Subsidiary of the Company and other than as required under any Contract to which the Company or any of its Subsidiaries is a party as of the date of this Agreement copies of which have been made available to Parent) in excess of $1,000,000 individually or $2,000,000 in the aggregate;

(xv) Insurance. The Company will, and will cause its Subsidiaries to, maintain with financially responsible insurance companies (or through self-insurance not inconsistent with such party's past practice), insurance in such amounts and against such risks and losses as are customary for companies of the size and financial condition of the Company, which are engaged in businesses similar to that of the Company and its Subsidiaries;

(xvi) Material Contracts. Other than (A) in the ordinary course of business, (B) upon terms not materially adverse to the Post-Sale Company and its Subsidiaries, taken as a whole, or (C) as otherwise permitted under this Section 7.1, none of the Company or any of its Subsidiaries will enter into, amend, modify or breach in any material respect, terminate or allow to lapse (other than in accordance with its terms) any Company Material Contract, or any contract which would have been a Company Material Contract if in effect prior to the date hereof, in either case, relating to the Post-Sale Company;

(xvii) Permits. Other than in the ordinary course of business, none of the Company or any of its Subsidiaries will amend in any material respect, breach in any material respect, terminate or allow to lapse, or become subject to default in any material respect or subject to termination any Permit material to the Post-Sale Company, other than (A) as required by applicable Law, and (B) compromises or settlements of litigation, actions, suits, claims, proceedings, investigations, tax controversies and tax closing agreements with, or approved by, Governmental Entities as permitted under Section 7.1(a)(xii) or 7.1 (a)(xviii);

(xviii) Litigation. None of the Company or any of its Subsidiaries will enter into any compromise or settlement of any litigation, action, suit, claim, proceeding or investigation relating to the Post-Sale Company (excluding tax controversies and tax closing agreements, which shall be restricted solely to the extent set forth in Section 7.1(a)(xii)) in which the damages or fines to be paid by the Company (and not reimbursed by insurance) are in excess of $20,000,000 in the aggregate, or the non-monetary relief to be provided could reasonably be expected to materially restrict the prospective operation of the Post-Sale Company's businesses;

(xix) Collective Bargaining Agreements. The Company and its Subsidiaries will not negotiate the renewal or extension of any of the collective bargaining agreements listed in Section 6.1(o) of the Company Disclosure Letter without providing Parent with access to all information reasonably requested by Parent relating to the renewal or extension of any such collective bargaining agreement and permitting Parent to consult from time to time with the Company or its Subsidiaries and their counsel on the progress thereof; provided that the negotiation of such renewal or extension will be conducted in a manner consistent with past practice, and the Company and its Subsidiaries will not be obligated to follow any advice that may be provided by Parent during any such consultation;

(xx) Regulatory Status. The Company and its Subsidiaries will not agree or consent to any material agreements or material modifications of material existing agreements or material courses of dealing with the FERC or any PUC in respect of the operations of the Post-Sale Company, except as required by Law to obtain or renew Permits, or agreements in the ordinary course of business consistent with past practice;

(xxi) Waiver of Rights. The Company and its Subsidiaries will not modify, amend or terminate, or waive, release or assign any material rights or claims with respect to any confidentiality or standstill agreement relating to the Post-Sale Company to which the Company or any Subsidiary is a party (it being agreed and acknowledged that the Company may grant waivers under any such standstill agreement to allow a third-party to submit an Acquisition Proposal for the Company to the extent that the Board of Directors of the Company determines in good faith (after consulting with outside legal

counsel) that the failure to grant such waiver would be inconsistent with its fiduciary duties under applicable law);

(xxii) No Restrictions on Future Business Activities. The Company and its Subsidiaries will not enter into any agreements that would limit or otherwise restrict in any material respect the Post-Sale Company or any of its Subsidiaries or any successor thereto, or that, after the Effective Time, would limit or restrict in any material respect Parent or any of its Subsidiaries (including the Surviving Company) or any successor thereto, from engaging or competing in any line of business or product line or in any geographic area (in each case, other than limitations on franchises, certificates of convenience or necessity or other rights granted under the same document);

(xxiii) Actions to Impede Merger. Except as permitted under Section 7.2 and Article IX of this Agreement, the Company and its Subsidiaries will not take any action that is intended or would reasonably be expected to result in any of the conditions to the Merger set forth in Article VIII not being satisfied;

(xxiv) Rate Matters. Subject to applicable Law and except for non-material filings in the ordinary course of business consistent with past practice, the Company and its Subsidiaries shall consult with Parent prior to implementing any changes in the Company's or any of its Subsidiaries' rates or charges (other than automatic cost pass-through rate adjustment clauses), standards of service or accounting, in any such case, as relates to the Post-Sale Company, or executing any agreement with respect thereto that is otherwise permitted under this Agreement. In addition, the Company and its Subsidiaries will not agree to any settlement of any rate proceeding that would provide for a reduction in annual revenues or would establish a rate moratorium or phased-in rate increases (other than automatic cost pass-through rate adjustment clauses) for a duration of more than 1 year (it being agreed and acknowledged that, notwithstanding anything to the contrary herein, rate matters relating to the Post-Sale Company shall be restricted between the date of this Agreement and the Effective Time solely to the extent set forth in this Section 7.1(a)(xxiv) and not by any other provision hereof, except that the proceeding pursuant to Section 7.5(i) shall be governed solely by such section and not by this Section 7.1(a)(xxiv));

(xxv) Affiliate Transactions. None of the Company or any of its Subsidiaries will enter into any transaction, arrangement or Contract with any of its affiliates (other than wholly-owned Subsidiaries of the Company) or other Persons that would be required to be disclosed under Item 404 of Regulation S-K of the SEC, other than any transaction, arrangement or Contract on terms not less favorable to the Company and its Subsidiaries than would reasonably be available from third parties; and

(xxvi) Agreement to do the Foregoing. None of the Company or any of its Subsidiaries will enter into any agreement to do any of the foregoing.

(b) Parent covenants and agrees as to itself and its Subsidiaries that, from and after the date of this Agreement and prior to the Effective Time, unless the Company otherwise approves in writing (which approval will not be unreasonably withheld or delayed), or except as otherwise expressly contemplated by this Agreement, disclosed in the Parent Disclosure Letter or required by Law:

(i) Ordinary Course of Business. Parent will, and will cause each of its Subsidiaries to, conduct its businesses in all material respects in the ordinary course and consistent with the strategic plan disclosed in the Parent Disclosure Letter and, to the extent consistent with past practices, Parent and its Subsidiaries will use commercially reasonable efforts to preserve their respective business organizations intact, maintain their existing relations and goodwill with customers, suppliers, regulators, distributors, creditors, lessors, employees and business associates, and retain the services of current key officers and employees;

(ii) Charter Documents. Parent will not amend or allow to be amended the Charter or By-Laws of Parent or any of its Subsidiaries;

(iii) Dividends, Distributions, etc. Parent will not, and will not permit any of its Subsidiaries to: (A) split, combine, subdivide or reclassify its outstanding shares of capital stock; (B) declare, set aside or pay any dividend or distribution payable in cash, stock or property in respect of any capital stock or other equity interests, other than dividends or distributions by a Subsidiary of Parent to its parent and other than regular quarterly dividends of no more than $0.415 per share on Parent Common Stock and dividends on each series of Parent's preferred stock in accordance with its terms, declared and paid in accordance with, and with a record date set on a date consistent with, past practice; or (C) repurchase, redeem or otherwise acquire any shares of its capital stock, equity interests, or any securities convertible into or exchangeable or exercisable for any shares of its capital stock or other equity interests; provided that (1) Parent may acquire Parent Options and other awards under Parent's stock- based plans upon their exercise or settlement and (2) each wholly-owned Subsidiary of Parent may repurchase, redeem or otherwise acquire shares of its capital stock or securities convertible into or exchangeable or exercisable for any shares of its capital stock;

(iv) Reorganizations. Parent will not adopt a plan of complete or partial liquidation, dissolution, restructuring, recapitalization or other reorganization;

(v) Dispositions. Except as permitted by Section 7.2, neither Parent nor any of its Subsidiaries will transfer, lease, license, sublease, sell, or otherwise dispose of any material property or assets (including capital stock of

any of its Subsidiaries), except for (A) transfers, sales, or other dispositions in the ordinary course of business, (B) transfers, sales, guarantees, Liens, or other dispositions required under any Parent Material Contract to which Parent or any of its Subsidiaries is a party as of the date of this Agreement, (C) transfers, sales or other dispositions by Parent or any of its Subsidiaries of businesses, property or assets that are not regulated by the Missouri Public Service Commission or Kansas Corporation Commission, and (D) transfers, sales or other dispositions of property or assets with a fair market value of more than $100,000,000 in the aggregate; provided, that the expenditure of cash by Parent and its Subsidiaries on matters permitted under this Agreement will not be regarded as a disposition of assets under this clause (v);

(vi) Share Issuances. Parent will not issue, pledge, dispose or encumber, deliver or sell Parent Common Stock, or securities convertible into or rights, warrants or options to acquire Parent Common Stock, exceeding 15,000,000 shares of Parent Common Stock in the aggregate;

(vii) Acquisitions. Neither Parent nor any of its Subsidiaries will spend in excess of $100,000,000 in the aggregate to acquire any business, whether by merger, consolidation, purchase of property or assets or otherwise (valuing any non-cash consideration at its fair market value as of the date of the agreement for such acquisition);

(viii) Actions to Impede Merger. Except as permitted under Section 7.2 and Article IX of this Agreement, Parent and its Subsidiaries will not take any action that is intended or would reasonably be expected to result in any of the conditions to the Merger set forth in Article VIII not being satisfied;

(ix) Kansas Electric Sale. Parent and its Subsidiaries will not take any action that is intended or would reasonably be expected to impede, impair or materially delay the sale of the Company's Kansas electric utility business;

(x) Agreement to do the Foregoing. None of Parent or any of its Subsidiaries will enter into any agreement to do any of the foregoing; and

(xi) Actions of Merger Sub. Parent will not permit Merger Sub to take, or to commit to take prior to the Closing, any action except for actions in connection with the Transactions and the other transactions contemplated hereby as expressly set forth in this Agreement.

7.2 Acquisition Proposals

(a) No Solicitation or Negotiation. Each of the Company and Parent agrees that neither it nor any of its respective Subsidiaries nor any of its or its respective

Subsidiaries' officers and directors will, and each of the Company and Parent will not authorize its and its respective Subsidiaries' Representatives to, and will use its reasonable best efforts to instruct and cause its and its respective Subsidiaries' Representatives not to, directly or indirectly:

(i) initiate, solicit, or knowingly facilitate or encourage any inquiries or the making of any proposal or offer that constitutes, or is reasonably expected to constitute, an Acquisition Proposal;

(ii) engage in, continue or otherwise participate in any discussions or negotiations regarding, or provide any non-public information or data to any Person who has made, or proposes to make, an Acquisition Proposal;

(iii) afford access to the properties, books or records of the Company or Parent, as applicable, or any of their respective Subsidiaries to any Person that has made, or to the Knowledge of the Company or to the Knowledge of Parent, as applicable, is considering making, any Acquisition Proposal;

(iv) except as permitted under Section 7.2(b)(ii), enter into any letter of intent or agreement in principle or any agreement or understanding providing for any Acquisition Proposal; or

(v) except as permitted under Section 7.2(b)(ii), propose publicly or agree to any of the foregoing relating to an Acquisition Proposal.

Notwithstanding the foregoing, prior to (but not after) the time (A) in the case of the Company, this Agreement is approved by the Company's stockholders pursuant to the Company Requisite Vote or (B) in the case of Parent, the Share Issuance is approved by Parent's stockholders pursuant to the Parent Requisite Vote, as applicable, the Company's Board of Directors or Parent's Board of Directors, as applicable, may (1) provide information (including to potential debt or equity financing sources and potential asset purchasers and their respective potential debt and equity financing sources) in response to a request by a Person or Persons who has or have made a bona fide written Acquisition Proposal that was not initiated, solicited, facilitated or encouraged in violation of this Section 7.2 (a) if the Company or Parent, as applicable, receives from the Person or Persons so requesting the information an executed confidentiality agreement no more favorable in any material respect to such Person or Persons than the Parent Confidentiality Agreement is to Parent, provided that all such information is concurrently furnished to Parent and to the Asset Purchaser, or to the Company, as applicable, to the extent not previously furnished, in the same form provided to such Person or Persons (and/or its or their respective potential debt or equity financing sources and potential asset purchasers and their respective potential debt and equity financing sources); and/or (2) engage in discussions or negotiations with any Person or Persons who has or have made a bona fide written Acquisition Proposal that was not initiated, solicited, facilitated or encouraged in violation of this Section 7.2(a), if, in each case, the Board of Directors of the Company or Parent, as applicable, determines in good faith (after consultation with outside legal counsel and financial advisors) that failure to take this action would be inconsistent with its fiduciary duties under applicable

Law; and in the case referred to in clause (2) above, if the Board of Directors of the Company or Parent, as applicable, determines in good faith that the Acquisition Proposal either constitutes a Superior Proposal or is reasonably likely to lead to a Superior Proposal.

(b) Board of Directors Recommendation.

(i) The Board of Directors of the Company or Parent, as applicable, and each committee thereof will not:

(A) except as expressly permitted by this Section 7.2, withhold or withdraw the Company Recommendation or the Parent Recommendation, as applicable, or approve or recommend to the Company's stockholders or Parent's stockholders, as applicable, any Acquisition Proposal; or

(B) cause or permit the Company or Parent, as applicable, to enter into any letter of intent, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement or other agreement for any Acquisition Proposal, other than a confidentiality agreement pursuant to Section 7.2(a).

(ii) Notwithstanding Section 7.2(b)(i), prior to (but not after) the time (A) in the case of the Company, this Agreement is approved by the Company's stockholders pursuant to the Company Requisite Vote or (B) in the case of Parent, the Share Issuance is approved by Parent's stockholders pursuant to the Parent Requisite Vote, as applicable, the Company's Board of Directors or Parent's Board of Directors, as applicable, may (1) withhold or withdraw the Company Recommendation or the Parent Recommendation, as applicable, if the Board of Directors of the Company or Parent, as applicable, determines in good faith (after consultation with its financial advisers and outside legal counsel) that the failure to do so would be inconsistent with its fiduciary duties under applicable Law and (2) approve or recommend to the stockholders of the Company or Parent, as applicable, any Superior Proposal made after the date of this Agreement (this action, a "Superior Proposal Action") if the Board of Directors of the Company or Parent, as applicable, determines in good faith (after consultation with its financial advisers and outside legal counsel) that the failure to do so would be inconsistent with its fiduciary duties under applicable Law; provided that the Company's Board of Directors or Parent's Board of Directors, as applicable, may not take a Superior Proposal Action unless the Company or Parent, as applicable, has given Parent or the Company, as applicable, written notice of its Board of Directors' intention to take this action at least six business days prior to its Board of Directors' taking this action (it being understood that this intention or notice or the disclosure of either will not constitute a Company Adverse Recommendation Event entitling Parent to terminate this Agreement pursuant to Section 9.4(a) or a Parent Adverse Recommendation Event entitling the Company to terminate this Agreement pursuant to Section 9.3(a)). The

Company or Parent, as applicable, agrees that (x) during the six-business day period prior to its taking any Superior Proposal Action, Parent and the Asset Purchaser or the Company, as applicable, will be permitted to propose to the Company or Parent, as applicable, revisions to the terms of the transactions contemplated by this Agreement, and Parent and the Asset Purchaser or the Company, as applicable, and their respective Representatives will, if requested by Parent and the Asset Purchaser or the Company, as applicable, negotiate in good faith with Parent and the Asset Purchaser or the Company, as applicable, and their respective Representatives regarding any revisions to the terms of the transactions contemplated by this Agreement proposed by Parent and the Asset Purchaser or the Company, as applicable, and (y) the Company or Parent, as applicable, may take any Superior Proposal Action with respect to an Acquisition Proposal that was a Superior Proposal only if it continues to be a Superior Proposal in light of any revisions to the terms of the transaction contemplated by this Agreement to which Parent and the Asset Purchaser or the Company, as applicable, have agreed prior to the expiration of such six-business day period.

(c) Certain Permitted Disclosure. Nothing contained in this Section 7.2 will be deemed to prohibit the parties from complying with their disclosure obligations under applicable Law, including under Rules 14d-9, 14e-2 and 10b-5 of the Exchange Act, provided that neither the Company nor Parent, as applicable, shall withhold or withdraw the Company Recommendation or Parent Recommendation, as applicable, or approve or recommend any Acquisition Proposal other than in compliance with Section 7.2(b).

(d) Existing Discussions. Each of the Company and Parent will immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Persons with respect to any Acquisition Proposal. Each of the Company and Parent will take the necessary steps to promptly inform the individuals or entities referred to in the first sentence of Section 7.2(a) of the obligations undertaken in this Section 7.2. Each of the Company and Parent will promptly request each Person that has previously executed a confidentiality agreement in connection with its consideration of acquiring the Company, Parent or any of their Subsidiaries or any other transaction the proposal of which would constitute an Acquisition Proposal to return or destroy all confidential information previously furnished to that Person by or on behalf of the Company, Parent or any of their respective Subsidiaries.

(e) Notice. Each of the Company and Parent will promptly (and, in any event, within 36 hours) notify Parent and the Asset Purchaser or the Company, as applicable, orally and in writing, of any (i) inquiries, proposals or offers received after the date of this Agreement with respect to an Acquisition Proposal, (ii) request received after the date of this Agreement for non-public information from a Person who has made, or proposes to make, an Acquisition Proposal, or (iii) discussions or negotiations which are sought to be initiated or continued after the date of this Agreement by a Person who has made, or proposes to make, an Acquisition Proposal. In connection with this notice, the Company or Parent, as applicable, will indicate the name of the Person and the material terms and conditions of any Acquisition Proposal and thereafter will keep Parent and the Asset Purchaser or the Company, as applicable, informed, on a current basis, of the status and terms of any Acquisition Proposal (including any material amendments) and the status of any discussions or negotiations, including any change in

the Company's or Parent's intentions, as applicable, as previously notified. Each of the Company and Parent will deliver to Parent and the Asset Purchaser or the Company, as applicable, a new notice with respect to each Acquisition Proposal that has been revised or modified and, prior to taking any Superior Proposal Action with respect to any revised or modified Acquisition Proposal, a new six-business day period will commence, for purposes of Section 7.2(b)(ii), from the time Parent and the Asset Purchaser or the Company, as applicable, receives the notice.

7.3 Information Supplied.

(a) Parent and the Company will promptly prepare and file with the SEC the Prospectus/Proxy Statement, and Parent will promptly prepare and file with the SEC the registration statement required to be filed in connection with the Share Issuance (including the joint proxy statement and prospectus (the "Prospectus/Proxy Statement") constituting a part thereof) (the "Registration Statement"). Parent will use its reasonable best efforts to have the Registration Statement declared effective under the Securities Act as promptly as practicable after this filing, and promptly thereafter, Parent and the Company will mail the Prospectus/Proxy Statement to their respective stockholders.

(b) The Company and Parent each agrees, as to itself and its Subsidiaries, that none of the information supplied or to be supplied by it or its Subsidiaries for inclusion or incorporation by reference in (i) the Registration Statement will, at the time the Registration Statement becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, not misleading, and (ii) the Prospectus/Proxy Statement and any amendment or supplement will, at the date of mailing to stockholders and at the times of the Company Stockholders Meeting and the Parent Stockholders Meeting, contain any untrue statement of a material fact or omit to state any 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. Parent will cause the Registration Statement to comply as to form in all material respects with the applicable provisions of the Securities Act.

7.4 Stockholders Meetings.

(a) The Company will take, in accordance with applicable Law and its Charter and By-laws, all action necessary to duly call, give notice of, convene and hold a Company Stockholders Meeting as promptly as practicable after the Registration Statement is declared effective. Subject to Section 7.2(b)(ii), the Company's Board of Directors will recommend in the Prospectus/Proxy Statement and at the Company Stockholders Meeting that the holders of Company Shares approve this Agreement and the other transactions contemplated hereby and will take all lawful action to solicit such approval.

(b) Parent will take, in accordance with applicable Law and its Charter and By-laws, all action necessary to duly call, give notice of, convene and hold a Parent Stockholders Meeting as promptly as practicable after the Registration Statement is declared effective. Subject to Section 7.2(b)(ii), Parent's Board of Directors will recommend in the Prospectus/Proxy Statement and at Parent Stockholders Meeting that the holders of Parent

Common Stock approve the Share Issuance and will take all lawful action to solicit such approval.

(c) The parties will cooperate in an effort to hold the Company Stockholders Meeting and the Parent Stockholders Meeting on the same day at the same time.

7.5 Filings; Other Actions; Notification. (a) Each of Parent and the Company will cooperate with each other and use, and will cause its respective Subsidiaries to use, their reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things, necessary, proper or advisable on its part under applicable Laws to consummate and make effective the Merger and the Transactions as promptly as practicable after the date of this Agreement. Without limiting the foregoing, Parent and the Company will prepare and file, or cause to be prepared and filed, all documentation necessary or appropriate to effect all notices, reports and other filings required to be filed with any Governmental Entity or other third party and to obtain, as promptly as reasonably practicable after the date of this Agreement, all consents and approvals of Governmental Entities and other third parties necessary or appropriate in connection with the Transactions, and each of Parent and the Company will use its reasonable best efforts to obtain, as promptly as reasonably practicable after the date of this Agreement, all such consents and approvals (including the use of such efforts by the Company with respect to the Subsequent Merger, but only if Parent shall have provided notice to the Company of Parent's election that such efforts be so used). Except for actions permitted under Section 7.2 and Article IX, the Company and Parent will not take or permit any of their respective Subsidiaries to take any action that would reasonably be expected to prevent or materially delay the Merger, the obtaining of the Merger Regulatory Closing Consents, or the consummation of the Transactions.

(i) Prior to the Effective Time, neither Parent nor any of its Subsidiaries will enter into any agreement for the sale, transfer or other disposition of any of the public utilities owned by the Company or any of its Subsidiaries or announce or disclose any intention to enter into or effect any such agreement or transaction other than the Asset Sale Transactions, without the prior written consent of the Company.

(ii) Nothing in this Section 7.5(a) will require, or be construed to require, (A) the Company to agree or consent to the Company or any of its Subsidiaries taking or refraining from taking any action or engaging in or refraining from any conduct, or agreeing to any restriction, condition or conduct, with respect to any of the businesses, assets or operations of the Company or any of its Subsidiaries, if this action, restriction, condition or conduct would take effect prior to the Closing or is not conditioned on the Closing occurring, or (B) Parent to take or refrain from taking, or to cause any of its Subsidiaries (including the Post-Sale Company and its Subsidiaries) to take or refrain from taking, any action or to engage in any conduct, or to agree or consent to Parent, the Company or any of their respective Subsidiaries taking any action, or agreeing to any restriction, condition or conduct, with respect to any of the businesses, assets or operations of Parent, the Company or any of their respective Subsidiaries, if (1) the cumulative impact of these actions, restrictions, conditions and conduct relating to the Company or any of its Subsidiaries would reasonably be expected

to have a material adverse effect on the financial condition, properties, assets, liabilities (contingent or otherwise), business or results of operations of the Post-Sale Company and its Subsidiaries, taken as a whole, (2) the cumulative impact of these actions, restrictions, conditions and conduct relating to Parent or any of its Subsidiaries would reasonably be expected to have a material adverse effect on the financial condition, properties, assets, liabilities (contingent or otherwise), business or results of operations of Parent and its Subsidiaries, taken as a whole, or (3) the cumulative impact of these actions, restrictions, conditions and conduct relating to the assets and partnership interests being transferred under the Asset Sale Agreement and the Partnership Interests Purchase Agreement would reasonably be expected to have a material adverse effect on the financial condition, properties, assets, liabilities (contingent or otherwise), business or results of operations of such assets and partnership interests, considered together (each, a "Regulatory Material Adverse Effect"); it being understood that (X) any requirement for the divestiture of assets of Parent, the Post-Sale Company or any of the Subsidiaries of either may be taken into account in determining whether a Regulatory Material Adverse Effect would reasonably be expected to occur, and (Y) for purposes of determining whether a Regulatory Material Adverse Effect would reasonably be expected to occur both the positive and negative effects of any actions, conduct, restrictions and conditions, including any sale, divestiture, licensing, lease, disposition or change or proposed change in rates, will be taken into account.

(iii) To the extent permitted by Law, Parent and the Company will have the right to review in advance, and each will consult the other on, the form, substance and content of any filing to be made by Parent or the Company or any of their respective Subsidiaries with, or any other written materials submitted by any of them to, any third party and/or any Governmental Entity in connection with the Merger and the other Transactions (including the Registration Statement). To the extent permitted by Law each of Parent and the Company will provide the other with copies of all correspondence between it or any of its Subsidiaries (or its or their Representatives) and any Governmental Entity relating to the transactions contemplated by this Agreement and the transactions contemplated by the Asset Sale Agreement, and will use reasonable best efforts to ensure that all telephone calls and meetings with a Governmental Entity regarding the transactions contemplated by this Agreement will include Representatives of Parent and the Company.

(iv) To the extent permitted by Law, the Company will have the right to review in advance, and the Asset Purchaser will consult with the Company on, the form, substance and content of any filing to be made by the Asset Purchaser or any of its Subsidiaries with, or any other written materials submitted by any of them to, any third party and/or any Governmental Entity in connection with the Merger, the other transactions contemplated by this Agreement and the transactions contemplated by the Asset Sale Agreement. To the extent permitted by Law the Asset Purchaser will provide the Company with copies of all correspondence between the Asset Purchaser or any of its

Subsidiaries (or its or their Representatives) and any Governmental Entity relating to the transactions contemplated by this Agreement and the transactions contemplated by the Asset Sale Transactions, and will use reasonable best efforts to ensure that all telephone calls and meetings with a Governmental Entity regarding the Asset Sale Transactions will include Representatives of the Company.

(b) To the extent permitted by Law, each of the Company, Parent and the Asset Purchaser will, upon request by any other, furnish the others with all information concerning itself, its Subsidiaries, directors, officers and stockholders, as the case may be, and those other matters as may be reasonably necessary or advisable in connection with the Prospectus/Proxy Statement, the Registration Statement or any other statement, filing, notice or application made by or on behalf of Parent, the Company or the Asset Purchaser or any of their respective Subsidiaries to any third party and/or any Governmental Entity in connection with the Transactions, including in connection with any registration statement to be filed by the Asset Purchaser with respect to obtaining the Asset Purchaser Financing.

(c) The Company shall use its reasonable best efforts in cooperation with Parent to obtain the authorizations necessary under section 305(a) of the Federal Power Act and sections 393.210 and 393.220, RSMo., to permit a portion of the proceeds of the Asset Sale Transactions to be used to pay the cash Merger Consideration. Parent acknowledges that its obligations under this Agreement, including its obligation to consummate the Merger and deposit (or cause to be deposited with the Exchange Agent) the cash to be paid to the stockholders of the Company in the Merger, are not conditioned upon or subject to receipt of these authorizations or of an alternate source of funds for payment of the cash Merger Consideration.

(d) The Company will use reasonable best efforts to furnish to Parent financial information regarding the Company and to assist Parent in preparing financial statements and pro forma financial information, in each case that in Parent's reasonable judgment may be required to be included in the Registration Statement and in any prospectus, offering memorandum or other offering document or materials that may be prepared in connection with any financing transactions undertaken by Parent on or prior to the Closing Date. The Company will use its commercially reasonable efforts to cause its independent auditors to deliver customary "comfort" letters in connection with any such financing transactions.

(e) Each of Parent, the Company and the Asset Purchaser will keep the others apprised of the status of matters relating to completion of the Merger, the other transactions contemplated hereby and the transactions contemplated by the Asset Sale Agreement and the Partnership Interests Purchase Agreement, including promptly furnishing the others with copies of (i) any notice or other communication received by Parent, the Company or the Asset Purchaser, as the case may be, or any of their respective Subsidiaries with respect to the Merger, the other transactions contemplated by this Agreement or Asset Sale Transactions regarding the occurrence or existence of (A) the breach in any material respect of a representation, warranty or covenant made by the other in this Agreement, (B) any fact, circumstance or event that would reasonably be expected to prevent or materially delay any condition precedent to any party's obligations from being satisfied, and/or (C) a Company Material Adverse Effect, Parent Material Adverse Effect or Asset Purchaser Material Adverse

Effect; (ii) any notice or other communication (other than routine notices or communications in the ordinary course of business) from any Governmental Entity with respect to the transactions contemplated hereby; (iii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated hereby. Each of Parent, the Company and the Asset Purchaser will promptly notify the others of (A) the commencement or, to the Knowledge of the Company, the Knowledge of Parent or the knowledge of the executive officers of the Asset Purchaser, threatened commencement of any material claims, suits, actions, charges or proceedings before any Governmental Entity or any arbitration against the Company, Parent, the Asset Purchaser or any of their respective Subsidiaries, (B) to the Knowledge of the Company, the Knowledge of Parent or the knowledge of the executive officers of the Asset Purchaser, the commencement of any investigations or formal or informal inquiries by any Governmental Entity against or relating to the Company, Parent, the Asset Purchaser or any of their respective Subsidiaries, (C) the commencement of any material internal investigations or the receipt of any material and reasonably credible whistle-blower complaints relating to the Company, Parent or the Asset Purchaser, or any of their respective Subsidiaries and (D) the entry of any material judgments, decrees, injunctions or orders of any Governmental Entity relating to the Company, Parent or the Asset Purchaser, or any of their respective Subsidiaries.

(f) The Asset Purchaser will keep the Company and Parent apprised of the status of matters relating to completion of the Asset Sale Transactions, including promptly furnishing the Company with copies of any notice or other communication received by the Asset Purchaser or any of its Subsidiaries from any third party and/or any Governmental Entity with respect to the Asset Sale Transactions.

(g) Each of Parent and the Company will use commercially reasonable efforts to cause to be delivered to the other and the other's directors a letter of its independent auditors, dated (i) the date on which the Registration Statement will become effective and (ii) the Closing Date, and addressed to the other and its directors, in form and substance customary for "comfort" letters delivered by independent public accountants in connection with registration statements similar to the Registration Statement.

(h) The Company will cooperate with Parent and use, and will cause its Subsidiaries to use, commercially reasonable efforts to take or cause to be taken all actions, and do or cause to be done all things, necessary, proper or advisable on its part to enable Parent and Merger Sub to perform their obligations under the Transition Services Agreement.

(i) The Company agrees to take the rate actions contemplated by Section 7.5(i) of the Company Disclosure Letter, if and to the extent applicable.

7.6 Access; Consultation.

(a) To the extent permitted by Law, upon reasonable notice, each of Parent and the Company will (and will cause its Subsidiaries to) afford the other and the other's Representatives reasonable access, during normal business hours throughout the period prior to the Effective Time, and permit such party to review its properties, books, contracts and records (including any amendments, modifications or supplements thereto) and, during such period, each

will (and will cause its Subsidiaries to) furnish promptly to the other all information concerning its or any of its Subsidiaries' business, properties and personnel as may reasonably be requested; provided that no investigation pursuant to this Section 7.6(a) will affect or be deemed to modify any representation or warranty made by any party hereunder; and provided, further, that the foregoing will not require a party to permit any inspection, or to disclose any information, that in such party's reasonable judgment would (i) result in the disclosure of any trade secrets of third parties, (ii) violate any of its obligations to a third party with respect to confidentiality if such party has sought to obtain the consent of such third party to any inspection or disclosure, or (iii) result in a waiver of attorney-client privilege.

(b) Notwithstanding anything herein to the contrary, neither Parent nor any of its Subsidiaries or Representatives will have the right to conduct environmental sampling or testing on any of the properties of the Company or its Subsidiaries prior to the Effective Time. All requests for information made pursuant to this Section 7.6 will be directed to an executive officer of the Company or Parent, as the case may be, or that Person as may be designated by any executive officer, as the case may be. All information shared by the parties and their respective Representatives will be subject to the Parent Confidentiality Agreement and subject to section 8.2 of the Asset Sale Agreement.

7.7 Affiliates. The Company will, prior to the Effective Time, deliver to Parent a list identifying all persons who, to the Knowledge of the Company, may be deemed as of the date of the Company Stockholders Meeting to be affiliates of the Company for purposes of Rule 145 under the Securities Act. The Company will use its reasonable best efforts to cause each person identified on such list to deliver to Parent, not later than five business days prior to Closing, a written agreement substantially in the form attached as Exhibit A.

7.8 Stock Exchange Listing. Parent will use its reasonable best efforts to cause the shares of Parent Common Stock to be issued in the Merger and in respect of Company Options and Company Awards and other outstanding equity awards under the Company's stock-based plans to be approved for listing on the NYSE, subject to official notice of issuance, prior to the Closing Date.

7.9 Publicity.

(a) The initial press release with respect to the Transactions will be a press release issued by Parent, the Company, and the Asset Purchaser.

(b) The Company, Parent and the Asset Purchaser will consult with each other prior to issuing any press releases or otherwise making public announcements with respect to the Transactions and prior to making any filings with any third party and/or any Governmental Entity (including any national securities exchange) with respect to the Transactions, except as may be required by Law or by obligations pursuant to any listing agreement with or rules of any national securities exchange or any self-regulatory organization, and except any consultation that would not be reasonably practicable as a result of requirements of Law.

7.10 Employee Matters. (a) Parent will cause the Surviving Company to, and the Surviving Company will, honor all Company Compensation and Benefit Plans in accordance with their terms as in effect immediately before the Effective Time and Parent will cause the Surviving Company to, and the Surviving Company will, honor all changes to the Company Compensation and Benefit Plans required by applicable Law. Parent and the Surviving Company will, commencing at the Effective Time and extending through December 31 of the calendar year following the calendar year in which the Effective Time occurs, provide or cause to be provided to the Active Affected Employees (other than employees covered by a collective bargaining agreement) compensation and employee benefits (excluding (i) payments or benefits made by reason of the Merger and the other transactions contemplated by this Agreement, (ii) equity or equity based compensation and (iii) change in control or retention payments) that are no less favorable in the aggregate than provided to the Active Affected Employees immediately before the Closing Date; provided that in determining the timing, amount and terms and conditions of equity compensation and other incentive awards to be granted to the Active Affected Employees, Parent will, and will cause its Subsidiaries to, treat in a substantially similar manner Active Affected Employees and similarly situated other employees of Parent and its Subsidiaries (including by reason of job duties and years of service). Notwithstanding the foregoing, except as provided in this Agreement, nothing contained in this Agreement obligates Parent, the Surviving Company or any affiliate of either to (i) maintain any particular Company Compensation and Benefit Plan or (ii) retain the employment of any Active Affected Employee. However, Parent will, or will cause the Surviving Company to participate in Parent's severance plan following the Closing, in accordance with the terms of such plan, giving effect to the Active Affected Employees service with the Company and its affiliates. Parent shall continue to maintain such plan until at least December 31 of the year following the calendar year in which the Effective Time occurs.

(b) Parent agrees that, for purposes of determining eligibility to participate and vesting (but not for purposes of accrual of pension benefits) under the employee benefit plans, policies or arrangements of Parent and its affiliates providing benefits to any Active Affected Employees after the Effective Time, each Active Affected Employee will receive credit for his or her service with the Company and its affiliates before the Effective Time (including predecessor or acquired entities or any other entities for which the Company and its affiliates have given credit for prior service) to the same extent that the Affected Employee was entitled, before the Effective Time, to credit for this service under any similar or comparable Company Compensation and Benefit Plans (except to the extent this credit would result in a duplication of accrual of benefits). In addition, if Active Affected Employees or their dependents are included in any medical, dental, health or other welfare benefit plan, program or arrangement (a "Successor Plan") other than the plan or plans in which they participated immediately prior to the Effective Time (a "Prior Plan"), each Active Affected Employee immediately will be eligible to participate, without any waiting time, in any and all Successor Plans and these Successor Plans will not include any restrictions, limitations or exclusionary provisions with respect to pre-existing conditions, exclusions, any actively-at-work requirements or any proof of insurability requirements (except to the extent these exclusions or requirements were applicable under any similar Prior Plan at the time of commencement of participation in such Successor Plan), and any eligible expenses incurred by any Active Affected Employee and his or her covered dependents during the portion of the plan year of the Prior Plan ending on the date of the Active Affected Employee's commencement of participation in the Successor Plan

begins will be taken into account under the Successor Plan for purposes of satisfying all deductible, coinsurance and maximum out-of-pocket requirements applicable to the Active Affected Employee and his or her covered dependents for the applicable plan year as if these amounts had been paid in accordance with the Successor Plan.

(c) Parent will, or will cause the Surviving Company and its Subsidiaries to, honor the terms of any collective bargaining agreements to which the Company or any of its Subsidiaries is a party.

(d) Parent will or will cause the Surviving Company to, take all actions set forth in Section 7.10(d) of the Company Disclosure Letter.

7.11 Expenses. Except as set forth in Sections 9.5(b) and 9.5(c), whether or not the Merger is consummated, all costs and expenses incurred in connection with this Agreement and the Merger and the other transactions contemplated by this Agreement will be paid by the party incurring such expense; provided that (a) the Company and Parent will each bear and pay one-half of the filing fees required to be paid in connection with the filings under the HSR Act of the pre-merger notification and report forms relating to the Merger and the costs and expenses incurred in connection with the printing and mailing of the Prospectus/Proxy Statement; (b) Parent will promptly upon request of the Company reimburse the Company for all reasonable out-of-pocket expenses incurred by the Company in connection with its performance of its obligations under Sections 7.5(d) in connection with any prospectus, offering memorandum or other materials relating to a financing transaction undertaken as proposed to be undertaken by Parent; and (c) Parent and the Asset Purchaser will promptly upon request of the Company reimburse the Company for all reasonable out-of-pocket expenses incurred by the Company at the request of Parent or the Asset Purchaser, as the case may be, in connection with its performance of its obligations under Section 7.5(h), which expenses shall be paid (i) by Parent, in the case of expenses in connection with obligations, the cost of which would be borne by Parent pursuant to Section 2.1 of the Transition Services Agreement, or as requested by Parent, (ii) by the Asset Purchaser, in the case of expenses in connection with obligations, the cost of which would be borne by the Asset Purchaser pursuant to Section 2.1 of the Transition Services Agreement, or as requested by the Asset Purchaser and (iii) 50% by Parent and 50% by the Asset Purchaser, in the case of expenses in connection with obligations, the cost of which would be borne 50% by Parent and 50% by the Asset Purchaser pursuant to Section 2.2 of the Transition Services Agreement.

7.12 Indemnification; Directors' and Officers' Insurance. (a) From and after the Effective Time, Parent and the Surviving Company will, jointly and severally, indemnify and hold harmless, and provide advancement of expenses to, each Indemnified Party against any costs or expenses (including reasonable attorney's fees), judgments, fines, losses, claims, damages or liabilities incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of or pertaining to their capacities as directors or officers of the Company or any of its Subsidiaries or as fiduciaries under Company Compensation and Benefit Plans (or trusts thereunder) at or prior to the Effective Time (including for acts or omissions occurring in connection with the approval of this Agreement and the consummation of the transactions contemplated hereby), whether asserted or claimed prior to, at or after the Effective Time, (i) to the same extent these individuals are

indemnified or have the right to advancement of expenses as of the date of this Agreement by the Company pursuant to its Charter and By-Laws and indemnification agreements, if any, in existence on the date of this Agreement with, or for the benefit of, any of these individuals and (ii) without regard to the limitations in clause (i) above, to the fullest extent permitted by Law.

(b) Any Indemnified Party wishing to claim indemnification under Section 7.12(a), upon learning of any claim, action, suit, proceeding or investigation, will promptly notify Parent and the Surviving Company, but the failure to so notify shall not relieve Parent and the Surviving Company of any liability they may have to such Indemnified Party if such failure does not materially prejudice Parent or the Surviving Company, as the case may be. In the event of any claim, action, suit, proceeding or investigation (whether arising before or after the Effective Time), (i) the Surviving Company will have the right to assume the defense and the Surviving Company will not be liable to the Indemnified Parties for any legal expenses of other counsel or any other expenses subsequently incurred by the Indemnified Parties in connection with the defense, except that, if the Surviving Company elects not to assume the defense or counsel for the Indemnified Parties advises that there are issues which raise conflicts of interest between the Surviving Company and the Indemnified Parties, the Indemnified Parties may retain counsel satisfactory to them, and the Surviving Company will pay all reasonable fees and expenses of this counsel for the Indemnified Parties promptly; provided, however, that the Surviving Company will be obligated pursuant to this Section 7.12(b) to pay for only one firm of counsel for all Indemnified Parties in any matter in any jurisdiction (unless there is a conflict of interest as provided above), (ii) the Indemnified Parties will cooperate in the defense of any matter and (iii) the Surviving Company will not be liable for any settlement effected without its prior written consent.

(c) Parent will cause the Surviving Company to, and the Surviving Company will, for a period of six years after the Effective Time, maintain D&O Insurance with coverage in amount and scope at least as favorable as the Company's D&O Insurance in effect as of the date of this Agreement; provided that if the D&O Insurance to be maintained during the six-year period expires, is terminated or cancelled, or if the annual premium therefor is increased to an amount in excess of 300% of the last annual premium paid by the Company for its D&O Insurance in effect as of the date of this Agreement as disclosed in Section 7.12(c) of the Company Disclosure Letter (this amount, the "Current Premium"), the Surviving Company will use its reasonable best efforts to obtain D&O Insurance in an amount and scope as great as can be obtained for the remainder of such period for a premium not in excess (on an annualized basis) of 300% of the Current Premium; and provided, further, that in lieu of this coverage, Parent may substitute a prepaid "tail" policy for this coverage, which it may cause the Company to obtain prior to the Closing.

(d) If Parent or any of its successors or assigns (i) consolidates with or merges into any other corporation or entity and is not the continuing or surviving company or entity of the consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, then and in each case, proper provisions will be made so that the successors and assigns of Parent assume all of the obligations set forth in this Section 7.12.

(e) The provisions of this Section 7.12 are intended to be for the benefit of, and will be enforceable by, each of the Indemnified Parties, their heirs and their representatives.

7.13 Takeover Statute. If any Takeover Statute is or may become applicable to the Merger or the other transactions contemplated by this Agreement, the parties and their Boards of Directors will grant those approvals and take those actions as are necessary so that these transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise will use reasonable best efforts to act to eliminate or minimize the effects of any Takeover Statute on these transactions.

7.14 Control of the Company's or Parent's Operations. Nothing contained in this Agreement gives Parent or the Company any rights to control or direct the operations of the other prior to the Effective Time. Prior to the Effective Time, each of Parent and the Company will exercise, consistent with the terms and conditions of this Agreement, complete control and supervision of its operations.

7.15 Section 16(b). The Boards of Directors of the Company and Parent will, prior to the Effective Time, take all such actions as may be necessary or appropriate pursuant to Rule 16b-3(d) and Rule 16b-3(e) under the Exchange Act to exempt from Section 16 of the Exchange Act (i) the disposition of Company Shares and "derivative securities" (as defined in Rule 16a-1(c) under the Exchange Act) with respect to Company Shares and (ii) the acquisition of Parent Common Stock and derivative securities with respect to Parent Common Stock, in each case, pursuant to the terms of this Agreement by officers and directors of the Company subject to the reporting requirements of Section 16(a) of the Exchange Act or by employees or directors of the Company who may become officers or directors of Parent subject to the reporting requirements of Section 16(a) of the Exchange Act.

•

CONDITIONS

8.1 Conditions to Each Party's Obligation to Effect the Merger. The obligation of each party to effect the Merger is subject to the satisfaction or waiver by the Company and Parent at or prior to the Closing of each of the following conditions:

(a) Stockholder Approval. This Agreement will have been duly approved by holders of Company Shares constituting the Company Requisite Vote, and the Share Issuance will have been duly approved by the holders of shares of Parent Common Stock constituting the Parent Requisite Vote.

(b) NYSE Listing. The shares of Parent Common Stock issuable to the Company stockholders pursuant to the Merger will have been authorized for listing on the NYSE, upon official notice of issuance.

(c) Orders and Laws. No applicable Law prohibiting consummation of the Merger shall be in effect, except where the violation of Law resulting from the

consummation of the Merger would not reasonably be expected to have an impact (other than an insignificant impact) on the Post-Sale Company or Parent; and no court of competent jurisdiction in the United States will have issued any restriction, order or injunction (whether temporary, preliminary or permanent) that is in effect and enjoins consummation of the Merger (collectively, "Orders").

(d) Merger Regulatory Closing Consents. All Merger Regulatory Closing Consents (including expiration or termination of the waiting period applicable to the consummation of the Merger under the HSR Act) will have been obtained and will have become Final Orders and such Final Orders will not impose terms or conditions that would be reasonably expected to result in a Regulatory Material Adverse Effect.

(e) Registration Statement. The Registration Statement will have become effective under the Securities Act. No stop order suspending the effectiveness of the Registration Statement will have been issued and remain in effect.

(f) Asset Sale Closing. The closing of the Asset Sale Transactions shall have occurred.

8.2 Conditions to Obligations of Parent and Merger Sub. The obligations of Parent and Merger Sub to effect the Merger are also subject to the satisfaction or waiver by Parent at or prior to the Effective Time of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company and the Asset Purchaser set forth in this Agreement will be true and correct when made and as of the Closing Date (except to the extent that any representation and warranty expressly speaks as of a specific date, in which case the representation and warranty must only be true and correct as of the specific date), except where the failure of the representations and warranties to be so true and correct (read for purposes of this Section 8.2(a) without giving effect to any materiality, Company Material Adverse Effect or Asset Purchaser Material Adverse Effect qualification in any such representation or warranty) has not had and would not reasonably be likely to have a Company Material Adverse Effect or an Asset Purchaser Material Adverse Effect.

(b) Performance of Obligations of the Company and Asset Purchaser. The Company and the Asset Purchaser will have performed in all material respects all obligations required to be performed by them under this Agreement.

(c) Officers' Certificates. Parent will have received at the Closing (i) a certificate signed on behalf of the Company by an executive officer of the Company to the effect that the conditions regarding the Company set forth in Sections 8.2(a) and 8.2(b) have been satisfied, and (ii) a certificate signed on behalf of the Asset Purchaser by an executive officer of the Asset Purchaser to the effect that the conditions regarding the Asset Purchaser set forth in Sections 8.2(a) and 8.2(b) have been satisfied.

(d) Company Material Adverse Effect. Since the date of this Agreement, no Company Material Adverse Effect will have occurred and be continuing.

8.3 Conditions to Obligation of the Company. The obligation of the Company to effect the Merger is also subject to the satisfaction or waiver by the Company at or prior to the Effective Time of the following conditions:

(a) Representations and Warranties. The representations and warranties of Parent and Merger Sub set forth in this Agreement will be true and correct when made and as of the Closing Date (except to the extent that any representation and warranty expressly speaks as of a specific date, in which case the representation and warranty must only be true and correct as of the specific date), except where the failure of the representations and warranties to be so true and correct (read for purposes of this Section 8.3(a) without giving effect to any materiality or Parent Material Adverse Effect qualification in any such representation or warranty) has not had and would not reasonably be expected to have a Parent Material Adverse Effect.

(b) Performance of Obligations of Parent and Merger Sub. Parent and Merger Sub will have performed in all material respects all obligations required to be performed by them under this Agreement at or prior to the Closing Date.

(c) Officers' Certificates. The Company will have received at the Closing a certificate signed on behalf of Parent by an executive officer of Parent to the effect that the conditions set forth in Sections 8.3(a) and 8.3(b) have been satisfied.

(d) Parent Material Adverse Effect. Since the date of this Agreement, no Parent Material Adverse Effect will have occurred and be continuing.

8.4 Invoking Certain Provisions. Any party seeking to claim that a condition to its obligation to effect the Merger has not been satisfied by reason of the fact that a Company Material Adverse Effect, a Parent Material Adverse Effect or Regulatory Material Adverse Effect has occurred or would be reasonably expected to occur or result will have the burden of proof to establish that occurrence or expectation.

•

TERMINATION

9.1 Termination by Mutual Consent. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after the approvals by stockholders of the Company and Parent referred to in Section 8.1(a), by mutual written consent of the Company, Parent and the Asset Purchaser, by action of their respective Boards of Directors.

9.2 Termination by Either Parent or the Company. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time by action of the Board of Directors of either Parent or the Company if (a) the Merger has not been consummated by the first anniversary of the date of this Agreement (the "Termination Date"); provided that if Parent or the Company determines that additional time is necessary to obtain any of the Material Company Regulatory Consents , the Material Parent Regulatory Consents, the Required Regulatory Approvals (as defined in the Asset Sale Agreement) or the Required Regulatory

Approvals (as defined in the Partnership Interest Purchase Agreement), or if all of the conditions to Parent's obligations to consummate the Merger shall have been satisfied or shall be then capable of being satisfied (other than the condition set forth in Section 8.1(f)), the Termination Date may be extended by Parent or the Company from time to time by written notice to the other party up to a date not beyond 18 months after the date of this Agreement, any of which dates shall thereafter be deemed to be the Termination Date; (b) the approval of this Agreement by the Company's stockholders required by Section 8.1(a) will not have been obtained at a duly convened Company Stockholders Meeting at which a vote upon this Agreement was taken; (c) the approval of Parent's stockholders necessary to approve the issuance of Parent Common Stock required to be issued pursuant to the Merger as required by Section 8.1(a) will not have been obtained at a duly convened Parent Stockholders Meeting at which a vote on such issuance was taken; (d) any Order of a court in the United States permanently enjoining consummation of the Merger will have become final and non-appealable; or (e) the Asset Sale Agreement or the Partnership Interests Purchase Agreement is terminated in accordance with its terms; provided that the right to terminate this Agreement pursuant to this Section 9.2 will not be available to any party that has breached in any material respect its obligations under this Agreement in any manner that will have proximately contributed to the failure of the Merger to be consummated.

9.3 Termination by the Company. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time by action of the Board of Directors of the Company if:

(a) prior to the receipt of the approval of Parent's stockholders satisfying the condition set forth in Section 8.1(a), the Board of Directors of Parent (i) publicly withholds or withdraws, or publicly proposes to withhold or withdraw, the Parent Recommendation, (ii) fails to reaffirm the Parent Recommendation within fifteen business days of receipt of the Company's written request at any time when an Acquisition Proposal shall have been made and not rejected by the Board of Directors of Parent, provided that such fifteen-business-day period shall be extended for fifteen business days following any material modification to such Acquisition Proposal occurring after the receipt of the Company's written request and provided, further, that such fifteen-business-day period shall recommence each time an Acquisition Proposal has been made following the receipt of the Company's written request by a Person that had not made an Acquisition Proposal prior to the receipt of the Company's written request, or (iii) approves or recommends, or publicly proposes to approve or recommend, or authorizes Parent to enter into a binding agreement reflecting, any Acquisition Proposal (any of the foregoing, a "Parent Adverse Recommendation Event");

(b) prior to the receipt of the approval of the Company's stockholders satisfying the condition set forth in Section 8.1(a), the Board of Directors of the Company approves a Superior Proposal in accordance with Section 7.2(b)(ii) and authorizes the Company to enter into a binding written agreement with respect to that Superior Proposal and, in connection with the termination of this Agreement and entering into the agreement reflecting the Superior Proposal, pays to Parent and the Asset Purchaser in immediately available funds the Company Termination Fee required to be paid by Section 9.5(b); or

(c) there has been a breach of any representation, warranty, covenant or agreement made by Parent or Merger Sub in this Agreement, or any representation or warranty

of Parent will have become untrue after the date of this Agreement, so that Section 8.3(a) or 8.3(b) would not be satisfied and this breach or failure to be true is not curable or, if curable, is not curable by the Termination Date (as the same may be extended).

9.4 Termination by Parent. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time by action of the Board of Directors of Parent if:

(a) prior to the receipt of the approval of the Company's stockholders satisfying the condition set forth in Section 8.1(a), the Board of Directors of the Company (i) publicly withholds or withdraws, or publicly proposes to withhold or withdraw, the Company Recommendation, (ii) fails to reaffirm the Company Recommendation within fifteen business days of receipt of Parent's written request at any time when an Acquisition Proposal shall have been made and not rejected by the Board of Directors of the Company, provided that such fifteen-business-day period shall be extended for fifteen business days following any material modification to such Acquisition Proposal occurring after the receipt of Parent's written request and provided, further, that such fifteen-business-day period shall recommence each time an Acquisition Proposal has been made following the receipt of Parent's written request by a Person that had not made an Acquisition Proposal prior to the receipt of Parent's written request, or (iii) approves or recommends, or publicly proposes to approve or recommend, or authorizes the Company to enter into a binding agreement reflecting, any Acquisition Proposal (any of the foregoing, a "Company Adverse Recommendation Event");

(b) prior to the receipt of the approval of Parent's stockholders satisfying the condition set forth in Section 8.1(a), the Board of Directors of Parent approves a Superior Proposal in accordance with Section 7.2(b)(ii) and authorizes Parent to enter into a binding written agreement with respect to that Superior Proposal and, in connection with the termination of this Agreement and entering into the agreement reflecting the Superior Proposal, pays to the Company in immediately available funds the Parent Termination Fee required to be paid by Section 9.5(c); or

(c) there has been a material breach of any representation, warranty, covenant or agreement made by the Company in this Agreement, or any representation or warranty of the Company will have become untrue after the date of this Agreement, so that Section 8.2(a) or 8.2(b) would not be satisfied and this breach or failure to be true is not curable or, if curable, is not curable by the Termination Date (as the same may be extended).

9.5 Effect of Termination and Abandonment. (a) In the event of termination of this Agreement and the abandonment of the Merger pursuant to this Article IX, this Agreement (other than as set forth in this Section 9.5 and Section 10.1) will become void and of no effect with no liability on the part of any of Parent, Merger Sub, the Company and the Asset Purchaser (or of any of their respective Representatives); provided that such termination will not relieve any of such Persons from any liability for damages to any other party (and/or the stockholders of the Company pursuant to Section 10.8) resulting from any prior breach of this Agreement, the Asset Sale Agreement or the Partnership Interests Purchase Agreement which is (i) material and (ii) willful or knowing, or from any obligation to pay, if applicable, the fees in accordance with Section 9.5(b) or Section 9.5(c). Notwithstanding anything to the contrary in this Agreement or provided for under any applicable Law, no party hereto will, in any event, be liable to any other

party, in contract, in tort or otherwise, for any consequential, incidental, indirect, special, or punitive damages of such other party or Persons represented by such other party, whether or not the possibility of such damages has been disclosed to such other party or Persons represented by such other party in advance or could have been reasonably foreseen by such other party or Persons represented by such other party. The preceding sentence shall not limit the right of any party to seek "benefit of the bargain" damages for a breach of this Agreement or specific performance or other equitable remedy as provided in Section 10.11, provided that the right of any party or Persons represented by such party to seek any of such remedies is not an admission by the other party that, under the circumstances, any such remedies are proper remedies, and provided, further, that the party against whom any such remedy is sought may not claim that the awarding of "benefit of the bargain" damage is prohibited by virtue of the restriction against liability for consequential, incidental, indirect, special or punitive damage contained in this Section 9.5(a).

(b) If this Agreement is terminated by the Company pursuant to Section 9.3(b) or by Parent pursuant to Section 9.4(a), then the Company will, immediately upon termination, pay into a joint bank account in the names of Parent and the Asset Purchaser the Company Termination Fee, by wire transfer of same day funds. If (i) this Agreement is terminated pursuant to Section 9.2(a), 9.2(b) or 9.4(c), (ii) following the date hereof and prior to such termination, there shall have been made to the Company or its stockholders, or publicly announced, a bona fide Company Covered Proposal, and (iii) prior to the date that is nine months following the date of such termination, any Person shall have acquired a majority of the Company's outstanding stock, or a Company Covered Proposal is consummated or a binding agreement for a Company Covered Proposal is entered into by the Company or any of its Subsidiaries, then the Company will, immediately upon such acquisition of the Company's stock or upon consummation of a Company Covered Proposal, pay into a joint account in the names of Parent and the Asset Purchaser the Company Termination Fee, by wire transfer of same day funds. The Company acknowledges that the agreements contained in this Section 9.5(b) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Parent, Merger Sub and the Asset Purchaser would not enter into this Agreement; accordingly, if the Company fails to pay promptly the amount due pursuant to this Section 9.5(b), and, in order to obtain this payment, Parent, Merger Sub or the Asset Purchaser commences a suit which results in a judgment against the Company for the fee set forth in this Section 9.5(b), the Company will pay to Parent, Merger Sub and the Asset Purchaser their respective costs and expenses (including attorneys' fees) in connection with this suit, together with interest on the amount of the fee at the prime rate of Citibank, N.A. in effect on the date the payment should have been made. Any amounts due under this Section 9.5(b) shall be in addition to any other damages to which Parent, Merger Sub or the Asset Purchaser may be entitled.

(c) If this Agreement is terminated by Parent pursuant to Section 9.4(b) or by the Company pursuant to Section 9.3(a), then Parent will, immediately upon termination, pay to the Company the Parent Termination Fee, by wire transfer of same day funds. If (i) this Agreement is terminated pursuant to Section 9.2(a), 9.2(c) or 9.3(c), (ii) following the date hereof and prior to such termination, there shall have been made to Parent or its stockholders, or publicly announced, a bona fide Parent Covered Proposal, and (iii) prior to the date that is nine months following the date of such termination, any Person shall have acquired a majority of Parent's outstanding stock, or a Parent Covered Proposal is consummated or a binding agreement

for a Parent Covered Proposal is entered into by Parent or any of its Subsidiaries, then Parent will, immediately upon such acquisition of Parent's stock or upon consummation of a Parent Covered Proposal, pay the Company the Parent Termination Fee, by wire transfer of same day funds. Parent acknowledges that the agreements contained in this Section 9.5(c) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, the Company would not enter into this Agreement; accordingly, if Parent fails to pay promptly the amount due pursuant to this Section 9.5(c), and, in order to obtain this payment, the Company commences a suit which results in a judgment against Parent for the fee set forth in this Section 9.5(c), Parent will pay to the Company its costs and expenses (including attorneys' fees) in connection with this suit, together with interest on the amount of the fee at the prime rate of Citibank, N.A. in effect on the date the payment should have been made. Any amounts due under this Section 9.5(c) shall be in addition to any other damages to which the Company may be entitled.

•

MISCELLANEOUS AND GENERAL

10.1 Survival. None of the covenants or agreements of Parent, the Company, Merger Sub or the Asset Purchaser contained in this Agreement will survive the Effective Time, except for those covenants and agreements contained herein that by their terms apply or are to be performed in whole or in part after the Effective Time. This Article X (other than Section 10.2 (Modification or Amendment), Section 10.3 (Waiver of Conditions) and Section 10.12 (Assignment)) and the agreements of the parties contained in Section 7.11 (Expenses) and Section 9.5 (Effect of Termination and Abandonment) will survive the termination of this Agreement. Except as specified in the prior two sentences, all representations, warranties, covenants and agreements in this Agreement will not survive the Effective Time or the termination of this Agreement.

10.2 Modification or Amendment. Subject to the provisions of applicable Law, at any time prior to the Effective Time, this Agreement may be modified or amended, by written agreement executed and delivered by duly authorized officers of Parent, Merger Sub and the Company and, to the extent that such modification or amendment modifies or amends the rights or obligations of the Asset Purchaser in a manner adverse to the Asset Purchaser, the Asset Purchaser.

10.3 Waiver of Conditions. (a) Any provision of this Agreement may be waived prior to the Effective Time if, and only if, such waiver is in writing and signed by the party (Parent, the Company, Merger Sub or the Asset Purchaser) against whom the waiver is to be effective.

(b) No failure or delay by Parent, the Company, Merger Sub or the Asset Purchaser in exercising any right, power or privilege hereunder will operate as a waiver of any such provision nor in any way affect the validity of this Agreement or any part hereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Except as otherwise herein provided, the rights and remedies herein provided will be cumulative and not exclusive of any rights or remedies

provided by Law. No waiver of any breach of or noncompliance with this Agreement shall be held to be a waiver of any other or subsequent breach or noncompliance.

10.4 Counterparts. This Agreement may be executed in any number of counterparts (including by facsimile or other electronic transmission), each such counterpart being deemed to be an original instrument, and all such counterparts will together constitute the same agreement, it being understood that all of the parties need not sign the same counterpart.

10.5 GOVERNING LAW AND VENUE; WAIVER OF JURY TRIAL

(a) THIS AGREEMENT WILL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE CONFLICTS OF RULES THEREOF. The parties hereby irrevocably submit exclusively to the jurisdiction of the State of Delaware and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such courts, and each of Parent, the Company, Merger Sub and Asset Purchaser irrevocably agrees that all claims with respect to such action or proceeding will be heard and determined in Delaware state court. Each of Parent, the Company, Merger Sub and Asset Purchaser hereby consents to and grants any such court jurisdiction over the Person of such parties and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 10.6 or in such other manner as may be permitted by Law, will be valid and sufficient service thereof.

(b) EACH OF PARENT, THE COMPANY, MERGER SUB AND ASSET PURCHASER ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT THE PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH OF PARENT, THE COMPANY, MERGER SUB AND ASSET PURCHASER CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.5.

10.6 Notices. Notices, requests, instructions or other documents to be given under this Agreement must be in writing and will be deemed given (a) when sent if sent by facsimile,

provided that the fax is promptly confirmed by telephone confirmation thereof, (b) when delivered, if delivered personally to the intended recipient, and (c) one business day later, if sent by overnight delivery via a national courier service, and in each case, addressed to a party at the following address for such party:

if to Parent or Merger Sub

Great Plains Energy Incorporated
1201 Walnut Street
Kansas City, Missouri 64106
Attention: Mark G. English
General Counsel and Assistant Secretary
Fax: (816) 556-2418

with a copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attention: Nancy A. Lieberman
Morris J. Kramer
Fax: (212) 735-2000

if to Asset Purchaser

Black Hills Corporation
625 Ninth Street
Rapid City, South Dakota 57701
Attention: Steven J. Helmers
General Counsel
Fax: (605) 721-2550

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
300 South Grand Avenue, Suite 2200
Los Angeles, California 90071
Attention: Richard A. Shortz
Ingrid A. Myers
Fax: (213) 612-2501

if to the Company

Aquila, Inc.
20 West Ninth Street
Kansas City, Missouri 64105
Attention: Christopher M. Reitz
General Counsel and Corporate Secretary
Fax: (816) 467-9611

with a copy (which shall not constitute notice) to:

Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, New York 10004
Attention: Arthur Fleischer, Jr.
Stuart Katz
Philip Richter
Fax: (212) 859-4000

or to those other persons or addresses as may be designated in writing by the party to receive the notice as provided above.

10.7 Entire Agreement. This Agreement, the Asset Sale Agreement, the Partnership Interests Purchase Agreement, the Transition Services Agreement, the Parent Confidentiality Agreement, the Asset Purchaser Confidentiality Agreement, the Letter of Intent, the Company Disclosure Letter, the Parent Disclosure Letter and the Asset Purchaser Disclosure Letter, and any other ancillary documents constitute the entire agreement, and supersede all other prior agreements, understandings, representations and warranties both written and oral, among Parent, Merger Sub, the Company and the Asset Purchaser, with respect to the subject matter of this Agreement. For greater clarification, the Asset Sale Agreement and the Partnership Interests Purchase Agreement contain the terms and conditions upon which the Company and Parent have agreed to sell, and the Asset Purchaser has agreed to acquire, the utility properties and partnership interests described in the Asset Sale Agreement and the Partnership Interests Purchase Agreement and the schedules and exhibits thereto.

10.8 No Third Party Beneficiaries. This Agreement is not intended to, and does not, confer upon any Person other than Parent, the Company, Merger Sub and Asset Purchaser any rights or remedies hereunder, except for the right of the Company, on behalf of its stockholders, to pursue damages in the event of Parent's or Merger Sub's breach of this Agreement which is (i) material and (ii) willful or knowing, which right is hereby acknowledged and agreed by Parent and Merger Sub and except as provided in Section 7.12.

10.9 Obligations of Parent, the Company and the Asset Purchaser. Whenever this Agreement requires a Subsidiary of Parent to take any action, such requirement will be deemed to include an undertaking on the part of Parent to cause that Subsidiary to take this action. Whenever this Agreement requires a Subsidiary of the Company to take any action, such requirement will be deemed to include an undertaking on the part of the Company to cause that Subsidiary to take this action and, after the Effective Time, on the part of the Surviving Company to cause that Subsidiary to take this action. Whenever this Agreement requires a Subsidiary of Asset Purchaser to take any action, such requirement will be deemed to include an undertaking on the part of Asset Purchaser to cause such Subsidiary to take this action.

10.10 Severability. The provisions of this Agreement will be deemed severable and the invalidity or unenforceability of any provision in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability, and will not affect the validity or enforceability or the other provisions hereof in any other jurisdiction. If any provision of this Agreement, or the application thereof to any Person or any circumstance, is invalid or unenforceable, (a) a suitable and equitable provision will be substituted therefor in order to carry

out, so far as may be valid and enforceable, the intent and purpose of the invalid or unenforceable provision and (b) the remainder of this Agreement and the application of that provision to other Persons or circumstances will not, subject to clause (a), be affected by the invalidity or unenforceability, except as a result of any substitution, nor will the invalidity or unenforceability affect the validity or enforceability of the provision, or its application, in any other jurisdiction.

10.11 Specific Performance. Each of Parent, Merger Sub, the Company and Asset Purchaser acknowledges and agrees that any breach of this Agreement would give rise to irreparable harm for which monetary damages would not be an adequate remedy. Each of Parent, Merger Sub, the Company and Asset Purchaser accordingly agrees that, in addition to other remedies, the parties will be entitled to enforce the terms of this Agreement by decree of specific performance without the necessity of proving the inadequacy of monetary damages as a remedy and to obtain injunctive relief or other equitable remedy against any breach or threatened breach hereof.

10.12 Assignment. This Agreement is not assignable by operation of law or otherwise without the prior consent of all the other parties. Any assignment in contravention of the preceding sentence will be null and void. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties as of the date first written above.

AQUILA, INC.

By: /s/ Richard C. Green
Name: Richard C. Green
Title: President, Chief Executive Officer and Chairman of the Board of Directors

GREAT PLAINS ENERGY INCORPORATED

By: /s/ Michael J. Chesser
Name: Michael J. Chesser
Title: Chairman of the Board and Chief Executive Officer

GREGORY ACQUISITION CORP.

By: /s/ Terry Basham
Name: Terry Bassham
Title: President

BLACK HILLS CORPORATION

By: /s/ David R. Emery
Name: David R. Emery
Title: President, Chief Executive Officer and Chairman of the Board of Directors

Exhibit A

FORM OF AFFILIATE AGREEMENT

_____, 200[?]

Great Plains Energy Incorporated
1201 Walnut Street
Kansas City, Missouri 64106

Ladies and Gentlemen:

I have been advised that as of the date hereof, I may be deemed to be an "affiliate" of Aquila, Inc., a Delaware corporation (the "Company"), as such term is defined for purposes of paragraphs (c) and (d) of Rule 145 of the Rules and Regulations of the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act").

Pursuant to the terms of the Agreement and Plan of Merger, dated as of February 6, 2007 (as it may be amended, supplemented or modified from time to time, the "Merger Agreement"), among the Company, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub") and Black Hills Corporation, a South Dakota corporation, Merger Sub will be merged with and into the Company (the "Merger"). Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Merger Agreement.

I have been advised that the issuance of the Parent Common Stock pursuant to the Merger will be registered with the Commission under the Securities Act on a Registration Statement. I have also been advised, however, that since I may be deemed to be an affiliate of the Company at the time the Merger Agreement is submitted to a vote of the stockholders of the Company, my ability to sell, assign or transfer any Parent Common Stock that I receive in exchange for any Company Shares pursuant to the Merger may be restricted unless such sale, assignment or transfer is registered under the Securities Act or an exemption from such registration is available. I understand that such exemptions are limited and I have obtained advice of counsel as to the nature and conditions of such exemptions, including information with respect to the applicability to the sale of such Securities of Rules 144 and 145(d) promulgated under the Securities Act.

I hereby represent and warrant to and covenant with Parent that I will not sell, assign or transfer any shares of Parent Common Stock except (i) pursuant to an effective registration statement under the Securities Act, (ii) by a sale made in conformity with the volume

and other limitations of Rule 145 (and otherwise in accordance with Rule 144 under the Securities Act, if I am an affiliate of Parent and if so required at the time) or (iii) in a transaction which, in the opinion of independent counsel reasonably satisfactory to Parent or as described in a "no-action" or interpretive letter from the Staff of the Commission reasonably satisfactory to Parent, is not required to be registered under the Securities Act. In the event of a sale of shares of Parent Common Stock pursuant to Rule 145, I will supply Parent with evidence of compliance with such Rule, in the form of customary seller's and broker's Rule 145 representation letters or as Parent may otherwise reasonably request.

I understand that, except as set forth in the Merger Agreement, Parent is under no obligation to register the sale, assignment, transfer or other disposition of the shares of Parent Common Stock by me or on my behalf under the Securities Act or to take any other action necessary in order to make compliance with an exemption from such registration available solely as a result of the Merger.

Execution of this letter should not be considered an admission on my part that I am an "affiliate" of the Company as described in the first paragraph of this letter, or as a waiver of any rights I may have to object to any claim that I am such an affiliate on or after the date of this letter.

This letter agreement constitutes the complete understanding between Parent and me concerning the subject matter hereof. This letter agreement will be governed by and construed and interpreted in accordance with the laws of the State of New York applicable to contracts to be performed wholly in the State of New York.

If you are in agreement with the foregoing, please so indicate by signing below and returning a copy of this letter to the undersigned, at which time this letter shall become a binding agreement between us.

Very truly yours,

_____
Name:

Accepted this ____ day
of _____, 200[?].

GREAT PLAINS ENERGY INCORPORATED

By: _____
Name:
Title:

EXECUTION COPY
Exhibit 10.1

Asset Purchase Agreement

by and among

Aquila, Inc.,

Black Hills Corporation,

Great Plains Energy Incorporated

and

Gregory Acquisition Corp.

Dated: February 6, 2007

TABLE OF CONTENTS

EXHIBITS AND SCHEDULES

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement"), is made as of February 6, 2007 by and among Aquila, Inc., a Delaware corporation ("Seller"), Black Hills Corporation, a South Dakota corporation ("Buyer"), Great Plains Energy Incorporated, a Missouri corporation ("Parent"), and Gregory Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub").

RECITALS

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") with Buyer, Parent and Merger Sub which, among other things, provides for the merger of Merger Sub with and into Seller (the "Merger") immediately after the Closing.

WHEREAS, Seller, as the general partner of a Delaware limited partnership to be formed to hold the electric utility business operated by Seller in Colorado ("Electric Opco"), and of a Delaware limited partnership to be formed to hold the gas utility business operated by Seller in Colorado ("Gas Opco"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner") and a wholly-owned subsidiary of Seller, which will be the limited partner of Electric Opco and of Gas Opco, Parent, Merger Sub and Buyer have entered into a Partnership Interests Purchase Agreement (the "Partnership Interests Purchase Agreement") of even date herewith whereby Buyer shall purchase all of the partnership interests of Electric Opco and Gas Opco, each of which shall be formed by Seller to hold the assets related to Seller's electric utility business and gas utility business, respectively, in Colorado.

WHEREAS, Buyer desires to purchase, and Seller desires to sell, the Purchased Assets, upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the Parties' respective covenants, representations, warranties, and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I.
DEFINITIONS

1.1. Definitions.

(a) As used in this Agreement, the following terms have the meanings specified in this Section 1.1(a):

"Affiliate" has the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Exchange Act.

"Affiliated Group" means any affiliated group within the meaning of Code section 1504(a) or any similar group defined under a similar provision of Law.

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement to be executed and delivered by Seller and Buyer at Closing, in the form of Exhibit 1.1-A.

"Assignment of Easements" means the form of Assignment of Easements set forth on Exhibit 1.1-B.

"Bill of Sale" means the bill of sale to be executed and delivered by Seller at the Closing, in the form of Exhibit 1.1-C.

"Business" means, collectively, (i) the Natural Gas Businesses, and (ii) the activities described on Schedule 1.1-A.

"Business Agreements" means any contract, agreement, real or personal property lease, commitment, understanding, or instrument (other than the Retained Agreements and the Shared Agreements) to which Seller is a party or by which it is bound that either (i) is listed or described on Schedule 5.9, Schedule 5.11, Schedule 5.13(a), or Schedule 5.13(b), or (ii) relates principally to the Business or the Purchased Assets, and if entered into after the date hereof (and is not a renewal, extension or amendment of an agreement in effect on the date hereof), is entered into in accordance with the terms of this Agreement.

"Business Day" means any day other than Saturday, Sunday, and any day which is a legal holiday or a day on which banking institutions in New York, New York are authorized by Law to close.

"Business Employees" means (i) the employees of Seller set forth on Schedule 1.1-B, which shall include all of Seller's employees whose place of employment is at Seller's locations in Iowa, Kansas and Nebraska, other than employees of Seller whose place of employment is at Seller's locations in Kansas principally related to Seller's electric utility business in Kansas, (ii) any persons who are hired by Seller after the date hereof for the Business, other than persons hired after the date hereof to perform Central or Shared Functions, and (iii) other than for purposes of ARTICLE V and Section 8.1, those Central or Shared Function Employees that Buyer and Parent agree Buyer may offer employment to prior to the Closing and that accept employment with Buyer.

"Buyer Pension Plan" means one or more defined benefit plans within the meaning of section 3(35) of ERISA that are (i) maintained or to be established or maintained by Buyer, and (ii) qualified under section 401(a) of the Code.

"Buyer Required Regulatory Approvals" means (i) the filings by Seller, Buyer and Parent required by the HSR Act in connection with the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement and the Merger Agreement, and the expiration or earlier termination of all waiting periods under the HSR Act, and (ii) the approvals set forth on Schedule 1.1-C.

"Buyer's Representatives" means Buyer's accountants, employees, counsel, environmental consultants, surveyors, financial advisors, and other representatives.

"Central or Shared Functions" means any of the business functions set forth on Schedule 1.1-D.

"Central or Shared Function Employees" means any current or former employee of Seller or its Subsidiaries whose employment is (or was immediately prior to termination) principally related to Central or Shared Functions.

"Claims" means any and all civil, criminal, administrative, regulatory, or judicial actions or causes of action, suits, petitions, proceedings (including arbitration proceedings), investigations, hearings, demands, demand letters, claims, or notices of noncompliance or violation delivered by any Governmental Entity or other Person.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

"COBRA Continuation Coverage" means the continuation of medical coverage required under sections 601 through 608 of ERISA, and section 4980B of the Code.

"Code" means the Internal Revenue Code of 1986.

"Colorado Assets" means the assets principally related to and used in the Colorado Business and included in the assets to be purchased by Buyer pursuant to the Partnership Interests Purchase Agreement.

"Colorado Business" means the electric utility business and the gas utility business operated by Seller in Colorado and such other business activities of Seller in Colorado included in the definition of "Business" in the Partnership Interests Purchase Agreement.

"Confidentiality Agreement" means the Confidentiality Agreement, dated July 11, 2006 between Seller and Buyer.

"Corporate Employees" means any current employee of Seller or its Subsidiaries and any employee of Seller or its Subsidiaries hired after the date hereof and before the Closing Date, including such employees who are Central or Shared Function Employees, other than (i) Business Employees or Transferred Employees, (ii) any current employee of Seller or its Subsidiaries, and any employee of Seller or its Subsidiaries hired after the date hereof and before the Closing Date, for Seller's electric utility operations in Missouri and Kansas, and (iii) any retirees of Seller or any of its Subsidiaries and any employee of Seller or its Subsidiaries who retires between the date hereof and the Closing Date.

"Documents" means all files, documents, instruments, papers, books, reports, tapes, data, records, microfilms, photographs, letters, ledgers, journals, title commitments and policies, title abstracts, surveys, customer lists and information, regulatory filings, operating data and plans, technical documentation (such as design specifications, functional requirements, and operating instructions), user documentation (such as installation guides, user manuals, and training materials), marketing documentation (such as sales brochures, flyers, and pamphlets), Transferred Employee Records, and other similar materials related principally to the Business, the Purchased Assets, or the Assumed Obligations, in each case whether or not in electronic form; provided, that "Documents" does not include: (i) information which, if provided to Buyer,

would violate any applicable Law or Order or the Governing Documents of Seller or any of its Affiliates, (ii) bids, letters of intent, expressions of interest, or other proposals received from others in connection with the transactions contemplated by this Agreement or otherwise and information and analyses relating to such communications, (iii) any information, the disclosure of which would jeopardize any legal privilege available to Seller or any of its Affiliates relating to such information or would cause Seller or any of its Affiliates to breach a confidentiality obligation by which it is bound (provided, that in the case of any items that would be Documents but for a confidentiality obligation, Seller will use its reasonable best efforts at Buyer's request to obtain a waiver of such obligation), (iv) any valuations or projections of or related to the Business, the Purchased Assets, or the Assumed Obligations (other than any such valuations and projections prepared in conjunction with any past, present or future regulatory filings, whether or not the same was actually filed with the regulatory authority, and customary studies, reports, and similar items prepared by or on behalf of Seller for the purposes of completing, performing, or executing unperformed service obligations, Easement relocation obligations, and engineering and construction required to complete scheduled construction, construction work in progress, and other capital expenditure projects, in each case related principally to the Business and the Purchased Assets), (v) any information management systems of Seller (but not including electronic data principally related to the Business, the Purchased Assets or the Assumed Obligations), and (vi) any rights, information, or other matters to the extent used for or on the Internet, including any web pages or other similar items.

"Encumbrances" means any mortgages, pledges, liens, claims, charges, security interests, conditional and installment sale agreements, Preferential Purchase Rights, activity and use limitations, easements, covenants, encumbrances, obligations, limitations, title defects, deed restrictions, and any other restrictions of any kind, including restrictions on use, transfer, receipt of income, or exercise of any other attribute of ownership.

"Environment" means all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings and the air within other natural or man-made structures above or below ground), plant and animal life, and any other natural resource.

"Environmental Claims" means any and all Claims (including any such Claims involving toxic torts or similar liabilities in tort, whether based on negligence or other fault, strict or absolute liability, or any other basis) relating in any way to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release (or alleged presence, Release, or threatened Release) into the Environment of any Hazardous Materials, including any and all Claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law or for any property damage or personal or bodily injury (including death) or threat of injury to health, safety, natural resources, or the Environment.

"Environmental Laws" means all Laws relating to pollution or the protection of human health, safety, the Environment, or damage to natural resources, including Laws relating to Releases and threatened Releases or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials.

Environmental Laws include the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Endangered Species Act, 16 U.S.C. § 1531 et seq.; the National Environmental Policy Act, 42 U.S.C. § 4321, et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; Atomic Energy Act, 42 U.S.C. § 2014 et seq.; Nuclear Waste Policy Act, 42 U.S.C. § 10101 et seq.; and their state and local counterparts or equivalents, all as amended from time to time, and regulations issued pursuant to any of those statutes.

"Environmental Permits" means all permits, certifications, licenses, franchises, approvals, consents, waivers or other authorizations of Governmental Entities issued under or with respect to applicable Environmental Laws and used or held by Seller for the operation of the Business.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any Person that, together with Seller, would be considered a single employer under section 414(b), (c), or (m) of the Code.

"ERISA Case" means the litigation captioned *In re Aquila, Inc. ERISA Litigation*, Case No. 04-cv-00865 (DW), filed in the United States District Court for the Western District of Missouri and any similar Claims relating to the causes of action in such litigation.

"Exchange Act" means the Securities Exchange Act of 1934.

"Exchange Agent" means any exchange agent appointed in connection with the transactions contemplated by the Merger Agreement.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Rules" means the requirements of FERC with respect to and in accordance with the Uniform System of Accounts established by FERC.

"Final Regulatory Order" means, with respect to a Required Regulatory Approval, an Order granting such Required Regulatory Approval that has not been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which any waiting period prescribed by applicable Law before the transactions contemplated by this Agreement may be consummated has expired (but without the requirement for expiration of any applicable rehearing or appeal period).

"GAAP" means United States generally accepted accounting principles as of the date hereof.

"Good Utility Practice" means any practices, methods, standards, guides, or acts, as applicable, that (i) are generally accepted in the region during the relevant time period in the

natural gas utility industry, (ii) are commonly used in prudent utility engineering, construction, project management, and operations, or (iii) would be expected if the Natural Gas Businesses were to be conducted in a manner consistent with Laws and Orders applicable to the Natural Gas Businesses in each Territory and as a whole, and the objectives of reliability, safety, environmental protection, economy, and expediency. Good Utility Practice includes acceptable practices, methods, or acts generally accepted in the region, and is not limited to the optimum practices, methods, or acts to the exclusion of all others.

"Governing Documents" of a Person means the articles or certificate of incorporation and bylaws, or comparable governing documents, of such Person.

"Governmental Entity" means the United States of America and any other federal, state, local, or foreign governmental or regulatory authority, department, agency, commission, body, court, or other governmental entity.

"Hazardous Material" means (i) any chemicals, materials, substances, or wastes which are now or hereafter defined as or included in the definition of "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or words of similar import under any applicable Environmental Laws; (ii) any petroleum, petroleum products (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas or synthetic gas useable for fuel (or mixtures of natural gas and such synthetic gas), or oil and gas exploration or production waste, polychlorinated biphenyls, asbestos-containing materials, mercury, and lead-based paints; and (iii) any other chemical, material, substances, waste, or mixture thereof which is prohibited, limited, or regulated by Environmental Laws.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Income Tax" means any Tax based upon, measured by, or calculated with respect to (i) net income, profits, or receipts (including capital gains Taxes and minimum Taxes) or (ii) multiple bases (including corporate franchise and business license Taxes) if one or more of the bases on which such Tax may be based, measured by, or calculated with respect to is described in clause (i), in each case together with any interest, penalties, or additions to such Tax.

"Independent Accounting Firm" means any independent accounting firm of national reputation mutually appointed by Buyer and Parent.

"IUB" means the Iowa Utilities Board.

"KCC" means the Kansas Corporation Commission.

"Law" means any statutes, regulations, rules, ordinances, codes, and similar acts or promulgations of any Governmental Entity.

"Loss" or "Losses" means losses, liabilities, damages, obligations, payments, costs, and expenses (including the costs and expenses of any and all actions, suits, proceedings,

assessments, judgments, settlements, and compromises relating thereto and reasonable attorneys' fees and reasonable disbursements in connection therewith).

"Material Adverse Effect" means any event, effect, change or development that, individually or in the aggregate, (i) other than for purposes of Section 9.2(e), prevents or materially delays or impairs the ability of Seller to consummate the transactions contemplated herein; or (ii) is materially adverse to the financial condition, properties, assets, liabilities (contingent or otherwise), business, or results of operation of the Business and the Purchased Assets, together with the Colorado Business and the Colorado Assets, taken as a whole, in each case excluding any effect on, change in, or development caused by, or event, effect or development resulting from, or arising out of, (A) factors generally affecting the economy, financial markets, capital markets, or commodities markets, except to the extent the Business and the Purchased Assets, together with the Colorado Business and Colorado Assets, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated companies; (B) factors, including changes in Law, generally affecting any industry or any segment of any industry in which the Business operates, except to the extent the Business and the Purchased Assets, together with the Colorado Business and Colorado Assets, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated participants in such industry or such segment of such industry; (C) the execution, announcement or performance of this Agreement, the Partnership Interests Purchase Agreement or the Merger Agreement, including, in each case, the impact thereof on relationships, contractual or otherwise, with Governmental Entities, customers, suppliers, licensors, distributors, partners or employees; (D) the commencement, occurrence, continuation or intensification of any war, sabotage, armed hostility or terrorism, other than any matter or event occurring in the geographic region served by the Business and the Purchased Assets, together with the Colorado Business and Colorado Assets, taken as a whole; (E) any event, circumstance or condition disclosed in Schedule 1.1-G; and (F) any action taken by Seller or any of its Subsidiaries with Buyer's written consent referring to this subsection (F).

"Natural Gas Businesses" means the natural gas utility businesses conducted by Seller serving customers in the Territories.

"Non-Permitted Encumbrances" means (i) Encumbrances securing or created by or in respect of any of the Excluded Liabilities (other than Excluded Liabilities that are included in the "Assumed Obligations" under the Partnership Interests Purchase Agreement); (ii) statutory liens for material delinquent Taxes, or material delinquent assessments, other than such Taxes or assessments that will become an Assumed Obligation pursuant to Section 2.3 (or will become an "Assumed Obligation" pursuant to the Partnership Interests Purchase Agreement); and (iii) Encumbrances that individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; provided that, in determining if any Encumbrances would individually or in the aggregate reasonably be expected to have a Material Adverse Effect for purposes of clause (iii) of this definition, the following Encumbrances will be excluded: (A) mechanics', carriers', workers', repairers', landlords', and other similar liens arising or incurred in the ordinary course of business relating to obligations to which there is no default on the part of Seller, (B) pledges, deposits or other liens securing the performance of bids, trade contracts, leases or statutory obligations (including workers' compensation, unemployment insurance, or other social security legislation), (C) zoning, entitlement, restriction, and other land use and environmental regulations by Governmental Entities that do not materially interfere with the

present use of the Purchased Assets, (D) any Encumbrance set forth in any state, local, or municipal franchise or governing ordinance, or any franchise or other agreement entered into by Seller in connection with any such ordinance, under which any portion of the Business is conducted, (E) all rights of condemnation, eminent domain, or other similar rights of any Person, or (F) such other Encumbrances (including requirements for consent or notice in respect of assignment of any rights) that do not materially interfere with Buyer's use of the Purchased Assets for the Business, and do not secure indebtedness or the payment of the deferred purchase price of property (except for Assumed Obligations hereunder or that are included in the "Assumed Obligations" under the Partnership Interests Purchase Agreement).

"NPSC" means the Nebraska Public Service Commission.

"Order" means any order, judgment, writ, injunction, decree, directive, or award of a court, administrative judge, or other Governmental Entity acting in an adjudicative or regulatory capacity, or of an arbitrator with applicable jurisdiction over the subject matter.

"Party" means Buyer or Seller, or Buyer, Seller, Parent or Merger Sub, as indicated by the context, and "Parties" means Buyer and Seller, or Buyer, Seller, Parent and Merger Sub, as indicated by the context.

"Permits" means all permits, certifications, licenses, franchises, approvals, consents, waivers or other authorizations of Governmental Entities issued under or with respect to applicable Laws or Orders and used or held by Seller for the operation of the Business, other than Environmental Permits.

"Person" means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, or Governmental Entity.

"Preferential Purchase Rights" means rights of any Person (other than rights of condemnation, eminent domain, or other similar rights of any Person) to purchase or acquire any interest in any of the Purchased Assets, including rights that are conditional upon a sale of any Purchased Assets or any other event or condition.

"Prime Rate" means, for any day, the per annum rate of interest quoted by Citibank, N.A. as its prime rate.

"Regulatory Order" means an Order issued by the KCC, IUB or NPSC, as applicable, or FERC, that affects or governs the rates, services, or other utility operations of the Business.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Required Regulatory Approvals" means the Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals.

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933.

"Seller Disclosure Schedule" means, collectively, all Schedules other than Schedule 1.1-C and Schedule 6.3.

"Seller Marks" means the names "Aquila," "Aquila Networks," "Energy One," "Service Guard," "UtiliCorp," "Peoples Natural Gas," "West Plains Energy," "Kansas Public Service," and any derivative of any of the foregoing, and any related, similar, and other trade names, trademarks, service marks, and logos of Seller, and any domain names incorporating any of the foregoing.

"Seller Pension Plan" means the Aquila, Inc. Retirement Income Plan, as amended from time to time.

"Seller Required Regulatory Approvals" means (i) the filings by Seller, Buyer and Parent required by the HSR Act in connection with the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement and the Merger Agreement, and the expiration or earlier termination of all waiting periods under the HSR Act, and (ii) the approvals set forth on Schedule 1.1-E.

"Seller SEC Filings" means forms, statements, reports, schedules and other documents required to be filed or furnished by Seller with or to the SEC pursuant to applicable Laws and policies since January 1, 2005.

"Seller's Knowledge," or words to similar effect, means the actual knowledge of the persons set forth in Schedule 1.1-F.

"Seller's Representatives" means Seller's accountants, employees, counsel, environmental consultants, financial advisors, and other representatives.

"Shared Code" means all computer software applications, programs and interfaces, including source and object code therefor, owned by Seller immediately prior to the Closing. "Shared Code" shall not include any computer software applications, programs or interfaces, or any part thereof, owned by any third party.

"Subsidiary," when used in reference to a Person, means any Person of which outstanding securities or other equity interests having ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions of such Person are owned or controlled directly or indirectly by such first Person.

"Tax" and "Taxes" means all taxes, charges, fees, levies, penalties, or other assessments imposed by any foreign or United States federal, state, or local taxing authority, including income, excise, property, sales, transfer, franchise, license, payroll, withholding, social security, or other taxes (including any escheat or unclaimed property obligations), including any interest, penalties, or additions attributable thereto.

"Tax Affiliate" of a Person means a member of that Person's Affiliated Group and any other Subsidiary of that Person which is a partnership or is disregarded as an entity separate from that Person for Tax purposes.

"Tax Return" means any return, report, information return, or other document (including any related or supporting information) required to be supplied to any Governmental Entity with respect to Taxes.

"Termination Fee" means an amount equal to the costs and expenses incurred by Buyer in connection with the transactions contemplated in this Agreement, the Merger Agreement and the Partnership Interests Purchase Agreement, prior to the date of termination of this Agreement, in any event not to exceed $15,000,000.

"Territories" means the service territories of Seller's gas utility businesses in Iowa, Kansas and Nebraska.

"Transferred Employee Records" means the following records relating to Transferred Employees: (i) skill and development training records and resumes, (ii) seniority histories, (iii) salary and benefit information, (iv) Occupational, Safety and Health Administration medical reports, (v) active medical restriction forms, and (vi) job performance reviews and applications; provided that such records will not be deemed to include any record which Seller is restricted by Law, Order, or agreement from providing to Buyer.

"Transition Services Agreement" means the Transition Services Agreement, dated the date hereof, among Buyer, Parent and Merger Sub.

"WARN Act" means the Worker Adjustment Retraining and Notification Act of 1988, as amended.

(b) In addition, each of the following terms has the meaning specified in the Exhibit or Section set forth opposite such term:

Term	Reference
Accounts Payable	Section 2.3(f)
Actual Capital Expenditures	Section 3.1(b)
Actual Working Capital	Section 3.1(b)
Adjusted Section 4044 Amount	Exhibit 8.8(d)(ii)(C)
Adjustment Amount	Section 3.1(b)
Adjustment Dispute Notice	Section 3.2(c)
Agreement	Preamble
Allocated Rights and Obligations	Section 8.5(d)
Applicable Period	Section 8.8(d)(ii)(E)
Applicable Preferential Purchase Right	Section 8.9(c)

Assumed Environmental Liabilities	Section 2.3(g)
Assumed Obligations	Section 2.3
Base Price	Section 3.1(a)
Benefit Plan	Section 5.12(a)
Buyer	Preamble
Buyer Financing	Section 6.5(a)
Buyer Financing Commitments	Section 6.5(b)
Buyer Pension Plan Trust	Exhibit 8.8(d)(ii)(C)
CB Transferred Employees	Section 8.8(a)
Capital Expenditures	Section 3.1(b)
Capital Expenditures Budget	Section 3.1(b)
Closing	Section 4.1
Closing Date	Section 4.1
Closing Payment Amount	Section 3.2(a)
Collective Bargaining Agreement	Section 5.11
Confidential Business Information	Section 8.2(c)
Confidential Information	Section 8.2(b)
Contingent Purchased Assets	Section 8.5(f)(ii)
Correct Purchase Price	Section 3.2(d)
Covered Individuals	Section 8.8(d)(ii)(D)
Current Retirees	Section 8.8(d)(ii)(D)
Customer Notification	Section 8.13
Division Income Statement Information	Section 5.5(b)
Easements	Section 8.5(a)

Electric Opco	Recitals
Excluded Assets	Section 2.2
Excluded Liabilities	Section 2.4
Final Purchase Price	Section 3.2(e)
Financial Hedge	Section 8.5(c)
Franchises	Section 5.13(b)
Gas Opco	Recitals
Initial Transfer Amount	Exhibit 8.8(d)(ii)(C)
Initial Transfer Date	Exhibit 8.8(d)(ii)(C)
Interim Period	Section 8.5(f)(ii)
Lease Buy-Out Amount	Section 3.1(b)
Limited Partner	Recitals
Locals	Section 8.8(c)
Merger	Recitals
Merger Agreement	Recitals
Methodologies	Section 3.1(b)
New CBA	Section 8.8(c)
Non-CB Transferred Employees	Section 8.8(a)
Other Arrangements	Section 8.5(d)
Other Plan Participants	Exhibit 8.8(d)(ii)(C)
Parent	Preamble
Partnership Interests Purchase Agreement	Recitals
Post-Retirement Welfare Benefits	Section 8.8(d)(ii)(D)
Proposed Adjustment Amount	Section 3.2(b)
Proposed Adjustment Statement	Section 3.2(b)

Proposed Purchase Price	Section 3.2(b)
Purchase Price	Section 3.1(a)
Purchased Assets	Section 2.1
Qualifying Offer	Section 8.8(a)
Real Property	Section 2.1(a)
Reduction Amount	Exhibit 8.8(d)(ii)(C)
Reference Balance Sheet	Section 3.1(b)
Reference Capital Expenditures	Section 3.1(b)
Reference Working Capital	Section 3.1(b)
Regulatory Material Adverse Effect	Section 8.4(e)
Retained Agreements	Section 2.2(l)
Savings Plan	Section 8.8(d)(ii)(E)
Section 4044 Amount	Exhibit 8.8(d)(ii)(C)
Selected Balance Sheet Information	Section 5.5(a)
Seller	Preamble
Seller Pension Plan Trust	Exhibit 8.8(d)(ii)(C)
Severance Compensation Agreements	Section 2.1(h)
Shared Agreements	Section 8.5(d)
Straddle Period Taxes	Section 8.7(b)
Substitute Arrangements	Section 8.5(d)
Successor Collective Bargaining Agreement	Section 5.11
Termination Date	Section 10.1(b)
Transfer Taxes	Section 8.7(a)
Transferable Environmental Permits	Section 2.1(i)

Transferable Permits	Section 2.1(g)
Transferred Employee	Section 8.8(a)
Transition Committee	Section 8.1(b)
True-Up Amount	Exhibit 8.8(d)(ii)(C)
True-Up Date	Exhibit 8.8(d)(ii)(C)
Unrecovered Purchased Gas Adjustments	Section 3.1(b)
Working Capital	Section 3.1(b)

1.2. Other Definitional and Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply:

(a) Calculation of Time Period. When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a non-Business Day, the period in question will end on the next succeeding Business Day.

(b) Dollars. Any reference in this Agreement to “dollars” or “$” means U.S. dollars.

(c) Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an “Exhibit” or a “Schedule” refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein are defined as set forth in this Agreement.

(d) Gender and Number. Any reference in this Agreement to gender includes all genders, and the meaning of defined terms applies to both the singular and the plural of those terms.

(e) Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any “Section” are to the corresponding Section of this Agreement unless otherwise specified.

(f) References. References to any agreement, instrument or other document means that agreement, instrument or other document as amended, modified or supplemented from time to time, including by waiver or consent, and all attachments thereto and instruments incorporated therein.

(g) "Herein." The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Schedules and Exhibits to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(h) "Including." The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it.

(i) "To the extent." The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject.

(j) "Principally in the Business." With reference to assets owned by Seller, and liabilities of Seller, which are used by, in, or for, or relate to, the Business, the phrases "principally in the Business," "principally for the Business," and other statements of similar import will be construed to refer to assets or liabilities that are: (A) specifically listed in a Schedule setting forth Purchased Assets or Assumed Obligations; or (B) otherwise are devoted principally to (or in the case of liabilities, are related principally to) the Business other than Excluded Assets and Excluded Liabilities.

1.3. Joint Negotiation and Preparation of Agreement. The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as jointly drafted by the Parties hereto and no presumption or burden of proof favoring or disfavoring any Party will exist or arise by virtue of the authorship of any provision of this Agreement.

ARTICLE II.
PURCHASE AND SALE

2.1. The Sale. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at the Closing, Seller will sell, assign, convey, transfer and deliver to Buyer, and Buyer will purchase and acquire from Seller, subject to all Encumbrances except for Non-Permitted Encumbrances, all of Seller's right, title, and interest in, to, and under the real and personal property, tangible or intangible, principally related to the Business, including as described below, as the same exists at the Closing (and, as applicable and as permitted or contemplated hereby, or as Buyer and Parent agree, with such additions and eliminations of assets as shall occur from the date hereof through the Closing), except to the extent that such assets are Excluded Assets (collectively, the "Purchased Assets"):

(a) Seller's real property and real property interests located in Iowa, Kansas (other than real property or real property interests principally related to Seller's electric utility business in Kansas) and Nebraska, including (i) as described on Schedule 2.1(a), (ii) buildings, structures, other improvements, and fixtures located thereon, (iii) all rights, privileges, easements and appurtenances thereto, the leasehold and subleasehold interests under the leases described on Schedule 5.9, (iv) the Easements to be conveyed at the Closing pursuant to Section 8.5(a), and (v) any installation, facility, plant (including any manufactured gas plant), or site (including any

manufactured gas plant site) described on Schedule 2.1(a) that (A) at the Closing is operated, owned, leased, or otherwise under the control of or attributed to any of Seller or the Business, and (B) is located in the Territories (collectively, the "Real Property");

(b) the accounts receivable and inventories owned by Seller and principally related to the Business, and other similar or related items principally related to the Business;

(c) the Documents;

(d) the machinery, equipment, vehicles, furniture, pipeline system, natural gas distribution assets, and other tangible personal property owned by Seller and used principally in the Business, including the vehicles and equipment listed on Schedule 2.1(d) to be attached to the Agreement prior to July 1, 2007, and all warranties against manufacturers or vendors relating thereto;

(e) the Business Agreements and the Franchises;

(f) the Allocated Rights and Obligations to the extent transferred to Buyer pursuant to Section 8.5(d);

(g) the Permits, in each case to the extent the same are assignable (the "Transferable Permits");

(h) the severance compensation agreements, if any, between Seller and the Business Employees, as applicable (the "Severance Compensation Agreements");

(i) the Environmental Permits, including those listed on Schedule 5.10(a)-2, in each case to the extent the same are assignable (the "Transferable Environmental Permits");

(j) in addition to the claims, rights and proceeds described in Section 2.1(r), to the extent (i) Seller has received any insurance proceeds from settlements with insurance providers prior to the date hereof relating to costs to clean-up any Real Property as required under any Environmental Laws, including any manufactured gas plant sites acquired by Buyer pursuant to this Agreement, and (ii) such clean-up costs have not been incurred prior to the Closing Date, a pro-rata share of such proceeds to be allocated to the Real Property based upon the estimated clean-up costs of all similar sites of Seller covered by such proceeds;

(k) any refund or credit related to Taxes paid by or on behalf of Seller for which Buyer is liable pursuant to Section 8.7, whether such refund is received as a payment or as a credit against future Taxes payable;

(l) Claims and defenses of Seller to the extent such Claims or defenses arise principally with respect to the Purchased Assets or the Assumed Obligations, provided that any such Claims and defenses will be assigned to Buyer without warranty or recourse;

(m) assets transferred pursuant to Section 8.8;

(n) any other assets owned by Seller and set forth on Schedule 2.1(n);

(o) assets included in the FERC Accounts upon which the Selected Balance Sheet Information was prepared;

(p) any credits, benefits, emissions reductions, offsets and allowances with respect to any Environmental Laws purchased by or granted or issued to Seller for use by or with respect to the Business or the Purchased Assets;

(q) any other assets of Seller used principally in the Business; and

(r) any claims or rights under or proceeds of Seller's insurance policies to the extent related to the Business, the Purchased Assets or the Assumed Obligations, including claims, rights or proceeds contemplated by Section 8.9(b).

2.2. Excluded Assets. The Purchased Assets do not include any property or assets of Seller not described in Section 2.1 and, notwithstanding any provision to the contrary in Section 2.1 or elsewhere in this Agreement, the Purchased Assets do not include the following property or assets of Seller (all assets excluded pursuant to this Section 2.2, the "Excluded Assets"):

(a) cash, cash equivalents, and bank deposits;

(b) certificates of deposit, shares of stock, securities, bonds, debentures, evidences of indebtedness, and any other debt or equity interest in any Person;

(c) properties and assets principally used in or for the conduct of the electric utility business conducted by Seller in the States of Colorado, Kansas or Missouri, or the gas utility business conducted by Seller in the State of Colorado;

(d) except as set forth in Section 2.1(k), any refund or credit related to Taxes paid by or on behalf of Seller, whether such refund is received as a payment or as a credit against future Taxes payable;

(e) funds, letters of credit and other forms of credit support that have been deposited by Seller as collateral to secure Seller's obligations;

(f) all books, records, or the like other than the Documents;

(g) any assets that have been disposed of in the ordinary course of business or otherwise in compliance with this Agreement prior to Closing;

(h) except as expressly provided in Section 2.1(d) and Section 2.1(l), all of the Claims or causes of action of Seller against any Person;

(i) except as included on Schedule 2.1(n), assets used for performance of the Central or Shared Functions;

(j) except as provided in Section 2.1(j), Section 2.1(l) and Section 2.1(r), all insurance policies, and rights thereunder, including any such policies and rights in respect of the Purchased Assets or the Business;

(k) the rights of Seller arising under or in connection with this Agreement, any certificate or other document delivered in connection herewith, and any of the transactions contemplated hereby and thereby;

(l) all (i) agreements and contracts set forth on Schedule 2.2(l) to be attached to the Agreement prior to July 1, 2007 (the "Retained Agreements"), (ii) Shared Agreements (except to the extent provided by Section 8.5(d)), and (iii) other agreements and contracts not included in the Business Agreements and Franchises;

(m) all software, software licenses, information systems, management systems, and any items set forth in or generally described in subparts (i) through (vi) of the definition of "Documents" in Section 1.1(a) other than the software and related assets set forth on Schedule 2.1(n); and

(n) any assets of any Benefit Plan, except as otherwise provided in Section 8.8.

2.3. Assumed Obligations. On the Closing Date, Buyer will deliver to Seller the Assignment and Assumption Agreement pursuant to which Buyer will assume and agree to discharge all of the debts, liabilities, obligations, duties, and responsibilities of Seller of any kind and description, whether absolute or contingent, monetary or non-monetary, direct or indirect, known or unknown, or matured or unmatured, or of any other nature, to the extent incurred either prior to or after the Closing, and principally related to the Purchased Assets or the Business, including those obligations and liabilities set forth in the Selected Balance Sheet Information, other than Excluded Liabilities (the "Assumed Obligations"), in accordance with the respective terms and subject to the respective conditions thereof, including the following liabilities and obligations:

(a) all liabilities and obligations of Seller under the Business Agreements, the Severance Compensation Agreements, the Transferable Permits, the Transferable Environmental Permits, the Preferential Purchase Rights assigned to Buyer pursuant to Section 8.9(c), the Allocated Rights and Obligations transferred to Buyer pursuant to Section 8.5(d), and any other agreements or contractual rights assigned to Buyer pursuant to the terms of this Agreement;

(b) all liabilities and obligations of Seller with respect to customer deposits, customer advances for construction and other similar items related principally to the Business or the Purchased Assets;

(c) all liabilities and obligations relating to unperformed service obligations, Easement relocation obligations, and engineering and construction required to complete scheduled construction, construction work in progress, and other capital expenditure projects, in each case related principally to the Business and outstanding on or arising after the Closing;

(d) all liabilities and obligations associated with the Purchased Assets or the Business in respect of Taxes for which Buyer is liable pursuant to Section 8.7;

(e) all liabilities and obligations for which Buyer is responsible pursuant to Section 8.8;

(f) all trade accounts payable and other accrued and unpaid current expenses in respect of goods and services incurred by or for the Business to the extent attributable to the period prior to the Closing (the "Accounts Payable");

(g) (i) all Environmental Claims, and (ii) all liabilities, obligations and demands arising under, in respect of, or relating to past, present, and future Environmental Laws, existing, arising, or asserted with respect to the Business or the Purchased Assets, whether before, on, or after the Closing Date (the "Assumed Environmental Liabilities"). For avoidance of doubt, the Assumed Environmental Liabilities include all liabilities and obligations (including liabilities and obligations based upon the presence, Release, or threatened Release of Hazardous Materials) of Seller directly or indirectly relating to, caused by, or arising in connection with the operation, ownership, use, or other control of or activity at or relating to any installation, facility, plant (including any manufactured gas plant), or site (including any manufactured gas plant site) that at the Closing is, or at any time prior to the Closing was, (i) operated, owned, leased, or otherwise under the control of or attributed to any of Seller, the Business, or any predecessor in interest of Seller or the Business, and (ii) located in the Territories or any areas previously served by the Business or any predecessor of the Business; provided, however, that the Assumed Environmental Liabilities do not include any such liabilities, obligations, Environmental Claims, or demands in respect of real property that is both (A) owned or leased by Seller as of the date of this Agreement, and (B) not included in the Purchased Assets; and

(h) all liabilities and obligations of Seller or Buyer arising before, on or after the Closing Date (i) under any Regulatory Orders applicable to the Business or the Purchased Assets, or (ii) imposed on Buyer or the Purchased Assets or Business in connection with any Required Regulatory Approval.

2.4. Excluded Liabilities. Buyer does not assume and will not be obligated to pay, perform, or otherwise discharge any of the following liabilities or obligations (collectively, the "Excluded Liabilities"):

(a) any liabilities or obligations of Seller to the extent related to any Excluded Assets;

(b) any liabilities or obligations of Seller in respect of indebtedness for borrowed money or the deferred purchase price of property;

(c) any liabilities or obligations in respect of Taxes of Seller or any Tax Affiliate of Seller, or any liability of Seller for unpaid Taxes of any Person under Treasury regulation section 1.1502-6 (or similar provision of state, local, or foreign law) as a transferee or successor, by contract or otherwise, except for Taxes for which Buyer is liable pursuant to Section 8.7;

(d) any and all liabilities arising in connection with the ERISA Case and, except as otherwise provided in Section 2.5 or Section 8.8, any other liability or obligation of Seller or an ERISA Affiliate of Seller to any employee of Seller under or in connection with any of the Benefit Plans, including under any deferred compensation arrangement or severance policy or any obligation to make any parachute or retention payment, including any liability related to the matters set forth on Schedule 5.12(d); and

(e) except as set forth in Section 2.5, any other liability, obligation, duty or responsibility of Seller not principally related to the Purchased Assets or the Business.

2.5. Post-Closing Liabilities. As of the Closing Date:

(a) With respect to the Corporate Employees, Buyer will reimburse Seller or Seller's successor for 40% of all costs of short-term severance-related benefits, including outplacement benefits, gross-ups for taxes, and severance payments made or provided by Seller or Seller's successor to such employees in connection with the termination of such employees prior to or at the Closing as a result of the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement and the Merger Agreement.

(b) Parent and Seller will, and Parent will cause Seller's successor to, reimburse Buyer for any Losses, costs or expenses incurred by Buyer with respect to any Excluded Liabilities (other than any Excluded Liabilities that are assumed by Buyer or an Affiliate of Buyer pursuant to the Partnership Interests Purchase Agreement).

(c) Buyer will reimburse Seller, or Seller's successor, as applicable, for any Losses, costs or expenses incurred by Parent, Seller or Seller's successor with respect to any Assumed Obligations.

ARTICLE III.
PURCHASE PRICE

3.1. Purchase Price.

(a) The purchase price for the Purchased Assets (the "Purchase Price") will be an amount equal to $600,000,000 (the "Base Price"), adjusted as follows: (i) the Base Price will be increased by the Adjustment Amount if the Adjustment Amount is a positive number; and (ii) the Base Price will be reduced by the Adjustment Amount if the Adjustment Amount is a negative number.

(b) The following definitions shall be used to compute the Purchase Price:

"Actual Capital Expenditures" means the actual Capital Expenditures for the period between the date hereof and the Closing Date.

"Actual Working Capital" means Working Capital as of the Closing Date.

"Adjustment Amount" means (i) Actual Working Capital minus Reference Working Capital, plus (ii) Actual Capital Expenditures minus Reference Capital Expenditures, plus (iii) an amount equal to the aggregate under-billed amount, or minus an amount equal to the aggregate over-billed amount, of the Unrecovered Purchased Gas Adjustments as of the Closing Date for each of the Natural Gas Businesses, plus (iv) an amount equal to the Lease Buy-Out Amount.

"Capital Expenditures" for any period means the amount of expenditures of the Business for such period which must be capitalized in accordance with the Methodologies.

"Capital Expenditures Budget" means the budget attached hereto as Schedule 3.1(a).

"Lease Buy-Out Amount" means an amount equal to the aggregate purchase price to purchase the vehicles included in the Purchased Assets that are subject to the Master Lease Agreement as described in Schedule 5.8 and are purchased by Seller prior to the Closing pursuant to Section 8.5(h).

"Methodologies" means (i) the methods used in the preparation of the Reference Balance Sheet and the Capital Expenditures Budget; (ii) to the extent consistent with the foregoing, the past practices of the Business; and (iii) to the extent consistent with all of the foregoing, GAAP, in each case of clauses (i), (ii) and (iii), applied on a consistent basis.

"Reference Balance Sheet" means the projected balance sheet of the Business as of December 31, 2007 attached hereto as Schedule 3.1(b).

"Reference Capital Expenditures" means the amount of the Capital Expenditures as set forth in the Capital Expenditures Budget.

"Reference Working Capital" means the Working Capital of the Business estimated as of December 31, 2007, as set forth in Schedule 3.1(c).

"Unrecovered Purchased Gas Adjustments" means the amount of purchased gas adjustment otherwise permitted under Seller's tariffs for the Natural Gas Businesses, not yet paid by the customers of the Natural Gas Businesses, or that the Natural Gas Businesses has not reimbursed to its respective customers.

"Working Capital" as of any date means the "current assets" of the Business as of such date minus the "current liabilities" of the Business as of such date (which may be a positive or negative amount), determined in each case in accordance with the Methodologies.

3.2. Determination of Adjustment Amount and Purchase Price.

(a) No later than fifteen (15) days prior to the Closing Date, Seller, in consultation with Parent and Buyer, will prepare and deliver to Buyer and Parent, Seller's best estimate of the Actual Working Capital, the Actual Capital Expenditures, the Unrecovered Purchased Gas Adjustments, the Lease Buy-Out Amount, the Adjustment Amount and the Purchase Price to be paid at the Closing, based on Seller's best estimates of the Adjustment Amount (such estimated Purchase Price being referred to herein as the "Closing Payment Amount").

(b) Within ninety (90) days after the Closing Date, Buyer will prepare and deliver to Parent a statement (the "Proposed Adjustment Statement") that reflects Buyer's determination of (i) the Actual Working Capital, the Actual Capital Expenditures, the Unrecovered Purchased Gas Adjustments, the Lease Buy-Out Amount and the Adjustment Amount (the "Proposed Adjustment Amount"), and (ii) the Purchase Price based on the Proposed Adjustment Amount (the "Proposed Purchase Price"). In addition, Buyer will provide Parent with supporting assumptions and calculations, in reasonable detail, for such determinations at the time it delivers the Proposed Adjustment Statement. Parent and Seller agree to, and Parent

agrees to cause Seller's successor to, cooperate with Buyer after the Closing in connection with the preparation of the Proposed Adjustment Statement and related information, and will provide Buyer with access to Seller's books, records, information, and employees that are primarily related to the Business and the Purchased Assets that are in Seller's or its successor's possession or control as Buyer may reasonably request.

(c) The amounts determined by Buyer as set forth in the Proposed Adjustment Statement will be final, binding, and conclusive for all purposes unless, and only to the extent, that within thirty (30) days after Buyer has delivered the Proposed Adjustment Statement, Parent notifies Buyer of any dispute with matters set forth in the Proposed Adjustment Statement. Any such notice of dispute delivered by Parent (an "Adjustment Dispute Notice") will identify with reasonable specificity each item in the Proposed Adjustment Statement with respect to which Parent disagrees, the reason for such disagreement, and Parent's position with respect to such disputed item, and will include Parent's recalculation of the Adjustment Amount and the Purchase Price. Parent shall be conclusively deemed to have accepted any item in the Proposed Adjustment Statement not addressed by the Adjustment Dispute Notice.

(d) If Parent delivers an Adjustment Dispute Notice in compliance with Section 3.2(c), Buyer and Parent will attempt to reconcile their differences and any resolution by them as to any disputed amounts will be final, binding, and conclusive for all purposes on the Parties. If Buyer and Parent are unable to reach a resolution with respect to all disputed items within forty five (45) days of delivery of the Adjustment Dispute Notice, Buyer and Parent will submit any items remaining in dispute for determination and resolution to the Independent Accounting Firm, which will be instructed to determine and report to the Parties, within thirty (30) days after such submission, upon such remaining disputed items. The determination of the Independent Accounting Firm on each issue shall be neither more favorable to Buyer than shown in the Proposed Adjustment Statement nor more favorable to Parent than shown in the Adjustment Dispute Notice. The report of the Independent Accounting Firm will identify the correct Actual Working Capital, Actual Capital Expenditures, Unrecovered Purchased Gas Adjustments, Lease Buy-Out Amount, Adjustment Amount and Purchase Price (the "Correct Purchase Price") and such report will be final, binding, and conclusive on the Parties for all purposes. The fees and disbursements of the Independent Accounting Firm will be allocated between Buyer and Parent so that Parent's share of such fees and disbursements will be in the same proportion that the aggregate amount of such remaining disputed items so submitted to the Independent Accounting Firm that is unsuccessfully disputed by Parent (as finally determined by the Independent Accounting Firm) bears to the total amount of the disputed amounts so submitted to the Independent Accounting Firm, with the remaining amount allocated to Buyer.

(e) "Final Purchase Price" shall mean (i) the Proposed Purchase Price, if Parent does not deliver an Adjustment Dispute Notice; (ii) the amount agreed between Parent and Purchaser, if any; or (iii) the Correct Purchase Price, if determined by the Independent Accounting Firm. Within five (5) days following the final determination of the Final Purchase Price pursuant to Sections 3.2(b), (c) and (d), (x) if the Final Purchase Price is greater than the Closing Payment Amount, Buyer will pay the difference to Seller or its successor; or (y) if the Final Purchase Price is less than the Closing Payment Amount, Parent will cause Seller, or its successor, to pay the difference to Buyer. Any amount paid under this Section 3.2(e) will be paid with interest for the period commencing on the Closing Date through the date of payment,

calculated at the Prime Rate in effect on the Closing Date, in cash by wire transfer of same day funds to the account specified by the Party receiving payment.

3.3. Allocation of Purchase Price. The sum of the Purchase Price and the Assumed Obligations will be allocated among the Purchased Assets on a basis consistent with section 1060 of the Code and the Treasury regulations promulgated thereunder. Within one hundred eighty (180) days following the Closing Date, the Parties will work together in good faith to agree upon such allocation; provided that in the event that such agreement has not been reached within such 180-day period, the allocation will be determined by the Independent Accounting Firm, and such determination will be binding on the Parties. Parent and Buyer will each pay one-half of the fees and expenses of the Independent Accounting Firm in connection with such determination. Each Party will, and Parent will cause Seller's successor to, report the transactions contemplated by the Agreement for federal Income Tax and all other Tax purposes in a manner consistent with such allocation. Each Party will provide the other promptly with any other information required to complete Form 8594 under the Code. Each Party will notify the other, and will provide the other with reasonably requested cooperation, in the event of an examination, audit, or other proceeding regarding the allocations provided for in this Section 3.3.

3.4. Proration.

(a) Solely for purposes of determining the Proposed Purchase Price and the Final Purchase Price under Section 3.2, property Taxes, utility charges, and similar items customarily prorated, including those listed below, to the extent relating to the Business or the Purchased Assets and which are not due or assessed until after the Closing Date but which are attributable to any period (or portion thereof) ending on or prior to the Closing Date, will be prorated as of the Closing Date. Such items to be prorated will include:

(i) personal property and real property Taxes, assessments, franchise Taxes, and other similar periodic charges, including charges for water, telephone, electricity, and other utilities;

(ii) any permit, license, registration, compliance assurance fees or other fees with respect to any Transferable Permits and Transferable Environmental Permits; and

(iii) rents under any leases of real or personal property.

(b) In connection with any real property Tax prorations pursuant to Section 3.4(a), including installments of special assessments, the amount allocated to Buyer shall equal the amount of the current real property Tax or installment of special assessments, as the case may be, multiplied by a fraction, (i) the numerator of which is the number of days from the date of the immediately preceding installment to the day before the Closing Date, and (ii) the denominator of which is the total number of days in the assessment period in which the Closing Date occurs. In connection with any other prorations, in the event that actual amounts are not available at the Closing Date, the proration will be based upon the Taxes, assessments, charges, fees, or rents for the most recent period completed prior to the Closing Date for which actual Taxes, assessments, charges, fees, or rents are available. All prorations will be based upon the most recent available Tax rates, assessments, and valuations.

(c) Parent and Buyer agree to furnish each other, or in the case of Parent to cause Seller or its successor to furnish Buyer, with such documents and other records as may be reasonably requested in order to confirm all proration calculations made pursuant to this Section 3.4.

ARTICLE IV.
THE CLOSING

4.1. Time and Place of Closing. Upon the terms and subject to the satisfaction of the conditions contained in ARTICLE IX of this Agreement, the closing of the purchase and sale of the Purchased Assets and assumption of the Assumed Obligations (the "Closing") will take place at the offices of Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004, beginning at 10:00 A.M. (New York time) on the first Business Day on which the conditions set forth in ARTICLE IX have been satisfied or waived in accordance with this Agreement (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of the conditions), or at such other place or time as the Parties may agree. The date on which the Closing occurs is referred to herein as the "Closing Date." The purchase and sale of the Purchased Assets and assumption of the Assumed Obligations will be effective on the Closing Date immediately before the effective time of the Merger.

4.2. Payment of Closing Payment Amount. At the Closing, Buyer will pay or cause to be paid to Seller, or at Parent's direction to the Exchange Agent or Merger Sub, the Closing Payment Amount, by wire transfers of same day funds or by such other means as may be agreed upon by Parent, Seller and Buyer.

4.3. Deliveries by Parent and Seller. At or prior to the Closing, Seller and Parent, as the Parties determine to be applicable, will deliver the following to Buyer:

(a) the Bill of Sale, duly executed by Seller;

(b) the Assignment and Assumption Agreement, duly executed by Seller;

(c) all consents, waivers or approvals obtained by Seller from third parties in connection with this Agreement;

(d) the certificate contemplated by Section 9.2(d);

(e) one or more deeds of conveyance of the parcels of Real Property with respect to which Seller holds fee interests, in forms reasonably acceptable to the Parties, duly executed and acknowledged by Seller and in recordable form, as necessary to convey the Real Property to Buyer;

(f) one or more instruments of assignment or conveyance, substantially in the form of the Assignment of Easements, as are necessary to transfer the Easements to Buyer pursuant to Section 8.5(a);

(g) all such other instruments of assignment or conveyance as are reasonably requested by Buyer in connection with the transfer of the Purchased Assets to Buyer in accordance with this Agreement;

(h) certificates of title for certificated motor vehicles or other titled Purchased Assets, duly executed by Seller as may be required for transfer of such titles to Buyer pursuant to this Agreement;

(i) terminations or releases of Non-Permitted Encumbrances on the Purchased Assets;

(j) a certificate of good standing with respect to each of Parent and Seller (dated as of a recent date prior to the Closing Date but in no event more than fifteen (15) Business Days before the Closing Date), issued by the Secretary of State (or other duly authorized official) of the state of incorporation or formation of each such Person and with respect to Seller of the States of Kansas, Iowa and Nebraska;

(k) a copy, certified by an authorized officer of each of Parent and Seller, of respective resolutions authorizing the execution and delivery of this Agreement and instruments attached as exhibits hereto and thereto, and the consummation of the transactions contemplated hereby and thereby, together with a certificate by the Secretary of each of Parent and Seller as to the incumbency of those officers authorized to execute and deliver this Agreement and the instruments attached as exhibits hereto and thereto;

(l) an affidavit that Seller is not a foreign person under section 1445(b)(2) of the Code; and

(m) such other agreements, documents, instruments, and writings as are required to be delivered by Parent or Seller at or prior to the Closing Date pursuant to this Agreement.

4.4. Deliveries by Buyer. At or prior to the Closing, Buyer will deliver the following to Seller:

(a) the Assignment and Assumption Agreement, duly executed by Buyer;

(b) the certificate contemplated by Section 9.3(c);

(c) all consents, waivers, or approvals obtained by Buyer from third parties in connection with this Agreement;

(d) a certificate of good standing with respect to Buyer, to the extent applicable (dated as of a recent date prior to the Closing Date but in no event more than fifteen (15) Business Days before the Closing Date), issued by the Secretary of State (or other duly authorized official) of the States of South Dakota, Kansas, Iowa and Nebraska, as applicable;

(e) a copy, certified by an authorized officer of Buyer, of resolutions authorizing the execution and delivery of this Agreement and instruments attached as exhibits hereto and thereto, and the consummation of the transactions contemplated hereby and thereby,

together with a certificate by the Secretary of Buyer as to the incumbency of those officers authorized to execute and deliver this Agreement and the instruments attached as exhibits hereto and thereto;

(f) all such other documents, instruments, and undertakings as are reasonably requested by Seller in connection with the assumption by Buyer of the Assumed Obligations in accordance with this Agreement; and

(g) such other agreements, documents, instruments and writings as are required to be delivered by Buyer at or prior to the Closing Date pursuant to this Agreement.

ARTICLE V.
REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Seller Disclosure Schedule or, to the extent the relevance of such disclosure is readily apparent therefrom, as disclosed in the Seller SEC Filings filed prior to the date of this Agreement, Seller represents and warrants to Buyer that:

5.1. Organization; Qualification. Seller is a corporation duly organized, validly existing, and in good standing under the laws of Delaware and has all requisite corporate power and authority to own, lease, and operate the Purchased Assets and to carry on the Business as presently conducted. Seller is duly qualified or licensed to do business as a foreign corporation and is in good standing in each jurisdiction in which the conduct of the Business, or the ownership or operation of any Purchased Assets, by Seller makes such qualification necessary, except for failures to be qualified or licensed that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

5.2. Authority Relative to this Agreement. Seller has all corporate power and authority necessary to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by the board of directors of Seller and no other corporate proceedings on the part of Seller are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller, and constitutes a valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

5.3. Consents and Approvals; No Violation. Except as set forth in Schedule 5.3, the execution and delivery of this Agreement by Seller, and the consummation by Seller of the transactions contemplated hereby, do not:

(a) conflict with or result in any breach of Seller's Governing Documents;

(b) result in a default (including with notice, lapse of time, or both), or give rise to any right of termination, cancellation, or acceleration, under any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation to which Seller or any of its Affiliates is a party or by which Seller or any of its

Affiliates, the Business, or any of the Purchased Assets may be bound, except for such defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been, or will prior to the Closing be, obtained or which if not obtained or made would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement;

(c) violate any Law or Order applicable to Seller, any of its Affiliates, or any of the Purchased Assets, except for violations that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect;

(d) require any declaration, filing, or registration with, or notice to, or authorization, consent, or approval of any Governmental Entity, other than (i) the Seller Required Regulatory Approvals, (ii) such declarations, filings, registrations, notices, authorizations, consents, or approvals which, if not obtained or made, would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement, or (iii) any requirements which become applicable to Seller as a result of the specific regulatory status of Buyer (or any of its Affiliates) or as a result of any other facts that specifically relate to any business or activities in which Buyer (or any of its Affiliates) is or proposes to be engaged; and

(e) as of the date of this Agreement, to Seller's Knowledge, there are no facts or circumstances relating to Seller or any of its Subsidiaries that, in Seller's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Seller Required Regulatory Approvals.

5.4. Governmental Filings.

(a) Since December 31, 2005, Seller has filed or caused to be filed with the KCC, IUB and NPSC, as applicable, and FERC all material forms, statements, reports, and documents (including all exhibits, amendments, and supplements thereto) required by Law or Order to be filed by Seller with the KCC, IUB and NPSC, respectively, or FERC with respect to the Business and the Purchased Assets except for such forms, statements, reports, and documents the failure of which to file, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. As of the respective dates on which such forms, statements, reports, and documents were filed, each (to the extent prepared by Seller and excluding information prepared or provided by third parties) complied in all material respects with all requirements of any Law or Order applicable to such form, statement, report, or document in effect on such date except for such forms, statements, reports and documents the failure of which to file in compliance with all requirements of any law or Order, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(b) Seller has filed or furnished with the SEC all Seller SEC Filings required to be filed or furnished. Each Seller SEC Filing, when and as filed or furnished with the SEC, complied in all material respects with the applicable requirements of the Securities Act, the Exchange Act and Sarbanes-Oxley. As of their respective dates (and, if amended or supplemented, as of the date of any such amendment or supplement) and as filed, the Seller SEC Filings did not contain any untrue statement of a material fact or omit to state a material fact

required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

5.5. Financial Information.

(a) Schedule 5.5(a) sets forth selected balance sheet information as of December 31, 2005 and September 30, 2006, respectively, with respect to the Business in each of Iowa, Kansas and Nebraska. The information set forth in Schedule 5.5(a) is referred to herein as the "Selected Balance Sheet Information."

(b) Schedule 5.5(b) sets forth the division income statements for the Business in each of Iowa, Kansas and Nebraska for the 12-month period ended December 31, 2005, and the nine-month period ended September 30, 2006. The information set forth in Schedule 5.5(b) is referred to herein as the "Division Income Statement Information."

(c) Except as set forth in the notes thereto, the Selected Balance Sheet Information and the Division Income Statement Information fairly present as of the dates thereof or for the periods covered thereby, in all material respects, the items reflected therein, all in accordance with FERC Accounting Rules and any applicable KCC, IUB or NPSC accounting rules applied in accordance with Seller's normal accounting practices. The individual accounts in the Selected Balance Sheet Information are recorded in accordance with GAAP, as modified by applicable FERC Accounting Rules and applicable regulatory accounting rules.

5.6. No Material Adverse Effect. Except as set forth in Schedule 5.6, or as otherwise contemplated by this Agreement, since September 30, 2006 no event, change or development has occurred which, individually or in the aggregate, has had, or would reasonably be expected to result in, a Material Adverse Effect.

5.7. Operation in the Ordinary Course. Except as otherwise disclosed herein or set forth in Schedule 5.7, or otherwise contemplated or permitted pursuant to the terms hereof, since September 30, 2006 and until the date hereof, the Business has been operated in the ordinary course of business consistent with Good Utility Practice.

5.8. Title. Except as set forth on Schedule 5.8 or as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (i) Seller owns good and marketable title to (or in the case of leased property, has a valid and enforceable leaseholder interest in) the Real Property and the Easements; and (ii) Seller has good title to the other Purchased Assets, in each case free and clear of all Non-Permitted Encumbrances. Except as described in Schedule 5.8 or as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Purchased Assets are not subject to any Preferential Purchase Rights. The Purchased Assets have been maintained consistent with Good Utility Practice, except to the extent that the failure to so maintain the Purchased Assets, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. The Easements are all of the easements, railroad crossing rights and rights-of-way, and similar rights (other than public rights-of-way) necessary, in all material respects, for the operation of the Business as currently conducted.

5.9. Leases. Schedule 5.9 describes to Seller's Knowledge as of the date hereof, all real property leases under which Seller is a lessee or lessor that relate principally to the Business or the Purchased Assets.

5.10. Environmental. The only representations and warranties given in respect to Environmental Laws, Environmental Permits, Environmental Claims, or other environmental matters are those contained in this Section 5.10, and none of the other representations and warranties contained in this Agreement will be deemed to constitute, directly or indirectly, a representation and warranty with respect to Environmental Laws, Environmental Permits, Environmental Claims, other environmental matters, or matters incident to or arising out of or in connection with any of the foregoing. All such matters are governed exclusively by this Section 5.10.

(a) Except as set forth on Schedule 5.10(a)-1, (i) Seller presently possesses all Environmental Permits necessary to own, maintain, and operate the Purchased Assets as they are currently being owned, maintained and operated, and to conduct the Business as it is currently being operated and conducted, except with respect to the failure to possess any Environmental Permits that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (ii) with respect to the Purchased Assets and the Business, Seller is in compliance in all material respects with the requirements of such material Environmental Permits and Environmental Laws, and (iii) Seller has received no written notice or information of an intent by an applicable Governmental Entity to suspend, revoke, or withdraw any such Environmental Permits, except with respect to any Environmental Permit that, if suspended, revoked or withdrawn, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To Seller's Knowledge as of the date hereof, Schedule 5.10(a)-2 sets forth a list of all material Environmental Permits held by Seller for the operation of the Business.

(b) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect or as set forth on Schedule 5.10(b), neither Seller nor any Affiliate of Seller has received within the last three (3) years any written notice, report, or other information regarding any actual or alleged violation of Environmental Laws, Environmental Permits, or any liabilities or potential liabilities, including any investigatory, remedial, or corrective obligations, relating to the operation of the Business or the Purchased Assets arising under Environmental Laws. To Seller's Knowledge as of the date hereof, Schedule 5.10(b) sets forth a list of the written notices, reports or information that Seller or any Affiliate of Seller has received within the last three (3) years regarding any such actual or alleged violations of Environmental Laws or Environmental Permits.

(c) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect or as set forth on Schedule 5.10(c), (i) there is and has been no Release from, in, on, or beneath the Real Property that could form a basis for an Environmental Claim, and (ii) there are no Environmental Claims related to the Purchased Assets or the Business, which are pending or, to Seller's Knowledge, threatened against Seller. To Seller's Knowledge as of the date hereof, Schedule 5.10(c) sets forth a list of all Releases from, in, on or beneath the Real Property that could form the basis for an Environmental Claim, and of all Environmental Claims pending or threatened against Seller that are principally related to the Purchased Assets or the Business.

5.11. Labor Matters. Schedule 5.11 lists each collective bargaining agreement covering any of the Business Employees to which Seller is a party or is subject (each, a "Collective Bargaining Agreement") as of the date hereof. Except to the extent set forth in Schedule 5.11 or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (i) Seller is in material compliance with all Laws applicable to the Business Employees respecting employment and employment practices, terms and conditions of employment, and wages and hours; (ii) Seller has not received written notice of any unfair labor practice complaint against Seller pending before the National Labor Relations Board with respect to any of the Business Employees; (iii) Seller has not received notice that any representation petition respecting the Business Employees has been filed with the National Labor Relations Board; (iv) Seller is in material compliance with the terms of and its obligations under the Collective Bargaining Agreements, and has administered each Collective Bargaining Agreement in manner consistent in all material respects with the terms and conditions of such Collective Bargaining Agreements; (v) no material grievance or material arbitration proceeding arising out of or under the Collective Bargaining Agreements is pending against Seller; and (vi) there is no labor strike, slowdown, work stoppage, or lockout actually pending or, to Seller's Knowledge, threatened against Seller in respect of the Purchased Assets or the Business. Except for the Severance Compensation Agreements set forth on Schedule 5.11 with respect to the Business Employees identified on Schedule 1.1-B, obligations to be assumed or undertaken by Buyer pursuant to Sections 2.5(a) or 8.8, and severance compensation agreements existing as of the date hereof, if any, with respect to additional employees that may be added to the Business Employees after the date hereof by Buyer and Parent pursuant to clause (iii) of the definition thereof, there are no employment, severance, or change in control agreements or contracts between Seller and any Business Employee under which Buyer would have any liability. A true, correct, and complete copy of each Collective Bargaining Agreement, any renewal or replacement of any Collective Bargaining Agreement that will expire prior to the Closing Date, and any new collective bargaining agreement covering any of the Business Employees entered into by Seller between the date hereof and the Closing (each a "Successor Collective Bargaining Agreement"), has been made available to Buyer prior to the date hereof or will be made available to Buyer prior to the Closing Date, respectively.

5.12. ERISA; Benefit Plans.

(a) Schedule 5.12(a) lists each employee benefit plan (as such term is defined in section 3(3) of ERISA) and each other plan, program, or arrangement providing benefits to employees that is maintained by, contributed to, or required to be contributed to by Seller (or any ERISA Affiliate of Seller) as of the date hereof on account of current Business Employees or persons who have retired from the Business (each, a "Benefit Plan"). Copies of such plans and all amendments and direct agreements pertaining thereto, together with the most recent annual report and actuarial report with respect thereto, if any, have been made available to Buyer prior to the date hereof.

(b) Each Benefit Plan that is intended to be qualified under section 401(a) of the Code has received a determination from the Internal Revenue Service that such Benefit Plan is so qualified, and each trust that is intended to be exempt under section 501(a) of the Code has received a determination letter that such trust is so exempt. Nothing has occurred since the date of such determination that would materially adversely affect the qualified or exempt status of such Benefit Plan or trust, nor will the consummation of the transactions provided for by this

Agreement have any such effect. Copies of the most recent determination letter of the IRS with respect to each such Benefit Plan or trust have been made available to Buyer prior to the date hereof.

(c) (i) Each Benefit Plan has been maintained, funded, and administered in compliance with its terms, the terms of any applicable Collective Bargaining Agreements, and all applicable Laws, including ERISA and the Code, (ii) there is no "accumulated funding deficiency" within the meaning of section 412 of the Code with respect to any Benefit Plan which is an "employee pension benefit plan" as defined in section 3(2) of ERISA, and (iii) no reportable event (within the meaning of section 4043 of ERISA) and no event described in sections 4041, 4042, 4062 or 4063 of ERISA has occurred or exists in connection with any Benefit Plan, except in the case of (i), (ii) and (iii) as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. As of the date of this Agreement, no proceeding has been initiated to terminate the Seller Pension Plan nor has the Pension Benefit Guaranty Corporation threatened to terminate the Seller Pension Plan. Neither Seller nor any ERISA Affiliate has any obligation to contribute to or any other liability under or with respect to any multiemployer plan (as such term is defined in section 3(37) of ERISA), except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. No liability under Title IV or section 302 of ERISA has been incurred by Seller or any ERISA Affiliate that has not been satisfied in full, and no condition exists that presents a material risk to Seller or any ERISA Affiliate of incurring any such liability, other than liability for premiums due to the Pension Benefit Guaranty Corporation, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. No Person has provided or is required to provide security to the Seller Pension Plan under section 401(a)(29) of the Code due to a plan amendment that results in an increase in current liability, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect.

(d) Except for the ERISA Case, as set forth on Schedule 5.12(d) or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (i) there is no litigation or governmental administrative proceeding or, to Seller's Knowledge, investigation involving any Benefit Plan, and (ii) the administrator and the fiduciaries of each Benefit Plan have in all material respects complied with the applicable requirements of ERISA, the Code, and any other requirements of applicable Laws, including the fiduciary responsibilities imposed by Part 4 of Title I, Subtitle B of ERISA. Except as set forth on Schedule 5.12(d) or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, there have been no non-exempt "prohibited transactions" as described in section 4975 of the Code or Title I, Part 4 of ERISA involving any Benefit Plan, and, to Seller's Knowledge, there are no facts or circumstances which could give rise to any tax imposed by section 4975 of the Code or Section 502 of ERISA with respect to any Benefit Plan.

(e) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, all contributions (including all employer matching and other contributions and all employee salary reduction contributions) for all periods ending prior to the Closing Date (including periods from the first day of the current plan year to the Closing Date) have been paid to the Benefit Plans within the time required by Law or will be paid to the Benefit Plans prior to or as of the Closing, notwithstanding any provision of any Benefit Plan to the contrary. All returns, reports, and disclosure statements required to be made

under ERISA and the Code with respect to the Benefit Plans have been timely filed or delivered except to the extent the failure to file such returns, reports and disclosure statements would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, each Benefit Plan that is a group health plan (within the meaning of Code section 5000(b)(1)) in all material respects complies with and has been maintained and operated in material compliance with each of the health care continuation requirements of section 4980B of the Code and Part 6 of Title I, Subtitle B of ERISA (or the applicable requirements of State insurance continuation law) and the requirements of the Health Insurance Protection Portability and Accountability Act of 1996.

(g) Schedule 5.12(g) sets forth the medical and life insurance benefits provided as of the date of this Agreement by Seller to any currently retired or former employees of the Business other than pursuant to Part 6 of Subtitle B of Title I of ERISA, section 4980B of the Code, or similar provisions of state law.

(h) Except for obligations assumed by Buyer as provided in Section 8.8, no provision of any Benefit Plan would require the payment by Buyer or such Benefit Plan of any money or other property, or the provision by Buyer or such Benefit Plan of any other rights or benefits, to or on behalf of any Business Employee or any other employee or former employee of Seller solely as a result of the transactions contemplated by this Agreement, whether or not such payment would constitute a parachute payment within the meaning of section 280G of the Code.

(i) During the past seven (7) years, neither Seller nor any ERISA Affiliate (including the Business) has contributed to any "multiemployer plan" within the meaning of section 3(37) of ERISA.

5.13. Certain Contracts and Arrangements.

(a) To Seller's Knowledge as of the date hereof, except for any contract, agreement, lease, commitment, understanding, or instrument which (i) is disclosed or described on Schedule 5.9, Schedule 5.11, Schedule 5.12(a), Schedule 5.12(g) or Schedule 5.13(a), or (ii) has been entered into in the ordinary course of business and is not material to the conduct of the Business as currently conducted by Seller, as of the date of this Agreement, Seller is not a party to any contract, agreement, lease, commitment, understanding, or instrument which is principally related to the Business or the Purchased Assets other than agreements that relate to both the Business and the other businesses of Seller, and any other contracts, agreements, personal property leases, commitments, understandings, or instruments which are Excluded Assets or Excluded Liabilities. Except as disclosed or described in Schedule 5.13(a) or as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (A) each material Business Agreement constitutes a valid and binding obligation of Seller and, to Seller's Knowledge, constitutes a valid and binding obligation of the other parties thereto and is in full force and effect; (B) Seller is not in breach or default (nor has any event occurred which, with notice or the passage of time, or both, would constitute such a breach or default) under, and has not received written notice that it is in breach or default under, any material Business Agreement, except for such breaches or defaults as to which requisite waivers or consents have been obtained; (C) to Seller's Knowledge, no other party to any material Business

Agreement is in breach or default (nor has any event occurred which, with notice or the passage of time, or both, would constitute such a breach or default) under any material Business Agreement; and (D) Seller has not received written notice of cancellation or termination of any material Business Agreement.

(b) Schedule 5.13(b) sets forth a list of each municipal franchise agreement relating to the Business to which Seller is a party (the "Franchises") as of the date hereof. Except as disclosed in Schedule 5.13(b) or, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect, Seller is not in default under such agreements and, to Seller's Knowledge, each such agreement is in full force and effect. Except as set forth in Schedule 5.13(b) or, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect, Seller has all franchises necessary for the operation of the Business as presently conducted.

5.14. Legal Proceedings and Orders. Except as set forth in Schedule 5.14 or, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect, there are no Claims relating to the Purchased Assets or the Business, which are pending or, to Seller's Knowledge, threatened against Seller. Except for any Regulatory Orders, as set forth in Schedule 5.14 or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller is not subject to any outstanding Orders that would reasonably be expected to apply to the Purchased Assets or the Business following Closing.

5.15. Permits. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller has all Permits required by Law for the operation of the Business as presently conducted. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (i) Seller has not received any written notification that it is in violation of any such Permits, and (ii) Seller is in compliance in all respects with all such Permits.

5.16. Compliance with Laws. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller is in compliance with all Laws, Orders and Regulatory Orders applicable to the Purchased Assets or the Business. No investigation or review by any Governmental Entity with respect to Seller or any of its Subsidiaries is pending or, to Seller's Knowledge, threatened, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. This Section 5.16 does not relate to matters with respect to ERISA and the Benefit Plans, which are the subject of Section 5.12, environmental matters, which are the subject of Section 5.10, Taxes, which are the subject of Section 5.18, or labor matters, which are the subject of Section 5.11.

5.17. Insurance. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, since December 31, 2005, the Purchased Assets have been continuously insured with financially sound insurers in such amounts and against such risks and losses as are customary in the natural gas utility industry, and Seller has not received any written notice of cancellation or termination with respect to any material insurance policy of Seller providing coverage in respect of the Purchased Assets. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, all insurance policies of Seller covering the Purchased Assets are in full force and effect; however, coverage of the Purchased Assets under Seller's insurance policies will terminate as of the Closing.

5.18. Taxes.

(a) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, all Tax Returns relating to the Business or the Purchased Assets, including all property, activities, income, employees, sales, purchases, capital or gross receipts of Seller relating thereto, required to be filed by or on behalf of Seller on or prior to the Closing Date have been or will be filed in a timely manner, and all Taxes required to be shown on such Tax Returns (whether or not shown on any Tax Return) have been or will be paid in full, except to the extent being contested in good faith by appropriate proceedings. Except as would not reasonably be expected to have a Material Adverse Effect, all such Tax Returns were or will be correct and complete in all respects, and were or will be prepared in compliance with all applicable Laws and regulations.

(b) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee or independent contractor, service provider, credit, member, stockholder or other third party in connection with the Business or the Purchased Assets.

(c) Seller is not a party directly or indirectly to any Tax allocation or sharing agreement relating to the Business or the Purchased Assets.

5.19. Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which Buyer could become liable or obligated in connection with the transactions contemplated hereby by reason of any action taken by Seller.

5.20. Sufficiency of Assets. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, the Purchased Assets, together with the assets identified in Sections 2.2(i), 2.2(l) and 2.2(m), and the rights of Buyer under the Transition Services Agreement, constitute all of the assets necessary for Buyer to conduct the Business in substantially the same manner as Seller conducted the Business prior to the Closing.

5.21. Related-Party Agreements. As of the date of this Agreement, Seller is not a party with any of its Affiliates to any material agreement, contract, commitment, transaction, or proposed transaction related to the Business. As of the date of this Agreement no material contract, agreement, or commitment included in the Purchased Assets has, as a counterparty thereto, an Affiliate of Seller.

5.22. Financial Hedges. Except in accordance with the hedging practices as described in Schedule 5.22, Seller is not currently a party to any financial hedges, futures contracts, options contracts, or other derivatives transactions in respect of Seller's gas supply portfolios for the Business. Schedule 5.22(a), to be attached to this Agreement fifteen (15) days prior to the Closing, will set forth a list of all financial hedges, future contracts, options or other derivative transactions in respect of Seller's gas supply portfolio for the Business to which Seller is a party as of the date thereof.

5.23. No Other Representations and Warranties. Except for the representations and warranties of Seller contained in this Agreement, the Partnership Interests Purchase Agreement, the Merger Agreement, or any of the exhibits, schedules or other documents attached hereto or

delivered pursuant to any of the foregoing, Seller is not making and has not made, and no other Person is making or has made on behalf of Seller, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby, and no Person is authorized to make any representations and warranties on behalf of Seller.

ARTICLE VI.
REPRESENTATIONS AND WARRANTIES OF BUYER

Except as set forth in, or qualified by any matter set forth in, Schedule 6.3, Buyer represents and warrants to Seller as follows:

6.1. Organization. Buyer is a corporation duly organized, validly existing, and in good standing under the laws of South Dakota and has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as is now being conducted.

6.2. Authority Relative to this Agreement. Buyer has the requisite corporate power and authority to, and it has taken all corporate action necessary to, execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by the board of directors of Buyer and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by Buyer, and constitutes a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

6.3. Consents and Approvals; No Violation. Except as set forth in Schedule 6.3, the execution and delivery of this Agreement by Buyer, and the consummation by Buyer of the transactions contemplated hereby, do not:

(a) conflict with or result in any breach of Buyer's Governing Documents;

(b) result in a default (including with notice, lapse of time, or both), or give rise to any right of termination, cancellation, or acceleration, under any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation to which Buyer or any of its Affiliates is a party or by which Buyer or any of its Affiliates or any of their respective assets may be bound, except for such defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been, or will prior to the Closing be, obtained or which if not obtained or made would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement or the Partnership Interests Purchase Agreement;

(c) violate any Law or Order applicable to Buyer, any of its Affiliates, or any of their respective assets, except for violations that, individually or in the aggregate, would not reasonably be expected to prevent, materially delay or impair the ability of Buyer to consummate the transactions contemplated by this Agreement or the Partnership Interests Purchase Agreement;

(d) require any declaration, filing, or registration with, or notice to, or authorization, consent, or approval of any Governmental Entity, other than (i) the Buyer Required Regulatory Approvals, or (ii) such declarations, filings, registrations, notices, authorizations, consents, or approvals which, if not obtained or made, would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement or the Partnership Interests Purchase Agreement; and

(e) as of the date of this Agreement, Buyer does not know of any facts or circumstances relating to Buyer or any of its Subsidiaries that, in Buyer's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Buyer Required Regulatory Approvals.

6.4. Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which Seller could become liable or obligated in connection with the transactions contemplated hereby by reason of any action taken by Buyer.

6.5. Financing.

(a) At the Closing, Buyer will have sufficient funds available to pay the aggregate amount of consideration payable to Seller, or at Parent's direction to Merger Sub or the Exchange Agent, pursuant to this Agreement and the Partnership Interests Purchase Agreement (the "Buyer Financing").

(b) Buyer has delivered to Seller and Parent true and complete copies of all commitment letters (as the same may be amended or replaced, the "Buyer Financing Commitments"), pursuant to which the lender parties thereto have agreed, subject to the terms and conditions thereof, to provide or cause to be provided to Buyer the Buyer Financing. As of the date of this Agreement, (i) none of the Buyer Financing Commitments has been amended or modified, (ii) the commitments contained in the Buyer Financing Commitments have not been withdrawn or rescinded in any material respect, (iii) the Buyer Financing Commitments are in full force and effect, and (iv) there are no conditions precedent or other contingencies related to the funding of the full amount of Buyer Financing other than as set forth in the Buyer Financing Commitments. As of the date of this Agreement, no event has occurred which, with or without notice, lapse of time or both, would constitute a default or breach on the part of the Buyer under any term or condition of the Buyer Financing Commitments. As of the date of this Agreement, Buyer has no reason to believe that it or any of its Subsidiaries will not be able to satisfy on a timely basis any term or condition contained in the Buyer Financing Commitments or that the full amount of the Buyer Financing Commitments will not be available to Buyer as of the closing of the transactions contemplated by this Agreement and the Partnership Interests Purchase Agreement. Buyer has fully paid any and all commitment fees that have been incurred and are due and payable as of the date hereof in connection with the Buyer Financing Commitments.

(c) As of the date of this Agreement, Buyer has no reason to believe that it or any of its Subsidiaries will not be able to satisfy on a timely basis any term or condition contained in this Agreement or the Partnership Interests Purchase Agreement, or that the full amount of the consideration payable by Buyer to Seller, or to Merger Sub or the Exchange Agent as directed by Parent, pursuant to this Agreement or the Partnership Interests Purchase

Agreement, will not be available to Buyer as of the closing of the transactions contemplated by this Agreement or the Partnership Interests Purchase Agreement.

6.6. No Other Agreements. This Agreement, the Merger Agreement, the Partnership Interests Purchase Agreement, the letter of intent dated November 21, 2006 between Buyer and Parent, and the Transition Services Agreement are the sole agreements and arrangements between or among Buyer and Parent and their respective Affiliates with respect to the transactions contemplated herein and therein.

6.7. No Other Representations and Warranties. Except for the representations and warranties of Buyer contained in this Agreement, the Partnership Interests Purchase Agreement, the Merger Agreement, or any of the exhibits, schedules or other documents attached hereto or delivered pursuant to any of the foregoing, Buyer is not making and has not made, and no other Person is making or has made on behalf of Buyer, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby, and no Person is authorized to make any representations and warranties on behalf of Buyer.

ARTICLE VII.
REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub hereby represent and warrant to Buyer and Seller that:

7.1. Organization. Each of Parent and Merger Sub is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted.

7.2. Authority Relative to this Agreement. Except as set forth on Schedule 7.2, Parent and Merger Sub each have the requisite corporate or similar power and authority to, and each of them have taken all corporate or similar action necessary to, execute, deliver and perform its obligations under this Agreement. This Agreement has been duly executed and delivered by each of Parent and Merger Sub and is a valid and binding agreement of Parent and Merger Sub, respectively, enforceable against each of them in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity. No vote or approval of the stockholders of Parent is required in connection with the execution, delivery or performance by Parent of its obligations under this Agreement.

7.3. Consents and Approvals; No Violation. Except as set forth in Schedule 7.3, the execution and delivery of this Agreement by Parent and Merger Sub, and the performance by Parent or Merger Sub of their respective obligations hereunder, do not:

(a) conflict with or result in any breach of Parent's or Merger Sub's Governing Documents;

(b) result in a default (including with notice, lapse of time, or both), or give rise to any right of termination, cancellation, or acceleration, under any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation to which Parent, Merger Sub or any of their respective Affiliates is a party or by

which Parent, Merger Sub or any of their respective Affiliates, business or assets may be bound, except for such defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been, or will prior to the Closing be, obtained or which if not obtained or made would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement or the Merger Agreement;

(c) violate any Law or Order applicable to Parent, Merger Sub, any of their respective Affiliates, except for violations that, individually or in the aggregate, would not be reasonably be expected to prevent or materially delay the ability of Parent or Merger Sub to consummate the transactions contemplated in this Agreement, the Partnership Interests Purchase Agreement or the Merger Agreement;

(d) require any declaration, filing, or registration with, or notice to, or authorization, consent, or approval of any Governmental Entity, other than (i) the Required Regulatory Approvals, (ii) such declarations, filings, registrations, notices, authorizations, consents, or approvals which, if not obtained or made, would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement or the Merger Agreement, or (iii) any requirements which become applicable to Parent or Merger Sub as a result of the specific regulatory status of Buyer (or any of its Affiliates) or as a result of any other facts that specifically relate to any business or activities in which Buyer (or any of its Affiliates) is or proposes to be engaged; and

(e) as of the date of this Agreement, Parent does not know of any facts or circumstances relating to Parent or any of its Subsidiaries that, in Parent's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Material Parent Regulatory Consents (as defined in the Merger Agreement).

7.4. Merger Agreement. Parent has delivered to Buyer a true and complete copy of the Merger Agreement. As of the date of this Agreement, (a) the Merger Agreement has not been amended or modified, (b) the Merger Agreement is in full force and effect, and (c) there are no conditions precedent or other contingencies related to the obligations of the Parties under the Merger Agreement other than as set forth in the Merger Agreement. As of the date of this Agreement, Parent has no reason to believe that it or any of its Subsidiaries will not be able to satisfy on a timely basis any term or condition contained in the Merger Agreement.

7.5. No Other Representations and Warranties. Except for the representations and warranties of Parent and Merger Sub contained in this Agreement, the Partnership Interests Purchase Agreement, the Merger Agreement, or any of the exhibits, schedules or other documents attached hereto or delivered pursuant to any of the foregoing, neither Parent nor Merger Sub is making and neither has made, and no other Person is making or has made on behalf of Parent or Merger Sub, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby, and no Person is authorized to make any representations and warranties on behalf of Parent or Merger Sub.

7.6. Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which Seller or Buyer could become liable or

obligated in connection with the transactions contemplated hereby by reason of any action taken by Parent or Merger Sub.

7.7. No Other Agreements. This Agreement, the Merger Agreement, the Partnership Interests Purchase Agreement, the letter of intent dated November 21, 2006 between Parent and Buyer, and the Transition Services Agreement are the sole agreements and arrangements between or among Parent and Buyer and their Affiliates with respect to the transactions contemplated herein and therein.

ARTICLE VIII.
COVENANTS OF THE PARTIES

8.1. Conduct of Business.

(a) Except as contemplated in this Agreement, required by any Business Agreement, Law, or Order, or otherwise described in Schedule 8.1, during the period from the date of this Agreement to the Closing Date, Seller will operate the Purchased Assets and the Business in the ordinary course and in all material respects consistent with Good Utility Practice and will use reasonable best efforts to preserve intact the Business, and to preserve the goodwill and relationships with customers, suppliers, Governmental Entities, and others having business dealings with the Business. Without limiting the generality of the foregoing, except as required by applicable Law, or Order, or as otherwise described in Schedule 8.1, prior to the Closing Date, without the prior written consent of Buyer and Parent, which will not be unreasonably withheld, delayed or conditioned, Seller will not:

(i) create, incur or assume any Non-Permitted Encumbrance upon the Purchased Assets, except for any such Encumbrance that will be released at or prior to the Closing;

(ii) make any material change in the level of inventories customarily maintained by Seller with respect to the Business, other than in the ordinary course of business or consistent with Good Utility Practice;

(iii) other than any such sales, leases, transfers, or dispositions involving any Purchased Assets involving less than $650,000 on an individual basis, or $3,250,000 in the aggregate, sell, lease, transfer, or otherwise dispose of any of the Purchased Assets, other than (A) in the ordinary course of business, or (B) consistent with Good Utility Practice;

(iv) make or commit to any capital expenditures relating to the Business or the Purchased Assets in excess of the amount reflected for such expenditures in the Capital Expenditure Budget for the year in which those capital expenditures are made, or up to 10% in excess of such amount if necessary as a result of increases in the costs of labor, commodities, materials, services, supplies, equipment or parts after the date hereof, except for capital expenditures (A) required under any Business Agreement to which Seller or any of its Subsidiaries is a party as of the date of this Agreement, a copy of which has been made available to Buyer; (B) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance) necessary to provide or maintain safe and adequate

natural gas service to the utility customers of the Business; provided that, Seller shall, if reasonably possible, consult with Buyer prior to making or agreeing to make any such expenditure; and (C) other capital expenditures relating to the Business or the Purchased Assets of up to $650,000 individually or $3,250,000 in the aggregate for each twelve (12) month budget cycle;

(v) spend in excess of $1,000,000 individually or in the aggregate to acquire any business that would be included in the Business or the Purchased Assets, whether by merger, consolidation, purchase of property or otherwise (valuing any non-cash consideration at its fair market value as of the date of the execution of a binding agreement for the acquisition);

(vi) other than (A) in the ordinary course of business, (B) upon terms not materially adverse to the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken together, or (C) as otherwise permitted under this Section 8.1(a), (1) enter into, amend, extend, renew, modify or breach in any material respect, terminate or allow to lapse (other than in accordance with its terms), any material Business Agreement, or any contract that would have been a material Business Agreement if in effect prior to the date hereof;

(vii) grant severance or termination pay to any Business Employee or former employee of the Business that would be the responsibility of Buyer;

(viii) terminate, establish, adopt, enter into, make any new, or accelerate any existing benefits under, amend or otherwise modify, or grant any rights to severance, termination or retention benefits under, any Benefit Plans (including amendments or modifications to any medical or life insurance benefits provided by Seller or Seller's adoption or grant of any new medical or life insurance benefits to any currently retired or former employees of the Business), or increase the salary, wage, bonus or other compensation of any Business Employees who will become Transferred Employees, except for (A) grants of equity or equity based awards in the ordinary course of business, (B) increases in salary or grants of annual bonuses in the ordinary course of business in connection with normal periodic performance reviews (including promotions) and the provision of individual compensation and benefits to new and existing directors, officers and employees of Seller consistent with past practice (which shall not provide for benefits or compensation payable solely as a result of the consummation of the transactions contemplated hereunder, in the Partnership Interests Purchase Agreement or the Merger Agreement), (C) actions necessary to satisfy existing contractual obligations under Benefit Plans existing as of the date of this Agreement, or (D) bonus payments, together with any such bonus payments permitted under the Partnership Interests Purchase Agreement and the Merger Agreement, not to exceed an aggregate of $500,000 to executives in Seller's compensation bands E through G;

(ix) negotiate the renewal or extension of any Collective Bargaining Agreement or enter into any new collective bargaining agreement, without providing Buyer with access to all information relating to such new collective bargaining agreement, or the renewal or extension of any such Collective Bargaining Agreement, and permitting Buyer to consult from time to time with Seller and its counsel on the

progress thereof; provided that the negotiation of such renewal or extension will be conducted in a manner consistent with past practice, and Seller will not be obligated to follow any advice that may be provided by Buyer during any such consultation;

(x) agree or consent to any material agreements or material modifications of material existing agreements or material courses of dealing with any of the IUB, KCC, NPSC or any other state public utility or service commission, or the FERC, in each case in respect of the operations of the Business or the Purchased Assets, except as required by Law to obtain or renew Permits or agreements in the ordinary course of business consistent with past practice;

(xi) modify, amend or terminate, or waive, release or assign any material rights or claims with respect to any confidentiality or standstill agreement relating to the Business or the Purchased Assets to which Seller or any of its Subsidiaries is a party (it being agreed and acknowledged that Seller may grant waivers under any such standstill agreement to allow a third party to submit an Acquisition Proposal (as defined in the Merger Agreement) for Seller to the extent that the Board of Directors of Seller determines in good faith (after consulting with outside legal counsel) that the failure to grant such waiver would be inconsistent with its fiduciary duties under applicable Law);

(xii) fail to maintain insurance on the Purchased Assets with financially responsible insurance companies (or if applicable, self insure), insurance in such amounts and against such risks and losses as are consistent with Good Utility Practice and customary for companies of the size and financial condition of Seller that are engaged in businesses similar to the Business;

(xiii) enter into, amend in any material respect, make any material waivers under, or otherwise modify in any material respect any property Tax agreement, treaty, or settlement related to the Business;

(xiv) enter into any line of business in any of the Territories or the states of Iowa, Kansas or Nebraska other than the current Business; provided that the restrictions in this Section 8.1(a)(xiv) will not apply to activities that are not part of the current Business or are not related to the Purchased Assets, including Seller's electric utility businesses in Kansas and Missouri;

(xv) other than in the ordinary course of business, amend in any material respect, breach in any material respect, terminate or allow to lapse or become subject to default in any material respect or subject to termination, any Permit material to the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken as a whole, other than (A) as required by applicable Law, and (B) approvals by Governmental Entities of, or the entry with Governmental Entities into, compromises or settlements of litigation, actions, suits, claims, proceedings or investigations entered into in accordance with Section 8.1(a)(xvi);

(xvi) enter into any compromise or settlement of any litigation, action, suit, claim, proceeding or investigation relating to the Business or the Purchased Assets

(excluding tax controversies and tax closing agreements that relate to Taxes that are not Assumed Obligations under this Agreement) in which the damages or fines to be paid by Seller (and not reimbursed by insurance) are in excess of $5,000,000 individually or in the aggregate, or in which the non-monetary relief to be provided could reasonably be expected to materially restrict the prospective operation of the Business;

(xvii) enter into any agreements that would limit or otherwise restrict in any material respect the Business or any successor thereto, or that, after the Closing, would limit or restrict in any material respect Buyer, the Business or any successor thereto, from engaging or competing in any line of business or product line or in any of the Territories (in each case other than limitations on franchises, certificates of convenience or necessity, or other rights granted under the same documents);

(xviii) except as permitted under Section 7.2 and ARTICLE IX of the Merger Agreement, take any action that is intended or would reasonably be expected to result in any of the conditions to the obligations of any of the Parties to effect the transactions contemplated hereby not being satisfied;

(xix) except for non-material filings in the ordinary course of business consistent with past practice, (A) implement any changes in Seller's rates or charges (other than automatic cost pass-through rate adjustment clauses), standards of service or accounting, in any such case, as relates to the Business or execute any agreement with respect thereto (other than as otherwise permitted under this Agreement), without consulting with Buyer prior to implementing any such changes or executing any such agreement, and (B) agree to any settlement of any rate proceeding that would provide for a reduction in annual revenues or would establish a rate moratorium or phased-in rate increases (other than automatic cost pass-through rate adjustment clauses) for a duration of more than one (1) year (it being agreed and acknowledged that, notwithstanding anything to the contrary herein, rate matters relating to the Business shall be restricted between the date of this Agreement and the Closing solely to the extent set forth in this Section 8.1(a)(xix) and not by any other provision hereof);

(xx) with respect to the Business, change, in any material respect, its accounting methods or practices (except in accordance with changes in GAAP), credit practices, collection policies, or investment, financial reporting, or inventory practices or policies or the manner in which the books and records of the Business are maintained;

(xxi) hire any employee for the Business other than (A) persons who are hired by Seller to replace employees who have retired, been terminated, died, or become disabled, (B) persons who are hired by Seller in the ordinary course of business consistent with past practice, or (C) persons hired by Seller to perform Central or Shared Functions; or

(xxii) agree or commit to take any action which would be a violation of the restrictions set forth in Sections 8.1(a)(i) through 8.1(a)(xxi).

(b) Within fifteen (15) Business Days after the date hereof, a committee of three Persons comprised of one Person designated by Parent, one Person designated by Seller

and one Person designated by Buyer, and such additional Persons as may be appointed by the Persons originally appointed to such committee (the "Transition Committee") will be established to examine transition issues relating to or arising in connection with the transactions contemplated hereby, except for issues to be examined by the Transition Services Committee pursuant to the Transition Services Agreement. From time to time, the Transition Committee will report its findings to the senior management of each of Parent, Seller and Buyer. The Transition Committee shall have no authority to bind or make agreements on behalf of the Parties or to issue instructions to or direct or exercise authority over the Parties. Seller shall provide to Buyer, at no cost, interim furnished office space, utilities, and telecommunications at mutually agreed locations as reasonably necessary to allow Buyer to conduct its transition efforts.

(c) In the event that the Transition Committee, or Buyer and Parent, agree to engage a consultant to provide advice to the Transition Committee, or Parent and Buyer, respectively, in connection with transition issues relating to or arising in connection with the transactions contemplated hereby, (i) such engagement shall occur pursuant to a written agreement with such consultant that shall be subject to the prior written approval of each of Buyer and Parent, and (ii) all out-of-pocket costs incurred by Parent and Buyer pursuant to such consulting agreement will be split between Buyer and Parent, with each of Buyer and Parent bearing 50% of such costs.

8.2. Access to Information.

(a) To the extent permitted by Law, between the date of this Agreement and the Closing Date, Seller will, during ordinary business hours and upon reasonable notice, (i) give Buyer and Buyer's Representatives reasonable access to the Purchased Assets and those of its properties, contracts and records used principally in the Business or principally related to the Purchased Assets, to which Seller has the right to grant access without the consent of any other Person (and in the case where consent of another Person is required, only on such terms and conditions as may be imposed by such other Person); (ii) permit Buyer to make such reasonable inspections thereof (including but not limited to surveys thereof) as Buyer may reasonably request; (iii) furnish Buyer with such financial and operating data and other information with respect to the Business as Buyer may from time to time reasonably request; (iv) grant Buyer access to such officers and employees of Seller as Buyer may reasonably request in connection with obtaining information regarding the Business or the Purchased Assets, including with respect to any environmental matters, regulatory matters and financial information; (v) furnish Buyer with copies of surveys, legal descriptions of real property and easements, contracts, leases and other documents with respect to the Purchased Assets in Seller's possession and reasonable control; (vi) furnish Buyer with a copy of each material report, schedule, or other document principally relating to the Business filed by Seller with, or received by Seller from, any Governmental Entity; and (vii) furnish Buyer all information concerning the Business Employees or Covered Individuals as reasonably requested; provided, however, that (A) any such investigation will be conducted, and any such access to officers and employees of Seller will be exercised, in such a manner as not to interfere unreasonably with the operation of the Business or any other Person, (B) Buyer will indemnify and hold harmless Seller from and against any Losses caused to Seller by any action of Buyer or Buyer's Representatives while present on any of the Purchased Assets or other premises to which Buyer is granted access hereunder (including restoring any of the Real Property to the condition substantially equivalent

to the condition such Real Property was in prior to any investigation of environmental matters), (C) Seller will not be required to take any action which would constitute a waiver of the attorney-client privilege, and (D) Seller need not supply Buyer with any information which Seller is under a contractual or other legal obligation not to supply; provided, however, if Seller relies upon clauses (C) or (D) as a basis for withholding information from disclosure to Buyer, to the fullest extent possible without causing a waiver of the attorney-client privilege, or a violation of a contractual or legal obligation, as the case may be, Seller will provide Buyer with a description of the information withheld and the basis for withholding such information. Notwithstanding anything in this Section 8.2 to the contrary, (x) Buyer will not have access to personnel and medical records if such access could, in Seller's good faith judgment, subject Seller to risk of liability or otherwise violate the Health Insurance Portability and Accountability Act of 1996, and (y) any investigation of environmental matters by or on behalf of Buyer will be limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Buyer will not have the right to perform or conduct any other sampling or testing at, in, on, or underneath any of the Purchased Assets. Seller acknowledges and agrees that except for the information disclosed in Schedules 1.1-B, 3.1(a), 5.3(b), 5.5(a), 5.5(b), 5.8, 5.10(b), 5.10(c), 5.11, 5.14, 8.8(d)(ii)(D) and 8.8(d)(ii)-A to this Agreement, Buyer may include such information relating to the Business and the Purchased Assets as reasonably necessary in filings with the SEC, including in one or more registration statements filed by Buyer in connection with obtaining the Buyer Financing.

(b) Unless and until the transactions contemplated hereby have been consummated, Buyer will, and will cause its Affiliates and Buyer's Representatives to, hold in strict confidence and not use or disclose to any other Person all Confidential Information. "Confidential Information" means all information in any form heretofore or hereafter obtained from Seller in connection with Buyer's evaluation of the Business or the negotiation of this Agreement, whether pertaining to financial condition, results of operations, methods of operation or otherwise, other than information which is in the public domain through no violation of this Agreement or the Confidentiality Agreement by Buyer, its Affiliates, or Buyer's Representatives. Notwithstanding the foregoing, Buyer may disclose Confidential Information to the extent that such information is required to be disclosed by Buyer by Law or in connection with any proceeding by or before a Governmental Entity, including any disclosure, financial or otherwise, required to comply with any SEC rules. In the event that Buyer believes any such disclosure is required, Buyer will give Seller notice thereof as promptly as possible and will cooperate with Seller in seeking any protective orders or other relief as Seller may determine to be necessary or desirable. In no event will Buyer make or permit to be made any disclosure of Confidential Information other than to the extent Buyer's legal counsel has advised in writing is required by Law, and Buyer will use its reasonable best efforts to assure that any Confidential Information so disclosed is protected from further disclosure to the maximum extent permitted by Law. If the transactions contemplated hereby are not consummated, Buyer will promptly upon Seller's request, destroy or return to Seller all copies of any Confidential Information, including any materials prepared by Buyer or Buyer's Representatives incorporating or reflecting Confidential Information, and an officer of Buyer shall certify in writing compliance by Buyer with the foregoing. Seller acknowledges and agrees that this Agreement (other than the information disclosed in Schedules 1.1-B, 3.1(a), 5.3(b), 5.5(a), 5.5(b), 5.8, 5.10(b), 5.10(c), 5.11, 5.14, 8.8(d)(ii)(D) and 8.8(d)(ii)-A to this Agreement) shall not be considered Confidential Information for purposes of this Section 8.2(b).

(c) Seller agrees that for the two-year period immediately following the Closing Date, Seller will, and will cause its Affiliates and Seller's Representatives to, hold in strict confidence and not disclose to any other Person all Confidential Business Information. "Confidential Business Information" means all commercially sensitive information in any form heretofore or hereafter obtained by Seller to the extent relating to the Business or the Purchased Assets, whether pertaining to financial condition, results of operations, methods of operation or otherwise, other than information which is in the public domain through no violation of this Agreement. Notwithstanding the foregoing, Seller may disclose Confidential Business Information to the extent that such information is required to be disclosed under contracts existing as of the Closing Date, by Law, or in connection with any proceeding by or before a Governmental Entity, including any disclosure, financial or otherwise, required to comply with any SEC rules or Required Regulatory Approvals. In the event that Seller believes any such disclosure is required by Law or in connection with any proceeding by or before a Governmental Entity, Seller will give Buyer notice thereof as promptly as possible and will cooperate with Buyer in seeking any protective orders or other relief as Buyer may determine to be necessary or desirable. In no event will Seller make or permit to be made any disclosure of Confidential Business Information other than to the extent Seller determines in good faith to be required pursuant to SEC rules, or rules governing required disclosure in other regulatory proceedings, or its legal counsel has advised is required to comply with the terms of a contract existing as of the Closing Date or required by Law, or is required in connection with any proceeding by or before a Governmental Entity, and Seller will use its reasonable best efforts to assure that any Confidential Business Information so disclosed is protected from further disclosure.

(d) The provisions of Section 8.2(b) supersede the provisions of the Confidentiality Agreement relating to Proprietary Information (as defined therein), and will survive for a period of two (2) years following the earlier of the Closing or the termination of this Agreement, except that if the Closing occurs, the provisions of Section 8.2(b) will expire with respect to any information principally related to the Purchased Assets and the Business.

(e) For a period of seven (7) years after the Closing Date, each Party and its representatives will have reasonable access to all of the books and records relating to the Business or the Purchased Assets, including all Transferred Employee Records, in the possession of the other Party to the extent that such access may reasonably be required by such Party in connection with the Assumed Obligations or the Excluded Liabilities, or other matters relating to or affected by the operation of the Business and the Purchased Assets. Such access will be afforded by the Party in possession of such books and records upon receipt of reasonable advance notice and during normal business hours; provided, however, that (i) any review of books and records will be conducted in such a manner as not to interfere unreasonably with the operation of the business of any Party or its Affiliates, (ii) no Party will be required to take any action which would constitute a waiver of the attorney-client privilege, and (iii) no Party need supply any other Party with any information which such Party is under a contractual or other legal obligation not to supply. The Party exercising the right of access hereunder will be solely responsible for any costs or expenses incurred by it pursuant to this Section 8.2(e) and will reimburse the other Party for any costs or expenses incurred by such other Party in connection with complying with such request. If the Party in possession of such books and records desires to dispose of any such books and records prior to the expiration of such seven-year period, such Party will, prior to such disposition, give the other Party a reasonable opportunity at such other

Party's expense to segregate and take possession of such books and records as such other Party may select.

8.3. Expenses. Except to the extent specifically provided herein, in the Merger Agreement or in the Partnership Interests Purchase Agreement, and irrespective of whether the transactions contemplated hereby are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby will be borne by the Party incurring such costs and expenses.

8.4. Further Assurances; Regulatory Filings; Consents and Approvals.

(a) Subject to the terms and conditions of this Agreement, each of the Parties will use reasonable best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper, or advisable under applicable Laws to consummate and make effective the transactions contemplated hereby, by the Merger Agreement and by the Partnership Interests Purchase Agreement as promptly as practicable after the date of this Agreement, including using reasonable best efforts to obtain satisfaction of the conditions precedent to each Party's obligations hereunder, under the Merger Agreement and the Partnership Interests Purchase Agreement. Except for actions permitted under Section 7.2 and ARTICLE IX of the Merger Agreement, neither Buyer nor Seller will take or permit any of its Subsidiaries to take any action that would reasonably be expected to prevent or materially delay or impair the consummation of the transactions contemplated hereby.

(b) Seller, Parent and Buyer will each file or cause to be filed with the Federal Trade Commission and the United States Department of Justice, Antitrust Division any notifications required to be filed by it under the HSR Act and the rules and regulations promulgated thereunder with respect to the transactions contemplated hereby. The Parties will consult and cooperate with each other as to the appropriate time of filing such notifications and will (i) make such filings at the agreed upon time, (ii) respond promptly to any requests for additional information made by either of such agencies, and (iii) use their reasonable best efforts to cause the waiting periods under the HSR Act to terminate or expire at the earliest possible date after the date of such filings.

(c) Without limiting the foregoing, the Parties will cooperate with each other and use reasonable best efforts to (i) promptly prepare and file all necessary applications, notices, petitions, and filings, and execute all agreements and documents to the extent required by Law or Order for consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals), (ii) obtain the consents, approvals and authorizations necessary to transfer to Buyer all Transferable Permits and Transferable Environmental Permits, and the reissuance to Buyer of all Permits that are not Transferable Permits and all Environmental Permits that are not Transferable Environmental Permits, in each case, effective as of the Closing, (iii) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law or Order for consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals), including by taking all structural corporate actions necessary to consummate the transactions contemplated hereby in a timely manner, provided, however, no Party will be required to take any action that would result in a Regulatory Material Adverse Effect, and (iv) obtain all consents, approvals, releases and authorizations of all other Persons to the extent necessary or appropriate to consummate the

transactions contemplated by this Agreement as required by the terms of any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease, Business Agreement, Easement, or other instrument to which Seller or Buyer is a party or by which either of them is bound. Buyer and Seller will each have the right to review in advance all characterizations of the information related to it or the transactions contemplated hereby which appear in any filing made by the other in connection with the transactions contemplated by this Agreement. Buyer will be solely responsible for payment of all filing fees required in connection with any Required Regulatory Approvals or such other applications, notices, petitions and filings made with any Governmental Entity.

(d) To the extent permitted by Law, Buyer and Seller will have the right to review in advance, and each will consult the other on, the form, substance and content of any filing to be made by Buyer or Seller or any of their respective Subsidiaries with, or any other written materials submitted by any of them to, any third party or any Governmental Entity (other than the SEC) in connection with the transactions contemplated by this Agreement, the Merger and the Partnership Interests Purchase Agreement. To the extent permitted by Law, each of Buyer and Seller will (i) provide the other with copies of all correspondence between it or any of its Subsidiaries (or its or their Representatives) and any Governmental Entity (other than the SEC) relating to the transactions contemplated by this Agreement, the Merger Agreement and the transactions contemplated by the Partnership Interests Purchase Agreement, (ii) consult and cooperate with the other Party, and to take into account the comments of such other Party in connection with any such filings, and (iii) inform the other Party in advance of any communication, meeting, or other contact which such Party proposes or intends to make with respect to such filings, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing and to use reasonable best efforts to ensure that all telephone calls and meetings with a Governmental Entity regarding the transactions contemplated by this Agreement will include representatives of Buyer and Seller; provided that nothing in the foregoing will apply to or restrict communications or other actions by Seller with or with regard to Governmental Entities in connection with the Purchased Assets or the Business in the ordinary course of business. To the extent permitted by Law, Buyer, Seller and Parent each agree to (1) provide one another with copies of any registration statements filed with the SEC, in the case of Buyer, in connection with obtaining financing, or by Seller and Parent in connection with the transactions contemplated under the Merger Agreement, (2) provide the other Parties the opportunity to review in advance and consult with one another as to the content of such registration statements regarding such Parties and, (3) provide the other Parties with copies of all correspondence between it or any of its Subsidiaries (or its or their respective Representatives) and the SEC with respect to such registration statements regarding such Parties.

(e) Nothing in this Section 8.4(e) will require, or be construed to require, (i) Seller to take or refrain from taking, or to cause any of its Subsidiaries to take or refrain from taking, any action or to engage in any conduct, or to agree or consent to Seller or any of its Subsidiaries taking any action or engaging in any conduct, or agreeing to any restriction, condition or conduct, with respect to any of the businesses, assets or operations of Seller or any of its Subsidiaries, if this action, restriction, condition or conduct would take effect prior to the Closing or is not conditioned on the Closing occurring, or (ii) Buyer to take or refrain from taking, or to cause any of its Subsidiaries to take or refrain from taking, any action or to engage in any conduct, or to agree or consent to Seller or any of its Subsidiaries taking any action, or agreeing to any restriction, condition or conduct, with respect to any of the businesses, assets or

operations of Seller or any of its Subsidiaries, if the cumulative impact of these actions, restrictions, conditions and conduct would reasonably be expected to have a material adverse effect on the financial condition, properties, assets, liabilities (contingent or otherwise), business or results of operations of the Business and the Purchased Assets, together with the Colorado Business and the Colorado Assets, taken as a whole (a "Regulatory Material Adverse Effect"), it being understood that, for purposes of determining whether a Regulatory Material Adverse Effect would reasonably be expected to occur both the positive and negative effects of any actions, conduct, restrictions and conditions, including any sale, divestiture, licensing, lease, disposition or change or proposed change in rates, will be taken into account. Notwithstanding the foregoing, Seller shall not take, consent to or agree to take any action with respect to the Business or the Purchased Assets that would reasonably be expected to have a material adverse effect on the financial condition, properties, assets, liabilities (contingent or otherwise) business or results of operations of the Post-Sale Company (as defined in the Merger Agreement) and its Subsidiaries, without Parent's written consent.

(f) Seller and Buyer will cooperate with each other and promptly prepare and file notifications with, and request Tax clearances from, state and local taxing authorities in jurisdictions in which a portion of the Purchase Price may be required to be withheld or in which Buyer would otherwise be liable for any Tax liabilities of Seller pursuant to such state and local Tax Law.

(g) Each of Buyer, Seller and Parent will keep the other apprised of the status of matters relating to completion of the transactions contemplated by this Agreement, the Merger Agreement and the Partnership Interests Purchase Agreement. Without limiting the foregoing, each of Buyer, Seller and Parent will promptly furnish the other with copies of any notice or other communication received by it or its Subsidiaries from any Person with respect to the transactions contemplated by this Agreement, the Merger Agreement or the Partnership Interests Purchase Agreement regarding (i) the occurrence or existence of (A) the breach in any material respect of a representation, warranty or covenant made by the other in this Agreement, or (B) any fact, circumstance or event that has had, or individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; (ii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated hereby; and (iii) (A) the commencement or, to a Party's knowledge, threatened commencement of any material Claims against such Party, (B) the commencement of any material internal investigations or the receipt of any material and reasonably credible whistleblower complaints relating to a Party or any of its Subsidiaries, or (C) the entry of any material Order relating to a Party.

(h) Seller agrees that none of the information supplied or to be supplied by Seller or its Subsidiaries in writing specifically for Buyer's use in preparing, or incorporation by reference, in any registration statement to be filed by Buyer in connection with obtaining Buyer's financing will, at the time such registration statement is filed with the SEC, is amended or supplemented, or becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, not misleading.

(i) Buyer agrees that none of the information supplied or to be supplied by Buyer or its Subsidiaries in writing specifically for Seller's and Parent's use in preparing, or

incorporation by reference, in any registration statement to be filed by Seller and Parent in connection with the transactions contemplated by the Merger Agreement will, at the time such registration statement is filed with the SEC, is amended or supplemented, or becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, not misleading.

(j) Each of Seller, Parent and Buyer will, and will cause its Subsidiaries, including in the case of Parent, Seller's successor, to cooperate with the others and use reasonable best efforts to take or cause to be taken all actions and do or cause to be done all things necessary, proper or advisable on its part to enable Buyer, Parent, Seller and Seller's successor to perform their respective obligations under the Transition Services Agreement, including participation in the Transition Services Committee to be established pursuant to the Transition Services Agreement, and implementation of the Transition Plan in accordance therewith.

8.5. Procedures with Respect to Certain Agreements and Other Assets.

(a) Seller has easements, real property license agreements (including railroad crossing rights), rights-of-way, and leases for rights-of-way, which relate solely to the Business and Purchased Assets (the "Easements"). At the Closing, Seller will convey and assign to Buyer, subject to the obtaining of any necessary consents, (i) by the Assignment of Easements, all Easements, and (ii) to the extent practicable, by separate, recordable Assignment of Easement as to all Easements in each separate County. Buyer and Seller agree that if Buyer and Seller determine that Seller's Kansas electric utility operations "share" Easements with Seller's gas utility operations in Kansas, Buyer and Seller will take all actions reasonably necessary (such as executing sub-easements or other documents) to ensure Buyer is permitted to use the same on a non-exclusive basis, as presently used by Seller with respect to its Kansas gas utility operations.

(b) To the extent that any of the Purchased Assets or Seller's rights under any Business Agreement may not be assigned to Buyer without the consent of another Person which consent has not been obtained, this Agreement will not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful. Seller will use its reasonable best efforts (without being required to make any payment to any third party or incur any economic burden, except as may be specifically required under any Business Agreement in connection with the grant of such consent) to obtain any such required consent as promptly as possible. Buyer agrees to cooperate with Seller in its efforts to obtain any such consent (including the submission of such financial or other information concerning Buyer and the execution of any assumption agreements or similar documents reasonably requested by a third party) without being required to make any payment to any third party or to incur any economic burden (other than the assumption of Seller's obligations under the applicable Business Agreement). Seller and Buyer agree that if any consent to an assignment of a Purchased Asset, including any Business Agreement, is not obtained or if any attempted assignment would be ineffective or would impair Buyer's rights to such Purchased Assets or Buyer's rights and obligations under the Business Agreement in question so that Buyer would not acquire the benefit of all such rights and obligations, at the Closing the Parties will, to the maximum extent permitted by Law and such Business Agreement, enter into such arrangements with each other as are reasonably necessary to effect the transfer or assignment of such

Purchased Asset or to provide Buyer with the benefits and obligations of such Business Agreement from and after the Closing.

(c) To the extent that any Business Agreement consisting of a futures contract, options contract, or other derivatives transaction (but not including contracts for physical delivery) (each, a "Financial Hedge") is not assignable due to the rules and regulations of the Commodities Futures Trading Commission, the New York Mercantile Exchange or other futures or options exchange on which the Financial Hedge was entered into, or the relevant clearinghouse, Buyer and Seller agree that the Financial Hedge will be liquidated at or promptly after the Closing. Liquidation proceeds will be paid as follows: (i) in the event Seller's aggregate mark-to-market value of the Financial Hedges is positive, Seller will pay Buyer the mark-to-market value of the Financial Hedges; or (ii) in the event Seller's aggregate mark-to-market value of the Financial Hedges is negative, Buyer will pay Seller the mark-to-market value of the Financial Hedges. On or before the Closing, the Parties will agree on a specific procedure to liquidate the non-assignable Financial Hedges, and any payment due as a result of such liquidation under this Section 8.5(c) will be made at or promptly after the Closing. Seller will calculate the mark-to-market value of the Financial Hedges in accordance with its usual and customary practice.

(d) Buyer and Parent agree that the agreements, if any, described on Schedule 8.5(d) (the "Shared Agreements"), which will be attached to this Agreement prior to July 1, 2007 by the mutual agreement of Buyer and Parent, will be governed by this Section 8.5(d) and will not be Business Agreements for purposes of this Agreement. Seller's rights and obligations under the Shared Agreements, to the extent such rights and obligations relate to the Business, are described on Schedule 8.5(d), and are referred to herein as the "Allocated Rights and Obligations." Unless Parent elects for Seller or its successor to enter into Other Arrangements, Seller shall, or Parent shall cause Seller's successor to, cooperate with Buyer and use their reasonable best efforts to enter into agreements (effective from and after the Closing Date) with the other party or parties to each Shared Agreement providing for (i) assignment to and assumption by Buyer, effective from and after the Closing, of the Allocated Rights and Obligations, and (ii) retention by Seller or its successor of all rights and obligations of Seller under the Shared Agreements other than the Allocated Rights and Obligations (such agreements set forth in (i) and (ii) being referred to as "Substitute Arrangements"); provided, that neither Seller or its successor nor Buyer will be obligated to enter into or agree to any such Substitute Arrangements unless such Substitute Arrangements have the effect of transferring to Buyer the Allocated Rights and Obligations (and reserving to Seller or its successor the rights and obligations which are not Allocated Rights and Obligations) on a fair and equitable basis, as determined in the reasonable discretion of Parent and Buyer. In connection with the foregoing, Parent, Seller and Buyer will, and Parent will cause Seller's successor to, as reasonably requested, to submit such financial or other information concerning themselves or Seller, and to execute such assumption agreements or similar documents reasonably requested by a third party; provided that no Party will be, and Seller's successor will not be, required to make any payment to any third party or to incur any economic burden (other than the assumption of the Allocated Rights and Obligations by Buyer, and the retention of the other rights and obligations under the Shared Agreements by Seller or its successor). In the event that (x) Buyer and Seller or its successor are unable to enter into Substitute Arrangements with respect to a Shared Agreement in accordance with the foregoing, or (y) Seller notifies Buyer that it elects not to pursue Substitute Arrangements with respect to such Shared Agreement, then in either case at or

promptly after the Closing Buyer and Seller, to the maximum extent permitted by Law and such Shared Agreement, will enter into such arrangements with each other as are necessary to provide Buyer with the benefits and obligations of the Allocated Rights and Obligations under such Shared Agreement, with Seller or its successor retaining the other benefits and obligations under such Shared Agreements from and after the Closing (the "Other Arrangements").

(e) Seller from time to time provides collateral or other security to certain other Persons in connection with certain Business Agreements, Financial Hedges and Shared Agreements. Seller and Buyer agree to use their reasonable best efforts to cause such collateral or other security to be returned to Seller (including in the case of a letter of credit a return of the letter of credit to Seller), or released (in the case of other credit support previously provided by Seller) at or promptly after the Closing. In the event that such collateral or other security is not returned to Seller or otherwise released at or promptly after the Closing, Buyer will (i) pay to Seller, or its successor, an amount equal to any cash collateral posted by Seller; and (ii) in the case of a letter of credit provided in connection with a Business Agreement, replace such letter of credit as soon as practicable, or if such letter of credit is provided in connection with a Shared Agreement, provide to Seller, or its successor, a back-up letter of credit in the same amount and for a period expiring no earlier than ten (10) days following the expiration of the letter of credit previously provided by Seller. The provisions of this Section 8.5(e) will apply to collateral or other security provided in connection with Shared Agreements to the extent such collateral or other security is related to the Allocated Rights and Obligations under such Shared Agreements.

(f) In the event that any approval for the transfer of any of the Purchased Assets to Buyer is required from the Federal Communications Commission or any Franchise authority, and such approval is necessary to obtain in order to avoid violation of any Law, but is not a Required Regulatory Approval, the Parties agree that if such approval is not obtained prior to the Closing:

(i) they will each continue to use, and Parent and Seller will, and Parent will cause Seller's successor to use, reasonable best efforts to obtain, and with respect to Parent, to cause Seller's successor to obtain, such approvals as promptly as possible;

(ii) any of the Purchased Assets, the transfer of which to Buyer in the absence of such an approval would cause or lead to a violation of any Law (the "Contingent Purchased Assets"), shall not be transferred to Buyer at the Closing, but Seller will, or Parent will cause Seller's successor to, transfer such assets immediately upon receipt of the requisite approvals, with the time between the Closing and the receipt of such approval being referred to as the "Interim Period";

(iii) during the Interim Period, Seller or its successor shall continue to have all title, rights, and obligations in the Contingent Purchased Assets to the extent necessary to avoid any violation of Law; and

(iv) Buyer will, and Seller will, or Parent will cause Seller's successor to, enter into such arrangements with each other prior to Closing as are permissible under Law and reasonably necessary to provide Buyer with the benefits and obligations in

respect of the Contingent Purchased Assets from and after the Closing, and otherwise on terms and conditions reasonably acceptable to Buyer and Seller or its successor.

(g) Following the Closing, Buyer and Seller will, or Parent will cause Seller's successor to, promptly remit to the other any payments Buyer or Seller or its successor receives that are in satisfaction of any rights or assets belonging to the other.

(h) With respect to the vehicles that are included in the Purchased Assets and that are subject to the Master Lease Agreement described in Schedule 5.8, Seller shall, upon written notice from Buyer, purchase such vehicles prior to the Closing and obtain the release of the liens on such vehicles as indicated in Schedule 5.8.

8.6. Public Statements. Each Party will consult with the other prior to issuing any press releases or otherwise making public announcements with respect to the transactions contemplated by this Agreement, except (i) as may be required by Law or by obligations pursuant to any listing agreement with or rules of any national securities exchange or any self-regulatory organization, and(ii) for any consultation that would not be reasonably practicable as a result of requirements of Law.

8.7. Tax Matters.

(a) All transfer, documentary, stamp, registration, sales and use Taxes, including real property conveyance Taxes ("Transfer Taxes"), incurred in connection with this Agreement and the transactions contemplated hereby shall be shared equally between Seller or its successor, on the one hand, and Buyer, on the other hand. To the extent required by applicable Law, Seller shall, or Parent shall cause Seller's successor to, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Transfer Taxes, and, if required by applicable Law, Buyer shall join in the execution of any such Tax Returns or other documentation. Buyer shall remit to Seller, within 20 days after receipt of notice as to the amount of such Transfer Taxes that are payable on or after the Closing or have been paid, 50 percent of the total amount of such Transfer Taxes. In the event there is an additional assessment of such Transfer Taxes or an amount of such Transfer Taxes is refunded, (i) Buyer and Seller shall share equally the amount of any such additional assessment, with the Party that is not required to pay such Transfer Tax under applicable Law remitting to the other 50 percent of such additional assessment within 20 days after receiving notice of a final determination, and (ii) Buyer and Seller shall share equally the amount of any such refund, with the Party receiving such refund paying 50 percent of such refund to the other within 20 days after receiving such refund (or claiming an offset against Taxes relating to such refund).

(b) Buyer will be responsible for the preparation and timely filing of all Tax Returns associated with the Business, the Purchased Assets and the Business Employees for (i) in the case of property Taxes and payroll Taxes, all periods that begin before and end after the Closing Date (the "Straddle Period Taxes"), and (ii) in the case of all Taxes, all periods that begin after the Closing Date, and for the timely payment of all Taxes described in clauses (i) and (ii) of this Section 8.7(b).

(c) Any Tax Return that reflects Transfer Taxes or that reflects Taxes to be prorated in accordance with Section 3.4 will be subject to the approval of the Party not preparing

such return, which approval will not be unreasonably withheld or delayed. Each Party will make any such Tax Return prepared by it available for the other Party's review and approval no later than twenty (20) Business Days prior to the due date for filing such Tax Return.

(d) Buyer, Parent and Seller will, and Parent will cause Seller's successor to, provide one another with such assistance as may reasonably be requested by such other Persons in connection with the preparation of any Tax Return, any audit or other examination by any Governmental Entity, or any judicial or administrative proceedings relating to liability for Taxes, and each of Buyer, Parent and Seller will, and Parent will cause Seller's successor to, retain and provide the other with any records or information which may be relevant to such return, audit or examination or proceedings. Any information obtained pursuant to this Section 8.7(d) or pursuant to any other Section hereof providing for the sharing of information in connection with the preparation of, or the review of, any Tax Return or other schedule relating to Taxes will be kept confidential by the Parties hereto in accordance with Section 8.2(b).

8.8. Employees and Employee Benefits.

(a) No later than twenty (20) Business Days prior to the Closing Date, Buyer will give Qualifying Offers of employment commencing as of the Closing Date to all Business Employees, including any such employees who are on a leave of absence under the Family and Medical Leave Act, the Uniformed Services Employment and Reemployment Rights Act or other applicable Law, or authorized under Seller's established leave policy, including short-term or long-term disability. For this purpose, a "Qualifying Offer" means employment at a level of base pay at least equal to the Business Employee's base pay in effect immediately prior to the Closing Date, and with a primary work location no more than fifty (50) miles from the Business Employee's primary work location immediately prior to the Closing Date; provided, however, that with respect to any Business Employee who is covered by a Collective Bargaining Agreement or Successor Collective Bargaining Agreement, the Qualifying Offer shall be on terms and conditions set forth in the Collective Bargaining Agreement, Successor Collective Bargaining Agreement or, if applicable, a new collective bargaining agreement negotiated by Buyer covering such employee. Each Business Employee who becomes employed by Buyer pursuant to this Section 8.8(a) is referred to herein as a "Transferred Employee." Each Transferred Employee who is covered by a Collective Bargaining Agreement or a Successor Collective Bargaining Agreement shall be referred to herein as a "CB Transferred Employee," and each Transferred Employee who is not covered by a Collective Bargaining Agreement or a Successor Collective Bargaining Agreement shall be referred to herein as a "Non-CB Transferred Employee."

(b) All offers of employment made by Buyer pursuant to Section 8.8(a) will be made in accordance with all applicable Laws, will be conditioned only on the occurrence of the Closing, and will remain open until the Closing Date. Any such offer which is accepted before it expires will thereafter be irrevocable, except for good cause. Following acceptance of such offers, Buyer will provide written notice thereof to Seller and Seller will, or Parent will cause Seller's successor to, provide Buyer with access to the Transferred Employee Records consistent with applicable Law. Buyer will be responsible for all liabilities and obligations for and with respect to any Business Employees who do not become Transferred Employees including (i) pursuant to Exhibit 8.8(d)(ii)(C), (ii) due to retirement by such employee after the date hereof and prior to Closing, (iii) severance benefits which become payable to such Business

Employee upon any termination of such Business Employee's employment on or following the Closing Date, and (iv) the benefits described in Section 8.8(d)(ii)(D), but not including liabilities and obligations with respect to insured welfare benefits provided to such Business Employee for periods prior to the Closing Date. Without limiting the obligations of Buyer hereunder, the employment of each Business Employee who does not become a Transferred Employee as of the Closing shall be terminated immediately following the Closing by Seller or the applicable Affiliate of Seller.

(c) From and after the Closing Date, Buyer will recognize the union locals that are the counterparties to Seller under the Collective Bargaining Agreements or any Successor Collective Bargaining Agreements entered into in compliance with Section 8.1(a) (the "Locals") as the exclusive bargaining representatives of the bargaining units that include CB Transferred Employees. No later than twenty (20) Business Days prior to the Closing Date, Buyer will negotiate and reach agreement with each Local on the terms and conditions of a new collective bargaining agreement to be effective from and after the Closing Date with respect to the applicable bargaining unit represented by such Local (each such agreement being referred to as a "New CBA"). Should Buyer fail to successfully negotiate a New CBA with a Local at least twenty (20) Business Days prior to the Closing Date, then at the Closing, Buyer will assume the existing Collective Bargaining Agreement or, as applicable, Successor Collective Bargaining Agreement entered into in compliance with Section 8.1(a), to the extent applicable to the bargaining unit represented by such Local and to the extent consistent with applicable Law; provided that Buyer shall not assume any of the Benefit Plans (but may receive assets to be transferred from such plans pursuant to Exhibit 8.8(d)(ii)(C)), and Buyer will instead provide benefits of the type and amount described in the existing Collective Bargaining Agreements or Successor Collective Bargaining Agreements entered into in compliance with Section 8.1(a), as applicable, through Buyer's own benefit plans and arrangements. Buyer agrees that (i) upon request by Seller, Buyer will notify Seller of the status of negotiations with each Local, and (ii) no later than nineteen (19) Business Days prior to the Closing Date, Buyer will notify Seller whether a New CBA has been successfully negotiated with such Local.

(d) The following will be applicable with respect to the Transferred Employees, Business Employees, Current Retirees, and Other Plan Participants as appropriate. For all purposes of this Section 8.8, determinations as to whether any individuals are "similarly situated" shall be made by Buyer in its reasonable discretion.

(i) From and after the Closing, the Transferred Employees will accrue no additional benefits under any Benefit Plan or any other employee benefit plan, policy, program, or arrangement of Seller, Parent or their respective Affiliates.

(ii) As of the Closing, with respect to the CB Transferred Employees, Buyer will provide benefits of the type and amount described in the relevant collective bargaining agreements through Buyer's own benefit plans and arrangements. As of the Closing and extending through December 31 of the calendar year following the calendar year in which the Closing occurs, Buyer will cause the Non-CB Transferred Employees to be covered by Buyer benefit plans that provide compensation and employee benefits (excluding (i) equity or equity based compensation, and (ii) change in control, severance or retention payments) that are no less favorable in the aggregate than provided to the Non-CB Transferred Employees immediately before the Closing ; provided, that in

determining the timing, amount and terms and conditions of equity compensation and other incentive awards to be granted to Non-CB Transferred Employees, Buyer will treat in a substantially similar manner Non-CB Transferred Employees and similarly situated other employees of Buyer (including by reason of job duties and years of service). The commitments under this Section 8.8(d)(ii) require the following with respect to the Non-CB Transferred Employees and, to the extent not addressed in the relevant collective bargaining agreement, the CB Transferred Employees:

(A) With respect to welfare benefit plans, Buyer agrees to waive or to cause the waiver of all restrictions, limitations or exclusionary periods as to pre-existing conditions, actively-at-work exclusions, waiting periods and proof of insurability requirements (to the extent allowable under Buyer's welfare benefit plans and insurance policies) for the Transferred Employees to the same extent waived or satisfied under the corresponding Benefit Plans. With respect to the calendar year in which the Closing Date occurs, all eligible expenses incurred by any such employees or any eligible dependent thereof, including any alternate recipient pursuant to qualified medical child support orders, in the portion of the calendar year preceding the Closing Date that were qualified to be taken into account for purposes of satisfying any deductible, co-insurance or out-of-pocket limit under any Seller Benefit Plan will be taken into account for purposes of satisfying any deductible, co-insurance or out-of-pocket limit under similar plans of Buyer for such calendar year. As soon as practicable, but in no event later than sixty (60) days after the Closing Date, Seller will, or Parent will cause Seller's successor to, provide Buyer with all relevant information necessary or reasonably requested by Buyer for purposes of administering this provision, consistent with applicable Law.

(B) With respect to service and seniority, Buyer will recognize the service and seniority of each of the Transferred Employees recognized by Seller for all material purposes, including the determination of eligibility and vesting, the extent of service or seniority-related welfare benefits, and eligibility for and level of retiree health benefits, but in any event not for purposes of determining the accrual of pension benefits and levels of pension or other retirement income benefits.

(C) The Parties will comply with the provisions set forth on Exhibit 8.8(d)(ii)(C).

(D) Buyer will assume all liabilities, obligations, and responsibilities with respect to providing post-retirement health and life insurance benefits arising under or pursuant to existing plans and agreements of Seller ("Post-Retirement Welfare Benefits") to (i) the persons listed on Schedule 8.8(d)(ii)(D) and any Business Employee who retires between the date hereof and the Closing Date (such listed persons and such Business Employees, the "Current Retirees"), and their spouses and eligible dependents, and (ii) the Business Employees (together with the Current Retirees, the "Covered Individuals") and their spouses and eligible dependents. From and after the Closing, Buyer will continue to provide to the Covered Individuals Post-Retirement Welfare Benefits that, in material respects, are comparable to in the aggregate those Post-Retirement Welfare Benefits provided to such Covered Individuals immediately prior to the Closing Date, under cost-sharing structures that either are at least as favorable as the cost-sharing structures in effect for and available to the Covered Individuals immediately

prior to the Closing Date (as adjusted for inflation); provided that if Buyer reduces or eliminates any Post-Retirement Welfare Benefits provided to Covered Individuals from such benefits that are available to such individuals under the terms and conditions of the existing plans and agreements of Seller applicable to such individuals as in effect on the date hereof, any liabilities arising in connection with such reduction or elimination shall be deemed an Assumed Obligation and Buyer will be responsible therefor.

(E) With respect to the Aquila, Inc. Retirement Investment Plan (the "Savings Plan"), Seller will vest Transferred Employees in their Savings Plan account balances as of the Closing Date. Buyer will take all actions necessary to establish or designate a defined contribution plan and trust intended to qualify under Section 401(a) and Section 501(a) of the Code in which Transferred Employees are eligible to participate (x) to recognize the service that the Transferred Employees had in the Savings Plan for purposes of determining such Transferred Employees' eligibility to participate, vesting, attainment of retirement dates, contribution levels, and, if applicable, eligibility for optional forms of benefit payments, and (y) to accept direct rollovers of Transferred Employees' account balances in the Savings Plan, including transfers of loan balances and related promissory notes, provided that such loans would not be treated as taxable distributions at any time prior to such transfer.

(F) Within sixty (60) days after the Closing Date, Seller will, or Parent will cause Seller's successor to, transfer to a flexible spending plan maintained by Buyer any balances standing to the credit of Transferred Employees under Seller's flexible spending plan as of the day immediately preceding the Closing Date, net of any negative balances in the applicable accounts at such time. As soon as practicable after the Closing Date, Seller will, or Parent will cause Seller's successor to, provide to Buyer a list of those Transferred Employees that have participated in the health or dependent care reimbursement accounts of Seller, together with (x) their elections made prior to the Closing Date with respect to such account and (y) balances standing to their credit as of the day immediately preceding the Closing Date. As of the transfer described in the first sentence hereof, the flexible spending plan maintained by Buyer shall assume the rights and obligations of Seller's flexible spending plan with respect to the Transferred Employees for the remainder of the year in which such transfer occurs. For the avoidance of doubt, this paragraph shall not be construed to require a transfer with respect to any Transferred Employee of an amount in excess of such employee's unreimbursed contributions to the flexible spending plan as of the date of transfer.

(iii) With respect to severance benefits, Buyer will provide to any Non-CB Transferred Employee who is terminated by Buyer (other than for cause) prior to the date which is one (1) year following the Closing Date, severance benefits comparable to those provided by Seller under Seller's severance plans and policies (other than any plans or policies with respect to stock options or other types of equity compensation) in effect immediately prior to the Closing Date. Any employee who is provided severance benefits under this Section 8.8(d)(iii) may be required to execute a release of claims against Buyer, Seller and their respective Affiliates and successors, in such form as Buyer reasonably prescribes, as a condition for the receipt of such benefits.

(iv) Parent will, or will cause Seller or its successor to, provide COBRA Continuation Coverage to any current and former Business Employees, or to any qualified beneficiaries of such Business Employees, who become or became entitled to COBRA Continuation Coverage on or before the Closing, including those for whom the Closing occurs during their COBRA election period. Buyer will be responsible for extending and continuing to extend COBRA Continuation Coverage to all Transferred Employees (and their qualified beneficiaries) who incur a COBRA qualifying event and thus become entitled to such COBRA Continuation Coverage following the Closing.

(v) Without limiting the obligations of the Parties under Sections 8.8(d)(ii)(C) and 8.8(d)(ii)(D), Seller or its Affiliates will pay or cause to be paid to all Transferred Employees, all compensation (including any accrued vacation carried over to the calendar year of the Closing from a previous calendar year), workers' compensation or other employment benefits to which they are entitled or that have accrued under the terms of the applicable compensation or Seller Benefit Plans or programs with respect to employment or events occurring prior to the Closing Date; provided that if any of the CB Transferred Employees elect to retain or carryover accrued and unused vacation days rather than receive such payments, Seller or its Affiliates will pay or cause to be paid to Buyer an amount equal to the aggregate amount that would otherwise have been paid to such CB Transferred Employees with respect to such vacation days, and Buyer will honor all such accrued and unused vacation days of such CB Transferred Employees as of the Closing. Buyer will pay to each Transferred Employee all unpaid salary or other compensation or employment benefits (but not including any compensation attributable to stock options or other types of equity compensation granted by Seller) which accrue to such employee from and after the Closing Date, at such times as provided under the terms of the applicable compensation or benefit programs.

(vi) Without limiting the obligations of the Parties under Sections 8.8(d)(ii)(C) and 8.8(d)(ii)(D), Business Employees who on the Closing Date are not actively at work due to a leave of absence covered by the Family and Medical Leave Act, the Uniformed Service Employment and Reemployment Rights Act or other applicable Law, or other authorized leave of absence under Seller's established leave policy, including short-term or long-term disability, will be provided by Buyer with benefits and compensation during such leave that is substantially similar to the benefits and compensation provided to such employees by Seller prior to the Closing Date, and will be treated as Transferred Employees on the date that they are able to return to work (provided that such return to work occurs within the authorized period of their leaves following the Closing Date) and are able to perform the essential functions of their jobs with or without reasonable accommodation. Seller shall provide Buyer with a list of such individuals as of the Closing Date with the scheduled dates for expiration of their leaves.

(vii) Buyer will assume Seller's obligations as of the Closing Date to pay nonqualified deferred compensation to the applicable Business Employees and former Business Employees.

(e) On or before the Closing Date, Seller shall provide Buyer a list of the names and sites of employment of any and all Business Employees who have experienced, or

will experience, an employment loss or layoff as defined by WARN Act or any similar applicable state or local Law requiring notice to employees in the event of a closing or layoff within ninety (90) days prior to the Closing Date. Seller shall update this list up to and including the Closing Date. For a period of ninety (90) days after the Closing Date, Buyer shall not engage in any conduct which would result in an employment loss or layoff for a sufficient number of employees of Buyer which, if aggregated with any such conduct on the part of Seller prior to the Closing Date, would trigger the WARN Act or any similar applicable Law. Without limiting the foregoing, Buyer will be responsible, with respect to the Business, for performing and discharging all requirements under the WARN Act and under applicable state and local laws and regulations for the notification to Transferred Employees of any "employment loss" within the meaning of the WARN Act which occurs at or following the Closing Date.

(f) From and after the Closing Date, with respect to worker's compensation, Buyer shall assume, discharge, pay and be solely liable for all Losses in respect of any Claims pending as of or commenced after the Closing Date resulting from actual or alleged harm or injury to any Business Employee regardless of when the incident or accident giving rise to such liability occurred or occurs. Buyer shall make all necessary arrangements to assume all such worker's compensation claim files, whether opened or closed, as of the Closing Date, and will make the necessary arrangements for assuming the continued management of such liabilities.

(g) From and after the Closing Date, except to the extent any such Losses are covered under Seller's or an Affiliates' third party insurance plans or policies, reinsurance policies or arrangements, or trusts or other funding vehicles, Buyer shall assume, discharge, pay and be solely liable for health, accidental death and dismemberment, short term disability or life insurance coverage and any medical or dental benefits to the Business Employees and their eligible dependents.

(h) Buyer agrees that from and after the Closing Date, if a Business Employee commences an action, suit or proceeding relating to an employment-related claim (but excluding, in any event the ERISA Case), any resulting Liability shall be the responsibility of Buyer. Parent shall reasonably cooperate with Buyer in the defense of any such claim to the extent that the applicable actions or events transpired preceding the Closing Date.

(i) For purposes of Sections 8.8(f), 8.8(g) and 8.8(h), the term "Business Employees" shall also include any individuals who (A) were employed principally for the Business at the time the incident or circumstances giving rise to such suit, claim, action, proceeding or Loss occurred, and (B) who are not employed by Seller either as of the date hereof or as of the Closing Date.

(j) No provision in this Agreement shall modify or amend any other agreement, plan, program or document, including any of Buyer's benefit plans or arrangements, unless this Agreement explicitly states that the provision "amends" that other agreement, plan, program or document. This shall not prevent the parties entitled to enforce this Agreement from enforcing any provision in this Agreement, but no other party shall be entitled to enforce any provision in this Agreement on the grounds that it is an amendment to another agreement, plan, program or document, unless a provision is explicitly designated as such in this Agreement, and the person is otherwise entitled to enforce such other agreement, plan, program or document. If a party not entitled to enforce this Agreement brings a lawsuit or other action to enforce any

provision in this Agreement as an amendment to another agreement, plan, program or document, and such provision is construed to be such an amendment despite not being explicitly designated as an amendment in this Agreement, such provision shall lapse retroactively, thereby precluding it from having any amendatory effect. The provisions of this Section 8.8 are not, and will not be construed as being, for the benefit of any Person other than the Parties, and are not enforceable by any Persons (including Transferred Employees, Current Retirees, and Other Plan Participants) other than such Parties.

(k) Following the Closing, if Buyer or Seller or its successor identifies any individual that was incorrectly classified by Seller (including employees not listed in Schedule 1.1-B) with respect to whether such individual was a Business Employee, a former employee of the Natural Gas Businesses or a Current Retiree, as applicable, Buyer and Seller, or Parent shall cause Seller's successor to, each agree to notify the other Party and, acting in good faith, to take, or cause to be taken, all action, and to do, or cause to be done, all things reasonably necessary, proper or advisable to cause such individual to be appropriately classified for purposes of this Agreement, and to allocate the liabilities and obligations related to such re-classified individual in accordance with the terms hereof.

8.9. Eminent Domain; Casualty Loss.

(a) If, before the Closing Date, any of the Purchased Assets are taken by eminent domain or condemnation, or are the subject of a pending or (to Seller's Knowledge) contemplated taking which has not been consummated, Seller will (i) notify Buyer promptly in writing of such fact, and (ii) at the Closing assign, or Seller shall, or Parent shall cause Seller's successor to, assign to Buyer all of Seller's right, title, and interest in and to any proceeds or payments received, or to be received, in compensation for such taking.

(b) If, before the Closing Date, all or any material portion of the Purchased Assets are damaged or destroyed by fire or other casualty, Seller will notify Buyer promptly in writing of such fact and, at the Closing assign, or Seller shall, or Parent shall cause Seller's successor to, assign all of Seller's right, title, and interest in and to any insurance recoveries received, or to be received, in compensation for such damage or destruction less any such amounts received, or to be received, to reimburse Seller for expenditures incurred by Seller to repair or replace such Purchased Assets.

(c) Seller and Buyer will use their reasonable best efforts (without being required to make payment to any third party or to incur any economic burden) to obtain from each holder of any Preferential Purchase Right a written waiver of such Preferential Purchase Right if required with respect to the transactions contemplated by this Agreement (an "Applicable Preferential Purchase Right"). If the Parties cannot obtain a waiver of an Applicable Preferential Purchase Right, the Parties will cooperate, using reasonable best efforts, to provide for compliance with the terms of such Applicable Preferential Purchase Right. In the event that any Purchased Asset remains subject to such Applicable Preferential Purchase Right as of the Closing, in lieu of any adjustment to the Purchase Price, Seller will, or Parent will cause Seller's successor to, at the Closing assign to Buyer, as a Purchased Asset, all of Seller's right, title, and interest in and to all rights of Seller with respect to such Applicable Preferential Purchase Right, including proceeds received or to be received in respect to such Applicable Preferential Purchase Right, and will assign to Buyer and Buyer will assume, as Assumed Obligations, all obligations

of Seller with respect to such Applicable Preferential Purchase Right. If any third party holding a Preferential Purchase Right exercises such right prior to the Closing, Seller shall promptly give Buyer written notice of such exercise. Buyer and Seller hereby expressly acknowledge and agree that nothing in this Agreement constitutes an offer or agreement to sell, transfer, dispose of, purchase, assume, or acquire any asset subject to a Preferential Purchase Right except upon the Closing following the satisfaction of all conditions to Closing specified in this Agreement. Neither this Agreement nor anything herein or in connection herewith shall be deemed to obligate Seller to sell, transfer, assign or otherwise dispose of any Purchased Asset or Assumed Obligation, to Buyer or any other Person, except upon the Closing following the satisfaction or waiver of all conditions to Closing specified in this Agreement.

(d) A condemnation or taking of, casualty or exercise of a Preferential Purchase Right set forth in Schedule 5.8 with respect to, any Purchased Asset, and any effects thereof (including any resulting termination of any Franchise or other agreement principally related to such Purchased Asset), may be taken into account in determining whether a Material Adverse Effect has occurred; provided that to the extent Buyer is assigned the rights, title and interest to any payments or proceeds received by Seller with respect to any such condemnation or taking, casualty or exercise of a Preferential Purchase Right, such payments or proceeds may be considered in determining whether any Material Adverse Effect has occurred; provided further that assignment of such proceeds or payments to Buyer shall not necessarily mean a Material Adverse Effect did not occur.

8.10. Transitional Use of Signage and Other Materials Incorporating Seller's Name or other Logos. Parent acknowledges that it will have no ongoing claim or rights in or to the Seller Marks. Within one hundred eighty (180) days following the Closing Date, Parent will remove or cause the removal of the Seller Marks from all signage or other items relating to or used in connection with the Excluded Assets and, thereafter, Parent will not use or permit the use of any Seller Marks.

8.11. Litigation Support. In the event and for so long as Buyer, Parent or Seller or its successor is actively contesting or defending against any third-party Claim in connection with (i) any transaction contemplated under this Agreement or (ii) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction on or prior to the Closing Date involving Seller, Buyer, Parent and Seller will, and Parent will cause Seller's successor to, cooperate with the contesting or defending Person and its counsel in the contest or defense, make reasonably available its personnel, and provide such testimony and access to its books and records as is reasonably necessary in connection with the contest or defense, all at the sole cost and expense of the contesting or defending Person.

8.12. Audit Assistance.

(a) If, (i) during or for the period beginning on the date hereof and ending on the Closing Date, Buyer is, in connection with any annual or quarterly report filed with the SEC, required by the SEC to file audited or reviewed financial statements of the Business in respect of any period occurring prior the Closing Date, or (ii) during or for the period beginning on the date hereof and ending on the last day of the calendar year of the Closing, Buyer is, in connection with a registration statement or other voluntary filing to be filed by Buyer with the SEC, required by the SEC to file audited or reviewed financial statements of the Business in respect of any

period occurring prior the Closing Date, then in each case at Buyer's request, as applicable, Seller will, or Parent will cause Seller's successor to, use its reasonable best efforts to cause Seller's auditor to, at Buyer's sole cost and expense, (a) cooperate with and provide Buyer access to such information, books and records as necessary for Buyer to prepare audited and interim or reviewed financial statements of the Business, and (b) agree to provide to Buyer an audit or review of the financial statements of the Business, for the periods necessary to satisfy the SEC requirements (and any consents, if any, to use such audited or reviewed financial statements in Buyer's SEC filings). Further, Seller will use reasonable best efforts to assist Buyer in preparing pro forma financial information that in Buyer's reasonable judgment may be required to be included in any such filing or prospectus, offering memorandum or other document or materials that may be prepared in connection with the Buyer Financing or otherwise on or prior to the Closing, and, whether or not Seller's auditor is retained by Buyer to conduct an audit or review of the Business, Seller will, or Parent will cause Seller's successor to (x) use its reasonable best efforts to cause Seller's auditor to, at Buyer's sole cost and expense, make available to Buyer and its auditors the work papers and other documents and records reasonably requested by Buyer that were created prior to the Closing and relate principally to the Business, and (y) cooperate with Buyer, at Buyer's sole cost and expense, in obtaining an audit or review of the Business, in each case, to the extent required by the SEC.

(b) Seller acknowledges and agrees that any audited and interim or reviewed financial statements and related information prepared in accordance with this Section 8.12 will not be deemed Confidential Information for purposes of this Agreement.

8.13. Notification of Customers. As soon as practicable following the Closing, Seller will, or Parent will cause Seller's successor to, cooperate with Buyer to cause to be sent to customers of the Business a notice of the transfer of the customers from Seller to Buyer (the "Customer Notification"). The Customer Notification will contain such information as is required by Law and approved by Buyer and Seller, which approval will not be unreasonably withheld or delayed.

8.14. Financing. Buyer will use reasonable best efforts to take or to cause to be taken, all actions, and to do or cause to be done, all things necessary, proper or advisable to close the Buyer Financing on the terms and conditions described in the Buyer Financing Commitments by the date upon which the Closing Date is contemplated to occur in accordance with Section 4.1 (provided and to the extent that Buyer has not otherwise obtained funds sufficient to pay the Purchase Price through other sources of funds and provided that Buyer may replace or amend the Buyer Financing Commitments after consultation with Parent and Seller but only if the terms of such replacement or amended Buyer Financing Commitments, including with respect to conditionality, would not adversely impact Buyer's ability to consummate the transactions contemplated by this Agreement or the Partnership Interests Purchase Agreement, or otherwise prevent, impact or delay the consummation of the transactions contemplated by this Agreement or the Partnership Interests Purchase Agreement), including paying the commitment fees arising under the Buyer Financing Commitments as and when such fees become due and payable during the period beginning on the date hereof and ending on the Closing Date, and using reasonable best efforts to (i) negotiate definitive agreements with respect thereto on the terms and conditions contained therein and (ii) to satisfy on a timely basis all conditions applicable to obtain the Buyer Financing. In the event any portion of the Buyer Financing becomes unavailable on the terms and conditions contemplated in the Buyer Financing Commitments and Buyer has not otherwise

obtained other sources of funds, Buyer will use reasonable best efforts to obtain alternative financing from alternative sources by the date upon which the Closing Date is contemplated to occur in accordance with Section 4.1. Buyer will give prompt notice to Seller and Parent of any material breach of the Buyer Financing Commitments of which Buyer becomes aware or any termination of the Buyer Financing Commitments or any Buyer Financing. Buyer will keep Seller and Parent informed on a regularly current basis in reasonable detail of the status of the Buyer Financing.

8.15. Document Delivery. The Parties will work cooperatively to make available to Buyer prior to the Closing such Documents as are reasonably necessary to transition the control and operation of the Business to Buyer at the Closing with minimal interruptions or disruptions in the conduct of the Business. At or within a reasonably practicable period of time after the Closing Date, Seller will, or Parent will cause Seller's successor to, deliver to Buyer, at such location mutually agreed upon by Buyer and Seller or its successor, any remaining Documents. At Buyer's reasonable request, Seller will, or Parent will cause Seller's successor to, use reasonable best efforts to make available in an electronic format compatible with Buyer's electronic systems any Documents and other books and records relating to the Purchased Assets which are maintained by Seller in electronic form.

8.16. Surveys' Title Insurance, Estoppel Certificates, and Non-Disturbance Agreements. At Buyer's option and at Buyer's sole cost and expense, Buyer may obtain (i) surveys desired by Buyer in respect of the Real Property, in form and substance reasonably satisfactory to Buyer; (ii) title insurance policies in current ALTA Form or equivalent covering the Real Property, insuring title to the applicable Real Property as vested in Buyer, and in form, substance, and amounts reasonably satisfactory to Buyer, and without limiting the generality of the foregoing, with all requirements satisfied or waived, with all exceptions deleted, and with all endorsement thereto to the extent desired by Buyer; and (iii) all estoppel certificates and non-disturbance agreements desired by Buyer in respect of any real property leases included in the Purchased Assets, in form and substance reasonably satisfactory to Buyer and to the parties providing such certificates and agreements. Seller agrees, and Parent agrees to cause Seller's successor, to cooperate as reasonably requested by Buyer (at Buyer's expense) in its efforts to obtain such items, provided that (y) none of Seller, Parent, Seller or Seller's successor shall be required to make any payment to any third party or incur any economic burden in connection therewith, and (z) Buyer's obtaining any such items shall not be a requirement of or a condition to the Closing. In addition, with respect to Seller's and Seller's successor's cooperation with Buyer's reasonable requests to obtain title insurance under clause (ii) above, neither Seller nor Seller's successor, except to the extent required to satisfy the Closing condition set forth in Section 9.2(f), and except for such actions as may be necessary to enable Buyer's title insurance company to insure title to the applicable Real Property as vested in Buyer, shall be required to cure any purported defects, cause any exceptions to be deleted, or provide any affidavits, indemnities, or representations or warranties to any title company issuing such title insurance.

8.17. Post-Closing Release of Encumbrances and Transfer of Purchased Assets.

(a) Notwithstanding anything to the contrary herein, if any Non-Permitted Encumbrances on the Business or the Purchased Assets are not released on or before the Closing, and such Non-Permitted Encumbrances secure or are created by or in respect of the Excluded Liabilities, or are for material delinquent Taxes or material delinquent assessments, Seller shall,

and Parent shall cause Seller's successor to, promptly make such payments and take such actions as necessary to obtain the release of such Non-Permitted Encumbrances after the Closing.

(b) Notwithstanding anything to the contrary herein, if Seller fails to deliver any deeds of conveyance or assignments or other instruments, certificates or documents as necessary to transfer any of the Purchased Assets to Buyer at the Closing, Seller shall, and Parent shall cause Seller's successor to, promptly execute and deliver such deeds of conveyance, assignments or other instruments, certificates or documents and take such actions as necessary to transfer such Purchased Assets to Buyer as soon as practicable after the Closing.

8.18. Shared Code Licenses. Buyer hereby grants to Parent a worldwide, non-exclusive, royalty-free, fully paid-up, sublicensable, transferable license to use, reproduce, make derivative works of, distribute, display and perform the Shared Code that is included in the Purchased Assets. Parent hereby grants to Buyer a worldwide, non-exclusive, royalty-free, fully paid-up, sublicensable, transferable license to use, reproduce, make derivative works of, distribute, display and perform the Shared Code that is included in the Excluded Assets. Except as set forth in the Transition Services Agreement, neither Buyer nor Parent shall have any obligation to support, maintain, provide updates or upgrades for, or otherwise provide any assistance to the other in connection with, the Shared Code. The foregoing licenses shall be binding on the respective successors and assigns of Buyer and Parent.

ARTICLE IX.
CONDITIONS TO CLOSING

9.1. Conditions to Each Party's Obligations to Effect the Closing. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the satisfaction or waiver by Buyer and Seller at or prior to the Closing Date of each of the following conditions:

(a) The waiting period under the HSR Act, including any extension thereof, applicable to the consummation of the transactions contemplated hereby shall have expired or been terminated;

(b) No applicable Law prohibiting consummation of the transactions contemplated in this Agreement shall be in effect, except where the violation of Law resulting from the consummation of the transactions contemplated in this Agreement would not, individually or in the aggregate, reasonably be expected to have an impact (other than an insignificant impact) on the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken as a whole, and no court of competent jurisdiction in the United States will have issued any Order that is in effect and enjoins the consummation of the transactions contemplated hereby (each Party agreeing to use its reasonable best efforts to have any such Order lifted); and

(c) Seller, Parent and Merger Sub will be in a position to consummate the Merger immediately following the closing of the transactions contemplated by this Agreement and the Partnership Interests Purchase Agreement.

9.2. Conditions to Obligations of Buyer. The obligation of Buyer to effect the transactions contemplated hereby is also subject to the satisfaction or waiver by Buyer, at or prior to the Closing Date of the following conditions:

(a) Since the date of this Agreement, no Material Adverse Effect shall have occurred and be continuing;

(b) Seller, Parent and Merger Sub shall have performed and complied in all material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by such Person on or prior to the Closing Date (other than Section 4.3, which is subject to Section 9.2(f));

(c) The representations and warranties of Seller set forth in ARTICLE V of this Agreement, and the representations and warranties of Parent and Merger Sub set forth in ARTICLE VII of this Agreement, shall be true and correct as of the Closing Date, as if made at and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of an earlier date, in which case such representation and warranty will be true and correct only as of such date), except where the failure or failures of such representations and warranties to be so true and correct (without giving effect to any limitations or exceptions as to materiality or Material Adverse Effect set forth therein) would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(d) Buyer shall have received a certificate from the Chief Executive Officer of each of Parent and Seller, dated the Closing Date stating that, to the best of such officer's knowledge, the conditions set forth in Sections 9.2(b) and 9.2(c) regarding Parent and Seller, respectively, have been satisfied;

(e) The Required Regulatory Approvals shall have been obtained and become Final Regulatory Orders, and no terms (excluding those proposed in the applications for the Required Regulatory Approvals) shall have been imposed in connection with such Final Regulatory Orders by any Governmental Entity which terms, individually or in the aggregate, would reasonably be expected to result in a Regulatory Material Adverse Effect;

(f) Buyer shall have received the items to be delivered pursuant to Section 4.3; provided that the failure to deliver the items required to be delivered pursuant to Sections 4.3(e)-(i) shall not be construed as a failure to satisfy the requirements of this Section 9.2(f) to the extent any deed, assignment, instrument of conveyance or certificate of title, termination or release (i) otherwise required pursuant to Sections 4.3(e)-(h) relates to parcels of immaterial Real Property, immaterial Easements, or immaterial titled or other Purchased Assets, each of which is subject to transfer subsequent to the Closing pursuant to Section 8.17; or (ii) otherwise required pursuant to Section 4.3(i) relates to terminations or releases of Non-Permitted Encumbrances on the Purchased Assets requiring the payment of immaterial amounts of cash, or the delivery of instruments, certificates or other documents or items required to remove Non-Permitted Encumbrances on assets that are immaterial to the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken as a whole, and are subject, in each case, to release subsequent to the Closing pursuant to Section 8.17; and

(g) The consummation of the transactions contemplated by the Partnership Interests Purchase Agreement shall have occurred or shall occur concurrently with the Closing.

9.3. Conditions to Obligations of Seller. The obligations of Seller to effect the transactions contemplated hereby is also subject to the satisfaction or waiver at or prior to the Closing Date of the following conditions:

(a) Buyer shall have performed and complied in all material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by Buyer on or prior to the Closing Date;

(b) The representations and warranties of Buyer which are set forth in ARTICLE VI of this Agreement shall be true and correct as of the Closing Date, as if made at and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of an earlier date, in which case such representation and warranty will be true and correct only as of such date), except where the failure or failures of such representations and warranties to be so true and correct (without giving effect to any limitations or exceptions as to materiality set forth therein) that do not, individually or in the aggregate, cause such representations and warranties of Buyer to be materially inaccurate taken as a whole;

(c) Seller shall have received a certificate from the Chief Executive Officer of Buyer, dated the Closing Date, stating that to the best of such officer's knowledge, the conditions set forth in Sections 9.3(a) and 9.3(b) have been satisfied;

(d) The Required Regulatory Approvals shall have been obtained and become Final Regulatory Orders; and no terms (excluding those proposed in the applications for the Required Regulatory Approvals) shall have been imposed in connection with such Final Regulatory Orders by any Governmental Entity which terms, individually or in the aggregate, would reasonably be expected to result in a Regulatory Material Adverse Effect affecting the Post-Sale Company (as defined in the Merger Agreement);

(e) Seller shall have received the other items to be delivered pursuant to Section 4.4; and

(f) The consummation of the transactions contemplated by the Partnership Interests Purchase Agreement shall have occurred or shall occur concurrently with the Closing.

9.4. Invoking Certain Provisions. Any Party seeking to claim that a condition to its obligation to effect the transactions contemplated hereby has not been satisfied by reason of the fact that a Material Adverse Effect or a Regulatory Material Adverse Effect has occurred or would reasonably be expected to occur or result will have the burden of proof to establish that occurrence or expectation.

ARTICLE X.
TERMINATION AND OTHER REMEDIES

10.1. Termination.

(a) This Agreement may be terminated at any time prior to the Closing Date by mutual written consent of Seller, Buyer and Parent.

(b) This Agreement may be terminated by Seller or Buyer if the Closing has not occurred on or before the first anniversary of the date of this Agreement (the "Termination Date"); provided that, if Buyer or Seller determines that additional time is necessary to obtain any of the Required Regulatory Approvals, the Material Company Regulatory Consents or the Material Parent Regulatory Consents (each as defined in the Merger Agreement), or the "Required Regulatory Approvals" as defined in the Partnership Interests Purchase Agreement, or if all of the conditions to Parent's obligations to consummate the Merger shall have been satisfied or shall be then capable of being satisfied and this Agreement fails to be consummated by reason of a breach by Parent of its obligation to be in a position to consummate the Merger after the Closing, the Termination Date may be extended by Buyer or Seller from time to time by written notice to the other Party and to Parent up to a date not beyond eighteen (18) months after the date of this Agreement, any of which dates shall thereafter be deemed to be the Termination Date; provided further that the right to terminate this Agreement under this Section 10.1(b) will not be available to a Party that has breached in any material respect its obligations under this Agreement in any manner that will have proximately contributed to the failure of the Closing to occur on or before the Termination Date.

(c) This Agreement may be terminated by either Seller or Buyer if (i) any Required Regulatory Approval has been denied by the applicable Governmental Entity and all appeals of such denial have been taken and have been unsuccessful, or (ii) one or more courts of competent jurisdiction in the United States or any State has issued an Order permanently restraining, enjoining, or otherwise prohibiting the Closing, and such Order has become final and nonappealable.

(d) This Agreement may be terminated by Buyer if there has been a material breach of any representation, warranty, or covenant made by Seller in this Agreement, or any representation or warranty of Seller shall have become untrue after the date of this Agreement, so that Section 9.2(b) or 9.2(c) would not be satisfied and this breach or failure to be true, is not curable, or if curable, is not curable by the Termination Date (as the same may be extended).

(e) This Agreement may be terminated by Seller if the Board of Directors of Seller approves a Superior Proposal (as defined in the Merger Agreement) and authorizes Seller to enter into a binding written agreement with respect to that Superior Proposal and, in connection with the termination of the Merger Agreement and entering into the agreement reflecting the Superior Proposal, pays into a joint bank account in the names of Buyer and Parent by wire transfer of same day funds the Company Termination Fee (as defined in the Merger Agreement) required to be paid pursuant to Section 9.5(b) of the Merger Agreement.

(f) This Agreement may be terminated by Seller if there has been a material breach of any representation, warranty, or covenant made by Buyer in this Agreement, or any

representation or warranty of Buyer shall have become untrue after the date of this Agreement, so that Sections 9.3(a) and 9.3(b) would not be satisfied and this breach or failure to be true is not curable, or if curable, is not curable by the Termination Date (as the same may be extended).

(g) This Agreement may be terminated by Buyer or Seller upon or following the termination of the Merger Agreement in accordance with its terms.

10.2. Procedure and Effect of Termination. In the event of termination of this Agreement pursuant to Section 10.1, written notice thereof will forthwith be given by the terminating Party to the other Parties and this Agreement (other than as set forth in this Section 10.2, Section 10.4 and Section 11.1) will terminate and become void and of no effect, and the transactions contemplated hereby will be abandoned without further action by any Party, whereupon the liabilities of the Parties hereunder (and of any of their respective Representatives) will terminate, except as otherwise expressly provided in this Agreement; provided, that such termination will not relieve any Party from any liability for damages to any other Party resulting from any prior breach of this Agreement, the Partnership Interests Purchase Agreement or the Merger Agreement which is (i) material, and (ii) willful or knowing. If this Agreement is terminated pursuant to Section 10.1(e) or Section 10.1(g) upon or following termination of the Merger Agreement under circumstances where Seller is required to pay Parent the Company Termination Fee (as defined in the Merger Agreement) pursuant to the provisions of Section 9.5(b) of the Merger Agreement, Seller will, following such termination and at the time required under Section 9.5(b) of the Merger Agreement, pay into a joint bank account in the names of Buyer and Parent the termination fee required to be paid pursuant to the terms of the Merger Agreement, by wire transfer of same day funds. If this Agreement is terminated pursuant to Section 10.1(g) upon or following termination of the Merger Agreement under circumstances where Parent is required to pay Seller the Parent Termination Fee (as defined in the Merger Agreement) pursuant to the provisions of Section 9.5(c) of the Merger Agreement, Parent will, following such termination and at the time required for payment of the Parent Termination Fee (as defined in the Merger Agreement), pay Buyer the Termination Fee, which shall be in an amount (subject to the limitations thereon as set forth in the definition of Termination Fee set forth herein) reasonably agreed upon by Buyer and Parent. Seller and Parent acknowledge that the agreements contained in this Section 10.2 are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Buyer would not enter into this Agreement; accordingly, if Seller or Parent fails to pay promptly the amount due pursuant to this Section 10.2, and, in order to obtain such payment, Buyer commences a suit which results in a judgment against Seller or Parent, as the case may be, for the fee to be paid by such Party as set forth in this Section 10.2, Seller or Parent, as applicable, will pay to Buyer its costs and expenses (including attorneys' fees) in connection with this suit, together with interest on the amount of the fee at the Prime Rate in effect on the date the payment should have been made.

10.3. Payment of Termination Fee. As promptly as practicable after payment of the Company Termination Fee (as defined in the Merger Agreement) to be paid pursuant to the terms of the Merger Agreement to the joint bank account, Parent and Buyer will reasonably agree upon the amount of the Termination Fee (subject to the limitations thereon as set forth in the definition of Termination Fee set forth herein) to be paid to Buyer, and upon such agreement Buyer and Parent shall jointly direct payment of the agreed-upon Termination Fee to Buyer and disbursement of the remaining amount in such joint account to Parent.

10.4. Remedies upon Termination. If this Agreement is terminated as provided herein:

(a) ARTICLE XI (other than Section 11.2, Section 11.3 and Section 11.5) and the agreements of the Parties contained in Section 8.2(b), Section 8.2(d), Section 8.3, Section 10.2, Section 10.3 and Section 10.4 will survive the termination of this Agreement.

(b) Notwithstanding anything to the contrary herein, in view of the difficulty of determining the amount of damages which may result from a termination of this Agreement and the failure of the Parties to consummate the transactions contemplated by this Agreement under circumstances in which a termination fee is payable as contemplated by Section 10.2, Buyer, Parent, Merger Sub and Seller have mutually agreed that the payment of the termination fees as set forth in Section 10.2 will be made as liquidated damages, and not as a penalty. In the event of any such termination, the Parties have agreed that the payment of the applicable termination fee as set forth in Section 10.2 will be the sole and exclusive remedy for monetary damages of Buyer. ACCORDINGLY, THE PARTIES HEREBY ACKNOWLEDGE THAT (i) THE EXTENT OF DAMAGES CAUSED BY THE FAILURE OF THIS TRANSACTION TO BE CONSUMMATED WOULD BE IMPOSSIBLE OR EXTREMELY DIFFICULT TO ASCERTAIN UNDER CIRCUMSTANCES IN WHICH A TERMINATION FEE IS PAYABLE AS CONTEMPLATED BY SECTION 10.2, (ii) THE AMOUNT OF THE TERMINATION FEE CONTEMPLATED IN SECTIONS 10.2 AND 10.3 IS A FAIR AND REASONABLE ESTIMATE OF SUCH DAMAGES UNDER THE CIRCUMSTANCES, AND (iii) RECEIPT OF SUCH TERMINATION FEE BY BUYER DOES NOT CONSTITUTE A PENALTY. THE PARTIES HEREBY FOREVER WAIVE AND AGREE TO FOREGO TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ANY AND ALL RIGHTS THEY HAVE OR IN THE FUTURE MAY HAVE TO ASSERT ANY CLAIM DISPUTING OR OTHERWISE OBJECTING TO ANY OR ALL OF THE FOREGOING PROVISIONS OF THIS SECTION 10.4(b). Any payment under Section 10.2 will be made by wire transfer of same day funds to a bank account in the United States of America designated in writing by the Parties entitled to receive such payment not later than three (3) Business Days following the date such Party delivers notice of such account designation to the Party responsible to make such payment.

(c) Upon any termination of this Agreement, all filings, applications and other submissions made pursuant to this Agreement, to the extent practicable, will be withdrawn from the Governmental Entity or other Person to which they were made.

ARTICLE XI.
MISCELLANEOUS PROVISIONS

11.1. Survival. None of the covenants or agreements of Seller, Buyer, Parent or Merger Sub contained in this Agreement will survive the Closing, except for this ARTICLE XI and those covenants and agreements contained herein that by their terms apply or are to be performed in whole or in part after the Closing. Except as specified in the foregoing sentence, all other representations, warranties, covenants and agreements in this Agreement will not survive the Closing of this Agreement.

11.2. Amendment and Modification. This Agreement may be amended, modified, or supplemented only by a written agreement executed and delivered by duly authorized officers of Seller, Parent and Buyer.

11.3. Waiver of Compliance. Except as otherwise provided in this Agreement, any failure of a Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

11.4. Notices. Notices, requests, instructions or other documents to be given under this Agreement must be in writing and will be deemed given, (a) when sent if sent by facsimile, provided that the fax is promptly confirmed by telephone confirmation thereof, (b) when delivered, if delivered personally to the intended recipient, and (c) one (1) Business Day later, if sent by overnight delivery via a national courier service, and in each case, addressed to a Party at the following address for such Party:

(a) If to Parent or Merger Sub, or to Seller after the Closing, to:

Great Plains Energy Incorporated
1201 Walnut Street
P.O. Box 418679
Kansas City, MO 64106
Attention: Mark G. English
General Counsel and Assistant Secretary
Fax: (816) 556-2418

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attention: Nancy A. Lieberman, Esq.
Morris J. Kramer, Esq.
Fax: (212) 735-2000

(b) If to Buyer, to:

Black Hills Corporation
625 9th Street
Rapid City, South Dakota 57709
Attention: Steven J. Helmers, Esq.
Fax: (605) 721-2550

with a copy to:

Morgan, Lewis & Bockius LLP
300 South Grand Avenue, Suite 2200

Los Angeles, California 90071
Attention: Richard A. Shortz, Esq.
Fax: (213) 612-2501

(c) If to Seller before the Closing, to:

Aquila, Inc.
20 West Ninth Street
Kansas City, MO 64105-1711
Attention: Christopher Reitz,
General Counsel and Corporate Secretary
Fax: 816) 467-3486

with a copy to:

Fried, Frank, Harris, Shriver & Jacobson
One New York Plaza
New York, New York 10004
Attention: Arthur Fleischer, Jr., Esq.
Stuart Katz, Esq.
Philip Richter, Esq.
Fax: (212) 859-4000

or to those other persons or addresses as may be designated in writing by the party to receive the notice as provided above.

11.5. Assignment. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by any Party, without the prior written consent of the other Parties, nor is this Agreement intended to confer upon any other Person except the Parties any rights or remedies hereunder. Notwithstanding the foregoing, Buyer, upon written notice to but without the consent of Seller, Parent or Merger Sub, may assign this Agreement or the rights, benefits and obligations described herein to one or more wholly-owned Subsidiaries formed or to be formed to operate as a regulated utility in each of Iowa, Kansas and Nebraska; provided, however, that notwithstanding such assignment, Buyer shall retain and remain responsible for all obligations and liabilities of Buyer hereunder; provided, further, that Buyer shall consult with Seller regarding the structure, financing and other attributes of such Subsidiaries to reflect requirements of the IUB, KCC or NPSC.

11.6. No Third Party Beneficiaries. This Agreement is not intended to, and does not, confer upon any Person other than Buyer, Seller, Parent and Merger Sub, any rights or remedies hereunder. Without limiting the generality of the foregoing, no provision of this Agreement creates any third party beneficiary rights in any employee or former employee of Seller (including any beneficiary or dependent thereof) in respect of continued employment or resumed employment, and no provision of this Agreement creates any rights in any employee or former employee of Seller (including any beneficiary or dependent thereof) in respect of any benefits

that may be provided, directly or indirectly, under any employee benefit plan or arrangement except as expressly provided for under such plans or arrangements.

11.7. GOVERNING LAW AND VENUE; WAIVER OF JURY TRIAL.

(a) THIS AGREEMENT WILL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE CONFLICTS OF RULES THEREOF. The Parties hereby irrevocably submit exclusively to the jurisdiction of the State of Delaware and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such courts, and each of Seller, Buyer, Parent and Merger Sub irrevocably agrees that all claims with respect to such action or proceeding will be heard and determined in Delaware state court. Each of Seller, Buyer, Parent and Merger Sub hereby consents to and grants any such court jurisdiction over the Person of such Parties and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 11.4 or in such other manner as may be permitted by Law, will be valid and sufficient service thereof.

(b) EACH OF SELLER, BUYER, PARENT AND MERGER SUB ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT THE PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH OF SELLER, BUYER, PARENT AND MERGER SUB CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.7(b).

11.8. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

11.9. Specific Performance. Each of Seller, Buyer, Parent and Merger Sub acknowledges and agrees that any breach of this Agreement would give rise to irreparable harm for which monetary damages would not be an adequate remedy. Each of Seller, Buyer, Parent and Merger Sub accordingly agrees that, in addition to other remedies, the Parties will be entitled

to enforce the terms of this Agreement by decree of specific performance without the necessity of providing the inadequacy of monetary damages as a remedy and to obtain injunctive relief or other equitable remedy against any breach or threatened breach hereof.

11.10. Entire Agreement. This Agreement will be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by the Parties, and until such execution and delivery no legal obligation will be created by virtue hereof. This Agreement, the Partnership Interests Purchase Agreement and the Merger Agreement (in each case together with the Schedules and Exhibits hereto or thereto, and the certificates and instruments delivered pursuant hereto or thereto), the Confidentiality Agreement, the confidentiality agreement dated June 28, 2006 between Seller and Parent, as amended by the letter agreement dated September 5, 2006 between Seller and Parent, the letter of intent dated November 21, 2006 between Buyer and Parent, and the Transition Services Agreement (together with the schedules thereto), embody the entire agreement and understanding of the Parties hereto in respect of the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement and the Merger Agreement, and supersede all prior agreements, understandings, representations and warranties, both written and oral, between or among the Parties or any of them with respect to the transactions contemplated herein, in the Partnership Interests Purchase Agreement and the Merger Agreement.

11.11. Bulk Sales or Transfer Laws. Buyer and Parent acknowledge that Seller will not comply with the provisions of any bulk sales or transfer laws of any jurisdiction in connection with the transactions contemplated by this Agreement. Buyer hereby waives compliance by Seller with the provisions of the bulk sales or transfer laws of all applicable jurisdictions.

11.12. No Consequential Damages. Notwithstanding anything to the contrary elsewhere in this Agreement or provided for under any applicable Law, no Party will, in any event, be liable to any other Party, either in contract, in tort or otherwise, for any consequential, incidental, indirect, special, or punitive damages of such other Party or Persons represented by such other Party, whether or not the possibility of such damages has been disclosed to such other Party or Persons represented by such other Party in advance or could have been reasonably foreseen by such other Party or Persons represented by such other Party. The preceding sentence shall not limit the right of any Party to seek “benefit of the bargain” damages for a breach of this Agreement or specific performance or other equitable remedy as provided in Section 11.9; provided that the right of any Party or Persons represented by such Party to seek any of such remedies is not an admission by the other Parties that, under the circumstances, any such remedies are proper remedies; provided, further, that the Party against whom any such remedy is sought may not claim that the awarding of “benefit of the bargain” damages is prohibited by virtue of the restriction against liability for consequential, incidental, indirect, special or punitive damages contained in this Section 11.12.

11.13. Counterparts. This Agreement, and any certificates and instruments delivered under or in accordance herewith, may be executed in any number of counterparts (including by facsimile or other electronic transmission), each such counterpart being deemed to be an original instrument, and all such counterparts will together constitute the same instrument, it being understood that all of the Parties need not sign the same counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Asset Purchase Agreement to be signed by their respective duly authorized officers as of the date first above written.

SELLER:

Aquila, Inc.

By: /s/ Richard C. Green
Name: Richard C. Green
Title: President, Chief Executive Officer and Chairman of the Board of Directors

BUYER:

Black Hills Corporation

By: /s/ David R. Emery
Name: David R. Emery
Title: President, Chief Executive Officer and Chairman of the Board of Directors

Great Plains Energy Incorporated

By: /s/ Michael J. Chesser
Name: Michael J. Chesser
Title: Chairman of the Board and Chief Executive Officer

Gregory Acquisition Corp.

By: /s/ Terry Bassham
Name: Terry Bassham
Title: President

Exhibit 1.1-A
Form of Assignment and Assumption Agreement

This Assignment and Assumption Agreement ("Agreement"), is made as of _____, ____ by and between Aquila, Inc., a Delaware corporation ("Seller"), and Black Hills Corporation, a South Dakota corporation ("Buyer"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Asset Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), and Buyer, which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, Parent and Merger Sub, entered into that certain Asset Purchase Agreement, dated February 6**,** 2007 (the "Asset Purchase Agreement"), pursuant to which, among other things, Buyer agreed to assume from Seller the Assumed Obligations, and Seller agreed to assign to Buyer all of Seller's rights to the Purchased Assets.

NOW, THEREFORE, pursuant and subject to the terms of Asset Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Seller hereby assigns and transfers all of the Assumed Obligations and all of Seller's rights to the Purchased Assets to Buyer, and Buyer hereby accepts such assignment and hereby assumes and agrees to pay, perform, and discharge when due all of the Assumed Obligations.

2. Buyer and Seller agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Agreement.

3. This Agreement is being delivered pursuant to the Asset Purchase Agreement and will be construed consistently therewith. This Agreement is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Asset Purchase Agreement. To the extent that any provision of this Agreement conflicts or is inconsistent with the terms of the Asset Purchase Agreement, the terms of the Asset Purchase Agreement will govern.

4. This Agreement may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of Buyer and Seller and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By:
Name:
Title:

Black Hills Corporation

By:
Name:
Title:

Exhibit 1.1-B
Form of Assignment of Easements

This Assignment of Easements ("Assignment"), is made as of _____, 200__ by and between Aquila, Inc., a Delaware corporation ("Seller"), and Black Hills Corporation, a South Dakota corporation ("Buyer"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Asset Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), and Buyer, which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, Parent and Merger Sub, entered into that certain Asset Purchase Agreement, dated February 6, 2007 (the "Asset Purchase Agreement"), pursuant to which, among other things, Buyer agreed to assume from Seller the Assumed Obligations, and Seller agreed to assign to Buyer all of Seller's rights to the Purchased Assets, including, among other things, the Easements.

NOW, THEREFORE, pursuant and subject to the terms of the Asset Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Seller hereby assigns and transfers all of the Easements to Buyer, and Buyer hereby accepts such assignment.

2. Seller and Buyer agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Assignment.

3. This Assignment is being delivered pursuant to the Asset Purchase Agreement and will be construed consistently therewith. This Assignment is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Asset Purchase Agreement. To the extent that any provision of this Assignment conflicts or is inconsistent with the terms of the Asset Purchase Agreement, the terms of the Asset Purchase Agreement will govern.

4. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of Seller and Buyer and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Buyer and Seller have caused this Assignment to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By:
Name:
Title:

Black Hills Corporation

By:
Name:
Title:

Exhibit 1.1-C
Form of Bill of Sale

This Bill of Sale, is made as of _____, _____ by and between Aquila, Inc., a Delaware corporation ("Seller"), and Black Hills Corporation, a South Dakota corporation ("Buyer"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Asset Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), and Buyer, which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, Parent and Merger Sub, entered into that certain Asset Purchase Agreement, dated February 6, 2007 (the "Asset Purchase Agreement"), pursuant to which, among other things, Buyer agreed to assume from Seller the Assumed Obligations, and Seller agreed to assign to Buyer all of Seller's rights to the Purchased Assets.

NOW, THEREFORE, pursuant and subject to terms of the Asset Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Seller hereby sells, assigns, conveys, transfers, and delivers to Buyer all of Seller's right, title, and interest in, to, and under the Purchased Assets, and Buyer hereby purchases and accepts from Seller, as of the date hereof, all right, title, and interest of Seller and Seller in, to, and under the Purchased Assets.

2. Buyer and Seller agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Bill of Sale.

3. This Bill of Sale is being delivered pursuant to the Asset Purchase Agreement and will be construed consistently therewith. This Bill of Sale is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Asset Purchase Agreement. To the extent that any provision of this Bill of Sale conflicts or is inconsistent with the terms of the Asset Purchase Agreement, the terms of the Asset Purchase Agreement will govern.

4. This Bill of Sale may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Bill of Sale and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Buyer and Seller have caused this Bill of Sale to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By:
Name:
Title:

Black Hills Corporation

By:
Name:
Title:

Exhibit 8.8(d)(ii)(C)
Pension and Benefit Matters

The following terms will govern the Parties' obligations under Section 8.8(d)(ii)(C) of the Agreement (and any reference to Section 8.8 will be deemed to include a reference to this Exhibit):

A. Post-Closing Spin-Off to Buyer Plan.

(1) Transfer of Liabilities.

(a) As of the Closing Date, Buyer will cause a Buyer Pension Plan to accept the liabilities for benefits under the Seller Pension Plan that would have been paid or payable (but for the transfer of assets and liabilities pursuant to this Paragraph A) to or with respect to the Transferred Employees and Other Plan Participants (as defined below), and Buyer will become, with respect to each Transferred Employee and Other Plan Participant, responsible for all benefits due under the Seller Pension Plan. Buyer is assuming only the obligation to provide benefits in the amount determined in accordance with the terms of the Seller Pension Plan, and Buyer is not assuming any other liability or obligation that Seller or an ERISA Affiliate of Seller might have or incur with respect to the Seller Pension Plan, including liability (if any) for breaches of fiduciary duty or other penalty or excise Tax amounts. Seller will not, and Parent will not permit Seller's successor to, take any action to fully vest the Business Employees in their accrued benefits under the Seller Pension Plan; provided that any vesting of Business Employees in such accrued benefits in the ordinary course in accordance with the Seller Pension Plan as in effect on the date hereof shall not be deemed a violation of this Paragraph A(1). Buyer will not amend the Buyer Pension Plan, or permit the Buyer Pension Plan to be amended, to eliminate any benefit accrued as of the Closing Date, whether or not vested, with respect to which liabilities are transferred pursuant to this Paragraph A; provided that Buyer may amend the Buyer Pension Plan or permit the Buyer Pension Plan to be amended to eliminate an optional form of distribution to the extent that such action is consistent with applicable Law, including the regulations under section 411(d)(6) of the Code. Notwithstanding any other provision of this Agreement, Seller will, or Parent will cause Seller's successor to, cause the Seller Pension Plan to continue to make all benefit payments to Transferred Employees and Other Plan Participants due under the Seller Pension Plan until both the Initial Transfer Amount and the True-Up Amount have been transferred to the Buyer Pension Plan, following which transfer the Buyer Pension Plan shall make all benefit payments to or in respect of Transferred Employees and Other Plan Participants. "Other Plan Participants" means any individuals (x) who have an accrued benefit under the Seller Pension Plan but who are not actively employed by Seller on the Closing Date, or whose employment is terminated by Seller on the Closing Date, and (y) whose employment was principally associated with the Natural Gas Businesses, all of whom are listed on Schedule 8.8(d)(ii)-A, or will be listed on such Schedule as the same is amended by Seller, with Buyer's and Parent's consent, on the Closing Date.

(b) As soon as practicable but in any event within thirty (30) days after the Closing Date, Seller will, or Parent will cause Seller's successor to, deliver to Buyer a list reflecting each Transferred Employee's service and compensation under the Seller Pension Plan, each Transferred Employee's and Other Plan Participant's accrued benefit thereunder as of the

Closing Date, a copy of each pending or final domestic relations order affecting the benefit of any Transferred Employee or Other Plan Participant, and such other information as may be reasonably requested by Buyer consistent with applicable Law to facilitate or assist with such transition or the establishment of necessary records.

(2) Transfer of Assets.

(a) Not later than ten (10) days after the Closing, Seller will, or Parent will cause Seller's successor to, direct its actuary to determine the amount of assets allocable to the benefits with respect to the Transferred Employees and Other Plan Participants in the Seller Pension Plan based on section 4044 of ERISA and the Pension Benefit Guaranty Corporation regulations promulgated thereunder, and in compliance with section 414(l) of the Code using the safe harbor assumptions thereunder (the "Section 4044 Amount"), measured as of the Closing Date. The actuarial assumptions used in the Section 4044 Amount determination shall be limited to the safe harbor assumptions specified under Section 4.14(l) of the Code. Seller will, or Parent will cause Seller's successor to, provide the information used to compute the Section 4044 Amount for review by Buyer's actuary before such amount is transferred.

(b) In accordance with the procedures set forth in this Paragraph A(2)(b), Seller will, or Parent will cause Seller's successor to, cause cash (or other assets as Seller or its successor and Buyer mutually agree) equal to the Section 4044 Amount to be transferred to the trust established by Buyer as part of the Buyer Pension Plan (the "Buyer Pension Plan Trust"). On the Initial Transfer Date, Seller will, or Parent will cause Seller's successor to, cause the trust which is a part of the Seller Pension Plan (the "Seller Pension Plan Trust") to make a transfer of cash or other assets as Seller or its successor and Buyer mutually agree equal to the Initial Transfer Amount to the Buyer Pension Plan Trust. The "Initial Transfer Date" is the date that is twenty (20) Business Days after the requirements of Paragraphs A(2)(d) and A(2)(e) have been met. The "Initial Transfer Amount" means 75% of Seller's or its successor's good faith estimate of the Section 4044 Amount. As soon as practicable after the Section 4044 Amount is determined in accordance with the requirements of Paragraph A(2)(a), and in no event more than sixty (60) days after such final determination, the True-Up Amount shall be transferred as provided below (the "True-Up Date"). If the Section 4044 Amount adjusted for earnings and losses of the assets of the Seller Pension Plan from the Closing Date through the True-Up Date (the "Increased Section 4044 Amount"), is greater than the Reduction Amount adjusted for earnings and losses of the assets of the Seller Pension Plan from the Closing Date through the True-Up Date (the "Increased Reduction Amount"), then Seller will, or Parent will cause Seller's successor to, cause a transfer in cash or other assets as Seller or its successor and Buyer mutually agree equal to the True-Up Amount to be made from the Seller Pension Plan Trust to the Buyer Pension Plan Trust. If the Increased Reduction Amount is greater than the Increased Section 4044 Amount, then Buyer will cause a transfer in cash or other assets as Seller or its successor and Buyer mutually agree equal to the True-Up Amount to be made from the Buyer Pension Plan Trust to the Seller Pension Plan Trust. The "True-Up Amount," if any, means the difference between the Increased Section 4044 Amount and the Increased Reduction Amount. The "Reduction Amount" equals the sum of (x) the Initial Transfer Amount, plus (y) benefit payments made to any Transferred Employees and Other Plan Participants by the Seller Pension Plan after the Closing Date. For purposes of these calculations, the earnings and losses of the assets of the Seller Pension Plan from the Closing Date through the True-Up Date shall be the net investment

returns reasonably calculated by the trustee of the Seller Pension Plan for each month between the Closing Date and the True-Up Date. Seller will, or Parent will cause Seller's successor to, provide the information used to make such calculations and compute the True-Up Amount for review by Buyer's actuary before any such amounts are transferred.

(c) To the extent that under Section 8.8 Buyer has agreed to accept a liability of Seller under any of Seller's Benefit Plans (other than the Seller Pension Plan) with respect to employees of Seller that are Business Employees, Transferred Employees, Current Retirees or Covered Individuals, and such Benefit Plans, including any non-qualified deferred compensation plan or agreement, is funded through or maintained in connection with a grantor trust, secular trust, Voluntary Employees' Beneficiary Association or other trusts or arrangements used to provide benefits payable under any such plan or agreement, as promptly as practicable after the Closing, Buyer and Seller will, or Parent will cause Seller's successor to, determine the amount of assets in such trusts or other arrangements historically allocated to the Natural Gas Businesses, the Business Employees, Transferred Employees, or other Covered Individuals with respect to liabilities assumed by Buyer, and such assets shall be transferred, to the extent consistent with the terms of any such trust as in effect on the date hereof and not contrary to applicable Law, to a similar trust or arrangement established and maintained by Buyer to fund such benefits. Seller shall use reasonable best efforts to make or cause to be made any required amendments to such trusts and agreements to provide for the transfers described in this Paragraph A(2)(c).

(d) In connection with the transfer of assets and liabilities pursuant to this Section, Seller will, or Parent will cause Seller's successor to, provide to Buyer, and Buyer will provide to Seller or its successor, evidence reasonably satisfactory to the other Party that the other Party's Pension Plan is or continues to be qualified under section 401(a) of the Code and is in compliance with the funding requirements of section 302 of ERISA and section 412 of the Code.

(e) In connection with the transfer of assets and liabilities pursuant to Paragraph A, Buyer and Seller will, or Parent will cause Seller's successor to, cooperate with each other in making all appropriate filings required by the Code or ERISA in a timely manner, but not later than within thirty (30) days after the Closing Date, and the transfer of assets and liabilities from the Seller Pension Plan pursuant to this Exhibit 8.8(d)(ii)(C) will not take place until after the expiration of the thirty (30) day period following the filing of any required notices with the Internal Revenue Service pursuant to section 6058(b) of the Code.

(3) Benefits. The benefit provided by the Buyer Pension Plan to each Transferred Employee and Other Plan Participant who becomes a participant in the Buyer Pension Plan will be at least equal to the benefits accrued by such Transferred Employee or Other Plan Participant under the Seller Pension Plan on the Closing Date, computed by taking into account the service credited to such Transferred Employee and Other Plan Participant with Seller and Buyer (in the case of service of Transferred Employees with Buyer, such service will be required to be taken into account only for the purpose of vesting and early retirement subsidies or as otherwise required by applicable Law).

B. Further Purchase Price Adjustment.

(1) Adjusted Section 4044 Amount. Seller will, or Parent will cause Seller's successor to, also calculate the Section 4044 Amount using the same assumptions and methodologies as used to calculate the Section 4044 Amount pursuant to Paragraph A(2)(a), but adjusted to remove from the assets of the Seller Pension Plan an amount equal to Seller's contributions to the Seller Pension Plan made between the date hereof and the Closing Date (the Section 4044 Amount so adjusted, the "Adjusted Section 4044 Amount"). Seller shall, or Parent shall cause Seller's successor to, provide the information used to compute the Adjusted Section 4044 Amount for review by Buyer's actuary. Buyer and Seller, or Parent will cause Seller's successor to, cooperate in good faith and resolve and reconcile any differences or disputes with respect to the calculation of the Adjusted Section 4044 Amount as soon as practicable.

(2) Notwithstanding anything to the contrary herein, the Purchase Price (i) shall be decreased by the amount, if any, by which the Adjusted Section 4044 Amount exceeds the Section 4044 Amount, and (ii) shall be increased by the amount, if any, by which the Adjusted Section 4044 Amount is less than the Section 4044 Amount. On the earlier of the date that the True-Up Amount is transferred, or within five (5) Business Days of the date the True-Up Amount is determined, Buyer shall pay an amount equal to the amount of the increase in the Purchase Price, if any, determined pursuant to this Paragraph B, to Seller or its successor, or Seller shall, or Parent shall cause Seller's successor to, pay an amount equal to the amount of the decrease, if any, in the Purchase Price determined pursuant to this Paragraph B, as applicable, by wire transfer of same day funds.

EXECUTION COPY

Exhibit 10.2

Partnership Interests Purchase Agreement

by and among

Aquila, Inc.,

Aquila Colorado, LLC,

Black Hills Corporation,

Great Plains Energy Incorporated

and

Gregory Acquisition Corp.

Dated: February 6, 2007

TABLE OF CONTENTS

Page

Page

EXHIBITS AND SCHEDULES

PARTNERSHIP INTERESTS PURCHASE AGREEMENT

This Partnership Interests Purchase Agreement (this "Agreement"), is made as of February 6, 2007 by and among Aquila, Inc., a Delaware corporation ("Seller"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner") and a wholly-owned subsidiary of Seller, Black Hills Corporation, a South Dakota corporation ("Buyer"), Great Plains Energy Incorporated, a Missouri corporation ("Parent"), and Gregory Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub").

RECITALS

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") with Buyer, Parent, and Merger Sub which, among other things, provides for the merger of Merger Sub with and into Seller (the "Merger") immediately after the Closing.

WHEREAS, prior to the Closing, Seller and Limited Partner will form (i) a Delaware limited partnership ("Electric Opco") to hold the Electric Business and the Electric Business Purchased Assets, and assume the Electric Business Assumed Obligations, with Seller serving as the general partner and Limited Partner serving as the limited partner, and (ii) a Delaware limited partnership ("Gas Opco") to hold the Gas Business and the Gas Business Purchased Assets, and assume the Gas Business Assumed Obligations, with Seller serving as the general partner and Limited Partner serving as the limited partner.

WHEREAS, Seller, Buyer, Parent and Merger Sub have entered into an Asset Purchase Agreement (the "Asset Purchase Agreement") of even date herewith whereby Seller has agreed to sell and Buyer has agreed to purchase the assets of Seller's Iowa, Kansas and Nebraska gas utility businesses.

WHEREAS, Buyer desires to purchase, and Seller desires to sell, the Company Interests, upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the Parties' respective covenants, representations, warranties, and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions.

(a) As used in this Agreement, the following terms have the meanings specified in this Section 1.1(a):

"Affiliate" has the meaning set forth in Rule 12b-2 of the General Rules and Regulations under the Exchange Act.

"Affiliated Group" means any affiliated group within the meaning of Code section 1504(a) or any similar group defined under a similar provision of Law.

"Assignment and Assumption Agreement" means the Assignment and Assumption Agreement to be executed by Seller and delivered to each of the Companies before the Closing, in the form of Exhibit 1.1-A.

"Assignment of Company Interests" means the Assignment and Assumption of Partnership Interests with respect to each of the Companies to be executed by Seller, Limited Partner, Buyer and Buyer's designee at the Closing, in the form of Exhibit 1.1-B.

"Assignment of Easements" means the Assignment of Easements to be executed and delivered by Seller to each of the Companies before the Closing, in the form of Exhibit 1.1-C.

"Bill of Sale" means the bill of sale to be executed and delivered by Seller to each of the Companies before the Closing, in the form of Exhibit 1.1-D.

"Business" means, collectively, (i) the Electric Business, (ii) the Gas Business, and (iii) the activities described on Schedule 1.1-A.

"Business Agreements" means any contract, agreement, real or personal property lease, commitment, understanding, or instrument (other than the Retained Agreements and the Shared Agreements) to which Seller is a party or by which it is bound that either (i) is listed or described on Schedule 5.9, Schedule 5.11, Schedule 5.13(a), or Schedule 5.13(b), or (ii) relates principally to the Business or the Purchased Assets, and if entered into after the date hereof (and is not a renewal, extension or amendment of an agreement in effect on the date hereof), is entered into in accordance with the terms of this Agreement.

"Business Day" means any day other than Saturday, Sunday, and any day which is a legal holiday or a day on which banking institutions in New York, New York are authorized by Law to close.

"Business Employees" means (i) the employees of Seller set forth on Schedule 1.1-B, which shall include all of Seller's employees whose place of employment is at Seller's locations in Colorado, (ii) any persons who are hired by Seller after the date hereof for the Business, other than persons hired after the date hereof to perform Central or Shared Functions, and (iii) other than for purposes of ARTICLE V and Section 8.1, those Central or Shared Function Employees that Buyer and Parent agree Buyer may offer employment to prior to the Closing and that accept employment with one of the Companies.

"Buyer Pension Plan" means one or more defined benefit plans within the meaning of section 3(35) of ERISA that are (i) maintained or to be established or maintained by Buyer or the Companies, and (ii) qualified under section 401(a) of the Code.

"Buyer Required Regulatory Approvals" means (i) the filings by Seller, Buyer and Parent required by the HSR Act in connection with the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement and the Merger Agreement, and the expiration or

earlier termination of all waiting periods under the HSR Act, and (ii) the approvals set forth on Schedule 1.1-C.

"Buyer's Representatives" means Buyer's accountants, employees, counsel, environmental consultants, surveyors, financial advisors, and other representatives.

"Central or Shared Functions" means any of the business functions set forth on Schedule 1.1-D.

"Central or Shared Function Employees" means any current or former employee of Seller or its Subsidiaries whose employment is (or was immediately prior to termination) principally related to Central or Shared Functions.

"Claims" means any and all civil, criminal, administrative, regulatory, or judicial actions or causes of action, suits, petitions, proceedings (including arbitration proceedings), investigations, hearings, demands, demand letters, claims, or notices of noncompliance or violation delivered by any Governmental Entity or other Person.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

"COBRA Continuation Coverage" means the continuation of medical coverage required under sections 601 through 608 of ERISA, and section 4980B of the Code.

"Code" means the Internal Revenue Code of 1986.

"Company" means either of Electric Opco or Gas Opco, as indicated by the context, and "Companies" means Electric Opco and Gas Opco, collectively.

"Company Interests" means all of the general and limited partnership interests of both Companies.

"Confidentiality Agreement" means the Confidentiality Agreement, dated July 11, 2006 between Seller and Buyer.

"Corporate Employees" means any current employee of Seller or its Subsidiaries and any employee of Seller or its Subsidiaries hired after the date hereof and before the Closing Date, including such employees who are Central or Shared Function Employees, other than (i) Business Employees or Transferred Employees, (ii) any current employee of Seller or its Subsidiaries, and any employee of Seller or its Subsidiaries hired after the date hereof and before the Closing Date, for Seller's electric utility operations in Missouri and Kansas, and (iii) any retirees of Seller or any of its Subsidiaries and any employee of Seller or its Subsidiaries who retires between the date hereof and the Closing Date.

"Documents" means all files, documents, instruments, papers, books, reports, tapes, data, records, microfilms, photographs, letters, ledgers, journals, title commitments and policies, title abstracts, surveys, customer lists and information, regulatory filings, operating data and plans, technical documentation (such as design specifications, functional requirements, and operating

instructions), user documentation (such as installation guides, user manuals, and training materials), marketing documentation (such as sales brochures, flyers, and pamphlets), Transferred Employee Records, and other similar materials related principally to the Business, the Purchased Assets, or the Assumed Obligations, in each case whether or not in electronic form; provided, that "Documents" does not include: (i) information which, if provided to Buyer, would violate any applicable Law or Order or the Governing Documents of Seller or any of its Affiliates, (ii) bids, letters of intent, expressions of interest, or other proposals received from others in connection with the transactions contemplated by this Agreement or otherwise and information and analyses relating to such communications, (iii) any information, the disclosure of which would jeopardize any legal privilege available to Seller or any of its Affiliates relating to such information or would cause Seller or any of its Affiliates to breach a confidentiality obligation by which it is bound (provided, that in the case of any items that would be Documents but for a confidentiality obligation, Seller will use its reasonable best efforts at Buyer's request to obtain a waiver of such obligation), (iv) any valuations or projections of or related to the Business, the Purchased Assets, the Company Interests or the Assumed Obligations (other than any such valuations and projections prepared in conjunction with any past, present or future regulatory filings, whether or not the same was actually filed with the regulatory authority, and customary studies, reports, and similar items prepared by or on behalf of Seller for the purposes of completing, performing, or executing unperformed service obligations, Easement relocation obligations, and engineering and construction required to complete scheduled construction, construction work in progress, and other capital expenditure projects, in each case related principally to the Business and the Purchased Assets), (v) any information management systems of Seller (but not including electronic data principally related to the Business, the Purchased Assets or the Assumed Obligations), and (vi) any rights, information, or other matters to the extent used for or on the Internet, including any web pages or other similar items.

"Electric Business" means the electric utility business conducted by Seller serving customers in the Territory.

"Electric Business Assumed Obligations" means the Assumed Obligations principally related to the Electric Business rather than the Gas Business.

"Electric Business Purchased Assets" means the Purchased Assets principally related to the Electric Business rather than the Gas Business.

"Encumbrances" means any mortgages, pledges, liens, claims, charges, security interests, conditional and installment sale agreements, Preferential Purchase Rights, activity and use limitations, easements, covenants, encumbrances, obligations, limitations, title defects, deed restrictions, and any other restrictions of any kind, including restrictions on use, transfer, receipt of income, or exercise of any other attribute of ownership.

"Environment" means all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings and the air within other natural or man-made structures above or below ground), plant and animal life, and any other natural resource.

"Environmental Claims" means any and all Claims (including any such Claims involving toxic torts or similar liabilities in tort, whether based on negligence or other fault, strict or absolute liability, or any other basis) relating in any way to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release (or alleged presence, Release, or threatened Release) into the Environment of any Hazardous Materials, including any and all Claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law or for any property damage or personal or bodily injury (including death) or threat of injury to health, safety, natural resources, or the Environment.

"Environmental Laws" means all Laws relating to pollution or the protection of human health, safety, the Environment, or damage to natural resources, including Laws relating to Releases and threatened Releases or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials. Environmental Laws include the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Endangered Species Act, 16 U.S.C. § 1531 et seq.; the National Environmental Policy Act, 42 U.S.C. § 4321, et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; Atomic Energy Act, 42 U.S.C. § 2014 et seq.; Nuclear Waste Policy Act, 42 U.S.C. § 10101 et seq.; and their state and local counterparts or equivalents, all as amended from time to time, and regulations issued pursuant to any of those statutes.

"Environmental Permits" means all permits, certifications, licenses, franchises, approvals, consents, waivers or other authorizations of Governmental Entities issued under or with respect to applicable Environmental Laws and used or held by Seller for the operation of the Business.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any Person that, together with Seller, would be considered a single employer under section 414(b), (c), or (m) of the Code.

"ERISA Case" means the litigation captioned *In re Aquila, Inc. ERISA Litigation*, Case No. 04-cv-00865 (DW), filed in the United States District Court for the Western District of Missouri and any similar Claims relating to the causes of action in such litigation.

"Exchange Act" means the Securities Exchange Act of 1934.

"Exchange Agent" means any exchange agent appointed in connection with the transactions contemplated by the Merger Agreement.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Rules" means the requirements of FERC with respect to and in accordance with the Uniform System of Accounts established by FERC.

"Final Regulatory Order" means, with respect to a Required Regulatory Approval, an Order granting such Required Regulatory Approval that has not been reversed, stayed, enjoined, set aside, annulled, or suspended, and with respect to which any waiting period prescribed by applicable Law before the transactions contemplated by this Agreement may be consummated has expired (but without the requirement for expiration of any applicable rehearing or appeal period).

"Gas Business" means the gas utility business conducted by Seller serving customers in the Territory.

"Gas Business Assumed Obligations" means the Assumed Obligations principally related to the Gas Business rather than the Electric Business.

"Gas Business Purchased Assets" means the Purchased Assets principally related to the Gas Business rather than the Electric Business.

"GAAP" means United States generally accepted accounting principles as of the date hereof.

"Good Utility Practice" means any practices, methods, standards, guides, or acts, as applicable, that (i) are generally accepted in the region during the relevant time period in the natural gas or electric utility industry, as applicable, (ii) are commonly used in prudent utility engineering, construction, project management, and operations, or (iii) would be expected if the Business was conducted in a manner consistent with Laws and Orders applicable to the Business, and the objectives of reliability, safety, environmental protection, economy and expediency. Good Utility Practice includes acceptable practices, methods, or acts generally accepted in the region, and is not limited to the optimum practices, methods, or acts to the exclusion of all others.

"Governing Documents" of a Person means the articles or certificate of incorporation and bylaws, or comparable governing documents, of such Person.

"Governmental Entity" means the United States of America and any other federal, state, local, or foreign governmental or regulatory authority, department, agency, commission, body, court, or other governmental entity.

"Hazardous Material" means (i) any chemicals, materials, substances, or wastes which are now or hereafter defined as or included in the definition of "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or words of similar import under any applicable Environmental Laws; (ii) any petroleum, petroleum products (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas or synthetic gas useable for fuel (or mixtures of natural gas and such synthetic gas), or oil and gas exploration or production waste, polychlorinated biphenyls, asbestos-containing materials, mercury, and lead-

based paints; and (iii) any other chemical, material, substances, waste, or mixture thereof which is prohibited, limited, or regulated by Environmental Laws.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Income Tax" means any Tax based upon, measured by, or calculated with respect to (i) net income, profits, or receipts (including capital gains Taxes and minimum Taxes) or (ii) multiple bases (including corporate franchise and business license Taxes) if one or more of the bases on which such Tax may be based, measured by, or calculated with respect to is described in clause (i), in each case together with any interest, penalties, or additions to such Tax.

"Independent Accounting Firm" means any independent accounting firm of national reputation mutually appointed by Buyer and Parent.

"Law" means any statutes, regulations, rules, ordinances, codes, and similar acts or promulgations of any Governmental Entity.

"Loss" or "Losses" means losses, liabilities, damages, obligations, payments, costs, and expenses (including the costs and expenses of any and all actions, suits, proceedings, assessments, judgments, settlements, and compromises relating thereto and reasonable attorneys' fees and reasonable disbursements in connection therewith).

"Material Adverse Effect" means any event, effect, change or development that, individually or in the aggregate, (i) other than for purposes of Section 9.2(e), prevents or materially delays or impairs the ability of Seller to consummate the transactions contemplated herein; or (ii) is materially adverse to the financial condition, properties, assets, liabilities (contingent or otherwise), business, or results of operation of the Business and the Purchased Assets, together with the Natural Gas Businesses and the Natural Gas Assets, taken as a whole, in each case excluding any effect on, change in, or development caused by, or event, effect or development resulting from, or arising out of, (A) factors generally affecting the economy, financial markets, capital markets, or commodities markets, except to the extent the Business and the Purchased Assets, together with the Natural Gas Businesses and the Natural Gas Assets, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated companies; (B) factors, including changes in Law, generally affecting any industry or any segment of any industry in which the Business operates, except to the extent the Business and the Purchased Assets, together with the Natural Gas Businesses and the Natural Gas Assets, taken as a whole, are adversely affected in a substantially disproportionate manner as compared to similarly situated participants in such industry or such segment of such industry; (C) the execution, announcement or performance of this Agreement, the Asset Purchase Agreement or the Merger Agreement, including, in each case, the impact thereof on relationships, contractual or otherwise, with Governmental Entities, customers, suppliers, licensors, distributors, partners or employees; (D) the commencement, occurrence, continuation or intensification of any war, sabotage, armed hostility or terrorism, other than any matter or event occurring in the geographic region served by the Business and the Purchased Assets, together with the Natural Gas Businesses and the Natural Gas Assets, taken as a whole; (E) any event,

circumstance or condition disclosed in Schedule 1.1-G; and (F) any action taken by Seller or any of its Subsidiaries with Buyer's written consent referring to this subsection (F).

"Natural Gas Assets" means the assets of Seller used in the operation of the Natural Gas Businesses to be purchased or acquired by Buyer pursuant to the Asset Purchase Agreement.

"Natural Gas Businesses" means the natural gas utility businesses conducted by Seller serving customers in Iowa, Kansas and Nebraska.

"Non-Permitted Encumbrances" means (i) Encumbrances securing or created by or in respect of any of the Excluded Liabilities (other than Excluded Liabilities that are included in the "Assumed Obligations" under the Asset Purchase Agreement); (ii) statutory liens for material delinquent Taxes, or material delinquent assessments, other than such Taxes or assessments that will become an Assumed Obligation pursuant to Section 2.3 (or will become an "Assumed Obligation" pursuant to the Asset Purchase Agreement); and (iii) Encumbrances that individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; provided that, in determining if any Encumbrances would individually or in the aggregate reasonably be expected to have a Material Adverse Effect for purposes of clause (iii) of this definition, the following Encumbrances will be excluded: (A) mechanics', carriers', workers', repairers', landlords', and other similar liens arising or incurred in the ordinary course of business relating to obligations to which there is no default on the part of Seller, (B) pledges, deposits or other liens securing the performance of bids, trade contracts, leases or statutory obligations (including workers' compensation, unemployment insurance, or other social security legislation), (C) zoning, entitlement, restriction, and other land use and environmental regulations by Governmental Entities that do not materially interfere with the present use of the Purchased Assets, (D) any Encumbrance set forth in any state, local, or municipal franchise or governing ordinance, or any franchise or other agreement entered into by Seller in connection with any such ordinance, under which any portion of the Business is conducted, (E) all rights of condemnation, eminent domain, or other similar rights of any Person, or (F) such other Encumbrances (including requirements for consent or notice in respect of assignment of any rights) that do not materially interfere with the Companies' use of the Purchased Assets for the Business, and do not secure indebtedness or the payment of the deferred purchase price of property (except for Assumed Obligations hereunder or that are included in the "Assumed Obligations" under the Asset Purchase Agreement).

"Order" means any order, judgment, writ, injunction, decree, directive, or award of a court, administrative judge, or other Governmental Entity acting in an adjudicative or regulatory capacity, or of an arbitrator with applicable jurisdiction over the subject matter.

"Party" means Buyer or Seller, or Buyer, Seller, Limited Partner, Parent or Merger Sub, as indicated by the context, and "Parties" means Buyer and Seller, or Buyer, Seller, Limited Partner, Parent and Merger Sub, as indicated by the context.

"Permits" means all permits, certifications, licenses, franchises, approvals, consents, waivers or other authorizations of Governmental Entities issued under or with respect to applicable Laws or Orders and used or held by Seller for the operation of the Business, other than Environmental Permits.

"Person" means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, or Governmental Entity.

"Preferential Purchase Rights" means rights of any Person (other than rights of condemnation, eminent domain, or other similar rights of any Person) to purchase or acquire any interest in any of the Purchased Assets, including rights that are conditional upon a sale of any Purchased Assets or any other event or condition.

"Prime Rate" means, for any day, the per annum rate of interest quoted by Citibank, N.A. as its prime rate.

"PUC" means the Public Utilities Commission of the State of Colorado.

"Regulatory Order" means an Order issued by the PUC or FERC that affects or governs the rates, services, or other utility operations of the Business.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Required Regulatory Approvals" means the Seller Required Regulatory Approvals and the Buyer Required Regulatory Approvals.

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933.

"Seller Disclosure Schedule" means, collectively, all Schedules other than Schedule 1.1-C and Schedule 6.3.

"Seller Marks" means the names "Aquila," "Aquila Networks," "Energy One," "Service Guard," "UtiliCorp," "Peoples Natural Gas," "West Plains Energy," "Kansas Public Service," and any derivative of any of the foregoing, and any related, similar, and other trade names, trademarks, service marks, and logos of Seller, and any domain names incorporating any of the foregoing.

"Seller Pension Plan" means the Aquila, Inc. Retirement Income Plan, as amended from time to time.

"Seller Required Regulatory Approvals" means (i) the filings by Parent, Seller and Buyer required by the HSR Act in connection with the transactions contemplated by this Agreement, the Asset Purchase Agreement and the Merger Agreement, and the expiration or earlier termination of all waiting periods under the HSR Act, and (ii) the approvals set forth on Schedule 1.1-E.

"Seller SEC Filings" means forms, statements, reports, schedules and other documents required to be filed or furnished by Seller with or to the SEC pursuant to applicable Laws and policies since January 1, 2005.

"Seller's Knowledge," or words to similar effect, means the actual knowledge of the persons set forth in Schedule 1.1-F.

"Seller's Representatives" means Seller's accountants, employees, counsel, environmental consultants, financial advisors, and other representatives.

"Shared Code" means all computer software applications, programs and interfaces, including source and object code therefor, owned by Seller immediately prior to the Closing. "Shared Code" shall not include any computer software applications, programs or interfaces, or any part thereof, owned by any third party.

"Subsidiary," when used in reference to a Person, means any Person of which outstanding securities or other equity interests having ordinary voting power to elect a majority of the board of directors or other Persons performing similar functions of such Person are owned or controlled directly or indirectly by such first Person.

"Tax" and "Taxes" means all taxes, charges, fees, levies, penalties, or other assessments imposed by any foreign or United States federal, state, or local taxing authority, including income, excise, property, sales, transfer, franchise, license, payroll, withholding, social security, or other taxes (including any escheat or unclaimed property obligations), including any interest, penalties, or additions attributable thereto.

"Tax Affiliate" of a Person means a member of that Person's Affiliated Group and any other Subsidiary of that Person which is a partnership or is disregarded as an entity separate from that Person for Tax purposes.

"Tax Return" means any return, report, information return, or other document (including any related or supporting information) required to be supplied to any Governmental Entity with respect to Taxes.

"Termination Fee" means the "Termination Fee," if any, required to be paid by Parent to Buyer under Section 10.2 of the Asset Purchase Agreement.

"Territory" means the service territories of Seller's gas and electric utility businesses in Colorado.

"Transferred Employee Records" means the following records relating to Transferred Employees: (i) skill and development training records and resumes, (ii) seniority histories, (iii) salary and benefit information, (iv) Occupational, Safety and Health Administration medical reports, (v) active medical restriction forms, and (vi) job performance reviews and applications; provided that such records will not be deemed to include any record which Seller is restricted by Law, Order, or agreement from providing to Buyer.

"Transition Services Agreement" means the Transition Services Agreement, dated the date hereof, among Buyer, Parent and Merger Sub.

"WARN Act" means the Worker Adjustment Retraining and Notification Act of 1988, as amended.

"Water Rights" means the real and personal property rights and interests (including easement rights) associated with Seller's water, well, and mutual ditch company interests principally used for the Business.

(b) In addition, each of the following terms has the meaning specified in the Exhibit or Section set forth opposite such term:

Term	Reference
Accounts Payable	Section 2.3(f)
Actual Capital Expenditures	Section 3.1(b)
Actual Working Capital	Section 3.1(b)
Adjusted Section 4044 Amount	Exhibit 8.8(d)(ii)(C)
Adjustment Amount	Section 3.1(b)
Adjustment Dispute Notice	Section 3.2(c)
Agreement	Preamble
Allocated Rights and Obligations	Section 8.5(d)
Applicable Period	Section 8.8(d)(ii)(E)
Applicable Preferential Purchase Right	Section 8.9(c)
Asset Purchase Agreement	Recitals
Assumed Environmental Liabilities	Section 2.3(g)
Assumed Obligations	Section 2.3
Base Price	Section 3.1(a)
Benefit Plan	Section 5.12(a)
Buyer	Preamble
Buyer Financing	Section 6.5(a)

Buyer Financing Commitments	Section 6.5(b)
Buyer Pension Plan Trust	Exhibit 8.8(d)(ii)(C)
CB Transferred Employees	Section 8.8(a)
Capital Expenditures	Section 3.1(b)
Capital Expenditures Budget	Section 3.1(b)
Closing	Section 4.1
Closing Date	Section 4.1
Closing Payment Amount	Section 3.2(a)
Collective Bargaining Agreement	Section 5.11
Confidential Business Information	Section 8.2(c)
Confidential Information	Section 8.2(b)
Contingent Purchased Assets	Section 8.5(f)(ii)
Correct Purchase Price	Section 3.2(d)
Covered Individuals	Section 8.8(d)(ii)(D)
Current Retirees	Section 8.8(d)(ii)(D)
Customer Notification	Section 8.13
Division Income Statement Information	Section 5.5(b)
Easements	Section 8.5(a)
Electric Opco	Recitals
Excluded Assets	Section 2.2
Excluded Liabilities	Section 2.4
Final Purchase Price	Section 3.2(e)
Financial Hedge	Section 8.5(c)
Franchises	Section 5.13(b)

Gas Opco	Recitals
Initial Transfer Amount	Exhibit 8.8(d)(ii)(C)
Initial Transfer Date	Exhibit 8.8(d)(ii)(C)
Interests Transfer	Section 2.1
Interim Period	Section 8.5(f)(ii)
Lease Buy-Out Amount	Section 3.1(b)
Limited Partner	Preamble
Locals	Section 8.8(c)
Merger	Recitals
Merger Agreement	Recitals
Methodologies	Section 3.1(b)
New CBA	Section 8.8(c)
Non-CB Transferred Employees	Section 8.8(a)
Other Arrangements	Section 8.5(d)
Other Plan Participants	Exhibit 8.8(d)(ii)(C)
Parent	Preamble
Post-Retirement Welfare Benefits	Section 8.8(d)(ii)(D)
Proposed Adjustment Amount	Section 3.2(b)
Proposed Adjustment Statement	Section 3.2(b)
Proposed Purchase Price	Section 3.2(b)
Purchase Price	Section 3.1(a)
Purchased Assets	Section 2.1
Qualifying Offer	Section 8.8(a)
Real Property	Section 2.1(a)

Reduction Amount	Exhibit 8.8(d)(ii)(C)
Reference Balance Sheet	Section 3.1(b)
Reference Capital Expenditures	Section 3.1(b)
Reference Working Capital	Section 3.1(b)
Regulatory Material Adverse Effect	Section 8.4(e)
Retained Agreements	Section 2.2(l)
Savings Plan	Section 8.8(d)(ii)(E)
Section 4044 Amount	Exhibit 8.8(d)(ii)(C)
Selected Balance Sheet Information	Section 5.5(a)
Seller	Preamble
Seller Pension Plan Trust	Exhibit 8.8(d)(ii)(C)
Severance Compensation Agreements	Section 2.1(h)
Shared Agreements	Section 8.5(d)
Straddle Period Taxes	Section 8.7(b)
Substitute Arrangements	Section 8.5(d)
Successor Collective Bargaining Agreement	Section 5.11
Termination Date	Section 10.1(b)
Transfer Taxes	Section 8.7(a)
Transferable Environmental Permits	Section 2.1(i)
Transferable Permits	Section 2.1(g)
Transferred Employee	Section 8.8(a)
Transition Committee	Section 8.1(b)
True-Up Amount	Exhibit 8.8(d)(ii)(C)

True-Up Date	Exhibit 8.8(d)(ii)(C)
Unrecovered Fuel Adjustment	Section 3.1(b)
Unrecovered Purchased Gas Adjustment	Section 3.1(b)
Working Capital	Section 3.1(b)

1.2 Other Definitional and Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply:

(a) Calculation of Time Period. When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a non-Business Day, the period in question will end on the next succeeding Business Day.

(b) Dollars. Any reference in this Agreement to "dollars" or "$" means U.S. dollars.

(c) Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or a "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Schedule or Exhibit but not otherwise defined therein are defined as set forth in this Agreement.

(d) Gender and Number. Any reference in this Agreement to gender includes all genders, and the meaning of defined terms applies to both the singular and the plural of those terms.

(e) Headings. The provision of a Table of Contents, the division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and will not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) References. References to any agreement, instrument or other document means that agreement, instrument or other document as amended, modified or supplemented from time to time, including by waiver or consent, and all attachments thereto and instruments incorporated therein.

(g) "Herein." The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Schedules and Exhibits to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires.

(h) "Including." The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it.

(i) "To the extent." The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject.

(j) "Principally in the Business." With reference to assets owned by Seller, and liabilities of Seller, which are used by, in, or for, or relate to, the Business, the phrases "principally in the Business," "principally for the Business," and other statements of similar import will be construed to refer to assets or liabilities that are: (A) specifically listed in a Schedule setting forth Purchased Assets or Assumed Obligations; or (B) otherwise are devoted principally to (or in the case of liabilities, are related principally to) the Business other than Excluded Assets and Excluded Liabilities.

1.3 Joint Negotiation and Preparation of Agreement. The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as jointly drafted by the Parties hereto and no presumption or burden of proof favoring or disfavoring any Party will exist or arise by virtue of the authorship of any provision of this Agreement.

ARTICLE II

PURCHASE AND SALE

2.1 The Sale. Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at the Closing, Seller and Limited Partner will sell, assign, convey, transfer, and deliver to Buyer and to Buyer's designated limited partner, and Buyer and Buyer's designee will purchase and acquire the Company Interests from Seller as the general partner of Electric Opco and Gas Opco, and from Limited Partner as the limited partner of Electric Opco and Gas Opco (the "Interests Transfer"). Immediately prior to the Interests Transfer and the Closing, Seller will transfer and cause the Companies to acquire from Seller, subject to all Encumbrances except for Non-Permitted Encumbrances, all of Seller's right, title, and interest in, to, and under the real and personal property, tangible or intangible, principally related to the Business, including as described below, as the same exists at the Closing (and, as applicable and as permitted or contemplated hereby, or as Buyer and Parent agree, with such additions and eliminations of assets as shall occur from the date hereof through the Closing), except to the extent that such assets are Excluded Assets (collectively, the "Purchased Assets"):

(a) Seller's real property and real property interests located in Colorado, including (i) as described on Schedule 2.1(a), (ii) buildings, structures, other improvements, and fixtures located thereon, (iii) all rights, privileges, easements and appurtenances thereto, the leasehold and subleasehold interests under the leases described on Schedule 5.9, (iv) the Easements to be conveyed at the Closing pursuant to Section 8.5(a), and (v) any installation, facility, plant (including any manufactured gas plant), or site (including any manufactured gas

plant site) described on Schedule 2.1(a) that (A) at the Closing is operated, owned, leased, or otherwise under the control of or attributed to Seller or the Business, and (B) is located in the Territory (collectively, the "Real Property");

(b) the accounts receivable and inventories owned by Seller and principally related to the Business, and other similar or related items principally related to the Business;

(c) the Documents;

(d) the machinery, equipment, vehicles, furniture, pipeline system, natural gas, distribution assets, electrical distribution assets, and other tangible personal property owned by Seller and used principally in the Business, including the vehicles and equipment listed on Schedule 2.1(d) to be attached to the Agreement prior to July 1, 2007, and all warranties against manufacturers or vendors relating thereto;

(e) the Business Agreements and the Franchises;

(f) the Allocated Rights and Obligations to the extent transferred to the Companies pursuant to Section 8.5(d);

(g) the Permits, in each case to the extent the same are assignable (the "Transferable Permits");

(h) the severance compensation agreements, if any, between Seller and the Business Employees, as applicable (the "Severance Compensation Agreements");

(i) the Environmental Permits, including those listed on Schedule 5.10(a)-2, in each case to the extent the same are assignable (the "Transferable Environmental Permits");

(j) in addition to the claims, rights and proceeds described in Section 2.1(r), to the extent (i) Seller has received any insurance proceeds from settlements with insurance providers prior to the date hereof relating to costs to clean-up any Real Property as required under any Environmental Laws, including any manufactured gas plant sites acquired by Buyer pursuant to this Agreement, and (ii) such clean-up costs have not been incurred prior to the Closing Date, a pro-rata share of such proceeds to be allocated to the Real Property based upon the estimated clean-up costs of all similar sites of Seller covered by such proceeds;

(k) any refund or credit related to Taxes paid by or on behalf of Seller for which Buyer is liable pursuant to Section 8.7, whether such refund is received as a payment or as a credit against future Taxes payable;

(l) Claims and defenses of Seller to the extent such Claims or defenses arise principally with respect to the Purchased Assets or the Assumed Obligations, provided that any such Claims and defenses will be assigned to the Companies without warranty or recourse;

(m) assets transferred pursuant to Section 8.8;

(n) any other assets owned by Seller and set forth on Schedule 2.1(n);

(o) assets included in the FERC Accounts upon which the Selected Balance Sheet Information was prepared;

(p) any credits, benefits, emissions reductions, offsets and allowances with respect to any Environmental Laws purchased by or granted or issued to Seller for use by or with respect to the Business or the Purchased Assets;

(q) any other assets of Seller used principally in the Business; and

(r) any claims or rights under or proceeds of Seller's insurance policies to the extent related to the Business, the Purchased Assets or the Assumed Obligations, including claims, rights or proceeds contemplated by Section 8.9(b).

2.2 Excluded Assets. The Purchased Assets do not include any property or assets of Seller not described in Section 2.1 and, notwithstanding any provision to the contrary in Section 2.1 or elsewhere in this Agreement, the Purchased Assets do not include the following property or assets of Seller (all assets excluded pursuant to this Section 2.2, the "Excluded Assets"):

(a) cash, cash equivalents, and bank deposits;

(b) certificates of deposit, shares of stock, securities, bonds, debentures, evidences of indebtedness, and any other debt or equity interest in any Person;

(c) properties and assets principally used in or for the conduct of the electric utility business conducted by Seller in the States of Kansas or Missouri, or the Natural Gas Businesses;

(d) except as set forth in Section 2.1(k), any refund or credit related to Taxes paid by or on behalf of Seller, whether such refund is received as a payment or as a credit against future Taxes payable;

(e) funds, letters of credit and other forms of credit support that have been deposited by Seller as collateral to secure Seller's obligations;

(f) all books, records, or the like other than the Documents;

(g) any assets that have been disposed of in the ordinary course of business or otherwise in compliance with this Agreement prior to Closing;

(h) except as expressly provided in Section 2.1(d) and Section 2.1(l), all of the Claims or causes of action of Seller against any Person;

(i) except as included on Schedule 2.1(n), assets used for performance of the Central or Shared Functions;

(j) except as provided in Section 2.1(j), Section 2.1(l) and Section 2.1(r), all insurance policies, and rights thereunder, including any such policies and rights in respect of the Purchased Assets or the Business;

(k) the rights of Seller arising under or in connection with this Agreement, any certificate or other document delivered in connection herewith, and any of the transactions contemplated hereby and thereby;

(l) all (i) agreements and contracts set forth on Schedule 2.2(l) to be attached to the Agreement prior to July 1, 2007 (the "Retained Agreements"), (ii) Shared Agreements (except to the extent provided by Section 8.5(d)), and (iii) other agreements and contracts not included in the Business Agreements and Franchises;

(m) all software, software licenses, information systems, management systems, and any items set forth in or generally described in subparts (i) through (vi) of the definition of "Documents" in Section 1.1(a) other than the software and related assets set forth on Schedule 2.1(n); and

(n) any assets of any Benefit Plan, except as otherwise provided in Section 8.8.

2.3 Assumed Obligations. On the Closing Date, each of the Companies will deliver to Seller the Assignment and Assumption Agreement pursuant to which each of the Companies will assume and agree to discharge all of the debts, liabilities, obligations, duties, and responsibilities of Seller of any kind and description, whether absolute or contingent, monetary or non-monetary, direct or indirect, known or unknown, or matured or unmatured, or of any other nature, to the extent incurred either prior to or after the Closing, and principally related to the Purchased Assets or the Business, including those obligations and liabilities set forth in the Selected Balance Sheet Information, other than Excluded Liabilities (the "Assumed Obligations"), in accordance with the respective terms and subject to the respective conditions thereof, including the following liabilities and obligations:

(a) all liabilities and obligations of Seller under the Business Agreements, the Severance Compensation Agreements, the Transferable Permits, the Transferable Environmental Permits, the Preferential Purchase Rights assigned to the Companies pursuant to Section 8.9(c), the Allocated Rights and Obligations transferred to the Companies pursuant to Section 8.5(d), and any other agreements or contractual rights assigned to the Companies pursuant to the terms of this Agreement;

(b) all liabilities and obligations of Seller with respect to customer deposits, customer advances for construction and other similar items related principally to the Business or the Purchased Assets;

(c) all liabilities and obligations relating to unperformed service obligations, Easement relocation obligations, and engineering and construction required to complete scheduled construction, construction work in progress, and other capital expenditure projects, in each case related principally to the Business and outstanding on or arising after the Closing;

(d) all liabilities and obligations associated with the Purchased Assets or the Business in respect of Taxes for which Buyer or the Companies are liable pursuant to Section 8.7;

(e) all liabilities and obligations for which Buyer or the Companies are responsible pursuant to Section 8.8;

(f) all trade accounts payable and other accrued and unpaid current expenses in respect of goods and services incurred by or for the Business to the extent attributable to the period prior to the Closing (the "Accounts Payable");

(g) (i) all Environmental Claims, and (ii) all liabilities, obligations and demands arising under, in respect of, or relating to past, present, and future Environmental Laws, existing, arising, or asserted with respect to the Business or the Purchased Assets, whether before, on, or after the Closing Date (the "Assumed Environmental Liabilities"). For avoidance of doubt, the Assumed Environmental Liabilities include all liabilities and obligations (including liabilities and obligations based upon the presence, Release, or threatened Release of Hazardous Materials) of Seller directly or indirectly relating to, caused by, or arising in connection with the operation, ownership, use, or other control of or activity at or relating to any installation, facility, plant (including any manufactured gas plant), or site (including any manufactured gas plant site) that at the Closing is, or at any time prior to the Closing was, (i) operated, owned, leased, or otherwise under the control of or attributed to any of Seller, the Business, or any predecessor in interest of Seller or the Business, and (ii) located in the Territory or any areas previously served by the Business or any predecessor of the Business; provided, however, that the Assumed Environmental Liabilities do not include any such liabilities, obligations, Environmental Claims, or demands in respect of real property that is both (A) owned or leased by Seller as of the date of this Agreement, and (B) not included in the Purchased Assets; and

(h) all liabilities and obligations of Seller, the Companies or Buyer arising before, on or after the Closing Date (i) under any Regulatory Orders applicable to the Business or the Purchased Assets, or (ii) imposed on Buyer, the Companies or the Purchased Assets or Business in connection with any Required Regulatory Approval.

2.4 Excluded Liabilities. Neither Buyer nor the Companies will assume or will be obligated to pay, perform, or otherwise discharge any of the following liabilities or obligations (collectively, the "Excluded Liabilities"):

(a) any liabilities or obligations of Seller to the extent related to any Excluded Assets;

(b) any liabilities or obligations of Seller in respect of indebtedness for borrowed money or the deferred purchase price of property;

(c) any liabilities or obligations in respect of Taxes of Seller or any Tax Affiliate of Seller, or any liability of Seller for unpaid Taxes of any Person under Treasury regulation section 1.1502-6 (or similar provision of state, local, or foreign law) as a transferee or successor, by contract or otherwise, except for Taxes for which Buyer or the Companies are liable pursuant to Section 8.7;

(d) any and all liabilities arising in connection with the ERISA Case and, except as otherwise provided in Section 2.6 or Section 8.8, any other liability or obligation of Seller or an ERISA Affiliate of Seller to any employee of Seller under or in connection with any of the Benefit Plans, including under any deferred compensation arrangement or severance policy or any obligation to make any parachute or retention payment, including any liability related to the matters set forth on Schedule 5.12(d); and

(e) except as set forth in Section 2.6, any other liability, obligation, duty or responsibility of Seller not principally related to the Purchased Assets or the Business.

2.5 Allocation of the Purchased Assets and the Assumed Obligations. Electric Opco will acquire and assume the Purchased Assets and the Assumed Obligations principally related to the Electric Business and Gas Opco will acquire and assume the Purchased Assets and the Assumed Obligations principally related to the Gas Business. Prior to the Closing Date, Buyer and Seller will work together in good faith to agree upon the allocation of the Purchased Assets and the Assumed Obligations between Electric Opco and Gas Opco.

2.6 Post-Closing Liabilities. As of the Closing Date:

(a) With respect to the Corporate Employees, Buyer will reimburse Seller or Seller's successor for 40% of all costs of short-term severance-related benefits, including outplacement benefits, gross-ups for taxes, and severance payments made or provided by Seller or Seller's successor to such employees in connection with the termination of such employees prior to or at the Closing as a result of the transactions contemplated by this Agreement, the Partnership Interests Purchase Agreement and the Merger Agreement.

(b) Parent and Seller will, and Parent will cause Seller's successor to, reimburse Buyer for any Losses, costs or expenses incurred by Buyer with respect to any Excluded Liabilities (other than any Excluded Liabilities that are assumed by Buyer or an Affiliate of Buyer pursuant to the Asset Purchase Agreement).

(c) Buyer will reimburse Seller, or Seller's successor, as applicable, for any Losses, costs or expenses incurred by Parent, Seller or Seller's successor with respect to any Assumed Obligations.

ARTICLE III

PURCHASE PRICE

3.1 Purchase Price.

(a) The purchase price for the Company Interests (the "Purchase Price") will be an amount equal to $340,000,000 (the "Base Price"), adjusted as follows: (i) the Base Price will be increased by the Adjustment Amount if the Adjustment Amount is a positive number; and (ii) the Base Price will be reduced by the Adjustment Amount if the Adjustment Amount is a negative number.

(b) The following definitions shall be used to compute the Purchase Price:

"Actual Capital Expenditures" means the actual Capital Expenditures for the period between the date hereof and the Closing Date.

"Actual Working Capital" means Working Capital as of the Closing Date.

"Adjustment Amount" means (i) Actual Working Capital minus Reference Working Capital, plus (ii) Actual Capital Expenditures minus Reference Capital Expenditures, plus (iii) an amount equal to the aggregate under-billed amount, or minus an amount equal to the aggregate over-billed amount, of the Unrecovered Purchased Gas Adjustment as of the Closing Date for the Gas Business and the Unrecovered Fuel Adjustment as of the Closing Date for the Electric Business, plus (iv) an amount equal to the Lease Buy-Out Amount.

"Capital Expenditures" for any period means the amount of expenditures of the Business for such period which must be capitalized in accordance with the Methodologies.

"Capital Expenditures Budget" means the budget attached hereto as Schedule 3.1(a).

"Lease Buy-Out Amount" means an amount equal to the aggregate purchase price to purchase the vehicles included in the Purchased Assets that are subject to the Master Lease Agreement as described in Schedule 5.8 and are purchased by Seller prior to the Closing pursuant to Section 8.5(h).

"Methodologies" means (i) the methods used in the preparation of the Reference Balance Sheet and the Capital Expenditures Budget; (ii) to the extent consistent with the foregoing, the past practices of the Business; and (iii) to the extent consistent with all of the foregoing, GAAP, in each case of clauses (i), (ii) and (iii), applied on a consistent basis.

"Reference Balance Sheet" means the projected balance sheet of the Business as of December 31, 2007 attached hereto as Schedule 3.1(b).

"Reference Capital Expenditures" means the amount of the Capital Expenditures as set forth in the Capital Expenditures Budget.

"Reference Working Capital" means the Working Capital of the Business estimated as of December 31, 2007, as set forth in Schedule 3.1(c).

"Unrecovered Fuel Adjustments" means the amount of fuel cost adjustment otherwise permitted under Seller's tariff for the Electric Business, not yet paid by the customers of the Electric Business, or that the Electric Business has not yet reimbursed to its customers.

"Unrecovered Purchased Gas Adjustment" means the amount of purchased gas adjustment otherwise permitted under Seller's tariff for the Gas Business, not yet paid by the customers of the Gas Business, or that the Gas Business has not yet reimbursed to its customers.

"Working Capital" as of any date means the "current assets" of the Business as of such date minus the "current liabilities" of the Business as of such date (which may be a positive or negative amount), determined in each case in accordance with the Methodologies.

3.2 Determination of Adjustment Amount and Purchase Price.

(a) No later than fifteen (15) days prior to the Closing Date, Seller, in consultation with Parent and Buyer, will prepare and deliver to Buyer and Parent, Seller's best estimate of the Actual Working Capital, the Actual Capital Expenditures, the Unrecovered Fuel Adjustment, the Unrecovered Purchased Gas Adjustment, the Lease Buy-Out Amount, the Adjustment Amount and the Purchase Price to be paid at the Closing, based on Seller's best estimates of the Adjustment Amount (such estimated Purchase Price being referred to herein as the "Closing Payment Amount").

(b) Within ninety (90) days after the Closing Date, Buyer will prepare and deliver to Parent a statement (the "Proposed Adjustment Statement") that reflects Buyer's determination of (i) the Actual Working Capital, the Actual Capital Expenditures, the Unrecovered Fuel Adjustment, the Unrecovered Purchased Gas Adjustment, the Lease Buy-Out Amount and the Adjustment Amount (the "Proposed Adjustment Amount"), and (ii) the Purchase Price based on the Proposed Adjustment Amount (the "Proposed Purchase Price"). In addition, Buyer will provide Parent with supporting assumptions and calculations, in reasonable detail, for such determinations at the time it delivers the Proposed Adjustment Statement. Parent and Seller agree to, and Parent agrees to cause Seller's successor to, cooperate with Buyer after the Closing in connection with the preparation of the Proposed Adjustment Statement and related information, and will provide Buyer with access to Seller's books, records, information, and employees that are primarily related to the Business and the Purchased Assets that are in Seller's or its successor's possession or control as Buyer may reasonably request.

(c) The amounts determined by Buyer as set forth in the Proposed Adjustment Statement will be final, binding, and conclusive for all purposes unless, and only to the extent, that within thirty (30) days after Buyer has delivered the Proposed Adjustment Statement, Parent notifies Buyer of any dispute with matters set forth in the Proposed Adjustment Statement. Any such notice of dispute delivered by Parent (an "Adjustment Dispute Notice") will identify with reasonable specificity each item in the Proposed Adjustment Statement with respect to which Parent disagrees, the reason for such disagreement, and Parent's position with respect to such disputed item, and will include Parent's recalculation of the Adjustment Amount and the Purchase Price. Parent shall be conclusively deemed to have accepted any item in the Proposed Adjustment Statement not addressed by the Adjustment Dispute Notice.

(d) If Parent delivers an Adjustment Dispute Notice in compliance with Section 3.2(c), Buyer and Parent will attempt to reconcile their differences and any resolution by them as to any disputed amounts will be final, binding, and conclusive for all purposes on the Parties. If Buyer and Parent are unable to reach a resolution with respect to all disputed items within forty five (45) days of delivery of the Adjustment Dispute Notice, Buyer and Parent will submit any items remaining in dispute for determination and resolution to the Independent Accounting Firm, which will be instructed to determine and report to the Parties, within thirty (30) days after such submission, upon such remaining disputed items. The determination of the Independent Accounting Firm on each issue shall be neither more favorable to Buyer than shown in the Proposed Adjustment Statement nor more favorable to Parent than shown in the Adjustment Dispute Notice. The report of the Independent Accounting Firm will identify the correct Actual Working Capital, Actual Capital Expenditures, Unrecovered Fuel Adjustment,

Unrecovered Purchased Gas Adjustment, Lease Buy-Out Amount, Adjustment Amount and Purchase Price (the "Correct Purchase Price") and such report will be final, binding, and conclusive on the Parties for all purposes. The fees and disbursements of the Independent Accounting Firm will be allocated between Buyer and Parent so that Parent's share of such fees and disbursements will be in the same proportion that the aggregate amount of such remaining disputed items so submitted to the Independent Accounting Firm that is unsuccessfully disputed by Parent (as finally determined by the Independent Accounting Firm) bears to the total amount of the disputed amounts so submitted to the Independent Accounting Firm, with the remaining amount allocated to Buyer.

(e) "Final Purchase Price" shall mean (i) the Proposed Purchase Price, if Parent does not deliver an Adjustment Dispute Notice; (ii) the amount agreed between Parent and Purchaser, if any; or (iii) the Correct Purchase Price, if determined by the Independent Accounting Firm. Within five (5) days following the final determination of the Final Purchase Price pursuant to Sections 3.2(b), (c) and (d), (x) if the Final Purchase Price is greater than the Closing Payment Amount, Buyer will pay the difference to Seller or its successor; or (y) if the Final Purchase Price is less than the Closing Payment Amount, Parent will cause Seller, or its successor, to pay the difference to Buyer. Any amount paid under this Section 3.2(e) will be paid with interest for the period commencing on the Closing Date through the date of payment, calculated at the Prime Rate in effect on the Closing Date, in cash by wire transfer of same day funds to the account specified by the Party receiving payment.

3.3 Allocation of Purchase Price. The sum of the Purchase Price and the Assumed Obligations will be allocated among the Purchased Assets on a basis consistent with section 1060 of the Code and the Treasury regulations promulgated thereunder. Within one hundred eighty (180) days following the Closing Date, the Parties will work together in good faith to agree upon such allocation; provided that in the event that such agreement has not been reached within such 180-day period, the allocation will be determined by the Independent Accounting Firm, and such determination will be binding on the Parties. Parent and Buyer will each pay one-half of the fees and expenses of the Independent Accounting Firm in connection with such determination. Each Party will, and Parent will cause Seller's successor to, report the transactions contemplated by the Agreement for federal Income Tax and all other Tax purposes in a manner consistent with such allocation. Each Party will provide the other promptly with any other information required to complete Form 8594 under the Code. Each Party will notify the other, and will provide the other with reasonably requested cooperation, in the event of an examination, audit, or other proceeding regarding the allocations provided for in this Section 3.3.

3.4 Proration.

(a) Solely for purposes of determining the Proposed Purchase Price and the Final Purchase Price under Section 3.2, property Taxes, utility charges, and similar items customarily prorated, including those listed below, to the extent relating to the Business or the Purchased Assets and which are not due or assessed until after the Closing Date but which are attributable to any period (or portion thereof) ending on or prior to the Closing Date, will be prorated as of the Closing Date. Such items to be prorated will include:

(i) personal property and real property Taxes, assessments, franchise Taxes, and other similar periodic charges, including charges for water, telephone, electricity, and other utilities;

(ii) any permit, license, registration, compliance assurance fees or other fees with respect to any Transferable Permits and Transferable Environmental Permits; and

(iii) rents under any leases of real or personal property.

(b) In connection with any real property Tax prorations pursuant to Section 3.4(a), including installments of special assessments, the amount allocated to Buyer shall equal the amount of the current real property Tax or installment of special assessments, as the case may be, multiplied by a fraction, (i) the numerator of which is the number of days from the date of the immediately preceding installment to the day before the Closing Date, and (ii) the denominator of which is the total number of days in the assessment period in which the Closing Date occurs. In connection with any other prorations, in the event that actual amounts are not available at the Closing Date, the proration will be based upon the Taxes, assessments, charges, fees, or rents for the most recent period completed prior to the Closing Date for which actual Taxes, assessments, charges, fees, or rents are available. All prorations will be based upon the most recent available Tax rates, assessments, and valuations.

(c) Parent agrees to cause Seller or its successor to furnish Buyer, and Buyer agrees to cause the Companies to furnish Parent, with such documents and other records as may be reasonably requested in order to confirm all proration calculations made pursuant to this Section 3.4.

ARTICLE IV

THE CLOSING

4.1 Time and Place of Closing. Upon the terms and subject to the satisfaction of the conditions contained in ARTICLE IX of this Agreement, the closing of the transfer of the Purchased Assets and assumption of the Assumed Obligations to and by the Companies and the Interests Transfer (the "Closing") will take place at the offices of Fried, Frank, Harris, Shriver & Jacobson LLP, One New York Plaza, New York, New York 10004, beginning at 10:00 A.M. (New York time) on the first Business Day on which the conditions set forth in ARTICLE IX have been satisfied or waived in accordance with this Agreement (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of the conditions), or at such other place or time as the Parties may agree. The date on which the Closing occurs is referred to herein as the "Closing Date." The transfer of the Purchased Assets to the Companies and assumption by the Companies of the Assumed Obligations will be effective on the Closing Date immediately before the Closing. The purchase and sale of the Company Interests will be effective on the Closing Date immediately before the effective time of the Merger.

4.2 Payment of Closing Payment Amount. At the Closing, Buyer will pay or cause to be paid to Seller, or at Parent's direction, to the Exchange Agent or to Merger Sub, the Closing

Payment Amount, by wire transfers of same day funds or by such other means as may be agreed upon by Parent and Buyer.

4.3 Deliveries by Parent, the Companies and Seller. At or prior to the Closing, Seller, the Companies and Parent, as the Parties determine to be applicable, will deliver the following to Buyer:

(a) the Bills of Sale, duly executed by Seller and Gas Opco or Electric Opco, as applicable;

(b) the Assignment and Assumption Agreement, duly executed by Seller and Gas Opco or Electric Opco, as applicable;

(c) all consents, waivers or approvals obtained by Seller from third parties in connection with this Agreement;

(d) the certificate contemplated by Section 9.2(d);

(e) one or more deeds of conveyance of the parcels of Real Property with respect to which Seller holds fee interests, in forms reasonably acceptable to the Parties, duly executed and acknowledged by Seller and in recordable form, as necessary to convey the Real Property to the Companies;

(f) one or more instruments of assignment or conveyance, substantially in the form of the Assignment of Easements, as are necessary to transfer the Easements to the Companies pursuant to Section 8.5(a);

(g) all such other instruments of assignment or conveyance as are reasonably requested by Buyer in connection with the transfer of the Purchased Assets to the Companies, each in accordance with this Agreement;

(h) certificates of title for certificated motor vehicles or other titled Purchased Assets, duly executed by Seller as may be required for transfer of such titles to the Companies pursuant to this Agreement;

(i) terminations or releases of Non-Permitted Encumbrances on the Purchased Assets;

(j) the Assignments of Company Interests, each duly executed by Seller and Limited Partner;

(k) a certificate of good standing with respect to each of Parent, Seller, and the Companies (dated as of a recent date prior to the Closing Date but in no event more than fifteen (15) Business Days before the Closing Date), issued by the Secretary of State (or other duly authorized official) of the state of incorporation or formation of each such Person and, with respect to Seller and the Companies, of the State of Colorado;

(l) a copy, certified by an authorized officer of each of Parent, Seller and the Companies, of respective resolutions authorizing the execution and delivery of this Agreement and instruments attached as exhibits hereto and thereto, and the consummation of the transactions contemplated hereby and thereby, together with a certificate by the Secretary of each of Parent, Seller and the Companies as to the incumbency of those officers authorized to execute and deliver this Agreement and the instruments attached as exhibits hereto and thereto;

(m) an affidavit that Seller is not a foreign person under section 1445(b)(2) of the Code; and

(n) such other agreements, documents, instruments, and writings as are required to be delivered by Parent, Seller or the Companies at or prior to the Closing Date pursuant to this Agreement.

4.4 Deliveries by Buyer. At or prior to the Closing, Buyer will deliver the following to Seller:

(a) the Assignment and Assumption Agreement, duly executed by Buyer;

(b) the certificate contemplated by Section 9.3(c);

(c) all consents, waivers, or approvals obtained by Buyer from third parties in connection with this Agreement;

(d) a certificate of good standing with respect to Buyer, to the extent applicable (dated as of a recent date prior to the Closing Date but in no event more than fifteen (15) Business Days before the Closing Date), issued by the Secretary of State (or other duly authorized official) of the States of South Dakota and Colorado, as applicable;

(e) a copy, certified by an authorized officer of Buyer, of resolutions authorizing the execution and delivery of this Agreement and instruments attached as exhibits hereto and thereto, and the consummation of the transactions contemplated hereby and thereby, together with a certificate by the Secretary of Buyer as to the incumbency of those officers authorized to execute and deliver this Agreement and the instruments attached as exhibits hereto and thereto;

(f) all such other documents, instruments, and undertakings as are reasonably requested by Seller in connection with the assumption by the Companies of the Assumed Obligations, and by Buyer in connection with the transfer of the Company Interests, in accordance with this Agreement; and

(g) such other agreements, documents, instruments and writings as are required to be delivered by Buyer at or prior to the Closing Date pursuant to this Agreement.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the Seller Disclosure Schedule or, to the extent the relevance of such disclosure is readily apparent therefrom, as disclosed in the Seller SEC Filings filed prior to the date of this Agreement, Seller represents and warrants to Buyer that:

5.1 Organization; Qualification.

(a) Seller is a corporation duly organized, validly existing, and in good standing under the laws of Delaware and has all requisite corporate power and authority to own, lease, and operate the Purchased Assets and to carry on the Business as presently conducted. Seller is duly qualified or licensed to do business as a foreign corporation and is in good standing in each jurisdiction in which the conduct of the Business, or the ownership or operation of any Purchased Assets, by Seller makes such qualification necessary, except for failures to be qualified or licensed that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

(b) Limited Partner is a limited liability company existing in good standing under the laws of Delaware. Limited Partner is duly qualified or licensed to do business as a foreign limited liability company and is in good standing in each jurisdiction in which the activity of Limited Partner in such jurisdiction thereby makes such qualification necessary. Limited Partner has not, and at the Closing will not have, any assets or liabilities other than, the limited partnership interests in the Companies.

(c) When formed, the Companies will be limited partnerships existing in good standing under the laws of Delaware. At the Closing, each of the Companies will be duly qualified or licensed to do business as a foreign limited partnership and in good standing in each jurisdiction in which the activity of such Company in such jurisdiction thereby makes such qualification necessary. At the Closing, neither of the Companies will have operated a business prior to the transfer and assumption hereunder of, and neither will have any assets or liabilities other than, the Purchased Assets and the Assumed Obligations.

5.2 Authority Relative to this Agreement.

(a) Seller has all corporate power and authority necessary to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by the board of directors of Seller and no other corporate proceedings on the part of Seller are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller, and constitutes a valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

(b) Limited Partner has all limited liability company power and authority necessary to execute and deliver this Agreement to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by the governing body of Limited Partner and no other limited liability company proceedings on the part of Limited Partner or its members are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Limited Partner, and constitutes a valid and binding agreement of Limited Partner, enforceable against Limited Partner in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

(c) When formed, each of the Companies will have all limited partnership power and authority necessary to execute and deliver the instruments and agreements attached hereto which such Company is a party and to consummate the transactions contemplated thereby. At the Closing, the execution and delivery of such instruments and agreements and the consummation of the transactions contemplated thereby will be duly and validly authorized by the partners of each Company and no other limited partnership proceedings on the part of either Company or its partners will be necessary to authorize such instruments and agreements or to consummate the transactions contemplated thereby. At the Closing, such instruments and agreements will have been duly and validly executed and delivered by such Company, and will constitute a valid and binding agreement of each Company, enforceable against such Company in accordance with their terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

5.3 Consents and Approvals; No Violation. Except as set forth in Schedule 5.3, the execution and delivery of this Agreement by Seller and Limited Partner, and the consummation by Seller and Limited Partner of the transactions contemplated hereby, do not, and at the Closing the consummation by the Companies of the transactions contemplated hereby will not:

(a) conflict with or result in any breach of Seller's, Limited Partner's or the Companies' respective Governing Documents;

(b) result in a default (including with notice, lapse of time, or both), or give rise to any right of termination, cancellation, or acceleration, under any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation to which Seller, Limited Partner, the Companies or any of their respective Affiliates is a party or by which Seller, Limited Partner, the Companies or any of their respective Affiliates, the Business, or any of the Purchased Assets may be bound, except for such defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been, or will prior to the Closing be, obtained or which if not obtained or made would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement;

(c) violate any Law or Order applicable to Seller, Limited Partner, the Companies, any of their respective Affiliates, or any of the Purchased Assets, except for

violations that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect;

(d) require any declaration, filing, or registration with, or notice to, or authorization, consent, or approval of any Governmental Entity, other than (i) the Seller Required Regulatory Approvals, (ii) such declarations, filings, registrations, notices, authorizations, consents, or approvals which, if not obtained or made, would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement, or (iii) any requirements which become applicable to Seller, Limited Partner or the Companies, as a result of the specific regulatory status of Buyer (or any of its Affiliates) or as a result of any other facts that specifically relate to any business or activities in which Buyer (or any of its Affiliates) is or proposes to be engaged; and

(e) as of the date of this Agreement, to Seller's Knowledge, there are no facts or circumstances relating to Seller or any of its Subsidiaries that, in Seller's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Seller Required Regulatory Approvals.

5.4 Governmental Filings.

(a) Since December 31, 2005, Seller has filed or caused to be filed with the PUC and FERC all material forms, statements, reports, and documents (including all exhibits, amendments, and supplements thereto) required by Law or Order to be filed by Seller with the PUC or FERC with respect to the Business and the Purchased Assets except for such forms, statements, reports, and documents the failure of which to file, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. As of the respective dates on which such forms, statements, reports, and documents were filed, each (to the extent prepared by Seller and excluding information prepared or provided by third parties) complied in all material respects with all requirements of any Law or Order applicable to such form, statement, report, or document in effect on such date except for such forms, statements, reports and documents the failure of which to file in compliance with all requirements of any law or Order, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(b) Seller has filed or furnished with the SEC all Seller SEC Filings required to be filed or furnished. Each Seller SEC Filing, when and as filed or furnished with the SEC, complied in all material respects with the applicable requirements of the Securities Act, the Exchange Act and Sarbanes-Oxley. As of their respective dates (and, if amended or supplemented, as of the date of any such amendment or supplement) and as filed, the Seller SEC Filings did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

5.5 Financial Information.

(a) Schedule 5.5(a)-1 sets forth selected balance sheet information as of December 31, 2005 and September 30, 2006, respectively, with respect to the Electric Business.

Schedule 5.5(a)-2 sets forth selected balance sheet information as of December 31, 2005 and September 30, 2006, respectively, with respect to the Gas Business. The information set forth in Schedule 5.5(a)-1 and Schedule 5.5(a)-2 is collectively referred to herein as the "Selected Balance Sheet Information."

(b) Schedule 5.5(b)-1 sets forth the division income statements for the Electric Business for the 12-month period ended December 31, 2005, and the nine-month period ended September 30, 2006. Schedule 5.5(b)-2 sets forth the division income statements for the Gas Business for the 12-month period ended December 31, 2005, and the nine-month period ended September 30, 2006. The information set forth in Schedule 5.5(b)-1 and Schedule 5.5(b)-2 is collectively referred to herein as the "Division Income Statement Information."

(c) Except as set forth in the notes thereto, the Selected Balance Sheet Information and the Division Income Statement Information fairly present as of the dates thereof or for the periods covered thereby, in all material respects, the items reflected therein, all in accordance with FERC Accounting Rules and any applicable PUC accounting rules applied in accordance with Seller's normal accounting practices. The individual accounts in the Selected Balance Sheet Information are recorded in accordance with GAAP, as modified by applicable FERC Accounting Rules and applicable regulatory accounting rules.

5.6 No Material Adverse Effect. Except as set forth in Schedule 5.6, or as otherwise contemplated by this Agreement, since September 30, 2006 no event, change or development has occurred which, individually or in the aggregate, has had, or would reasonably be expected to result in, a Material Adverse Effect.

5.7 Operation in the Ordinary Course. Except as otherwise disclosed herein or set forth in Schedule 5.7, or otherwise contemplated or permitted pursuant to the terms hereof, since September 30, 2006 and until the date hereof, the Business has been operated in the ordinary course of business consistent with Good Utility Practice.

5.8 Title and Company Interests.

(a) Except as set forth on Schedule 5.8 or as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (i) Seller owns good and marketable title to (or in the case of leased property, has a valid and enforceable leaseholder interest in), the Real Property and the Easements; and (ii) Seller has good title to the other Purchased Assets, in each case free and clear of all Non-Permitted Encumbrances. Except as described in Schedule 5.8 or as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Purchased Assets are not subject to any Preferential Purchase Rights. The Purchased Assets have been maintained consistent with Good Utility Practice, except to the extent that the failure to so maintain the Purchased Assets, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. The Easements are all of the easements, railroad crossing rights and rights-of-way, and similar rights (other than public rights-of-way) necessary, in all material respects, for the operation of the Business as currently conducted.

(b) (i) From the date of formation of the Companies until the transfer of the Company Interests to Buyer, Seller will be, and thereafter Buyer will be, the legal and beneficial owner of all of the Company Interests, and will hold such Company Interests free and clear of any and all Encumbrances; and (ii) the Company Interests have not been issued in violation of any federal or state securities laws

5.9 Leases. Schedule 5.9 describes to Seller's Knowledge as of the date hereof, all real property leases under which Seller is a lessee or lessor that relate principally to the Business or the Purchased Assets.

5.10 Environmental. The only representations and warranties given in respect to Environmental Laws, Environmental Permits, Environmental Claims, or other environmental matters are those contained in this Section 5.10, and none of the other representations and warranties contained in this Agreement will be deemed to constitute, directly or indirectly, a representation and warranty with respect to Environmental Laws, Environmental Permits, Environmental Claims, other environmental matters, or matters incident to or arising out of or in connection with any of the foregoing. All such matters are governed exclusively by this Section 5.10.

(a) Except as set forth on Schedule 5.10(a)-1, (i) Seller presently possesses all Environmental Permits necessary to own, maintain, and operate the Purchased Assets as they are currently being owned, maintained and operated, and to conduct the Business as it is currently being operated and conducted, except with respect to the failure to possess any Environmental Permits that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (ii) with respect to the Purchased Assets and the Business, Seller is in compliance in all material respects with the requirements of such material Environmental Permits and Environmental Laws, and (iii) Seller has received no written notice or information of an intent by an applicable Governmental Entity to suspend, revoke, or withdraw any such Environmental Permits, except with respect to any Environmental Permit that, if suspended, revoked or withdrawn, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To Seller's Knowledge as of the date hereof, Schedule 5.10(a)-2 sets forth a list of all material Environmental Permits held by Seller for the operation of the Business.

(b) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect or as set forth on Schedule 5.10(b), neither Seller nor any Affiliate of Seller has received within the last three (3) years any written notice, report, or other information regarding any actual or alleged violation of Environmental Laws, Environmental Permits, or any liabilities or potential liabilities, including any investigatory, remedial, or corrective obligations, relating to the operation of the Business or the Purchased Assets arising under Environmental Laws. To Seller's Knowledge as of the date hereof, Schedule 5.10(b) sets forth a list of the written notices, reports or information that Seller or any Affiliate of Seller has received within the last three (3) years regarding any such actual or alleged violations of Environmental Laws or Environmental Permits.

(c) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect or as set forth on Schedule 5.10(c), (i) there is and

has been no Release from, in, on, or beneath the Real Property that could form a basis for an Environmental Claim, and (ii) there are no Environmental Claims related to the Purchased Assets or the Business, which are pending or, to Seller's Knowledge, threatened against Seller. To Seller's Knowledge as of the date hereof, Schedule 5.10(c) sets forth a list of all Releases from, in, on or beneath the Real Property that could form the basis for an Environmental Claim, and of all Environmental Claims pending or threatened against Seller that are principally related to the Purchased Assets or the Business.

5.11 Labor Matters. Schedule 5.11 lists each collective bargaining agreement covering any of the Business Employees to which Seller is a party or is subject (each, a "Collective Bargaining Agreement") as of the date hereof. Except to the extent set forth in Schedule 5.11 or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (i) Seller is in material compliance with all Laws applicable to the Business Employees respecting employment and employment practices, terms and conditions of employment, and wages and hours; (ii) Seller has not received written notice of any unfair labor practice complaint against Seller pending before the National Labor Relations Board with respect to any of the Business Employees; (iii) Seller has not received notice that any representation petition respecting the Business Employees has been filed with the National Labor Relations Board; (iv) Seller is in material compliance with the terms of and its obligations under the Collective Bargaining Agreements, and has administered each Collective Bargaining Agreement in manner consistent in all material respects with the terms and conditions of such Collective Bargaining Agreements; (v) no material grievance or material arbitration proceeding arising out of or under the Collective Bargaining Agreements is pending against Seller; and (vi) there is no labor strike, slowdown, work stoppage, or lockout actually pending or, to Seller's Knowledge, threatened against Seller in respect of the Purchased Assets or the Business. Except for the Severance Compensation Agreements set forth on Schedule 5.11 with respect to the Business Employees identified on Schedule 1.1-B, obligations to be assumed or undertaken by Buyer or the Companies pursuant to Sections 2.6(a) or 8.8, and severance compensation agreements existing as of the date hereof, if any, with respect to additional employees that may be added to the Business Employees after the date hereof by Buyer and Parent pursuant to clause (iii) of the definition thereof, there are no employment, severance, or change in control agreements or contracts between Seller and any Business Employee under which Buyer or either of the Companies would have any liability. A true, correct, and complete copy of each Collective Bargaining Agreement, any renewal or replacement of any Collective Bargaining Agreement that will expire prior to the Closing Date, and any new collective bargaining agreement covering any of the Business Employees entered into by Seller between the date hereof and the Closing (each a "Successor Collective Bargaining Agreement"), has been made available to Buyer prior to the date hereof or will be made available to Buyer prior to the Closing Date, respectively.

5.12 ERISA; Benefit Plans.

(a) Schedule 5.12(a) lists each employee benefit plan (as such term is defined in section 3(3) of ERISA) and each other plan, program, or arrangement providing benefits to employees that is maintained by, contributed to, or required to be contributed to by Seller (or any ERISA Affiliate of Seller) as of the date hereof on account of current Business Employees or persons who have retired from the Business (each, a "Benefit Plan"). Copies of such plans and all amendments and direct agreements pertaining thereto, together with the most recent annual

report and actuarial report with respect thereto, if any, have been made available to Buyer prior to the date hereof.

(b) Each Benefit Plan that is intended to be qualified under section 401(a) of the Code has received a determination from the Internal Revenue Service that such Benefit Plan is so qualified, and each trust that is intended to be exempt under section 501(a) of the Code has received a determination letter that such trust is so exempt. Nothing has occurred since the date of such determination that would materially adversely affect the qualified or exempt status of such Benefit Plan or trust, nor will the consummation of the transactions provided for by this Agreement have any such effect. Copies of the most recent determination letter of the IRS with respect to each such Benefit Plan or trust have been made available to Buyer prior to the date hereof.

(c) (i) Each Benefit Plan has been maintained, funded, and administered in compliance with its terms, the terms of any applicable Collective Bargaining Agreements, and all applicable Laws, including ERISA and the Code, (ii) there is no "accumulated funding deficiency" within the meaning of section 412 of the Code with respect to any Benefit Plan which is an "employee pension benefit plan" as defined in section 3(2) of ERISA, and (iii) no reportable event (within the meaning of section 4043 of ERISA) and no event described in sections 4041, 4042, 4062 or 4063 of ERISA has occurred or exists in connection with any Benefit Plan, except in the case of (i), (ii) and (iii) as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. As of the date of this Agreement, no proceeding has been initiated to terminate the Seller Pension Plan nor has the Pension Benefit Guaranty Corporation threatened to terminate the Seller Pension Plan. Neither Seller nor any ERISA Affiliate has any obligation to contribute to or any other liability under or with respect to any multiemployer plan (as such term is defined in section 3(37) of ERISA), except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. No liability under Title IV or section 302 of ERISA has been incurred by Seller or any ERISA Affiliate that has not been satisfied in full, and no condition exists that presents a material risk to Seller or any ERISA Affiliate of incurring any such liability, other than liability for premiums due to the Pension Benefit Guaranty Corporation, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. No Person has provided or is required to provide security to the Seller Pension Plan under section 401(a)(29) of the Code due to a plan amendment that results in an increase in current liability, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect.

(d) Except for the ERISA Case, as set forth on Schedule 5.12(d) or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (i) there is no litigation or governmental administrative proceeding or, to Seller's Knowledge, investigation involving any Benefit Plan, and (ii) the administrator and the fiduciaries of each Benefit Plan have in all material respects complied with the applicable requirements of ERISA, the Code, and any other requirements of applicable Laws, including the fiduciary responsibilities imposed by Part 4 of Title I, Subtitle B of ERISA. Except as set forth on Schedule 5.12(d) or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, there have been no non-exempt "prohibited transactions" as described in section 4975 of the Code or Title I, Part 4 of ERISA involving any Benefit Plan,

and, to Seller's Knowledge, there are no facts or circumstances which could give rise to any tax imposed by section 4975 of the Code or Section 502 of ERISA with respect to any Benefit Plan.

(e) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, all contributions (including all employer matching and other contributions and all employee salary reduction contributions) for all periods ending prior to the Closing Date (including periods from the first day of the current plan year to the Closing Date) have been paid to the Benefit Plans within the time required by Law or will be paid to the Benefit Plans prior to or as of the Closing, notwithstanding any provision of any Benefit Plan to the contrary. All returns, reports, and disclosure statements required to be made under ERISA and the Code with respect to the Benefit Plans have been timely filed or delivered except to the extent the failure to file such returns, reports and disclosure statements would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(f) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, each Benefit Plan that is a group health plan (within the meaning of Code section 5000(b)(1)) in all material respects complies with and has been maintained and operated in material compliance with each of the health care continuation requirements of section 4980B of the Code and Part 6 of Title I, Subtitle B of ERISA (or the applicable requirements of State insurance continuation law) and the requirements of the Health Insurance Protection Portability and Accountability Act of 1996.

(g) Schedule 5.12(g) sets forth the medical and life insurance benefits provided as of the date of this Agreement by Seller to any currently retired or former employees of the Business other than pursuant to Part 6 of Subtitle B of Title I of ERISA, section 4980B of the Code, or similar provisions of state law.

(h) Except for obligations assumed by Buyer as provided in Section 8.8, no provision of any Benefit Plan would require the payment by Buyer, the Companies or such Benefit Plan of any money or other property, or the provision by Buyer, the Companies or such Benefit Plan of any other rights or benefits, to or on behalf of any Business Employee or any other employee or former employee of Seller solely as a result of the transactions contemplated by this Agreement, whether or not such payment would constitute a parachute payment within the meaning of section 280G of the Code.

(i) During the past seven (7) years, neither Seller nor any ERISA Affiliate (including either of the Companies or the Business) has contributed to any "multiemployer plan" within the meaning of section 3(37) of ERISA.

5.13 Certain Contracts and Arrangements.

(a) To Seller's Knowledge as of the date hereof, except for any contract, agreement, lease, commitment, understanding, or instrument which (i) is disclosed or described on Schedule 5.9, Schedule 5.11, Schedule 5.12(a), Schedule 5.12(g) or Schedule 5.13(a), or (ii) has been entered into in the ordinary course of business and is not material to the conduct of the Business as currently conducted by Seller, as of the date of this Agreement, Seller is not a party to any contract, agreement, lease, commitment, understanding, or instrument which is

principally related to the Business or the Purchased Assets other than agreements that relate to both the Business and the other businesses of Seller, and any other contracts, agreements, personal property leases, commitments, understandings, or instruments which are Excluded Assets or Excluded Liabilities. Except as disclosed or described in Schedule 5.13(a) or as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, (A) each material Business Agreement constitutes a valid and binding obligation of Seller and, to Seller's Knowledge, constitutes a valid and binding obligation of the other parties thereto and is in full force and effect; (B) Seller is not in breach or default (nor has any event occurred which, with notice or the passage of time, or both, would constitute such a breach or default) under, and has not received written notice that it is in breach or default under, any material Business Agreement, except for such breaches or defaults as to which requisite waivers or consents have been obtained; (C) to Seller's Knowledge, no other party to any material Business Agreement is in breach or default (nor has any event occurred which, with notice or the passage of time, or both, would constitute such a breach or default) under any material Business Agreement; and (D) Seller has not received written notice of cancellation or termination of any material Business Agreement.

(b) Schedule 5.13(b) sets forth a list of each municipal franchise agreement relating to the Business to which Seller is a party (the "Franchises") as of the date hereof. Except as disclosed in Schedule 5.13(b) or, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect, Seller is not in default under such agreements and, to Seller's Knowledge, each such agreement is in full force and effect. Except as set forth in Schedule 5.13(b) or, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect, Seller has all franchises necessary for the operation of the Business as presently conducted.

5.14 Legal Proceedings and Orders. Except as set forth in Schedule 5.14 or, individually or in the aggregate, as would not reasonably be expected to have a Material Adverse Effect, there are no Claims relating to the Purchased Assets or the Business, which are pending or, to Seller's Knowledge, threatened against Seller. Except for any Regulatory Orders, as set forth in Schedule 5.14 or as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller is not subject to any outstanding Orders that would reasonably be expected to apply to the Purchased Assets or the Business following Closing.

5.15 Permits. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller has all Permits required by Law for the operation of the Business as presently conducted. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, (i) Seller has not received any written notification that it is in violation of any such Permits, and (ii) Seller is in compliance in all respects with all such Permits.

5.16 Compliance with Laws. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller is in compliance with all Laws, Orders and Regulatory Orders applicable to the Purchased Assets or the Business. No investigation or review by any Governmental Entity with respect to Seller or any of its Subsidiaries is pending or, to Seller's Knowledge, threatened, except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect. This

Section 5.16 does not relate to matters with respect to ERISA and the Benefit Plans, which are the subject of Section 5.12, environmental matters, which are the subject of Section 5.10, Taxes, which are the subject of Section 5.18, or labor matters, which are the subject of Section 5.11.

5.17 Insurance. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, since December 31, 2005, the Purchased Assets have been continuously insured with financially sound insurers in such amounts and against such risks and losses as are customary in the natural gas or electric utility industry, and Seller has not received any written notice of cancellation or termination with respect to any material insurance policy of Seller providing coverage in respect of the Purchased Assets. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, all insurance policies of Seller covering the Purchased Assets are in full force and effect; however, coverage of the Purchased Assets under Seller's insurance policies will terminate as of the Closing.

5.18 Taxes.

(a) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, all Tax Returns relating to the Business or the Purchased Assets, including all property, activities, income, employees, sales, purchases, capital or gross receipts of Seller relating thereto, required to be filed by or on behalf of Seller on or prior to the Closing Date have been or will be filed in a timely manner, and all Taxes required to be shown on such Tax Returns (whether or not shown on any Tax Return) have been or will be paid in full, except to the extent being contested in good faith by appropriate proceedings. Except as would not reasonably be expected to have a Material Adverse Effect, all such Tax Returns were or will be correct and complete in all respects, and were or will be prepared in compliance with all applicable Laws and regulations.

(b) Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, Seller has withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any employee or independent contractor, service provider, credit, member, stockholder or other third party in connection with the Business or the Purchased Assets.

(c) Seller is not a party directly or indirectly to any Tax allocation or sharing agreement relating to the Business or the Purchased Assets.

5.19 Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which Buyer could become liable or obligated in connection with the transactions contemplated hereby by reason of any action taken by Seller.

5.20 Sufficiency of Assets. Except as individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect, the Purchased Assets, together with the assets identified in Sections 2.2(i), 2.2(l) and 2.2(m), and the rights of Buyer under the Transition Services Agreement, constitute all of the assets necessary for Buyer to conduct the Business in substantially the same manner as Seller conducted the Business prior to the Closing.

5.21 Related-Party Agreements. As of the date of this Agreement, except as set forth on Schedule 5.21, Seller is not a party with any of its Affiliates to any material agreement, contract, commitment, transaction, or proposed transaction related to the Business. As of the date of this Agreement, except as set forth on Schedule 5.21, no material contract, agreement, or commitment included in the Purchased Assets has, as a counterparty thereto, an Affiliate of Seller.

5.22 Financial Hedges. Except in accordance with the hedging practices as described in Schedule 5.22, Seller is not currently a party to any financial hedges, futures contracts, options contracts, or other derivatives transactions in respect of Seller's gas supply portfolios for the Business. Schedule 5.22(a), to be attached to this Agreement fifteen (15) days prior to the Closing, will set forth a list of all financial hedges, future contracts, options or other derivative transactions in respect of Seller's gas supply portfolio for the Business to which Seller is a party as of the date thereof.

5.23 No Other Representations and Warranties. Except for the representations and warranties of Seller contained in this Agreement, the Asset Purchase Agreement, the Merger Agreement, or any of the exhibits, schedules or other documents attached hereto or delivered pursuant to any of the foregoing, Seller is not making and has not made, and no other Person is making or has made on behalf of Seller, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby, and no Person is authorized to make any representations and warranties on behalf of Seller.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF BUYER

Except as set forth in, or qualified by any matter set forth in, Schedule 6.3, Buyer represents and warrants to Seller as follows:

6.1 Organization. Buyer is a corporation duly organized, validly existing, and in good standing under the laws of South Dakota and has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as is now being conducted.

6.2 Authority Relative to this Agreement. Buyer has the requisite corporate power and authority to, and it has taken all corporate action necessary to, execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by the board of directors of Buyer and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement or to consummate the transactions contemplated hereby. This Agreement has been duly executed and delivered by Buyer, and constitutes a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity.

6.3 Consents and Approvals; No Violation. Except as set forth in Schedule 6.3, the execution and delivery of this Agreement by Buyer, and the consummation by Buyer of the transactions contemplated hereby, do not:

(a) conflict with or result in any breach of Buyer's Governing Documents;

(b) result in a default (including with notice, lapse of time, or both), or give rise to any right of termination, cancellation, or acceleration, under any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation to which Buyer or any of its Affiliates is a party or by which Buyer or any of its Affiliates or any of their respective assets may be bound, except for such defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been, or will prior to the Closing be, obtained or which if not obtained or made would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement or the Asset Purchase Agreement;

(c) violate any Law or Order applicable to Buyer, any of its Affiliates, or any of their respective assets, except for violations that, individually or in the aggregate, would not reasonably be expected to prevent, materially delay or impair the ability of Buyer to consummate the transactions contemplated by this Agreement or the Asset Purchase Agreement;

(d) require any declaration, filing, or registration with, or notice to, or authorization, consent, or approval of any Governmental Entity, other than (i) the Buyer Required Regulatory Approvals, or (ii) such declarations, filings, registrations, notices, authorizations, consents, or approvals which, if not obtained or made, would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement or the Asset Purchase Agreement; and

(e) as of the date of this Agreement, Buyer does not know of any facts or circumstances relating to Buyer or any of its Subsidiaries that, in Buyer's reasonable judgment, would be reasonably likely to prevent or materially delay the receipt of the Buyer Required Regulatory Approvals.

6.4 Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which Seller could become liable or obligated in connection with the transactions contemplated hereby by reason of any action taken by Buyer.

6.5 Financing.

(a) At the Closing, Buyer will have sufficient funds available to pay the aggregate amount of consideration payable to Seller, or at Parent's direction, to Merger Sub or the Exchange Agent, pursuant to this Agreement and the Asset Purchase Agreement (the "Buyer Financing").

(b) Buyer has delivered to Seller and Parent true and complete copies of all commitment letters (as the same may be amended or replaced, the "Buyer Financing Commitments"), pursuant to which the lender parties thereto have agreed, subject to the terms and conditions thereof, to provide or cause to be provided to Buyer the Buyer Financing. As of

the date of this Agreement, (i) none of the Buyer Financing Commitments has been amended or modified, (ii) the commitments contained in the Buyer Financing Commitments have not been withdrawn or rescinded in any material respect, (iii) the Buyer Financing Commitments are in full force and effect, and (iv) there are no conditions precedent or other contingencies related to the funding of the full amount of Buyer Financing other than as set forth in the Buyer Financing Commitments. As of the date of this Agreement, no event has occurred which, with or without notice, lapse of time or both, would constitute a default or breach on the part of the Buyer under any term or condition of the Buyer Financing Commitments. As of the date of this Agreement, Buyer has no reason to believe that it or any of its Subsidiaries will not be able to satisfy on a timely basis any term or condition contained in the Buyer Financing Commitments or that the full amount of the Buyer Financing Commitments will not be available to Buyer as of the closing of the transactions contemplated by this Agreement and the Asset Purchase Agreement. Buyer has fully paid any and all commitment fees that have been incurred and are due and payable as of the date hereof in connection with the Buyer Financing Commitments.

(c) As of the date of this Agreement, Buyer has no reason to believe that it or any of its Subsidiaries will not be able to satisfy on a timely basis any term or condition contained in this Agreement or the Asset Purchase Agreement, or that the full amount of the consideration payable by Buyer to Seller, or to Merger Sub or the Exchange Agent as directed by Parent, pursuant to this Agreement or the Asset Purchase Agreement, will not be available to Buyer as of the closing of the transactions contemplated by this Agreement or the Asset Purchase Agreement.

6.6 No Other Agreements. This Agreement, the Merger Agreement, the Asset Purchase Agreement, the letter of intent dated November 21, 2006 between Buyer and Parent, and the Transition Services Agreement are the sole agreements and arrangements between or among Buyer and Parent and their respective Affiliates with respect to the transactions contemplated herein and therein.

6.7 No Other Representations and Warranties. Except for the representations and warranties of Buyer contained in this Agreement, the Asset Purchase Agreement, the Merger Agreement, or any of the exhibits, schedules or other documents attached hereto or delivered pursuant to any of the foregoing, Buyer is not making and has not made, and no other Person is making or has made on behalf of Buyer, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby, and no Person is authorized to make any representations and warranties on behalf of Buyer.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub hereby represent and warrant to Buyer and Seller that:

7.1 Organization. Each of Parent and Merger Sub is a legal entity duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as presently conducted.

7.2 Authority Relative to this Agreement. Except as set forth on Schedule 7.2, Parent and Merger Sub each have the requisite corporate or similar power and authority to, and each of them have taken all corporate or similar action necessary to, execute, deliver and perform its obligations under this Agreement. This Agreement has been duly executed and delivered by each of Parent and Merger Sub and is a valid and binding agreement of Parent and Merger Sub, respectively, enforceable against each of them in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, moratorium, or other similar laws affecting or relating to enforcement of creditors' rights generally or general principles of equity. No vote or approval of the stockholders of Parent is required in connection with the execution, delivery or performance by Parent of its obligations under this Agreement.

7.3 Consents and Approvals; No Violation. Except as set forth in Schedule 7.3, the execution and delivery of this Agreement by Parent and Merger Sub, and the performance by Parent or Merger Sub of their respective obligations hereunder, do not:

(a) conflict with or result in any breach of Parent's or Merger Sub's Governing Documents;

(b) result in a default (including with notice, lapse of time, or both), or give rise to any right of termination, cancellation, or acceleration, under any of the terms, conditions, or provisions of any note, bond, mortgage, indenture, agreement, lease, or other instrument or obligation to which Parent, Merger Sub or any of their respective Affiliates is a party or by which Parent, Merger Sub or any of their respective Affiliates, business or assets may be bound, except for such defaults (or rights of termination, cancellation, or acceleration) as to which requisite waivers or consents have been, or will prior to the Closing be, obtained or which if not obtained or made would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement, the Asset Purchase Agreement or the Merger Agreement;

(c) violate any Law or Order applicable to Parent, Merger Sub, any of their respective Affiliates, except for violations that, individually or in the aggregate, would not be reasonably be expected to prevent or materially delay the ability of Parent or Merger Sub to consummate the transactions contemplated in this Agreement, the Asset Purchase Agreement or the Merger Agreement;

(d) require any declaration, filing, or registration with, or notice to, or authorization, consent, or approval of any Governmental Entity, other than (i) the Required Regulatory Approvals, (ii) such declarations, filings, registrations, notices, authorizations, consents, or approvals which, if not obtained or made, would not, individually or in the aggregate, prevent or materially delay the consummation of the transactions contemplated by this Agreement, the Asset Purchase Agreement or the Merger Agreement, or (iii) any requirements which become applicable to Parent or Merger Sub as a result of the specific regulatory status of Buyer (or any of its Affiliates) or as a result of any other facts that specifically relate to any business or activities in which Buyer (or any of its Affiliates) is or proposes to be engaged; and

(e) as of the date of this Agreement, Parent does not know of any facts or circumstances relating to Parent or any of its Subsidiaries that, in Parent's reasonable judgment,

would be reasonably likely to prevent or materially delay the receipt of the Material Parent Regulatory Consents (as defined in the Merger Agreement).

7.4 Merger Agreement. Parent has delivered to Buyer a true and complete copy of the Merger Agreement. As of the date of this Agreement, (a) the Merger Agreement has not been amended or modified, (b) the Merger Agreement is in full force and effect, and (c) there are no conditions precedent or other contingencies related to the obligations of the Parties under the Merger Agreement other than as set forth in the Merger Agreement. As of the date of this Agreement, Parent has no reason to believe that it or any of its Subsidiaries will not be able to satisfy on a timely basis any term or condition contained in the Merger Agreement.

7.5 No Other Representations and Warranties. Except for the representations and warranties of Parent and Merger Sub contained in this Agreement, the Asset Purchase Agreement, the Merger Agreement, or any of the exhibits, schedules or other documents attached hereto or delivered pursuant to any of the foregoing, neither Parent nor Merger Sub is making and neither has made, and no other Person is making or has made on behalf of Parent or Merger Sub, any express or implied representation or warranty in connection with this Agreement or the transactions contemplated hereby, and no Person is authorized to make any representations and warranties on behalf of Parent or Merger Sub.

7.6 Fees and Commissions. No broker, finder, or other Person is entitled to any brokerage fees, commissions, or finder's fees for which Seller or Buyer could become liable or obligated in connection with the transactions contemplated hereby by reason of any action taken by Parent or Merger Sub.

7.7 No Other Agreements. This Agreement, the Merger Agreement, the Asset Purchase Agreement, the letter of intent dated November 21, 2006 between Parent and Buyer, and the Transition Services Agreement, are the sole agreements and arrangements between or among Parent and Buyer and their Affiliates with respect to the transactions contemplated herein and therein.

ARTICLE VIII

COVENANTS OF THE PARTIES

8.1 Conduct of Business.

(a) Except as contemplated in this Agreement, required by any Business Agreement, Law, or Order, or otherwise described in Schedule 8.1, during the period from the date of this Agreement to the Closing Date, Seller will operate the Purchased Assets and the Business in the ordinary course and in all material respects consistent with Good Utility Practice and will use reasonable best efforts to preserve intact the Business, and to preserve the goodwill and relationships with customers, suppliers, Governmental Entities, and others having business dealings with the Business. Without limiting the generality of the foregoing, except as required by applicable Law, or Order, or as otherwise described in Schedule 8.1, prior to the Closing Date, without the prior written consent of Buyer and Parent, which will not be unreasonably withheld, delayed or conditioned, Seller will not:

(i) create, incur or assume any Non-Permitted Encumbrance upon the Purchased Assets, except for any such Encumbrance that will be released at or prior to the Closing;

(ii) make any material change in the level of inventories customarily maintained by Seller with respect to the Business, other than in the ordinary course of business or consistent with Good Utility Practice;

(iii) other than any such sales, leases, transfers, or dispositions involving any Purchased Assets involving less than $350,000 on an individual basis, or $1,750,000 in the aggregate, sell, lease, transfer, or otherwise dispose of any of the Purchased Assets, other than (A) in the ordinary course of business, or (B) consistent with Good Utility Practice;

(iv) make or commit to any capital expenditures relating to the Business or the Purchased Assets in excess of the amount reflected for such expenditures in the Capital Expenditure Budget for the year in which those capital expenditures are made, or up to 10% in excess of such amount if necessary as a result of increases in the costs of labor, commodities materials, services, supplies, equipment or parts after the date hereof, except for capital expenditures (A) required under any Business Agreement to which Seller or any of its Subsidiaries is a party as of the date of this Agreement, a copy of which has been made available to Buyer; (B) incurred in connection with the repair or replacement of facilities destroyed or damaged due to casualty or accident (whether or not covered by insurance) necessary to provide or maintain safe and adequate natural gas service or electric service, as applicable, to the utility customers of the Business; provided that, Seller shall, if reasonably possible, consult with Buyer prior to making or agreeing to make any such expenditure; and (C) other capital expenditures relating to the Business or the Purchased Assets of up to $350,000 individually or $1,750,000 in the aggregate for each twelve (12) month budget cycle;

(v) spend in excess of $1,000,000 individually or in the aggregate to acquire any business that would be included in the Business or the Purchased Assets, whether by merger, consolidation, purchase of property or otherwise (valuing any non-cash consideration at its fair market value as of the date of the execution of a binding agreement for the acquisition);

(vi) other than (A) in the ordinary course of business, (B) upon terms not materially adverse to the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken together, or (C) as otherwise permitted under this Section 8.1(a), (1) enter into, amend, extend, renew, modify or breach in any material respect, terminate or allow to lapse (other than in accordance with its terms), any material Business Agreement, or any contract that would have been a material Business Agreement if in effect prior to the date hereof;

(vii) grant severance or termination pay to any Business Employee or former employee of the Business that would be the responsibility of Buyer;

(viii) terminate, establish, adopt, enter into, make any new, or accelerate any existing benefits under, amend or otherwise modify, or grant any rights to severance, termination or retention benefits under, any Benefit Plans (including amendments or

modifications to any medical or life insurance benefits provided by Seller or Seller's adoption or grant of any new medical or life insurance benefits to any currently retired or former employees of the Business), or increase the salary, wage, bonus or other compensation of any Business Employees who will become Transferred Employees, except for (A) grants of equity or equity based awards in the ordinary course of business, (B) increases in salary or grants of annual bonuses in the ordinary course of business in connection with normal periodic performance reviews (including promotions) and the provision of individual compensation and benefits to new and existing directors, officers and employees of Seller consistent with past practice (which shall not provide for benefits or compensation payable solely as a result of the consummation of the transactions contemplated hereunder, in the Asset Purchase Agreement or the Merger Agreement), (C) actions necessary to satisfy existing contractual obligations under Benefit Plans existing as of the date of this Agreement, or (D) bonus payments, together with any such bonus payments permitted under the Partnership Interests Purchase Agreement and the Merger Agreement, not to exceed an aggregate of $500,000 to executives in Seller's compensation bands E through G;

(ix) negotiate the renewal or extension of any Collective Bargaining Agreement or enter into any new collective bargaining agreement, without providing Buyer with access to all information relating to such new collective bargaining agreement, or the renewal or extension of any such Collective Bargaining Agreement, and permitting Buyer to consult from time to time with Seller and its counsel on the progress thereof; provided that the negotiation of such renewal or extension will be conducted in a manner consistent with past practice, and Seller will not be obligated to follow any advice that may be provided by Buyer during any such consultation;

(x) agree or consent to any material agreements or material modifications of material existing agreements or material courses of dealing with the FERC, the PUC or any other state public utility or service commission, in each case in respect of the operations of the Business or the Purchased Assets, except as required by Law to obtain or renew Permits or agreements in the ordinary course of business consistent with past practice;

(xi) modify, amend or terminate, or waive, release or assign any material rights or claims with respect to any confidentiality or standstill agreement relating to the Business or the Purchased Assets to which Seller or any of its Subsidiaries is a party (it being agreed and acknowledged that Seller may grant waivers under any such standstill agreement to allow a third party to submit an Acquisition Proposal (as defined in the Merger Agreement) for Seller to the extent that the Board of Directors of Seller determines in good faith (after consulting with outside legal counsel) that the failure to grant such waiver would be inconsistent with its fiduciary duties under applicable Law);

(xii) fail to maintain insurance on the Purchased Assets with financially responsible insurance companies (or if applicable, self insure), insurance in such amounts and against such risks and losses as are consistent with Good Utility Practice and customary for companies of the size and financial condition of Seller that are engaged in businesses similar to the Business;

(xiii) enter into, amend in any material respect, make any material waivers under, or otherwise modify in any material respect any property Tax agreement, treaty, or settlement related to the Business;

(xiv) enter into any line of business in the Territory or the State of Colorado other than the current Business; provided that the restrictions in this Section 8.1(a)(xiv) will not apply to activities that are not part of the current Business or are not related to the Purchased Assets, including Seller's electric utility businesses in Kansas and Missouri;

(xv) other than in the ordinary course of business, amend in any material respect, breach in any material respect, terminate or allow to lapse or become subject to default in any material respect or subject to termination any Permit material to the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken as a whole, other than (A) as required by applicable Law, and (B) approvals by Governmental Entities of, or the entry with Governmental Entities into, compromises or settlements of litigation, actions, suits, claims, proceedings or investigations entered into in accordance with Section 8.1(a)(xvi);

(xvi) enter into any compromise or settlement of any litigation, action, suit, claim, proceeding or investigation relating to the Business or the Purchased Assets (excluding tax controversies and tax closing agreements that relate to Taxes that are not Assumed Obligations under this Agreement) in which the damages or fines to be paid by Seller (and not reimbursed by insurance) are in excess of $5,000,000 individually or in the aggregate, or in which the non-monetary relief to be provided could reasonably be expected to materially restrict the prospective operation of the Business;

(xvii) enter into any agreements that would limit or otherwise restrict in any material respect the Business or any successor thereto, or that, after the Closing, would limit or restrict in any material respect Buyer, the Business or any successor thereto, from engaging or competing in any line of business or product line or in any of the Territories (in each case other than limitations on franchises, certificates of convenience or necessity, or other rights granted under the same documents);

(xviii) except as permitted under Section 7.2 and ARTICLE IX of the Merger Agreement, take any action that is intended or would reasonably be expected to result in any of the conditions to the obligations of any of the Parties to effect the transactions contemplated hereby not being satisfied;

(xix) except for non-material filings in the ordinary course of business consistent with past practice, (A) implement any changes in Seller's rates or charges (other than automatic cost pass-through rate adjustment clauses), standards of service or accounting, in any such case, as relates to the Business or execute any agreement with respect thereto (other than as otherwise permitted under this Agreement), without consulting with Buyer prior to implementing any such changes or executing any such agreement, and (B) agree to any settlement of any rate proceeding that would provide for a reduction in annual revenues or would establish a rate moratorium or phased-in rate increases (other than automatic cost pass-through rate adjustment clauses) for a duration of more than one (1) year (it being agreed and acknowledged that, notwithstanding anything to the contrary herein, rate matters relating to the Business shall be

restricted between the date of this Agreement and the Closing solely to the extent set forth in this Section 8.1(a)(xix) and not by any other provision hereof);

(xx) with respect to the Business, change, in any material respect, its accounting methods or practices (except in accordance with changes in GAAP), credit practices, collection policies, or investment, financial reporting, or inventory practices or policies or the manner in which the books and records of the Business are maintained;

(xxi) hire any employee for the Business other than (A) persons who are hired by Seller to replace employees who have retired, been terminated, died, or become disabled, (B) persons who are hired by Seller in the ordinary course of business consistent with past practice, or (C) persons hired by Seller to perform Central or Shared Functions; or

(xxii) agree or commit to take any action which would be a violation of the restrictions set forth in Sections 8.1(a)(i) through 8.1(a)(xxi).

(b) Within fifteen (15) Business Days after the date hereof, a committee of three Persons comprised of one Person designated by Parent, one Person designated by Seller and one Person designated by Buyer, and such additional Persons as may be appointed by the Persons originally appointed to such committee (the "Transition Committee") will be established to examine transition issues relating to or arising in connection with the transactions contemplated hereby, except for issues to be examined by the Transition Services Committee pursuant to the Transition Services Agreement. From time to time, the Transition Committee will report its findings to the senior management of each of Parent, Seller and Buyer. The Transition Committee shall have no authority to bind or make agreements on behalf of the Parties or to issue instructions to or direct or exercise authority over the Parties. Seller shall provide to Buyer, at no cost, interim furnished office space, utilities, and telecommunications at mutually agreed locations as reasonably necessary to allow Buyer to conduct its transition efforts.

(c) In the event that the Transition Committee, or Buyer and Parent, agree to engage a consultant to provide advice to the Transition Committee, or Parent and Buyer, respectively, in connection with transition issues relating to or arising in connection with the transactions contemplated hereby, (i) such engagement shall occur pursuant to a written agreement with such consultant that shall be subject to the prior written approval of each of Buyer and Parent, and (ii) all out-of-pocket costs incurred by Parent and Buyer pursuant to such consulting agreement will be split between Buyer and Parent, with each of Buyer and Parent bearing 50% of such costs.

8.2 Access to Information.

(a) To the extent permitted by Law, between the date of this Agreement and the Closing Date, Seller will, during ordinary business hours and upon reasonable notice, (i) give Buyer and Buyer's Representatives reasonable access to the Purchased Assets and those of its properties, contracts and records used principally in the Business or principally related to the Purchased Assets, to which Seller has the right to grant access without the consent of any other Person (and in the case where consent of another Person is required, only on such terms and

conditions as may be imposed by such other Person); (ii) permit Buyer to make such reasonable inspections thereof (including but not limited to surveys thereof) as Buyer may reasonably request; (iii) furnish Buyer with such financial and operating data and other information with respect to the Business as Buyer may from time to time reasonably request; (iv) grant Buyer access to such officers and employees of Seller as Buyer may reasonably request in connection with obtaining information regarding the Business or the Purchased Assets, including with respect to any environmental matters, regulatory matters and financial information; (v) furnish Buyer with copies of surveys, legal descriptions of real property and easements, contracts, leases and other documents with respect to the Purchased Assets in Seller's possession and reasonable control; (vi) furnish Buyer with a copy of each material report, schedule, or other document principally relating to the Business filed by Seller, Limited Partner or the Companies with, or received by Seller, Limited Partner or the Companies from, any Governmental Entity; and (vii) furnish Buyer all information concerning the Business Employees or Covered Individuals as reasonably requested; provided, however, that (A) any such investigation will be conducted, and any such access to officers and employees of Seller will be exercised, in such a manner as not to interfere unreasonably with the operation of the Business or any other Person, (B) Buyer will indemnify and hold harmless Seller from and against any Losses caused to Seller by any action of Buyer or Buyer's Representatives while present on any of the Purchased Assets or other premises to which Buyer is granted access hereunder (including restoring any of the Real Property to the condition substantially equivalent to the condition such Real Property was in prior to any investigation of environmental matters), (C) Seller will not be required to take any action which would constitute a waiver of the attorney-client privilege, and (D) Seller need not supply Buyer with any information which Seller is under a contractual or other legal obligation not to supply; provided, however, if Seller relies upon clauses (C) or (D) as a basis for withholding information from disclosure to Buyer, to the fullest extent possible without causing a waiver of the attorney-client privilege, or a violation of a contractual or legal obligation, as the case may be, Seller will provide Buyer with a description of the information withheld and the basis for withholding such information. Notwithstanding anything in this Section 8.2 to the contrary, (x) Buyer will not have access to personnel and medical records if such access could, in Seller's good faith judgment, subject Seller to risk of liability or otherwise violate the Health Insurance Portability and Accountability Act of 1996, and (y) any investigation of environmental matters by or on behalf of Buyer will be limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Buyer will not have the right to perform or conduct any other sampling or testing at, in, on, or underneath any of the Purchased Assets. Seller acknowledges and agrees that except for the information disclosed in Schedules 1.1-B, 3.1(a), 5.3(b), 5.5(a)-1, 5.5(a)-2, 5.5(b)-1, 5.5(b)-2, 5.8, 5.10(b), 5.10(c), 5.11, 5.14, 8.8(d)(ii)(D) and 8.8(d)(ii)-A to this Agreement, Buyer may include such information relating to the Business and the Purchased Assets as reasonably necessary in filings with the SEC, including in one or more registration statements filed by Buyer in connection with obtaining the Buyer Financing.

(b) Unless and until the transactions contemplated hereby have been consummated, Buyer will, and will cause its Affiliates and Buyer's Representatives to, hold in strict confidence and not use or disclose to any other Person all Confidential Information. "Confidential Information" means all information in any form heretofore or hereafter obtained from Seller in connection with Buyer's evaluation of the Business or the negotiation of this Agreement, whether pertaining to financial condition, results of operations, methods of operation

or otherwise, other than information which is in the public domain through no violation of this Agreement or the Confidentiality Agreement by Buyer, its Affiliates, or Buyer's Representatives. Notwithstanding the foregoing, Buyer may disclose Confidential Information to the extent that such information is required to be disclosed by Buyer by Law or in connection with any proceeding by or before a Governmental Entity, including any disclosure, financial or otherwise, required to comply with any SEC rules. In the event that Buyer believes any such disclosure is required, Buyer will give Seller notice thereof as promptly as possible and will cooperate with Seller in seeking any protective orders or other relief as Seller may determine to be necessary or desirable. In no event will Buyer make or permit to be made any disclosure of Confidential Information other than to the extent Buyer's legal counsel has advised in writing is required by Law, and Buyer will use its reasonable best efforts to assure that any Confidential Information so disclosed is protected from further disclosure to the maximum extent permitted by Law. If the transactions contemplated hereby are not consummated, Buyer will promptly upon Seller's request, destroy or return to Seller all copies of any Confidential Information, including any materials prepared by Buyer or Buyer's Representatives incorporating or reflecting Confidential Information, and an officer of Buyer shall certify in writing compliance by Buyer with the foregoing. Seller acknowledges and agrees that this Agreement (other than the information disclosed in Schedules 1.1-B, 3.1(a), 5.3(b), 5.5(a)-1, 5.5(a)-2, 5.5(b)-1, 5.5(b)-2, 5.8, 5.10(b), 5.10(c), 5.11, 5.14, 8.8(d)(ii)(D) and 8.8(d)(ii)-A to this Agreement) shall not be considered Confidential Information for purposes of this Section 8.2(b).

(c) Seller agrees that for the two-year period immediately following the Closing Date, Seller will, and will cause its Affiliates and Seller's Representatives to, hold in strict confidence and not disclose to any other Person all Confidential Business Information. "Confidential Business Information" means all commercially sensitive information in any form heretofore or hereafter obtained by Seller to the extent relating to the Business or the Purchased Assets, whether pertaining to financial condition, results of operations, methods of operation or otherwise, other than information which is in the public domain through no violation of this Agreement. Notwithstanding the foregoing, Seller may disclose Confidential Business Information to the extent that such information is required to be disclosed under contracts existing as of the Closing Date, by Law, or in connection with any proceeding by or before a Governmental Entity, including any disclosure, financial or otherwise, required to comply with any SEC rules or Required Regulatory Approvals. In the event that Seller believes any such disclosure is required by Law or in connection with any proceeding by or before a Governmental Entity, Seller will give Buyer notice thereof as promptly as possible and will cooperate with Buyer in seeking any protective orders or other relief as Buyer may determine to be necessary or desirable. In no event will Seller make or permit to be made any disclosure of Confidential Business Information other than to the extent Seller determines in good faith to be required pursuant to SEC rules, or rules governing required disclosure in other regulatory proceedings, or its legal counsel has advised is required to comply with the terms of a contract existing as of the Closing Date or required by Law, or is required in connection with any proceeding by or before a Governmental Entity, and Seller will use its reasonable best efforts to assure that any Confidential Business Information so disclosed is protected from further disclosure.

(d) The provisions of Section 8.2(b) supersede the provisions of the Confidentiality Agreement relating to Proprietary Information (as defined therein), and will survive for a period of two (2) years following the earlier of the Closing or the termination of this

Agreement, except that if the Closing occurs, the provisions of Section 8.2(b) will expire with respect to any information principally related to the Purchased Assets and the Business.

(e) For a period of seven (7) years after the Closing Date, each Party and its representatives will have reasonable access to all of the books and records relating to the Business or the Purchased Assets, including all Transferred Employee Records, in the possession of the other Parties or the Companies to the extent that such access may reasonably be required by such Party in connection with the Assumed Obligations or the Excluded Liabilities, or other matters relating to or affected by the operation of the Business and the Purchased Assets. Such access will be afforded by the Person in possession of such books and records upon receipt of reasonable advance notice and during normal business hours; provided, however, that (i) any review of books and records will be conducted in such a manner as not to interfere unreasonably with the operation of the business of any Party or its Affiliates, (ii) no Party will be required to, and Seller will not be required to cause the Companies to, take any action which would constitute a waiver of the attorney-client privilege, and (iii) no Party need supply any other Party with any information which such Party is under a contractual or other legal obligation not to supply. The Party exercising the right of access hereunder will be solely responsible for any costs or expenses incurred by it pursuant to this Section 8.2(e) and will reimburse the other Party for any costs or expenses incurred by such other Party in connection with complying with such request. If the Party in possession of such books and records desires to dispose of any such books and records prior to the expiration of such seven-year period, such Party will, prior to such disposition, give the other Parties and the Companies, as applicable, a reasonable opportunity at such other Party's expense to segregate and take possession of such books and records as such other Party may select.

8.3 Expenses. Except to the extent specifically provided herein, in the Merger Agreement or in the Asset Purchase Agreement, and irrespective of whether the transactions contemplated hereby are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby will be borne by the Party incurring such costs and expenses.

8.4 Further Assurances; Regulatory Filings; Consents and Approvals.

(a) Subject to the terms and conditions of this Agreement, each of the Parties will use reasonable best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper, or advisable under applicable Laws to consummate and make effective the transactions contemplated hereby, by the Merger Agreement and by the Asset Purchase Agreement as promptly as practicable after the date of this Agreement, including using reasonable best efforts to obtain satisfaction of the conditions precedent to each Party's obligations hereunder, under the Merger Agreement and the Asset Purchase Agreement. Except for actions permitted under Section 7.2 and ARTICLE IX of the Merger Agreement, neither Buyer nor Seller will take or permit any of its Subsidiaries to take any action that would reasonably be expected to prevent or materially delay or impair the consummation of the transactions contemplated hereby.

(b) Seller, Parent and Buyer will each file or cause to be filed with the Federal Trade Commission and the United States Department of Justice, Antitrust Division any

notifications required to be filed by it under the HSR Act and the rules and regulations promulgated thereunder with respect to the transactions contemplated hereby. The Parties will consult and cooperate with each other as to the appropriate time of filing such notifications and will (i) make such filings at the agreed upon time, (ii) respond promptly to any requests for additional information made by either of such agencies, and (iii) use their reasonable best efforts to cause the waiting periods under the HSR Act to terminate or expire at the earliest possible date after the date of such filings.

(c) Without limiting the foregoing, the Parties will cooperate with each other and use reasonable best efforts to (i) promptly prepare and file all necessary applications, notices, petitions, and filings, and execute all agreements and documents to the extent required by Law or Order for consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals), (ii) obtain the consents, approvals and authorizations necessary to transfer to Buyer all Transferable Permits and Transferable Environmental Permits, and the reissuance to Buyer of all Permits that are not Transferable Permits and all Environmental Permits that are not Transferable Environmental Permits, in each case, effective as of the Closing, (iii) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law or Order for consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals), including by taking all structural corporate actions necessary to consummate the transactions contemplated hereby in a timely manner, provided, however, no Party will be required to take any action that would result in a Regulatory Material Adverse Effect, and (iv) obtain all consents, approvals, releases and authorizations of all other Persons to the extent necessary or appropriate to consummate the transactions contemplated by this Agreement as required by the terms of any note, bond, mortgage, indenture, deed of trust, license, franchise, permit, concession, contract, lease, Business Agreement, Easement, or other instrument to which Seller or Buyer is a party or by which either of them is bound. Buyer and Seller will each have the right to review in advance all characterizations of the information related to it or the transactions contemplated hereby which appear in any filing made by the other in connection with the transactions contemplated by this Agreement. Buyer will be solely responsible for payment of all filing fees required in connection with any Required Regulatory Approvals or such other applications, notices, petitions and filings made with any Governmental Entity.

(d) To the extent permitted by Law, Buyer and Seller will have the right to review in advance, and each will consult the other on, the form, substance and content of any filing to be made by Buyer or Seller or any of their respective Subsidiaries with, or any other written materials submitted by any of them to, any third party or any Governmental Entity (other than the SEC) in connection with the transactions contemplated by this Agreement, the Merger and the Asset Purchase Agreement. To the extent permitted by Law, each of Buyer and Seller will (i) provide the other with copies of all correspondence between it or any of its Subsidiaries (or its or their Representatives) and any Governmental Entity (other than the SEC) relating to the transactions contemplated by this Agreement, the Merger Agreement and the transactions contemplated by the Asset Purchase Agreement, (ii) consult and cooperate with the other Party, and to take into account the comments of such other Party in connection with any such filings, and (iii) inform the other Party in advance of any communication, meeting, or other contact which such Party proposes or intends to make with respect to such filings, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing and to use

reasonable best efforts to ensure that all telephone calls and meetings with a Governmental Entity regarding the transactions contemplated by this Agreement will include representatives of Buyer and Seller; provided that nothing in the foregoing will apply to or restrict communications or other actions by Seller with or with regard to Governmental Entities in connection with the Purchased Assets or the Business in the ordinary course of business. To the extent permitted by Law, Buyer, Seller and Parent each agree to (1) provide one another with copies of any registration statements filed with the SEC, in the case of Buyer, in connection with obtaining financing, or by Seller and Parent in connection with the transactions contemplated under the Merger Agreement, (2) provide the other Parties the opportunity to review in advance and consult with one another as to the content of such registration statements regarding such Parties and, (3) provide the other Parties with copies of all correspondence between it or any of its Subsidiaries (or its or their respective Representatives) and the SEC with respect to such registration statements regarding such Parties.

(e) Nothing in this Section 8.4(e) will require, or be construed to require, (i) Seller to take or refrain from taking, or to cause any of its Subsidiaries to take or refrain from taking, any action or to engage in any conduct, or to agree or consent to Seller or any of its Subsidiaries taking any action or engaging in any conduct, or agreeing to any restriction, condition or conduct, with respect to any of the businesses, assets or operations of Seller or any of its Subsidiaries, if this action, restriction, condition or conduct would take effect prior to the Closing or is not conditioned on the Closing occurring, or (ii) Buyer to take or refrain from taking, or to cause any of its Subsidiaries to take or refrain from taking, any action or to engage in any conduct, or to agree or consent to Seller or any of its Subsidiaries taking any action, or agreeing to any restriction, condition or conduct, with respect to any of the businesses, assets or operations of Seller or any of its Subsidiaries, if the cumulative impact of these actions, restrictions, conditions and conduct would reasonably be expected to have a material adverse effect on the financial condition, properties, assets, liabilities (contingent or otherwise) business or results of operations of the Business and the Purchased Assets, together with the Natural Gas Businesses and the Natural Gas Assets, taken as a whole (a "Regulatory Material Adverse Effect"), it being understood that, for purposes of determining whether a Regulatory Material Adverse Effect would reasonably be expected to occur both the positive and negative effects of any actions, conduct, restrictions and conditions, including any sale, divestiture, licensing, lease, disposition or change or proposed change in rates, will be taken into account. Notwithstanding the foregoing, Seller shall not take, consent to or agree to take any action with respect to the Business or the Purchased Assets that would reasonably be expected to have a material adverse effect on the financial condition, properties, assets, liabilities (contingent or otherwise), business or results of operations of the Post-Sale Company (as defined in the Merger Agreement) and its Subsidiaries, without Parent's written consent.

(f) Seller and Buyer will cooperate with each other and promptly prepare and file notifications with, and request Tax clearances from, state and local taxing authorities in jurisdictions in which a portion of the Purchase Price may be required to be withheld or in which Buyer would otherwise be liable for any Tax liabilities of Seller pursuant to such state and local Tax Law.

(g) Each of Buyer, Seller and Parent will keep the other apprised of the status of matters relating to completion of the transactions contemplated by this Agreement, the Merger

Agreement and the Asset Purchase Agreement. Without limiting the foregoing, each of Buyer, Seller and Parent will promptly furnish the other with copies of any notice or other communication received by it or its Subsidiaries from any Person with respect to the transactions contemplated by this Agreement, the Merger Agreement or the Asset Purchase Agreement regarding (i) the occurrence or existence of (A) the breach in any material respect of a representation, warranty or covenant made by the other in this Agreement, or (B) any fact, circumstance or event that has had, or individually or in the aggregate would reasonably be expected to have a Material Adverse Effect; (ii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated hereby; and (iii) (A) the commencement or, to a Party's knowledge, threatened commencement of any material Claims against such Party, (B) the commencement of any material internal investigations or the receipt of any material and reasonably credible whistleblower complaints relating to a Party or any of its Subsidiaries, or (C) the entry of any material Order relating to a Party.

(h) Seller agrees that none of the information supplied or to be supplied by Seller or its Subsidiaries in writing specifically for Buyer's use in preparing, or incorporation by reference, in any registration statement to be filed by Buyer in connection with obtaining Buyer's financing will, at the time such registration statement is filed with the SEC, is amended or supplemented, or becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, not misleading.

(i) Buyer agrees that none of the information supplied or to be supplied by Buyer or its Subsidiaries in writing specifically for Seller's and Parent's use in preparing, or incorporation by reference, in any registration statement to be filed by Seller and Parent in connection with the transactions contemplated by the Merger Agreement will, at the time such registration statement is filed with the SEC, is amended or supplemented, or becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, not misleading.

(j) Each of Seller, Parent and Buyer will, and will cause its Subsidiaries, including in the case of Parent, Seller's successor, to cooperate with the others and use reasonable best efforts to take or cause to be taken all actions and do or cause to be done all things necessary, proper or advisable on its part to enable Buyer, Parent, Seller and Seller's successor to perform their respective obligations under the Transition Services Agreement, including participation in the Transition Services Committee to be established pursuant to the Transition Services Agreement, and implementation of the Transition Plan in accordance therewith.

8.5 Procedures with Respect to Certain Agreements and Other Assets.

(a) Seller has easements, real property license agreements (including railroad crossing rights), rights-of-way, and leases for rights-of-way, which relate solely to the Business and Purchased Assets (the "Easements"). At the Closing, Seller will convey and assign to the Companies, as applicable, subject to the obtaining of any necessary consents, (i) by the

Assignment of Easements, all Easements, and (ii) to the extent practicable, by separate, recordable Assignment of Easement as to all Easements in each separate County. Buyer and Seller agree that if Buyer and Seller determine any of Seller's operations other than those of the Business "share" Easements with Seller's Electric Business or Gas Business operations, Buyer and Seller will take all actions reasonably necessary (such as executing sub-easements or other documents) to ensure Buyer is permitted to use the same on a non-exclusive basis, as presently used by Seller with respect to the Business.

(b) To the extent that any of the Purchased Assets or Seller's rights under any Business Agreement may not be assigned to the Companies, as applicable, without the consent of another Person which consent has not been obtained, this Agreement will not constitute an agreement to assign the same if an attempted assignment would constitute a breach thereof or be unlawful. Seller will use its reasonable best efforts (without being required to make any payment to any third party or incur any economic burden, except as may be specifically required under any Business Agreement in connection with the grant of such consent) to obtain any such required consent as promptly as possible. Buyer agrees to cooperate with Seller in its efforts to obtain any such consent (including the submission of such financial or other information concerning Buyer and the execution of any assumption agreements or similar documents reasonably requested by a third party) without being required to make any payment to any third party or to incur any economic burden (other than the assumption of Seller's obligations under the applicable Business Agreement). Seller and Buyer agree that if any consent to an assignment of a Purchased Asset, including any Business Agreement is not obtained or if any attempted assignment would be ineffective or would impair the respective Company's rights to such Purchased Assets or such rights and obligations under the Business Agreement in question so that the applicable Company would not acquire the benefit of all such rights and obligations, at the Closing the Parties will, to the maximum extent permitted by Law and such Business Agreement, enter into such arrangements with each other as are reasonably necessary to effect the transfer or assignment of such Purchased Asset or to provide the Company with the benefits and obligations of such Business Agreement from and after the Closing.

(c) To the extent that any Business Agreement consisting of a futures contract, options contract, or other derivatives transaction (but not including contracts for physical delivery) (each, a "Financial Hedge") is not assignable due to the rules and regulations of the Commodities Futures Trading Commission, the New York Mercantile Exchange or other futures or options exchange on which the Financial Hedge was entered into, or the relevant clearinghouse, Buyer and Seller agree that the Financial Hedge will be liquidated at or promptly after the Closing. Liquidation proceeds will be paid as follows: (i) in the event Seller's aggregate mark-to-market value of the Financial Hedges is positive, Seller will pay Buyer the mark-to-market value of the Financial Hedges; or (ii) in the event Seller's aggregate mark-to-market value of the Financial Hedges is negative, Buyer will pay Seller the mark-to-market value of the Financial Hedges. On or before the Closing, the Parties will agree on a specific procedure to liquidate the non-assignable Financial Hedges, and any payment due as a result of such liquidation under this Section 8.5(c) will be made at or promptly after the Closing. Seller will calculate the mark-to-market value of the Financial Hedges in accordance with its usual and customary practice.

(d) Buyer and Parent agree that the agreements, if any, described on Schedule 8.5(d) (the "Shared Agreements"), which will be attached to this Agreement prior to July 1, 2007 by the mutual agreement of Buyer and Parent, will be governed by this Section 8.5(d) and will not be Business Agreements for purposes of this Agreement. Seller's rights and obligations under the Shared Agreements, to the extent such rights and obligations relate to the Business, are described on Schedule 8.5(d), and are referred to herein as the "Allocated Rights and Obligations." Unless Parent elects for Seller or its successor to enter into Other Arrangements, Seller shall, or Parent shall cause Seller's successor to, cooperate with Buyer and the Companies and use their reasonable best efforts to enter into agreements (effective from and after the Closing Date) with the other party or parties to each Shared Agreement providing for (i) assignment to and assumption by the Companies, effective from and after the Closing, of the Allocated Rights and Obligations, and (ii) retention by Seller or its successor of all rights and obligations of Seller under the Shared Agreements other than the Allocated Rights and Obligations (such agreements set forth in (i) and (ii) being referred to as "Substitute Arrangements"); provided, that neither Seller or its successor nor the Companies will be obligated to enter into or agree to any such Substitute Arrangements unless such Substitute Arrangements have the effect of transferring to the Companies the Allocated Rights and Obligations (and reserving to Seller or its successor the rights and obligations which are not Allocated Rights and Obligations) on a fair and equitable basis, as determined in the reasonable discretion of Parent and Buyer. In connection with the foregoing, Parent and Seller will, Parent will cause Seller's successor to, and Buyer will cause the Companies to, as reasonably requested, to submit such financial or other information concerning themselves or Seller, and to execute such assumption agreements or similar documents reasonably requested by a third party; provided that no Party will be, and Seller's successor will not be, required to make any payment to any third party or to incur any economic burden (other than the assumption of the Allocated Rights and Obligations by the Companies, and the retention of the other rights and obligations under the Shared Agreements by Seller, or its successor). In the event that (x) Seller or its successor and the applicable Company are unable to enter into Substitute Arrangements with respect to a Shared Agreement in accordance with the foregoing, or (y) Seller notifies Buyer that it elects not to pursue Substitute Arrangements with respect to such Shared Agreement, then in either case at or promptly after the Closing such applicable Company and Seller, or Parent will cause Seller's successor to, to the maximum extent permitted by Law and such Shared Agreement, will enter into such arrangements with each other as are necessary to provide such Company with the benefits and obligations of the Allocated Rights and Obligations under such Shared Agreement, with Seller or its successor retaining the other benefits and obligations under such Shared Agreements from and after the Closing (the "Other Arrangements").

(e) Seller from time to time provides collateral or other security to certain other Persons in connection with certain Business Agreements, Financial Hedges and Shared Agreements. Seller and Buyer agree to use their reasonable best efforts to cause such collateral or other security to be returned to Seller (including in the case of a letter of credit a return of the letter of credit to Seller), or released (in the case of other credit support previously provided by Seller) at or promptly after the Closing. In the event that such collateral or other security is not returned to Seller or otherwise released at or promptly after the Closing, Buyer will (i) pay to Seller, or its successor, an amount equal to any cash collateral posted by Seller; and (ii) in the case of a letter of credit provided in connection with a Business Agreement, replace such letter of credit as soon as practicable, or if such letter of credit is provided in connection with a Shared

Agreement, provide to Seller, or its successor, a back-up letter of credit in the same amount and for a period expiring no earlier than ten (10) days following the expiration of the letter of credit previously provided by Seller. The provisions of this Section 8.5(e) will apply to collateral or other security provided in connection with Shared Agreements to the extent such collateral or other security is related to the Allocated Rights and Obligations under such Shared Agreements.

(f) In the event that any approval for the transfer of any of the Purchased Assets to the Companies, is required from the Federal Communications Commission or any Franchise authority, and such approval is necessary to obtain in order to avoid violation of any Law, but is not a Required Regulatory Approval, the Parties agree that if such approval is not obtained prior to the Closing:

(i) they will each continue to use, and Parent and Seller will, and Parent will cause Seller's successor to use, reasonable best efforts to obtain, and with respect to Parent, to cause Seller's successor to obtain, such approvals as promptly as possible;

(ii) any of the Purchased Assets, the transfer of which to the Companies, in the absence of such an approval would cause or lead to a violation of any Law (the "Contingent Purchased Assets"), shall not be transferred to the Companies at the Closing, but Seller will, or Parent will cause Seller's successor to, transfer such assets immediately upon receipt of the requisite approvals, with the time between the Closing and the receipt of such approval being referred to as the "Interim Period";

(iii) during the Interim Period, Seller or its successor shall continue to have all title, rights, and obligations in the Contingent Purchased Assets to the extent necessary to avoid any violation of Law; and

(iv) Buyer will, and Seller will, or Parent will cause Seller's successor to, enter into such arrangements with each other prior to Closing as are permissible under Law and reasonably necessary to provide Buyer with the benefits and obligations in respect of the Contingent Purchased Assets from and after the Closing, and otherwise on terms and conditions reasonably acceptable to Buyer and Seller or its successor.

(g) Following the Closing, Buyer will cause the Companies and Seller will, or Parent will cause Seller's successor to, promptly remit to the other any payments the Companies or Seller or its successor receives that are in satisfaction of any rights or assets belonging to the other.

(h) With respect to the vehicles that are included in the Purchased Assets and that are subject to the Master Lease Agreement described in Schedule 5.8, Seller shall, upon written notice from Buyer, purchase such vehicles prior to the Closing and obtain the release of the liens on such vehicles as indicated in Schedule 5.8.

8.6 Public Statements. Each Party will consult with the other prior to issuing any press releases or otherwise making public announcements with respect to the transactions contemplated by this Agreement, except (i) as may be required by Law or by obligations pursuant to any listing agreement with or rules of any national securities exchange or any self-

regulatory organization, and (ii) for any consultation that would not be reasonably practicable as a result of requirements of Law.

8.7 Tax Matters.

(a) All transfer, documentary, stamp, registration, sales and use Taxes, including real property conveyance Taxes ("Transfer Taxes"), incurred in connection with this Agreement and the transactions contemplated hereby shall be shared equally between Seller or its successor, on the one hand, and Buyer, on the other hand. To the extent required by applicable Law, Seller shall, or Parent shall cause Seller's successor to, at its own expense, file all necessary Tax Returns and other documentation with respect to all such Transfer Taxes, and, if required by applicable Law, Buyer shall join in the execution of any such Tax Returns or other documentation. Buyer shall remit to Seller, within 20 days after receipt of notice as to the amount of such Transfer Taxes that are payable on or after the Closing or have been paid, 50 percent of the total amount of such Transfer Taxes. In the event there is an additional assessment of such Transfer Taxes or an amount of such Transfer Taxes is refunded, (i) Buyer and Seller shall share equally the amount of any such additional assessment, with the Party that is not required to pay such Transfer Tax under applicable Law remitting to the other 50 percent of such additional assessment within 20 days after receiving notice of a final determination, and (ii) Buyer and Seller shall share equally the amount of any such refund, with the Party receiving such refund paying 50 percent of such refund to the other within 20 days after receiving such refund (or claiming an offset against Taxes relating to such refund).

(b) Buyer will be responsible for the preparation and timely filing of, and will cause the Companies to, to the extent applicable, prepare and timely file, all Tax Returns associated with the Business, the Purchased Assets and the Business Employees for (i) in the case of property Taxes and payroll Taxes, all periods that begin before and end after the Closing Date (the "Straddle Period Taxes"), and (ii) in the case of all Taxes, all periods that begin after the Closing Date, and for the timely payment of all Taxes described in clauses (i) and (ii) of this Section 8.7(b).

(c) Any Tax Return that reflects Transfer Taxes or that reflects Taxes to be prorated in accordance with Section 3.4 will be subject to the approval of the Party not preparing such return, which approval will not be unreasonably withheld or delayed. Each Party will make any such Tax Return prepared by it available for the other Party's review and approval no later than twenty (20) Business Days prior to the due date for filing such Tax Return.

(d) Buyer, Parent and Seller will, Buyer will cause the Companies to, and Parent will cause Seller's successor to, provide one another with such assistance as may reasonably be requested by such other Persons in connection with the preparation of any Tax Return, any audit or other examination by any Governmental Entity, or any judicial or administrative proceedings relating to liability for Taxes, and each of Buyer, Parent and Seller will, Buyer will cause the Companies to, and Parent will cause Seller's successor to, retain and provide the other with any records or information which may be relevant to such return, audit or examination or proceedings. Any information obtained pursuant to this Section 8.7(d) or pursuant to any other Section hereof providing for the sharing of information in connection with

the preparation of, or the review of, any Tax Return or other schedule relating to Taxes will be kept confidential by the Persons referenced herein in accordance with Section 8.2(b).

8.8 Employees and Employee Benefits.

(a) No later than twenty (20) Business Days prior to the Closing Date, Buyer will give Qualifying Offers of employment to commence with the applicable Company as of the Closing Date to each of the Business Employees, including any such employees who are on a leave of absence under the Family and Medical Leave Act, the Uniformed Services Employment and Reemployment Rights Act or other applicable Law, or authorized under Seller's established leave policy, including short-term or long-term disability. For this purpose, a "Qualifying Offer" means employment at a level of base pay at least equal to the Business Employee's base pay in effect immediately prior to the Closing Date, and with a primary work location no more than fifty (50) miles from the Business Employee's primary work location immediately prior to the Closing Date; provided, however, that with respect to any Business Employee who is covered by a Collective Bargaining Agreement or Successor Collective Bargaining Agreement, the Qualifying Offer shall be on terms and conditions set forth in the Collective Bargaining Agreement, Successor Collective Bargaining Agreement or, if applicable, a new collective bargaining agreement negotiated by Buyer or the Companies covering such employee. Each Business Employee who becomes employed by either of the Companies pursuant to this Section 8.8(a) is referred to herein as a "Transferred Employee." Each Transferred Employee who is covered by a Collective Bargaining Agreement or a Successor Collective Bargaining Agreement shall be referred to herein as a "CB Transferred Employee," and each Transferred Employee who is not covered by a Collective Bargaining Agreement or a Successor Collective Bargaining Agreement shall be referred to herein as a "Non-CB Transferred Employee."

(b) All offers of employment made by Buyer with respect to employment by either of the Companies pursuant to Section 8.8(a) will be made in accordance with all applicable Laws, will be conditioned only on the occurrence of the Closing, and will remain open until the Closing Date. Any such offer which is accepted before it expires will thereafter be irrevocable, except for good cause. Following acceptance of such offers, Buyer will provide written notice thereof to Seller and Seller will, or Parent will cause Seller's successor to, provide Buyer and the Companies with access to the Transferred Employee Records consistent with applicable Law. Buyer will, and will cause the Companies to, be responsible for all liabilities and obligations for and with respect to any Business Employees who do not become Transferred Employees including (i) pursuant to Exhibit 8.8(d)(ii)(C), (ii) due to retirement by such employee after the date hereof and prior to Closing, (iii) severance benefits which become payable to such Business Employee upon any termination of such Business Employee's employment on or following the Closing Date, and (iv) the benefits described in Section 8.8(d)(ii)(D), but not including liabilities and obligations with respect to insured welfare benefits provided to such Business Employee for periods prior to the Closing Date. Without limiting the obligations of Buyer or the Companies hereunder, the employment of each Business Employee who does not become a Transferred Employee as of the Closing shall be terminated immediately following the Closing by Seller or the applicable Affiliate of Seller.

(c) From and after the Closing Date, Buyer will cause the Companies to recognize the union locals that are the counterparties to Seller under the Collective Bargaining

Agreements or any Successor Collective Bargaining Agreements entered into in compliance with Section 8.1(a) (the "Locals") as the exclusive bargaining representatives of the bargaining units that include CB Transferred Employees. No later than twenty (20) Business Days prior to the Closing Date, Buyer will negotiate and reach agreement with each Local on the terms and conditions of a new collective bargaining agreement to be effective from and after the Closing Date with respect to the applicable bargaining unit represented by such Local (each such agreement being referred to as a "New CBA"). Should Buyer fail to successfully negotiate a New CBA with a Local at least twenty (20) Business Days prior to the Closing Date, then at the Closing, Seller will cause the Companies to assume the existing Collective Bargaining Agreement or, as applicable, Successor Collective Bargaining Agreement entered into in compliance with Section 8.1(a), to the extent applicable to the bargaining unit represented by such Local and to the extent consistent with applicable Law; provided that the Companies shall not assume any of the Benefit Plans (but may receive assets to be transferred from such plans pursuant to Exhibit 8.8(d)(ii)(C)), and Buyer will, or will cause the Companies to, instead provide benefits of the type and amount described in the existing Collective Bargaining Agreements or Successor Collective Bargaining Agreements entered into in compliance with Section 8.1(a), as applicable, through Buyer's or the Company's own benefit plans and arrangements. Buyer agrees that (i) upon request by Seller, Buyer will notify Seller of the status of negotiations with each Local, and (ii) no later than nineteen (19) Business Days prior to the Closing Date, Buyer will notify Seller whether a New CBA has been successfully negotiated with such Local.

(d) The following will be applicable with respect to the Transferred Employees, Business Employees, Current Retirees, and Other Plan Participants as appropriate. For all purposes of this Section 8.8, determinations as to whether any individuals are "similarly situated" shall be made by Buyer in its reasonable discretion.

(i) From and after the Closing, the Transferred Employees will accrue no additional benefits under any Benefit Plan or any other employee benefit plan, policy, program, or arrangement of Seller, Parent or their respective Affiliates.

(ii) As of the Closing, with respect to the CB Transferred Employees, Buyer will, or will cause the Companies to, provide benefits of the type and amount described in the relevant collective bargaining agreements through Buyer's or the Companies' own benefit plans and arrangements. As of the Closing and extending through December 31 of the calendar year following the calendar year in which the Closing occurs, Buyer will cause the Non-CB Transferred Employees to be covered by Buyer or Company benefit plans that provide compensation and employee benefits (excluding (i) equity or equity based compensation, and (ii) change in control, severance or retention payments) that are no less favorable in the aggregate than provided to the Non-CB Transferred Employees immediately before the Closing; provided, that in determining the timing, amount and terms and conditions of equity compensation and other incentive awards to be granted to Non-CB Transferred Employees, Buyer will treat in a substantially similar manner Non-CB Transferred Employees and similarly situated other employees of Buyer (including by reason of job duties and years of service). The commitments under this Section 8.8(d)(ii) require the following with respect to the Non-CB Transferred Employees and, to the extent not addressed in the relevant collective bargaining agreement, the CB Transferred Employees:

(A) With respect to welfare benefit plans, Buyer agrees to waive or to cause the waiver of all restrictions, limitations or exclusionary periods as to pre-existing conditions, actively-at-work exclusions, waiting periods and proof of insurability requirements (to the extent allowable under Buyer's welfare benefit plans and insurance policies) for the Transferred Employees to the same extent waived or satisfied under the corresponding Benefit Plans. With respect to the calendar year in which the Closing Date occurs, all eligible expenses incurred by any such employees or any eligible dependent thereof, including any alternate recipient pursuant to qualified medical child support orders, in the portion of the calendar year preceding the Closing Date that were qualified to be taken into account for purposes of satisfying any deductible, co-insurance or out-of-pocket limit under any Seller Benefit Plan will be taken into account for purposes of satisfying any deductible, co-insurance or out-of-pocket limit under similar plans of Buyer or the Companies for such calendar year. As soon as practicable, but in no event later than sixty (60) days after the Closing Date, Seller will, or Parent will cause Seller's successor to, provide Buyer and the Companies with all relevant information necessary or reasonably requested by Buyer or the Companies for purposes of administering this provision, consistent with applicable Law.

(B) With respect to service and seniority, Buyer and the Companies will recognize the service and seniority of each of the Transferred Employees recognized by Seller for all material purposes, including the determination of eligibility and vesting, the extent of service or seniority-related welfare benefits, and eligibility for and level of retiree health benefits, but in any event not for purposes of determining the accrual of pension benefits and levels of pension or other retirement income benefits.

(C) The Parties will comply with the provisions set forth on Exhibit 8.8(d)(ii)(C).

(D) Buyer will or will cause the Companies to assume all liabilities, obligations, and responsibilities with respect to providing post-retirement health and life insurance benefits arising under or pursuant to existing plans and agreements of Seller ("Post-Retirement Welfare Benefits") to (i) the persons listed on Schedule 8.8(d)(ii)(D) and any Business Employee who retires between the date hereof and the Closing Date (such listed persons and such Business Employees, the "Current Retirees"), and their spouses and eligible dependents, and (ii) the Business Employees (together with the Current Retirees, the "Covered Individuals") and their spouses and eligible dependents. From and after the Closing, Buyer will or will cause the Companies to continue to provide to the Covered Individuals Post-Retirement Welfare Benefits that, in material respects, are comparable to in the aggregate those Post-Retirement Welfare Benefits provided to such Covered Individuals immediately prior to the Closing Date, under cost-sharing structures that either are at least as favorable as the cost-sharing structures in effect for and available to the Covered Individuals immediately prior to the Closing Date (as adjusted for inflation); provided that if Buyer or any of the Companies reduces or eliminates any Post-Retirement Welfare Benefits provided to Covered Individuals from such benefits that are available to such individuals under the terms and conditions of the existing plans and agreements of Seller applicable to such individuals as in effect on the date hereof, any liabilities arising in connection with such reduction or elimination shall be deemed an Assumed Obligation and Buyer will or will cause the Companies to be responsible therefor.

(E) With respect to the Aquila, Inc. Retirement Investment Plan (the "Savings Plan"), Seller will vest Transferred Employees in their Savings Plan account balances as of the Closing Date. Buyer will take all actions necessary to establish or designate a defined contribution plan and trust intended to qualify under Section 401(a) and Section 501(a) of the Code in which Transferred Employees are eligible to participate (x) to recognize the service that the Transferred Employees had in the Savings Plan for purposes of determining such Transferred Employees' eligibility to participate, vesting, attainment of retirement dates, contribution levels, and, if applicable, eligibility for optional forms of benefit payments, and (y) to accept direct rollovers of Transferred Employees' account balances in the Savings Plan, including transfers of loan balances and related promissory notes, provided that such loans would not be treated as taxable distributions at any time prior to such transfer.

(F) Within sixty (60) days after the Closing Date, Seller will, or Parent will cause Seller's successor to, transfer to a flexible spending plan maintained by the applicable Company, the Companies or Buyer any balances standing to the credit of Transferred Employees under Seller's flexible spending plan as of the day immediately preceding the Closing Date, net of any negative balances in the applicable accounts at such time. As soon as practicable after the Closing Date, Seller will, or Parent will cause Seller's successor to, provide to Buyer and the Companies a list of those Transferred Employees that have participated in the health or dependent care reimbursement accounts of Seller, together with (x) their elections made prior to the Closing Date with respect to such account and (y) balances standing to their credit as of the day immediately preceding the Closing Date. As of the transfer described in the first sentence hereof, the flexible spending plan maintained by the Companies or Buyer shall assume the rights and obligations of Seller's flexible spending plan with respect to the Transferred Employees for the remainder of the year in which such transfer occurs. For the avoidance of doubt, this paragraph shall not be construed to require a transfer with respect to any Transferred Employee of an amount in excess of such employee's unreimbursed contributions to the flexible spending plan as of the date of transfer.

(iii) With respect to severance benefits, Buyer will or will cause the Companies to provide to any Non-CB Transferred Employee who is terminated by Buyer or the Companies, as applicable (other than for cause), prior to the date which is one (1) year following the Closing Date, severance benefits comparable to those provided by Seller under Seller's severance plans and policies (other than any plans or policies with respect to stock options or other types of equity compensation) in effect immediately prior to the Closing Date. Any employee who is provided severance benefits under this Section 8.8(d)(iii) may be required to execute a release of claims against Buyer, Seller and their respective Affiliates and successors, in such form as Buyer or the applicable Company, reasonably prescribes, as a condition for the receipt of such benefits.

(iv) Parent will, or will cause Seller or its successor to, provide COBRA Continuation Coverage to any current and former Business Employees, or to any qualified beneficiaries of such Business Employees, who become or became entitled to COBRA Continuation Coverage on or before the Closing, including those for whom the Closing occurs during their COBRA election period. Buyer will and will cause the Companies to be responsible for extending and continuing to extend COBRA Continuation Coverage to all Transferred

Employees (and their qualified beneficiaries) who incur a COBRA qualifying event and thus become entitled to such COBRA Continuation Coverage following the Closing.

(v) Without limiting the obligations of the Parties under Sections 8.8(d)(ii)(C) and 8.8(d)(ii)(D), Seller or its Affiliates will pay or cause to be paid to all Transferred Employees, all compensation (including any accrued vacation carried over to the calendar year of the Closing from a previous calendar year), workers' compensation or other employment benefits to which they are entitled or that have accrued under the terms of the applicable compensation or Seller Benefit Plans or programs with respect to employment or events occurring prior to the Closing Date; provided that if any of the CB Transferred Employees elect to retain or carryover accrued and unused vacation days rather than receive such payments, Seller or its Affiliates will pay or cause to be paid to Buyer an amount equal to the aggregate amount that would otherwise have been paid to such CB Transferred Employees with respect to such vacation days, and Buyer will honor all such accrued and unused vacation days of such CB Transferred Employees as of the Closing. Buyer will, or cause the Companies to, pay to each Transferred Employee all unpaid salary or other compensation or employment benefits (but not including any compensation attributable to stock options or other types of equity compensation granted by Seller) which accrue to such employee from and after the Closing Date, at such times as provided under the terms of the applicable compensation or benefit programs.

(vi) Without limiting the obligations of the Parties under Sections 8.8(d)(ii)(C) and 8.8(d)(ii)(D), Business Employees who on the Closing Date are not actively at work due to a leave of absence covered by the Family and Medical Leave Act, the Uniformed Service Employment and Reemployment Rights Act or other applicable Law, or other authorized leave of absence under Seller's established leave policy, including short-term or long-term disability, will be provided by Buyer with, or Buyer will cause the Companies to provide, benefits and compensation during such leave that is substantially similar to the benefits and compensation provided to such employees by Seller prior to the Closing Date, and Buyer will or will cause the Companies to treat such Business Employees as Transferred Employees on the date that they are able to return to work (provided that such return to work occurs within the authorized period of their leaves following the Closing Date) and are able to perform the essential functions of their jobs with or without reasonable accommodation. Seller shall provide Buyer with a list of such individuals as of the Closing Date with the scheduled dates for expiration of their leaves.

(vii) Buyer will or will cause the Companies to assume Seller's obligations as of the Closing Date to pay nonqualified deferred compensation to the applicable Business Employees and former Business Employees.

(e) On or before the Closing Date, Seller shall provide Buyer a list of the names and sites of employment of any and all Business Employees who have experienced, or will experience, an employment loss or layoff as defined by WARN Act or any similar applicable state or local Law requiring notice to employees in the event of a closing or layoff within ninety (90) days prior to the Closing Date. Seller shall update this list up to and including the Closing Date. For a period of ninety (90) days after the Closing Date, Buyer shall not allow the Companies to engage in any conduct which would result in an employment loss or layoff for a sufficient number of employees of the Companies or either of them which, if aggregated with

any such conduct on the part of Seller prior to the Closing Date, would trigger the WARN Act or any similar applicable Law. Without limiting the foregoing, Buyer will be and will cause the Companies to be responsible, with respect to the Business, for performing and discharging all requirements under the WARN Act and under applicable state and local laws and regulations for the notification to Transferred Employees of any "employment loss" within the meaning of the WARN Act which occurs at or following the Closing Date.

(f) From and after the Closing Date, with respect to worker's compensation, Buyer shall or shall cause the Companies to assume, discharge, pay and be solely liable for all Losses in respect of any Claims pending as of or commenced after the Closing Date resulting from actual or alleged harm or injury to any Business Employee regardless of when the incident or accident giving rise to such liability occurred or occurs. Buyer shall or shall cause the Companies to make all necessary arrangements to assume all such worker's compensation claim files, whether opened or closed, as of the Closing Date, and will make the necessary arrangements for assuming the continued management of such liabilities.

(g) From and after the Closing Date, except to the extent any such Losses are covered under Seller's or an Affiliates' third party insurance plans or policies, reinsurance policies or arrangements, or trusts or other funding vehicles, Buyer shall or shall cause the Companies to assume, discharge, pay and be solely liable for health, accidental death and dismemberment, short term disability or life insurance coverage and any medical or dental benefits to the Business Employees and their eligible dependents.

(h) Buyer agrees that from and after the Closing Date, if a Business Employee commences an action, suit or proceeding relating to an employment-related claim (but excluding, in any event the ERISA Case), any resulting Liability shall be the responsibility of the Companies. Parent shall reasonably cooperate with Buyer and the Companies in the defense of any such claim to the extent that the applicable actions or events transpired preceding the Closing Date.

(i) For purposes of Sections 8.8(f), 8.8(g) and 8.8(h), the term "Business Employees" shall also include any individuals who (A) were employed principally for the Business at the time the incident or circumstances giving rise to such suit, claim, action, proceeding or Loss occurred, and (B) who are not employed by Seller either as of the date hereof or as of the Closing Date.

(j) No provision in this Agreement shall modify or amend any other agreement, plan, program or document, including any of Buyer's benefit plans or arrangements, unless this Agreement explicitly states that the provision "amends" that other agreement, plan, program or document. This shall not prevent the parties entitled to enforce this Agreement from enforcing any provision in this Agreement, but no other party shall be entitled to enforce any provision in this Agreement on the grounds that it is an amendment to another agreement, plan, program or document, unless a provision is explicitly designated as such in this Agreement, and the person is otherwise entitled to enforce such other agreement, plan, program or document. If a party not entitled to enforce this Agreement brings a lawsuit or other action to enforce any provision in this Agreement as an amendment to another agreement, plan, program or document, and such provision is construed to be such an amendment despite not being explicitly designated

as an amendment in this Agreement, such provision shall lapse retroactively, thereby precluding it from having any amendatory effect. The provisions of this Section 8.8 are not, and will not be construed as being, for the benefit of any Person other than the Parties, and are not enforceable by any Persons (including Transferred Employees, Current Retirees, and Other Plan Participants) other than such Parties.

(k) Following the Closing, if Buyer, either of the Companies or Seller or its successor identifies any individual that was incorrectly classified by Seller (including employees not listed in Schedule 1.1–B) with respect to whether such individual was a Business Employee, a former employee of the Business or a Current Retiree, as applicable, Buyer and Seller agree to, Buyer shall cause the Companies to and Parent shall cause Seller's successor to, notify the other Party or the Companies, as applicable, and, acting in good faith, to take, or cause to be taken, all action, and to do, or cause to be done, all things reasonably necessary, proper or advisable to cause such individual to be appropriately classified for purposes of this Agreement, and to allocate the liabilities and obligations related to such re-classified individual in accordance with the terms hereof.

8.9 Eminent Domain; Casualty Loss.

(a) If, before the Closing Date, any of the Purchased Assets are taken by eminent domain or condemnation, or are the subject of a pending or (to Seller's Knowledge) contemplated taking which has not been consummated, Seller will (i) notify Buyer promptly in writing of such fact, and (ii) at the Closing assign, or Seller shall, or Parent shall cause Seller's successor to, assign to the Companies all of Seller's right, title, and interest in and to any proceeds or payments received, or to be received, in compensation for such taking.

(b) If, before the Closing Date, all or any material portion of the Purchased Assets are damaged or destroyed by fire or other casualty, Seller will notify Buyer promptly in writing of such fact and, at the Closing assign to the Companies, or Seller shall, or Parent shall cause Seller's successor to, assign to the Companies all of Seller's right, title, and interest in and to any insurance recoveries received, or to be received, in compensation for such damage or destruction less any such amounts received, or to be received, to reimburse Seller for expenditures incurred by Seller to repair or replace such Purchased Assets.

(c) Seller and Buyer will use their reasonable best efforts (without being required to make payment to any third party or to incur any economic burden) to obtain from each holder of any Preferential Purchase Right a written waiver of such Preferential Purchase Right if required with respect to the transactions contemplated by this Agreement (an "Applicable Preferential Purchase Right"). If the Parties cannot obtain a waiver of an Applicable Preferential Purchase Right, the Parties will cooperate, using reasonable best efforts, to provide for compliance with the terms of such Applicable Preferential Purchase Right. In the event that any Purchased Asset remains subject to such Applicable Preferential Purchase Right as of the Closing, in lieu of any adjustment to the Purchase Price Seller will, or Parent will cause Seller's successor to, at the Closing assign to the applicable Company, as a Purchased Asset, all of Seller's right, title, and interest in and to all rights of Seller with respect to such Applicable Preferential Purchase Right, including proceeds received or to be received in respect to such Applicable Preferential Purchase Right, and will assign to the applicable Company and Buyer

shall cause such Company to assume, as Assumed Obligations, all obligations of Seller with respect to such Applicable Preferential Purchase Right. If any third party holding a Preferential Purchase Right exercises such right prior to the Closing, Seller shall promptly give Buyer written notice of such exercise. Buyer and Seller hereby expressly acknowledge and agree that nothing in this Agreement constitutes an offer or agreement to sell, transfer, dispose of, purchase, assume, or acquire any asset subject to a Preferential Purchase Right except upon the Closing following the satisfaction of all conditions to Closing specified in this Agreement. Neither this Agreement nor anything herein or in connection herewith shall be deemed to obligate Seller to sell, transfer, assign or otherwise dispose of any Purchased Asset or Assumed Obligation, to Buyer or any other Person, except upon the Closing following the satisfaction or waiver of all conditions to Closing specified in this Agreement.

(d) A condemnation or taking of, casualty or exercise of a Preferential Purchase Right set forth in Schedule 5.8 with respect to, any Purchased Asset, and any effects thereof (including any resulting termination of any Franchise or other agreement principally related to such Purchased Asset), may be taken into account in determining whether a Material Adverse Effect has occurred; provided that to the extent either of the Companies is assigned the rights, title and interest to any payments or proceeds received by Seller with respect to any such condemnation or taking, casualty or exercise of a Preferential Purchase Right, such payments or proceeds may be considered in determining whether any Material Adverse Effect has occurred; provided further that assignment of such proceeds or payments to such Company shall not necessarily mean a Material Adverse Effect did not occur.

8.10 Transitional Use of Signage and Other Materials Incorporating Seller's Name or other Logos. Parent acknowledges that it will have no ongoing claim or rights in or to the Seller Marks. Within one hundred eighty (180) days following the Closing Date, Parent will remove or cause the removal of the Seller Marks from all signage or other items relating to or used in connection with the Excluded Assets and, thereafter, Parent will not use or permit the use of any Seller Marks.

8.11 Litigation Support. In the event and for so long as any of the Companies, Buyer, Parent or Seller or its successor is actively contesting or defending against any third-party Claim in connection with (i) any transaction contemplated under this Agreement or (ii) any fact, situation, circumstance, status, condition, activity, practice, plan, occurrence, event, incident, action, failure to act, or transaction on or prior to the Closing Date involving Seller, Buyer, Parent and Seller will, Seller will cause the Companies to and Parent will cause Seller's successor to, cooperate with the contesting or defending Person and its counsel in the contest or defense, make reasonably available its personnel, and provide such testimony and access to its books and records as is reasonably necessary in connection with the contest or defense, all at the sole cost and expense of the contesting or defending Person.

8.12 Audit Assistance.

(a) If, (i) during or for the period beginning on the date hereof and ending on the Closing Date, Buyer is, in connection with any annual or quarterly report filed with the SEC, required by the SEC to file audited or reviewed financial statements of the Business in respect of any period occurring prior the Closing Date, or (ii) during or for the period beginning on the date

hereof and ending on the last day of the calendar year of the Closing, Buyer is, in connection with a registration statement or other voluntary filing to be filed by Buyer with the SEC, required by the SEC to file audited or reviewed financial statements of the Business in respect of any period occurring prior the Closing Date, then in each case at Buyer's request, as applicable, Seller will, or Parent will cause Seller's successor to, use its reasonable best efforts to cause Seller's auditor to, at Buyer's sole cost and expense, (a) cooperate with and provide Buyer access to such information, books and records as necessary for Buyer to prepare audited and interim or reviewed financial statements of the Business, and (b) agree to provide to Buyer an audit or review of the financial statements of the Business, for the periods necessary to satisfy the SEC requirements (and any consents, if any, to use such audited or reviewed financial statements in Buyer's SEC filings). Further, Seller will use reasonable best efforts to assist Buyer in preparing pro forma financial information that in Buyer's reasonable judgment may be required to be included in any such filing or prospectus, offering memorandum or other document or materials that may be prepared in connection with the Buyer Financing or otherwise on or prior to the Closing, and, whether or not Seller's auditor is retained by Buyer to conduct an audit or review of the Business, Seller will, or Parent will cause Seller's successor to (x) use its reasonable best efforts to cause Seller's auditor to, at Buyer's sole cost and expense, make available to Buyer and its auditors the work papers and other documents and records reasonably requested by Buyer that were created prior to the Closing and relate principally to the Business, and (y) cooperate with Buyer, at Buyer's sole cost and expense, in obtaining an audit or review of the Business, in each case, to the extent required by the SEC.

(b) Seller acknowledges and agrees that any audited and interim or reviewed financial statements and related information prepared in accordance with this Section 8.12 will not be deemed Confidential Information for purposes of this Agreement.

8.13 Notification of Customers. As soon as practicable following the Closing, Seller will, or Parent will cause Seller's successor to, cooperate with the Companies and Buyer to cause to be sent to customers of the Business a notice of the transfer of the customers from Seller to the applicable Company (the "Customer Notification"). The Customer Notification will contain such information as is required by Law and approved by Buyer and Seller, which approval will not be unreasonably withheld or delayed.

8.14 Financing. Buyer will use reasonable best efforts to take or to cause to be taken, all actions, and to do or cause to be done, all things necessary, proper or advisable to close the Buyer Financing on the terms and conditions described in the Buyer Financing Commitments by the date upon which the Closing Date is contemplated to occur in accordance with Section 4.1 (provided and to the extent that Buyer has not otherwise obtained funds sufficient to pay the Purchase Price through other sources of funds and provided that Buyer may replace or amend the Buyer Financing Commitments after consultation with Parent and Seller but only if the terms of such replacement or amended Buyer Financing Commitments, including with respect to conditionality, would not adversely impact Buyer's ability to consummate the transactions contemplated by this Agreement or the Asset Purchase Agreement, or otherwise prevent, impact or delay the consummation of the transactions contemplated by this Agreement or the Asset Purchase Agreement), including paying the commitment fees arising under the Buyer Financing Commitments as and when such fees become due and payable during the period beginning on the date hereof and ending on the Closing Date, and using reasonable best efforts to (i) negotiate

definitive agreements with respect thereto on the terms and conditions contained therein and (ii) to satisfy on a timely basis all conditions applicable to obtain the Buyer Financing. In the event any portion of the Buyer Financing becomes unavailable on the terms and conditions contemplated in the Buyer Financing Commitments and Buyer has not otherwise obtained other sources of funds, Buyer will use reasonable best efforts to obtain alternative financing from alternative sources by the date upon which the Closing Date is contemplated to occur in accordance with Section 4.1. Buyer will give prompt notice to Seller and Parent of any material breach of the Buyer Financing Commitments of which Buyer becomes aware or any termination of the Buyer Financing Commitments or any Buyer Financing. Buyer will keep Seller and Parent informed on a regularly current basis in reasonable detail of the status of the Buyer Financing.

8.15 Document Delivery. The Parties will work cooperatively to make available to Buyer prior to the Closing such Documents as are reasonably necessary to transition the control and operation of the Business to the Companies and Buyer at the Closing with minimal interruptions or disruptions in the conduct of the Business. At or within a reasonably practicable period of time after the Closing Date, Seller will, or Parent will cause Seller's successor to, deliver to the Companies, at such location mutually agreed upon by the Companies and Seller or its successor, any remaining Documents. At the reasonable request of Buyer or the Companies, Seller will, or Parent will cause Seller's successor to, use reasonable best efforts to make available in an electronic format compatible with Buyer's electronic systems any Documents and other books and records relating to the Purchased Assets which are maintained by Seller in electronic form.

8.16 Surveys' Title Insurance, Estoppel Certificates, and Non-Disturbance Agreements. At Buyer's option and at Buyer's sole cost and expense, Buyer may obtain (i) surveys desired by Buyer in respect of the Real Property, in form and substance reasonably satisfactory to Buyer; (ii) title insurance policies in current ALTA Form or equivalent covering the Real Property, insuring title to the applicable Real Property as vested in the Companies, and in form, substance, and amounts reasonably satisfactory to Buyer, and without limiting the generality of the foregoing, with all requirements satisfied or waived, with all exceptions deleted, and with all endorsement thereto to the extent desired by Buyer; and (iii) all estoppel certificates and non-disturbance agreements desired by Buyer in respect of any real property leases included in the Purchased Assets, in form and substance reasonably satisfactory to Buyer and to the parties providing such certificates and agreements. Seller and Limited Partner agree, and Parent agrees to cause Seller's successor, to cooperate as reasonably requested by Buyer (at Buyer's expense) in its efforts to obtain such items, provided that (y) none of Limited Partner, the Companies, Parent, Seller or Seller's successor shall be required to make any payment to any third party or incur any economic burden in connection therewith, and (z) Buyer's obtaining any such items shall not be a requirement of or a condition to the Closing. In addition, with respect to Limited Partner's, Seller's and Seller's successor's cooperation with Buyer's reasonable requests to obtain title insurance under clause (ii) above, none of Limited Partner, Seller and Seller's successor, except to the extent required to satisfy the Closing condition set forth in Section 9.2(f), and except for such actions as may be necessary to enable Buyer's title insurance company to insure title to the applicable Real Property as vested in the Companies, shall be required to cure any purported defects, cause any exceptions to be deleted, or provide any

affidavits, indemnities, or representations or warranties to any title company issuing such title insurance.

8.17 Post-Closing Release of Encumbrances and Transfer of Purchased Assets.

(a) Notwithstanding anything to the contrary herein, if any Non-Permitted Encumbrances on the Company Interests, the Business or the Purchased Assets are not released on or before the Closing, and such Non-Permitted Encumbrances secure or are created by or in respect of the Excluded Liabilities, or are for material delinquent Taxes or material delinquent assessments, Seller shall, and Parent shall cause Seller's successor to, promptly make such payments and take such actions as necessary to obtain the release of such Non-Permitted Encumbrances after the Closing.

(b) Notwithstanding anything to the contrary herein, if Seller fails to deliver any deeds of conveyance or assignments or other instruments, certificates or documents as necessary to transfer any of the Purchased Assets to the Companies at the Closing, Seller shall, and Parent shall cause Seller's successor to, promptly execute and deliver such deeds of conveyance, assignments or other instruments, certificates or documents and take such actions as necessary to transfer such Purchased Assets to the Companies as soon as practicable after the Closing.

8.18 Shared Code Licenses. Buyer hereby grants to Parent a worldwide, non-exclusive, royalty-free, fully paid-up, sublicensable, transferable license to use, reproduce, make derivative works of, distribute, display and perform the Shared Code that is included in the Purchased Assets. Parent hereby grants to Buyer a worldwide, non-exclusive, royalty-free, fully paid-up, sublicensable, transferable license to use, reproduce, make derivative works of, distribute, display and perform the Shared Code that is included in the Excluded Assets. Except as set forth in the Transition Services Agreement, neither Buyer nor Parent shall have any obligation to support, maintain, provide updates or upgrades for, or otherwise provide any assistance to the other in connection with, the Shared Code. The foregoing licenses shall be binding on the respective successors and assigns of Buyer and Parent.

8.19 Performance of the Obligations of the Companies Post-Closing. From and after the Closing, Buyer shall cause the Companies to perform all of the obligations of the Companies that under the terms of this Agreement are to be performed from and after the Closing Date.

ARTICLE IX

CONDITIONS TO CLOSING

9.1 Conditions to Each Party's Obligations to Effect the Closing. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the satisfaction or waiver by Buyer and Seller at or prior to the Closing Date of each of the following conditions:

(a) The waiting period under the HSR Act, including any extension thereof, applicable to the consummation of the transactions contemplated hereby shall have expired or been terminated;

(b) No applicable Law prohibiting consummation of the transactions contemplated in this Agreement shall be in effect, except where the violation of Law resulting from the consummation of the transactions contemplated in this Agreement would not, individually or in the aggregate, reasonably be expected to have an impact (other than an insignificant impact) on the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken as a whole, and no court of competent jurisdiction in the United States will have issued any Order that is in effect and enjoins the consummation of the transactions contemplated hereby (each Party agreeing to use its reasonable best efforts to have any such Order lifted); and

(c) Seller, Parent and Merger Sub will be in a position to consummate the Merger immediately following the closing of the transactions contemplated by this Agreement and the Asset Purchase Agreement.

9.2 Conditions to Obligations of Buyer. The obligation of Buyer to effect the transactions contemplated hereby is also subject to the satisfaction or waiver by Buyer at or prior to the Closing Date of the following conditions:

(a) Since the date of this Agreement, no Material Adverse Effect shall have occurred and be continuing;

(b) Seller, Limited Partner, Parent and Merger Sub shall have performed and complied in all material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by such Person on or prior to the Closing Date (other than Section 4.3, which is subject to Section 9.2(f));

(c) The representations and warranties of Seller set forth in ARTICLE V of this Agreement, and the representations and warranties of Parent and Merger Sub set forth in ARTICLE VII of this Agreement, shall be true and correct as of the Closing Date, as if made at and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of an earlier date, in which case such representation and warranty will be true and correct only as of such date), except where the failure or failures of such representations and warranties to be so true and correct (without giving effect to any limitations or exceptions as to materiality or Material Adverse Effect set forth therein) would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(d) Buyer shall have received a certificate from the Chief Executive Officer of each of Parent and Seller, dated the Closing Date stating that, to the best of such officer's knowledge, the conditions set forth in Sections 9.2(b) and 9.2(c) regarding Parent and Seller, respectively, have been satisfied;

(e) The Required Regulatory Approvals shall have been obtained and become Final Regulatory Orders, and no terms (excluding those proposed in the applications for the Required Regulatory Approvals) shall have been imposed in connection with such Final Regulatory Orders by any Governmental Entity which terms, individually or in the aggregate, would reasonably be expected to result in a Regulatory Material Adverse Effect;

(f) Buyer shall have received the items to be delivered pursuant to Section 4.3; provided that the failure to deliver the items required to be delivered pursuant to Sections 4.3(e)-(i) shall not be construed as a failure to satisfy the requirements of this Section 9.2(f) to the extent any deed, assignment, instrument of conveyance or certificate of title, termination or release (i) otherwise required pursuant to Sections 4.3(e)-(h) relates to parcels of immaterial Real Property, immaterial Easements, or immaterial titled or other Purchased Assets, each of which is subject to transfer subsequent to the Closing pursuant to Section 8.17; or (ii) otherwise required pursuant to Section 4.3(i) relates to terminations or releases of Non-Permitted Encumbrances on the Purchased Assets requiring the payment of immaterial amounts of cash, or the delivery of instruments, certificates or other documents or items required to remove Non-Permitted Encumbrances on assets that are immaterial to the Business, the Purchased Assets, the Colorado Business and the Colorado Assets, taken as a whole, and are subject, in each case, to release subsequent to the Closing pursuant to Section 8.17; and

(g) The consummation of the transactions contemplated by the Asset Purchase Agreement shall have occurred or shall occur concurrently with the Closing.

9.3 Conditions to Obligations of Seller. The obligations of Seller to effect the transactions contemplated hereby is also subject to the satisfaction or waiver at or prior to the Closing Date of the following conditions:

(a) Buyer shall have performed and complied in all material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by Buyer on or prior to the Closing Date;

(b) The representations and warranties of Buyer which are set forth in ARTICLE VI of this Agreement shall be true and correct as of the Closing Date as if made at and as of the Closing Date (except to the extent that any such representation or warranty is expressly made as of an earlier date, in which case such representation and warranty will be true and correct only as of such date), except where the failure or failures of such representations and warranties to be so true and correct (without giving effect to any limitations or exceptions as to materiality set forth therein) that do not, individually or in the aggregate, cause such representations and warranties of Buyer to be materially inaccurate taken as a whole;

(c) Seller shall have received a certificate from the Chief Executive Officer of Buyer dated the Closing Date stating that, to the best of such officer’s knowledge, the conditions set forth in Sections 9.3(a) and 9.3(b) have been satisfied;

(d) The Required Regulatory Approvals shall have been obtained and become Final Regulatory Orders; and no terms (excluding those proposed in the applications for the Required Regulatory Approvals) shall have been imposed in connection with such Final Regulatory Orders by any Governmental Entity which terms, individually or in the aggregate, would reasonably be expected to result in a Regulatory Material Adverse Effect affecting the Post-Sale Company (as defined in the Merger Agreement);

(e) Seller shall have received the other items to be delivered pursuant to Section 4.4; and

(f) The consummation of the transactions contemplated by the Asset Purchase Agreement shall have occurred or shall occur concurrently with the Closing.

9.4 Invoking Certain Provisions. Any Party seeking to claim that a condition to its obligation to effect the transactions contemplated hereby has not been satisfied by reason of the fact that a Material Adverse Effect or a Regulatory Material Adverse Effect has occurred or would reasonably be expected to occur or result will have the burden of proof to establish that occurrence or expectation.

ARTICLE X

TERMINATION AND OTHER REMEDIES

10.1 Termination.

(a) This Agreement may be terminated at any time prior to the Closing Date by mutual written consent of Seller, Buyer and Parent.

(b) This Agreement may be terminated by Seller or Buyer if the Closing has not occurred on or before the first anniversary of the date of this Agreement (the "Termination Date"); provided that, if Buyer or Seller determines that additional time is necessary to obtain any of the Required Regulatory Approvals, the Material Company Regulatory Consents or the Material Parent Regulatory Consents (each as defined in the Merger Agreement), or the "Required Regulatory Approvals" as defined in the Asset Purchase Agreement, or if all of the conditions to Parent's obligations to consummate the Merger shall have been satisfied or shall be then capable of being satisfied and this Agreement fails to be consummated by reason of a breach by Parent of its obligation to be in a position to consummate the Merger after the Closing, the Termination Date may be extended by Buyer or Seller from time to time by written notice to the other Party and to Parent up to a date not beyond eighteen (18) months after the date of this Agreement, any of which dates shall thereafter be deemed to be the Termination Date; provided further that the right to terminate this Agreement under this Section 10.1(b) will not be available to a Party that has breached in any material respect its obligations under this Agreement in any manner that will have proximately contributed to the failure of the Closing to occur on or before the Termination Date.

(c) This Agreement may be terminated by either Seller or Buyer if (i) any Required Regulatory Approval has been denied by the applicable Governmental Entity and all appeals of such denial have been taken and have been unsuccessful, or (ii) one or more courts of competent jurisdiction in the United States or any State has issued an Order permanently restraining, enjoining, or otherwise prohibiting the Closing, and such Order has become final and nonappealable.

(d) This Agreement may be terminated by Buyer if there has been a material breach of any representation, warranty, or covenant made by Seller in this Agreement, or any representation or warranty of Seller shall have become untrue after the date of this Agreement, so that Section 9.2(b) or 9.2(c) would not be satisfied and this breach or failure to be true, is not curable, or if curable, is not curable by the Termination Date (as the same may be extended).

(e) This Agreement may be terminated by Seller if the Board of Directors of Seller approves a Superior Proposal (as defined in the Merger Agreement) and authorizes Seller to enter into a binding written agreement with respect to that Superior Proposal and, in connection with the termination of the Merger Agreement and entering into the agreement reflecting the Superior Proposal, pays into a joint bank account in the names of Buyer and Parent by wire transfer of same day funds the Company Termination Fee (as defined in the Merger Agreement) required to be paid pursuant to Section 9.5(b) of the Merger Agreement.

(f) This Agreement may be terminated by Seller if there has been a material breach of any representation, warranty, or covenant made by Buyer in this Agreement, or any representation or warranty of Buyer shall have become untrue after the date of this Agreement, so that Sections 9.3(a) and 9.3(b) would not be satisfied and this breach or failure to be true is not curable, or if curable, is not curable by the Termination Date (as the same may be extended).

(g) This Agreement may be terminated by Buyer or Seller upon or following the termination of the Merger Agreement in accordance with its terms.

10.2 Procedure and Effect of Termination. In the event of termination of this Agreement pursuant to Section 10.1, written notice thereof will forthwith be given by the terminating Party to the other Parties and this Agreement (other than as set forth in this Section 10.2, Section 10.4 and Section 11.1) will terminate and become void and of no effect, and the transactions contemplated hereby will be abandoned without further action by any Party, whereupon the liabilities of the Parties hereunder (and of any of their respective Representatives) will terminate, except as otherwise expressly provided in this Agreement; provided, that such termination will not relieve any Party from any liability for damages to any other Party resulting from any prior breach of this Agreement, the Asset Purchase Agreement or the Merger Agreement which is (i) material, and (ii) willful or knowing. If this Agreement is terminated pursuant to Section 10.1(e) or Section 10.1(g) upon or following termination of the Merger Agreement under circumstances where Seller is required to pay Parent the Company Termination Fee (as defined in the Merger Agreement) pursuant to the provisions of Section 9.5(b) of the Merger Agreement, Seller will, following such termination and at the time required under Section 9.5(b) of the Merger Agreement, pay into a joint bank account in the names of Buyer and Parent the termination fee required to be paid pursuant to the terms of the Merger Agreement, by wire transfer of same day funds. If this Agreement is terminated pursuant to Section 10.1(g) upon or following termination of the Merger Agreement under circumstances where Parent is required to pay Seller the Parent Termination Fee (as defined in the Merger Agreement) pursuant to the provisions of Section 9.5(c) of the Merger Agreement, Parent will, following such termination and at the time required for payment of the Parent Termination Fee (as defined in the Merger Agreement), pay Buyer the Termination Fee. Seller, Limited Partner and Parent acknowledge that the agreements contained in this Section 10.2 are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, Buyer would not enter into this Agreement; accordingly, if Seller or Parent fails to pay promptly the amount due pursuant to this Section 10.2, and, in order to obtain such payment, Buyer commences a suit which results in a judgment against Seller or Parent, as the case may be, for the fee to be paid by such Party as set forth in this Section 10.2, Seller or Parent, as applicable, will pay to Buyer its costs and expenses (including attorneys' fees) in connection with this suit, together with interest

on the amount of the fee at the Prime Rate in effect on the date the payment should have been made.

10.3 Payment of Termination Fee. As promptly as practicable after payment of the Company Termination Fee (as defined in the Merger Agreement) to be paid pursuant to the terms of the Merger Agreement to the joint bank account, Parent and Buyer will reasonably agree upon the amount of the Termination Fee (subject to the limitations thereon as set forth in the definition of Termination Fee set forth herein) to be paid to Buyer, and upon such agreement Buyer and Parent shall jointly direct payment of the agreed-upon Termination Fee to Buyer and disbursement of the remaining amount in such joint account to Parent.

10.4 Remedies upon Termination. If this Agreement is terminated as provided herein:

(a) ARTICLE XI (other than Section 11.2, Section 11.3 and Section 11.5) and the agreements of the Parties contained in Section 8.2(b), Section 8.2(d), Section 8.3, Section 10.2, Section 10.3 and Section 10.4 will survive the termination of this Agreement.

(b) Notwithstanding anything to the contrary herein, in view of the difficulty of determining the amount of damages which may result from a termination of this Agreement and the failure of the Parties to consummate the transactions contemplated by this Agreement under circumstances in which a termination fee is payable as contemplated by Section 10.2, Buyer, Parent, Merger Sub, Seller and Limited Partner have mutually agreed that the payment of the termination fees as set forth in Section 10.2 will be made as liquidated damages, and not as a penalty. In the event of any such termination, the Parties have agreed that the payment of the applicable termination fee as set forth in Section 10.2 will be the sole and exclusive remedy for monetary damages of Buyer. ACCORDINGLY, THE PARTIES HEREBY ACKNOWLEDGE THAT (i) THE EXTENT OF DAMAGES CAUSED BY THE FAILURE OF THIS TRANSACTION TO BE CONSUMMATED WOULD BE IMPOSSIBLE OR EXTREMELY DIFFICULT TO ASCERTAIN UNDER CIRCUMSTANCES IN WHICH A TERMINATION FEE IS PAYABLE AS CONTEMPLATED BY SECTION 10.2, (ii) THE AMOUNT OF THE TERMINATION FEE CONTEMPLATED IN SECTIONS 10.2 AND 10.3 IS A FAIR AND REASONABLE ESTIMATE OF SUCH DAMAGES UNDER THE CIRCUMSTANCES, AND (iii) RECEIPT OF SUCH TERMINATION FEE BY BUYER DOES NOT CONSTITUTE A PENALTY. THE PARTIES HEREBY FOREVER WAIVE AND AGREE TO FOREGO TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW ANY AND ALL RIGHTS THEY HAVE OR IN THE FUTURE MAY HAVE TO ASSERT ANY CLAIM DISPUTING OR OTHERWISE OBJECTING TO ANY OR ALL OF THE FOREGOING PROVISIONS OF THIS SECTION 10.4(b). Any payment under Section 10.2 will be made by wire transfer of same day funds to a bank account in the United States of America designated in writing by the Parties entitled to receive such payment not later than three (3) Business Days following the date such Party delivers notice of such account designation to the Party responsible to make such payment.

(c) Upon any termination of this Agreement, all filings, applications and other submissions made pursuant to this Agreement, to the extent practicable, will be withdrawn from the Governmental Entity or other Person to which they were made.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Survival. None of the covenants or agreements of Seller, Buyer, Parent or Merger Sub contained in this Agreement will survive the Closing, except for this ARTICLE XI and those covenants and agreements contained herein that by their terms apply or are to be performed in whole or in part after the Closing. Except as specified in the foregoing sentence, all other representations, warranties, covenants and agreements in this Agreement will not survive the Closing of this Agreement.

11.2 Amendment and Modification. This Agreement may be amended, modified, or supplemented only by a written agreement executed and delivered by duly authorized officers of Seller, Parent and Buyer.

11.3 Waiver of Compliance. Except as otherwise provided in this Agreement, any failure of a Party to comply with any obligation, covenant, agreement, or condition herein may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

11.4 Notices. Notices, requests, instructions or other documents to be given under this Agreement must be in writing and will be deemed given, (a) when sent if sent by facsimile, provided that the fax is promptly confirmed by telephone confirmation thereof, (b) when delivered, if delivered personally to the intended recipient, and (c) one (1) Business Day later, if sent by overnight delivery via a national courier service, and in each case, addressed to a Party at the following address for such Party:

(a) If to Parent or Merger Sub, or to Seller after the Closing, to:

Great Plains Energy Incorporated
1201 Walnut Street
P.O. Box 418679
Kansas City, MO 64106
Attention: Mark G. English,
General Counsel and Assistant Secretary
Fax: (816) 556-2418

with a copy to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attention: Nancy A. Lieberman, Esq.
Morris J. Kramer, Esq.
Fax: (212) 735-2000

(b) If to Buyer, or to Limited Partner after the Closing, to:

Black Hills Corporation
625 9th Street
Rapid City, South Dakota 57709
Attention: Steven J. Helmers, Esq.
Fax: (605) 721-2550

with a copy to:

Morgan, Lewis & Bockius LLP
300 South Grand Avenue, Suite 2200
Los Angeles, California 90071
Attention: Richard A. Shortz, Esq.
Fax: (213) 612-2501

(c) If to Seller or Limited Partner before the Closing, to:

Aquila, Inc.
20 West Ninth Street
Kansas City, MO 64105
Attention: Christopher Reitz,
General Counsel and Corporate Secretary
Fax: (816) 467-3486

with a copy to:

Fried, Frank, Harris, Shriver & Jacobson
One New York Plaza
New York, New York 10004
Attention: Arthur Fleischer, Jr., Esq.
Stuart Katz, Esq.
Philip Richter, Esq.
Fax: (212) 859-4000

or to those other persons or addresses as may be designated in writing by the party to receive the notice as provided above.

11.5 Assignment. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by any Party, without the prior written consent of the other Parties, nor is this Agreement intended to confer upon any other Person except the Parties any rights or remedies hereunder. Notwithstanding the foregoing, Buyer, upon written notice to but without the consent of Seller, Parent or Merger Sub, may assign this Agreement or the rights, benefits and obligations described herein to one or more wholly-owned Subsidiaries formed or to be formed to operate as a regulated utility in Colorado; provided, however, that notwithstanding such assignment, Buyer shall retain and remain responsible for all obligations and liabilities of Buyer

hereunder; provided, further, that Buyer shall consult with Seller regarding the structure, financing and other attributes of such Subsidiaries to reflect requirements of the PUC.

11.6 No Third Party Beneficiaries. This Agreement is not intended to, and does not, confer upon any Person other than Buyer, Seller, Limited Partner, Parent and Merger Sub, any rights or remedies hereunder. Without limiting the generality of the foregoing, no provision of this Agreement creates any third party beneficiary rights in any employee or former employee of Seller (including any beneficiary or dependent thereof) in respect of continued employment or resumed employment, and no provision of this Agreement creates any rights in any employee or former employee of Seller (including any beneficiary or dependent thereof) in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement except as expressly provided for under such plans or arrangements.

11.7 GOVERNING LAW AND VENUE; WAIVER OF JURY TRIAL.

(a) THIS AGREEMENT WILL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO THE CONFLICTS OF RULES THEREOF. The Parties hereby irrevocably submit exclusively to the jurisdiction of the State of Delaware and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by such courts, and each of Seller, Buyer, Parent and Merger Sub irrevocably agrees that all claims with respect to such action or proceeding will be heard and determined in Delaware state court. Each of Seller, Buyer, Parent and Merger Sub hereby consents to and grants any such court jurisdiction over the Person of such Parties and over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 11.4 or in such other manner as may be permitted by Law, will be valid and sufficient service thereof.

(b) EACH OF SELLER, LIMITED PARTNER, BUYER, PARENT AND MERGER SUB ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT THE PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH OF SELLER, LIMITED PARTNER, BUYER, PARENT AND MERGER SUB CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS

AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.7(b).

11.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

11.9 Specific Performance. Each of Seller, Limited Partner, Buyer, Parent and Merger Sub acknowledges and agrees that any breach of this Agreement would give rise to irreparable harm for which monetary damages would not be an adequate remedy. Each of Seller, Limited Partner, Buyer, Parent and Merger Sub accordingly agrees that, in addition to other remedies, the Parties will be entitled to enforce the terms of this Agreement by decree of specific performance without the necessity of providing the inadequacy of monetary damages as a remedy and to obtain injunctive relief or other equitable remedy against any breach or threatened breach hereof.

11.10 Entire Agreement. This Agreement will be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by the Parties, and until such execution and delivery no legal obligation will be created by virtue hereof. This Agreement, the Asset Purchase Agreement and the Merger Agreement (in each case, together with the Schedules and Exhibits hereto or thereto, and the certificates and instruments delivered pursuant hereto or thereto), the Confidentiality Agreement, the confidentiality agreement dated June 28, 2006 between Seller and Parent, as amended by the letter agreement dated September 5, 2006 between Seller and Parent, the letter of intent dated November 21, 2006 between Buyer and Parent, and the Transition Services Agreement (together with the schedules thereto), embody the entire agreement and understanding of the Parties hereto in respect of the transactions contemplated by this Agreement, the Asset Purchase Agreement and the Merger Agreement, and supersede all prior agreements, understandings, representations and warranties, both written and oral, between or among the Parties or any of them with respect to the transactions contemplated herein, in the Partnership Interests Purchase Agreement and the Merger Agreement.

11.11 Bulk Sales or Transfer Laws. Buyer and Parent acknowledge that Seller will not comply with the provisions of any bulk sales or transfer laws of any jurisdiction in connection with the transactions contemplated by this Agreement. Buyer hereby waives compliance by Seller with the provisions of the bulk sales or transfer laws of all applicable jurisdictions

11.12 No Consequential Damages. Notwithstanding anything to the contrary elsewhere in this Agreement or provided for under any applicable Law, no Party will, in any event, be liable to any other Party, either in contract, in tort or otherwise, for any consequential, incidental, indirect, special, or punitive damages of such other Party or Persons represented by such other Party, whether or not the possibility of such damages has been disclosed to such other Party or Persons represented by such other Party in advance or could have been reasonably foreseen by such other Party or Persons represented by such other Party. The preceding sentence shall not limit the right of any Party to seek “benefit of the bargain” damages for a breach of this Agreement or specific performance or other equitable remedy as provided in Section 11.9; provided that the right of any Party or Persons represented by such Party to seek any of such remedies is not an admission by the other Parties that, under the circumstances, any such

remedies are proper remedies; provided, further, that the Party against whom any such remedy is sought may not claim that the awarding of "benefit of the bargain" damages is prohibited by virtue of the restriction against liability for consequential, incidental, indirect, special or punitive damages contained in this Section 11.12.

11.13 Counterparts. This Agreement, and any certificates and instruments delivered under or in accordance herewith, may be executed in any number of counterparts (including by facsimile or other electronic transmission), each such counterpart being deemed to be an original instrument, and all such counterparts will together constitute the same instrument, it being understood that all of the Parties need not sign the same counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Partnership Interests Purchase Agreement to be signed by their respective duly authorized officers as of the date first above written.

SELLER:

Aquila, Inc.

By: /s/ Richard C. Green
Name: Richard C. Green
Title: President, Chief Executive Officer and Chairman of the Board of Directors

LIMITED PARTNER:

Aquila Colorado, LLC

By: /s/ Keith Stamm
Name: Keith Stamm
Title: President

BUYER:

Black Hills Corporation

By: /s/ David R. Emery
Name: David R. Emery
Title: President, Chief Executive Officer and Chairman of the Board of Directors

PARENT:

Great Plains Energy Incorporated

By: /s/ Michael J. Chesser
Name: Michael J. Chesser
Title: Chairman of the Board and Chief Executive Officer

MERGER SUB:

Gregory Acquisition Corp.

By: /s/ Terry Bassham
Name: Terry Bassham
Title: President

Exhibit 1.1-A
Form of Assignment and Assumption Agreement
(for the Gas Business)

This Assignment and Assumption Agreement ("Agreement"), is made as of _____, ____ by and between Aquila, Inc., a Delaware corporation ("Seller"), and **[Newco Gas LP]**, a Delaware limited partnership (the "Company"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), and Black Hills Corporation, a South Dakota corporation ("Buyer") which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Electric, LP], a Delaware limited partnership ("Electric Opco"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of the Company and of Electric Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, the Company agreed to assume from Seller the Gas Business Assumed Obligations, and Seller agreed to assign to the Company all of Seller's rights to the Gas Business Purchased Assets.

NOW, THEREFORE, pursuant and subject to the terms of Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Company agree as follows:

1. Seller hereby assigns and transfers all of the Gas Business Assumed Obligations and all of Seller's rights to the Gas Business Purchased Assets to the Company, and the Company hereby accepts such assignment and hereby assumes and agrees to pay, perform, and discharge when due all of the Assumed Obligations.

2. Seller and the Company agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Agreement.

3. This Agreement is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Agreement is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of this Agreement conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

4. This Agreement may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of Seller and the Company and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and the Company have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By:
Name:
Title:

[Newco Gas LP]

By:
Name:
Title:

Form of Assignment and Assumption Agreement
(for the Electric Business)

This Assignment and Assumption Agreement ("Agreement"), is made as of _____, ____ by and between Aquila, Inc., a Delaware corporation ("Seller"), and **[Newco Electric LP]**, a Delaware limited partnership (the "Company"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), and Black Hills Corporation, a South Dakota corporation ("Buyer") which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Gas, LP], a Delaware limited partnership ("Gas Opco"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of the Company, and of Gas Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, the Company agreed to assume from Seller the Electric Business Assumed Obligations, and Seller agreed to assign to the Company all of Seller's rights to the Electric Business Purchased Assets.

NOW, THEREFORE, pursuant and subject to the terms of Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Company agree as follows:

1. Seller hereby assigns and transfers all of the Electric Business Assumed Obligations and all of Seller's rights to the Electric Business Purchased Assets to the Company, and the Company hereby accepts such assignment and hereby assumes and agrees to pay, perform, and discharge when due all of the Assumed Obligations.

2. Seller and the Company agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Agreement.

3. This Agreement is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Agreement is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of this Agreement conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

4. This Agreement may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Agreement and all of the provisions hereof will be binding upon and inure to the benefit of Seller and the Company and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and the Company have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By:
Name:
Title:

[Newco Electric LP]

By:
Name:
Title:

Exhibit 1.1-B
Form of Assignment of Company Interests
(for the Gas Business)

This Assignment of Company Interests ("Assignment"), is made as of _____, 200___ by and among Aquila, Inc., a Delaware corporation ("Seller"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of **[Newco Gas LP]**, a Delaware limited partnership (the "Company"), Black Hills Corporation, a South Dakota corporation ("Buyer"), and **[Buyer's LP designee]**, a Delaware limited liability company ("Buyer Limited Partner"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub"), and Buyer, which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Electric, LP], a Delaware limited partnership ("Electric Opco"), Limited Partner, as the limited partner of the Company and of Electric Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, Seller and Limited Partner agreed to assign to Buyer and its designee all of Seller's and Limited Partner's respective rights, title and interest in and to the Company Interests.

NOW, THEREFORE, pursuant and subject to the terms of the Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller, Limited Partner, Buyer and Buyer Limited Partner agree as follows:

1. Seller hereby assigns and transfers all of the Company Interests that it holds in the Company to Buyer, and Buyer hereby accepts such assignment.

2. Limited Partner hereby assigns and transfers all of the Company Interests that it holds in the Company to Buyer Limited Partner, and Buyer Limited Partner hereby accepts such assignment.

3. Seller, Limited Partner, Buyer and Buyer Limited Partner agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Assignment.

4. This Assignment is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Assignment is not intended to, and

does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of this Assignment conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

5. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

6. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of Seller, Limited Partner, Buyer, Buyer Limited Partner and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Buyer, Buyer Limited Partner, Seller and Limited Partner have caused this Assignment to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By: _____
Name:
Title:

Aquila Colorado, LLC

By: _____
Name:
Title:

Black Hills Corporation

By: _____
Name:
Title:

[Buyer Limited Partner]

By: _____
Name:
Title:

Form of Assignment of Company Interests
(for the Electric Business)

This Assignment of Company Interests ("Assignment"), is made as of _____, 200___ by and among Aquila, Inc., a Delaware corporation ("Seller"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of **[Newco Electric LP]**, a Delaware limited partnership (the "Company"), Black Hills Corporation, a South Dakota corporation ("Buyer"), and **[Buyer's LP designee]**, a Delaware limited liability company ("Buyer Limited Partner"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub"), and Buyer, which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Gas, LP], a Delaware limited partnership ("Gas Opco"), Limited Partner, as the limited partner of the Company and of Gas Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, Seller and Limited Partner agreed to assign to Buyer and its designee all of Seller's and Limited Partner's respective rights, title and interest in and to the Company Interests.

NOW, THEREFORE, pursuant and subject to the terms of the Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller, Limited Partner, Buyer and Buyer Limited Partner agree as follows:

1. Seller hereby assigns and transfers all of the Company Interests that it holds in the Company to Buyer, and Buyer hereby accepts such assignment.

2. Limited Partner hereby assigns and transfers all of the Company Interests that it holds in the Company to Buyer Limited Partner, and Buyer Limited Partner hereby accepts such assignment.

3. Seller, Limited Partner, Buyer and Buyer Limited Partner agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Assignment.

4. This Assignment is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Assignment is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the

Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of this Assignment conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

5. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

6. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of Seller, Limited Partner, Buyer, Buyer Limited Partner and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Buyer, Buyer Limited Partner, Seller and Limited Partner have caused this Assignment to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By: _____
Name:
Title:

Aquila Colorado, LLC

By: _____
Name:
Title:

Black Hills Corporation

By: _____
Name:
Title:

[Buyer Limited Partner]

By: _____
Name:
Title:

Exhibit 1.1-C
Form of Assignment of Easements
(for the Gas Business)

This Assignment of Easements ("Assignment"), is made as of _____, 200__ by and between Aquila, Inc., a Delaware corporation ("Seller"), and **[Newco Gas LP]**, a Delaware limited partnership (the "Company"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), and Black Hills Corporation, a South Dakota corporation ("Buyer"), which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Electric, LP], a Delaware limited partnership ("Electric Opco"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of the Company and of Electric Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, the Company agreed to assume from Seller the Gas Business Assumed Obligations, and Seller agreed to assign to the Company all of Seller's rights to the Gas Business Purchased Assets, including the Easements.

NOW, THEREFORE, pursuant and subject to the terms of the Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Company agree as follows:

1. Seller hereby assigns and transfers all of the Easements to the Company, and the Company hereby accepts such assignment.

2. Seller and the Company agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Assignment.

3. This Assignment is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Assignment is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of this Assignment conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

4. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of Seller and the Company and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company and Seller have caused this Assignment to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By:
Name:
Title:

[Newco Gas LP]

By:
Name:
Title:

Form of Assignment of Easements
(for the Electric Business)

This Assignment of Easements ("Assignment"), is made as of _____, 200__ by and between Aquila, Inc., a Delaware corporation ("Seller"), and **[Newco Electric LP]**, a Delaware limited partnership ("the Company"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Sub"), and Black Hills Corporation, a South Dakota corporation ("Buyer"), which, among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Gas, LP], a Delaware limited partnership ("Gas Opco"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of the Company, and of Gas Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, the Company agreed to assume from Seller the Electric Business Assumed Obligations, and Seller agreed to assign to the Company all of Seller's rights to the Electric Business Purchased Assets, including the Easements.

NOW, THEREFORE, pursuant and subject to the terms of the Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Company agree as follows:

1. Seller hereby assigns and transfers all of the Easements to the Company, and the Company hereby accepts such assignment.

2. Seller and the Company agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Assignment.

3. This Assignment is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Assignment is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of this Assignment conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

4. This Assignment may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and

may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Assignment and all of the provisions hereof will be binding upon and inure to the benefit of Seller and the Company and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company and Seller have caused this Assignment to be signed by their respective duly authorized officers as of the date first above written.

Aquila, Inc.

By:
Name:
Title:

[Newco Electric LP]

By:
Name:
Title:

Exhibit 1.1-D
Form of Bill of Sale
(for the Gas Business)

This Bill of Sale, is made as of _____, _____ by and between Aquila, Inc., a Delaware corporation ("Seller"), and **[Newco Gas LP]**, a Delaware limited partnership (the "Company"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6, 2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub"), and Black Hills Corporation, a South Dakota corporation ("Buyer") which among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Electric, LP], a Delaware limited partnership ("Electric Opco"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of the Company and of Electric Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, Seller agreed to transfer to the Company and the Company agreed to take assignment of all of Seller's rights, title and interests in and to the Gas Business Purchased Assets.

NOW, THEREFORE, pursuant and subject to terms of the Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Company agree as follows:

1. Seller hereby sells, assigns, conveys, transfers, and delivers to the Company all of Seller's right, title, and interest in, to, and under the Gas Business Purchased Assets, and the Company hereby purchases and accepts from Seller, as of the date hereof, all right, title, and interest of Seller in, to, and under the Gas Business Purchased Assets.

2. Seller and the Company agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Bill of Sale.

3. This Bill of Sale is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Bill of Sale is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of

this Bill of Sale conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

4. This Bill of Sale may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Bill of Sale and all of the provisions hereof will be binding upon and inure to the benefit of Seller and the Company and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and the Company have caused this Bill of Sale to be signed by their respective duly authorized officers as of the date first above written.

SELLER:

Aquila, Inc.

By: _____
Name:
Title:

COMPANY:

[Newco Gas LP]

By: _____
Name:
Title:

Form of Bill of Sale
(for the Electric Business)

This Bill of Sale, is made as of _____, _____ by and between Aquila, Inc., a Delaware corporation ("Seller"), and **[Newco Electric LP]**, a Delaware limited partnership (the "Company"). Unless otherwise indicated, capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Partnership Interests Purchase Agreement (as defined below).

WHEREAS, Seller has entered into an Agreement and Plan of Merger dated February 6,2007 (the "Merger Agreement") among Seller, Great Plains Energy Incorporated, a Missouri corporation ("Parent"), Gregory Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Parent ("Merger Sub"), and Black Hills Corporation, a South Dakota corporation ("Buyer"), which among other things, provides for the merger of Merger Sub with and into Seller immediately after the Closing.

WHEREAS, Buyer, Seller, as the general partner of the Company and of [Newco Gas, LP], a Delaware limited partnership ("Gas Opco"), Aquila Colorado, LLC, a Delaware limited liability company ("Limited Partner"), as the limited partner of the Company and of Gas Opco, Parent and Merger Sub, entered into that certain Partnership Interests Purchase Agreement, dated February 6, 2007 (the "Partnership Interests Purchase Agreement"), pursuant to which, among other things, Seller agreed to transfer to the Company and the Company agreed to take assignment of all of Seller's rights, title and interests in and to the Electric Business Purchased Assets.

NOW, THEREFORE, pursuant and subject to terms of the Partnership Interests Purchase Agreement and in consideration of the mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Company agree as follows:

1. Seller hereby sells, assigns, conveys, transfers, and delivers to the Company all of Seller's right, title, and interest in, to, and under the Electric Business Purchased Assets, and the Company hereby purchases and accepts from Seller, as of the date hereof, all right, title, and interest of Seller in, to, and under the Electric Business Purchased Assets.

2. Seller and the Company agree, on behalf of themselves and their respective successors and assigns, to do, execute, acknowledge, and deliver, or to cause to be done, executed, acknowledged, and delivered, all such further acts, documents, and instruments that may reasonably be required to give full effect to the intent of this Bill of Sale.

3. This Bill of Sale is being delivered pursuant to the Partnership Interests Purchase Agreement and will be construed consistently therewith. This Bill of Sale is not intended to, and does not, in any manner enhance, diminish, or otherwise modify the rights and obligations of the Parties under the Partnership Interests Purchase Agreement. To the extent that any provision of this Bill of Sale conflicts or is inconsistent with the terms of the Partnership Interests Purchase Agreement, the terms of the Partnership Interests Purchase Agreement will govern.

4. This Bill of Sale may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail (return receipt requested).

5. This Bill of Sale and all of the provisions hereof will be binding upon and inure to the benefit of Seller and the Company and their respective successors and permitted assigns.

[Signature Page Follows]

IN WITNESS WHEREOF, Seller and the Company have caused this Bill of Sale to be signed by their respective duly authorized officers as of the date first above written.

SELLER:

Aquila, Inc.

By: _____
Name:
Title:

COMPANY:

[Newco Electric LP]

By: _____
Name:
Title

Exhibit 8.8(d)(ii)(C)
Pension and Benefit Matters

The following terms will govern the Parties' obligations under Section 8.8(d)(ii)(C) of the Agreement (and any reference to Section 8.8 will be deemed to include a reference to this Exhibit):

A. Post-Closing Spin-Off to Buyer Plan.

(1) Transfer of Liabilities.

(a) As of the Closing Date, Buyer will cause a Buyer Pension Plan to accept the liabilities for benefits under the Seller Pension Plan that would have been paid or payable (but for the transfer of assets and liabilities pursuant to this Paragraph A) to or with respect to the Transferred Employees and Other Plan Participants (as defined below), and Buyer will become, with respect to each Transferred Employee and Other Plan Participant, responsible for all benefits due under the Seller Pension Plan. Buyer is assuming only the obligation to provide benefits in the amount determined in accordance with the terms of the Seller Pension Plan, and Buyer is not assuming any other liability or obligation that Seller or an ERISA Affiliate of Seller might have or incur with respect to the Seller Pension Plan, including liability (if any) for breaches of fiduciary duty or other penalty or excise Tax amounts. Seller will not, and Parent will not permit Seller's successor to, take any action to fully vest the Business Employees in their accrued benefits under the Seller Pension Plan; provided that any vesting of Business Employees in such accrued benefits in the ordinary course in accordance with the Seller Pension Plan as in effect on the date hereof shall not be deemed a violation of this Paragraph A(1). Buyer will not amend the Buyer Pension Plan, or permit the Buyer Pension Plan to be amended, to eliminate any benefit accrued as of the Closing Date, whether or not vested, with respect to which liabilities are transferred pursuant to this Paragraph A; provided that Buyer may amend the Buyer Pension Plan or permit the Buyer Pension Plan to be amended to eliminate an optional form of distribution to the extent that such action is consistent with applicable Law, including the regulations under section 411(d)(6) of the Code**.** Notwithstanding any other provision of this Agreement, Seller will, or Parent will cause Seller's successor to, cause the Seller Pension Plan to continue to make all benefit payments to Transferred Employees and Other Plan Participants due under the Seller Pension Plan until both the Initial Transfer Amount and the True-Up Amount have been transferred to the Buyer Pension Plan, following which transfer the Buyer Pension Plan shall make all benefit payments to or in respect of Transferred Employees and Other Plan Participants. "Other Plan Participants" means any individuals (x) who have an accrued benefit under the Seller Pension Plan but who are not actively employed by Seller on the Closing Date, or whose employment is terminated by Seller on the Closing Date, and (y) whose employment was principally associated with the Business, all of whom are listed on Schedule 8.8(d)(ii)-A, or will be listed on such Schedule as the same is amended by Seller, with Buyer's and Parent's consent, on the Closing Date.

(b) As soon as practicable but in any event within thirty (30) days after the Closing Date, Seller will, or Parent will cause Seller's successor to, deliver to Buyer a list reflecting each Transferred Employee's service and compensation under the Seller Pension Plan, each Transferred Employee's and Other Plan Participant's accrued benefit thereunder as of the

Closing Date, a copy of each pending or final domestic relations order affecting the benefit of any Transferred Employee or Other Plan Participant, and such other information as may be reasonably requested by Buyer consistent with applicable Law to facilitate or assist with such transition or the establishment of necessary records.

(2) Transfer of Assets.

(a) Not later than ten (10) days after the Closing, Seller will, or Parent will cause Seller's successor to, direct its actuary to determine the amount of assets allocable to the benefits with respect to the Transferred Employees and Other Plan Participants in the Seller Pension Plan based on section 4044 of ERISA and the Pension Benefit Guaranty Corporation regulations promulgated thereunder, and in compliance with section 414(l) of the Code using the safe harbor assumptions thereunder (the "Section 4044 Amount"), measured as of the Closing Date. The actuarial assumptions used in the Section 4044 Amount determination shall be limited to the safe harbor assumptions specified under Section 4.14(l) of the Code. Seller will, or Parent will cause Seller's successor to, provide the information used to compute the Section 4044 Amount for review by Buyer's actuary before such amount is transferred.

(b) In accordance with the procedures set forth in this Paragraph A(2)(b), Seller will, or Parent will cause Seller's successor to, cause cash (or other assets as Seller or its successor and Buyer mutually agree) equal to the Section 4044 Amount to be transferred to the trust established by Buyer as part of the Buyer Pension Plan (the "Buyer Pension Plan Trust"). On the Initial Transfer Date, Seller will, or Parent will cause Seller's successor to, cause the trust which is a part of the Seller Pension Plan (the "Seller Pension Plan Trust") to make a transfer of cash or other assets as Seller or its successor and Buyer mutually agree equal to the Initial Transfer Amount to the Buyer Pension Plan Trust. The "Initial Transfer Date" is the date that is twenty (20) Business Days after the requirements of Paragraphs A(2)(d) and A(2)(e) have been met. The "Initial Transfer Amount" means 75% of Seller's or its successor's good faith estimate of the Section 4044 Amount. As soon as practicable after the Section 4044 Amount is determined in accordance with the requirements of Paragraph A(2)(a), and in no event more than sixty (60) days after such final determination, the True-Up Amount shall be transferred as provided below (the "True-Up Date"). If the Section 4044 Amount adjusted for earnings and losses of the assets of the Seller Pension Plan from the Closing Date through the True-Up Date (the "Increased Section 4044 Amount"), is greater than the Reduction Amount adjusted for earnings and losses of the assets of the Seller Pension Plan from the Closing Date through the True-Up Date (the "Increased Reduction Amount"), then Seller will, or Parent will cause Seller's successor to, cause a transfer in cash or other assets as Seller or its successor and Buyer mutually agree equal to the True-Up Amount to be made from the Seller Pension Plan Trust to the Buyer Pension Plan Trust. If the Increased Reduction Amount is greater than the Increased Section 4044 Amount, then Buyer will cause a transfer in cash or other assets as Seller or its successor and Buyer mutually agree equal to the True-Up Amount to be made from the Buyer Pension Plan Trust to the Seller Pension Plan Trust. The "True-Up Amount," if any, means the difference between the Increased Section 4044 Amount and the Increased Reduction Amount. The "Reduction Amount" equals the sum of (x) the Initial Transfer Amount, plus (y) benefit payments made to any Transferred Employees and Other Plan Participants by the Seller Pension Plan after the Closing Date. For purposes of these calculations, the earnings and losses of the assets of the Seller Pension Plan from the Closing Date through the True-Up Date shall be the net investment

returns reasonably calculated by the trustee of the Seller Pension Plan for each month between the Closing Date and the True-Up Date. Seller will, or Parent will cause Seller's successor to, provide the information used to make such calculations and compute the True-Up Amount for review by Buyer's actuary before any such amounts are transferred.

(c) To the extent that under Section 8.8 Buyer has agreed to accept a liability of Seller under any of Seller's Benefit Plans (other than the Seller Pension Plan) with respect to employees of Seller that are Business Employees, Transferred Employees, Current Retirees or Covered Individuals, and such Benefit Plans, including any non-qualified deferred compensation plan or agreement, is funded through or maintained in connection with a grantor trust, secular trust, Voluntary Employees' Beneficiary Association or other trusts or arrangements used to provide benefits payable under any such plan or agreement, as promptly as practicable after the Closing, Buyer and Seller will, or Parent will cause Seller's successor to, determine the amount of assets in such trusts or other arrangements historically allocated to the Business, the Business Employees, Transferred Employees, or other Covered Individuals with respect to liabilities assumed by Buyer, and such assets shall be transferred, to the extent consistent with the terms of any such trust as in effect on the date hereof and not contrary to applicable Law, to a similar trust or arrangement established and maintained by Buyer to fund such benefits. Seller shall use reasonable best efforts to make or cause to be made any required amendments to such trusts and agreements to provide for the transfers described in this Paragraph A(2)(c).

(d) In connection with the transfer of assets and liabilities pursuant to this Section, Seller will, or Parent will cause Seller's successor to, provide to Buyer, and Buyer will provide to Seller or its successor, evidence reasonably satisfactory to the other Party that the other Party's Pension Plan is or continues to be qualified under section 401(a) of the Code and is in compliance with the funding requirements of section 302 of ERISA and section 412 of the Code.

(e) In connection with the transfer of assets and liabilities pursuant to Paragraph A, the Companies, Buyer and Seller will, or Parent will cause Seller's successor to, cooperate with each other in making all appropriate filings required by the Code or ERISA in a timely manner, but not later than within thirty (30) days after the Closing Date, and the transfer of assets and liabilities from the Seller Pension Plan pursuant to this Exhibit 8.8(d)(ii)(C) will not take place until after the expiration of the thirty (30) day period following the filing of any required notices with the Internal Revenue Service pursuant to section 6058(b) of the Code.

(3) Benefits. The benefit provided by the Buyer Pension Plan to each Transferred Employee and Other Plan Participant who becomes a participant in the Buyer Pension Plan will be at least equal to the benefits accrued by such Transferred Employee or Other Plan Participant under the Seller Pension Plan on the Closing Date, computed by taking into account the service credited to such Transferred Employee and Other Plan Participant with Seller and Buyer (in the case of service of Transferred Employees with Buyer, such service will be required to be taken into account only for the purpose of vesting and early retirement subsidies or as otherwise required by applicable Law).

B. Further Purchase Price Adjustment.

(1) Adjusted Section 4044 Amount. Seller will, or Parent will cause Seller's successor to, also calculate the Section 4044 Amount using the same assumptions and methodologies as used to calculate the Section 4044 Amount pursuant to Paragraph A(2)(a), but adjusted to remove from the assets of the Seller Pension Plan an amount equal to Seller's contributions to the Seller Pension Plan made between the date hereof and the Closing Date (the Section 4044 Amount so adjusted, the "Adjusted Section 4044 Amount"). Seller shall, or Parent shall cause Seller's successor to, provide the information used to compute the Adjusted Section 4044 Amount for review by Buyer's actuary. Buyer and Seller, or Parent will cause Seller's successor to, cooperate in good faith and resolve and reconcile any differences or disputes with respect to the calculation of the Adjusted Section 4044 Amount as soon as practicable.

(2) Notwithstanding anything to the contrary herein, the Purchase Price (i) shall be decreased by the amount, if any, by which the Adjusted Section 4044 Amount exceeds the Section 4044 Amount, and (ii) shall be increased by the amount, if any, by which the Adjusted Section 4044 Amount is less than the Section 4044 Amount. On the earlier of the date that the True-Up Amount is transferred, or within five (5) Business Days of the date the True-Up Amount is determined, Buyer shall pay an amount equal to the amount of the increase in the Purchase Price, if any, determined pursuant to this Paragraph B, to Seller or its successor, or Seller shall, or Parent shall cause Seller's successor to, pay an amount equal to the amount of the decrease, if any, in the Purchase Price determined pursuant to this Paragraph B, as applicable, by wire transfer of same day funds.

Exhibit 99.1

For Immediate Release

Great Plains Energy, Aquila, and Black Hills Corporation Announce Two Strategic Transactions

Great Plains Energy to Acquire Aquila's Missouri Properties for Cash and Stock, Forging Strong Regional Electric Utility

Black Hills Corporation to Acquire Aquila's Utility Properties in Colorado, Kansas, Nebraska and Iowa, Broadening Its Regional Presence and Retail Utility Base

Kansas City, Mo. and Rapid City, S. Dak.—February 7, 2007—Great Plains Energy Incorporated (NYSE: GXP) and Aquila, Inc. (NYSE: ILA), both of Kansas City, Missouri, and Black Hills Corporation (NYSE: BKH), of Rapid City, South Dakota, today announced that they have entered into definitive agreements for two separate transactions, under which:

- Great Plains Energy, the parent of Kansas City Power & Light (KCP&L), will acquire all the outstanding shares of Aquila and its Missouri-based electric utility assets for $1.80 in cash plus 0.0856 of a share of Great Plains Energy common stock for each share of Aquila common stock in a transaction valued at approximately $1.7 billion, or $4.54 per share, based on Great Plains Energy's closing stock price on February 6, 2007. In addition, Great Plains Energy will assume approximately $1 billion of Aquila's net debt. The combination will form a strong regional utility well-positioned to meet the growing energy needs of the greater Kansas City area.

- Immediately prior to Great Plains Energy's acquisition of Aquila, Black Hills will acquire from Aquila its electric utility in Colorado and its gas utilities in Colorado, Kansas, Nebraska and Iowa along with the associated liabilities for a total of $940 million in cash, subject to closing adjustments, significantly broadening Black Hills' regional presence and retail utility base.

- Following closing, Great Plains Energy will be the parent of Aquila, which will continue to own its Missouri-based utilities and its Merchant Services operations, primarily consisting of the 340-megawatt Crossroads power generating facility and residual natural gas contracts. The proceeds from the asset sale to Black Hills will be used to fund the cash portion of the consideration to Aquila shareholders and to reduce existing Aquila debt.

-More-

- Upon consummation of the transactions, Aquila shareholders will own approximately 27 percent of Great Plains Energy common stock, which currently is paying an annual dividend of $1.66 per share.

When completed, the two transactions will increase the size and scope of Great Plains Energy's and Black Hills' operations, and enhance their ability to serve customers and communities and to build value for their respective shareholders. After the transactions close, Great Plains Energy will have revenues of over $3 billion and approximately 800,000 customers. The combined Black Hills/Aquila regulated utility and other operations will have a total of more than 750,000 retail and wholesale customers in 12 states.

Great Plains Energy expects to retain most of the employees working for the Aquila operations it is acquiring. This includes all unionized personnel, whose employment status will not be affected by the transaction. In forming a strong regional utility, however, Great Plains Energy does expect some position reductions, primarily where support service functions overlap. Black Hills expects to retain all of the employees working for the Aquila operations it is acquiring. There will be no change to Great Plains Energy's or Black Hills' respective senior management teams or Boards of Directors as a result of the two transactions. Great Plains Energy's CEO will lead the combined Great Plains Energy/Aquila operations and Black Hills' CEO will lead the combined Black Hills/Aquila operations.

The Great Plains Energy/Aquila Transaction
Under the terms of the Great Plains Energy/Aquila transaction, which was approved by the Boards of Directors of both companies, Great Plains Energy will acquire Aquila and its Missouri-based utilities, Missouri Public Service Company and St. Joseph Light & Power, expanding Great Plains Energy's utility service territory around the Kansas City metro area. The Aquila transaction will add about 300,000 electric utility customers to the existing base of about 500,000 customers. The combined generating capacity will consist of approximately 5,800 megawatts.

"For Great Plains Energy, this transaction will forge an exceptionally strong regional electric utility committed to improving the total living environment for customers and communities by providing low-cost, reliable, clean energy," said Michael J. Chesser, Chairman and Chief Executive Officer of Great Plains Energy. "Combining Aquila's many strengths with our own will result in superior customer service, enhanced reliability, and an even greater investment in environmental stewardship and energy efficiency. Moreover, our complementary service territories and generation portfolios provide the opportunity to realize significant synergies."

-More-

Said Richard C. Green, Chairman, President and Chief Executive Officer of Aquila, “We have made tremendous progress since 2002 executing our repositioning strategies. Having improved our financial condition significantly, we believe this transaction provides the best overall, long-term value for Aquila shareholders by accelerating their return on investment. Following the combination, our utilities will have access to lower-cost capital to fund investments to meet customer growth projections, environmental upgrades and improvements to utility infrastructure. In addition, Aquila investors will receive a significant ownership stake in Great Plains Energy and resulting dividends. We look forward to working closely with Mike Chesser and members of the Great Plains Energy team to get the necessary approvals as quickly as possible.”

Chesser said, “Great Plains Energy’s highly collaborative corporate culture, combined with the strong regulatory and community relationships we have built, will help facilitate the timely completion of these transactions and, following completion, a smooth and seamless integration process. For now, all customers of Aquila will continue receiving customer service and billing information directly from Aquila. We, Aquila and Black Hills are committed to keeping our respective constituents—customers, community leaders, business partners and employees—fully informed of our progress in getting these important and exciting transactions completed.”

Great Plains Energy expects the transaction to deliver financial and operational benefits in several areas. Total pre-tax synergies are estimated to reach about $500 million over a five-year period, with costs to achieve, including transaction costs, of approximately $185 million.

Operational synergies over the same five-year period are expected to total about $310 million. These synergies are expected to result from:

- Improved operational and scale efficiencies enabled by adjacent service areas;
- Reduction in overlapping positions and overhead expenses;
- Capturing the benefits of more efficient procurement;
- Integrating and enhancing information technology; and
- Investments in infrastructure and energy efficiency.

Following the transaction, Aquila's credit rating is anticipated to be investment grade. The improved credit rating is expected to lower interest costs on a substantial portion of existing high interest rate debt through rate step-down provisions while also lowering rates on new debt planned to help fund ongoing capital investments. Aquila interest rate savings are estimated to be about $190 million over five years following the closing of the transactions.

-More-

The transaction is expected to be modestly dilutive to Great Plains Energy earnings in 2008 with EPS accretion beginning in 2009.

Great Plains expects to fully utilize Aquila's substantial net operating loss tax benefits over the next several years following transaction close.

The Black Hills/Aquila Transaction
Under the terms of the Black Hills/Aquila asset purchase/sale agreement, which was approved by the Board of Directors of both companies, Black Hills will acquire one regulated electric utility owned by Aquila in Colorado (where Black Hills currently has various independent power generation, oil and gas, and other non-regulated operations) and Aquila's regulated gas utilities in Colorado, Kansas, Nebraska and Iowa.

The Black Hills transaction will add a total of about 616,000 new utility customers (93,000 electric customers and 523,000 gas customers) to the 137,000 utility customers (104,000 electric customers and 33,000 gas customers) Black Hills currently serves. Other assets included in the Black Hills transaction include a customer service center and centralized natural gas operation in Nebraska.

David R. Emery, Chairman, President, and Chief Executive Officer of Black Hills, said: "Our acquisition of these utility properties and related assets has great industrial logic for Black Hills strategically, operationally and financially. It will significantly enhance our existing footprint in Colorado, enabling us to serve retail utility customers and communities in that state and to do so on an efficient basis. It will also give us, for the first time, a significant presence in the three neighboring states of Kansas, Nebraska and Iowa, where retail utility customers will also benefit from our commitment to superior customer service, reliability and efficiency.

"Black Hills' shareholders should benefit from the transaction as we build a solid foundation for future growth in earnings per share and increased shareholder value. We expect the transaction to provide positive cash flow immediately. We also expect that, after some earnings dilution in the first post-completion year related to transition costs, the transaction will be earnings accretive beginning in the second full post-completion year. Black Hills employees, including those who will be joining us from Aquila, will have additional opportunities for personal and professional growth as we combine our respective, highly complementary utility and other operations. In short, we believe this transaction will produce significant long-term benefits for everyone concerned—investors, customers, communities and employees," Emery said.

-More-

Black Hills' has entered into a binding agreement with a group of lenders including ABN Amro Bank as administrative agent for a committed acquisition credit facility to finance the Black Hills/Aquila transaction. Reflecting its prudent and conservative financial philosophy, Black Hills expects the permanent financing that will replace this bridge
facility to be a combination of new equity, mandatory convertible securities, unsecured debt at the holding company level and internally generated cash resources. The contemplated permanent financing is expected to be deemed investment grade by credit rating agencies. Some portion of the transaction financing may be obtained through a public offering or private placement prior to closing.

Process and Next Steps
Great Plains Energy's acquisition of Aquila is subject to the approval of both Great Plains Energy and Aquila shareholders; regulatory approvals from the Missouri Public Service Commission, the Kansas Corporation Commission, and the Federal Energy Regulatory Commission; Hart-Scott-Rodino antitrust review; as well as other customary conditions.

Black Hills' purchase of the Aquila assets is subject to regulatory approvals from the Missouri Public Service Commission, the Kansas Corporation Commission, the Colorado Public Utilities Commission, the Nebraska Public Service Commission, the Iowa Utilities Board, and the Federal Energy Regulatory Commission; Hart-Scott-Rodino antitrust review; as well as other customary conditions.

In addition, each of the two transactions is conditioned on the completion of the other transaction. Both are expected to close in about a year.

Advisors
Credit Suisse Securities (USA), LLC and Sagent Advisors, Inc. served as financial advisors and Skadden, Arps, Slate, Meagher & Flom LLP served as legal advisor to Great Plains Energy with regard to the Great Plains Energy/Aquila transaction. Credit Suisse Securities (USA), LLC also served as financial advisor and Morgan Lewis & Bockius LLP served as legal advisor to Black Hills Corporation with regard to the Black Hills/Aquila transaction. The Blackstone Group L.P. and Lehman Brothers, Inc. served as financial advisors to Aquila management and Evercore Group, Inc. served as financial advisor to the Aquila Board of Directors. Fried, Frank, Harris, Shriver & Jacobson LLP served as legal advisor to Aquila with regard to both transactions.

-More-

Analyst Conference Call/Webcast
Great Plains Energy, Aquila and Black Hills will host a financial community conference call on Wednesday, February 7, 2007 at 9:30 a.m. Eastern Time/8:30 a.m. Central Time to discuss the Great Plains Energy/Aquila and the Black Hills Corporation/Aquila transactions. For complete instructions on how to actively participate in the conference call, or to listen to the live audio webcast or a replay of the webcast, please refer to the Investor Relations sections at www.greatplainsenergy.com, www.aquila.com or www.blackhillscorporation.com.

Black Hills also will host a financial community conference call to discuss the Black Hills/Aquila transaction in greater detail on Thursday, February 8, 2007 at 10:00 a.m. Eastern Time/9:00 a.m. Central Time/8:00 a.m. Mountain Time. The dial-in number for the Black Hills call is 1-866-206-5917. For complete instructions on how to actively participate in the Black Hills conference call, or to listen to the live audio webcast or a replay of the webcast, please visit the Investor Relations section at www.blackhillscorporation.com.

Press Conference
Following the Analyst Conference Call/Webcast, the CEOs of Great Plains Energy, Aquila, and Black Hills will host a joint press conference at 11:00 a.m. Eastern Time/10:00 a.m. Central Time. The press conference will take place at Great Plains Energy's headquarters in the board room on the 21st floor at 1201 Walnut Street, Kansas City, Mo. The dial-in number for those unable to attend in person is
1-888-688-7428; passcode is 5291776#. The press conference will not be webcast.

About Great Plains Energy
Great Plains Energy, headquartered in Kansas City, Mo., is the holding company for KCP&L, a leading regulated provider of electricity in the Midwest, and Strategic Energy, LLC, a competitive electricity supplier. The company's website is www.greatplainsenergy.com.

About Aquila
Based in Kansas City, Mo., Aquila owns electric power generation and operates electric and natural gas transmission and distribution networks serving nearly 1 million customers in Colorado, Iowa, Kansas, Missouri and Nebraska. More information
on Aquila is available at www.aquila.com.

-More-

About Black Hills Corporation
Black Hills is a diversified energy company. Its retail businesses are Black Hills Power, an electric utility serving western South Dakota, northeastern Wyoming and southeastern Montana; and Cheyenne Light, Fuel & Power, an electric and gas distribution utility serving the Cheyenne, Wyoming vicinity. Black Hills Energy, the wholesale energy business unit, generates electricity, produces natural gas, oil and coal, and markets energy. The company's website is www.blackhillscorp.com.

Great Plains Energy Contacts:
Investors: Todd Allen, manager of investor relations, 816-556-2083, todd.allen@kcpl.com;
Media: Matt Tidwell, director of corporate communications, 816-556-2069, matt.tidwell@kcpl.com

Black Hills Corporation Contacts:
Investors: Dale Jahr, director of investor relations, 605-721-2326, djahr@bh-corp.com
Media: Roy Winnick, Kekst and Company for Black Hills, 212-521-4842, roy-winnick@kekst.com

Aquila Contacts:
Investors: Neala Hackett, director investor relations, 816-467-3562, neala.hackett@aquila.com;
Media: Al Butkus, vice president media relations, 816-467-3616, al.butkus@aquila.com

Information Concerning Forward-Looking Statements
Statements made in this document that are not based on historical facts are forward-looking, may involve risks and uncertainties, and are intended to be as of the date when made. In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, Great Plains Energy, Aquila and Black Hills Corporation are providing a number of important factors, risks and uncertainties that could cause actual results to differ materially for the provided forward-looking information. These include: obtaining shareholder approvals required for the transactions; the timing of, and the conditions imposed by, regulatory approvals required for the transactions; satisfying the conditions to the closing of the transactions; Great Plains Energy and Black Hills Corporation successfully integrating the acquired Aquila businesses into their respective operations, avoiding problems which may result in either company not operating as effectively and efficiently as expected; the timing and amount of cost-cutting synergies; unexpected costs or unexpected liabilities, or the effects of purchase accounting may be different from the companies' expectations; the actual resulting credit ratings of the companies or their respective subsidiaries; the effects on the businesses of the companies resulting from uncertainty surrounding the transactions; the effect of future regulatory or legislative actions on the companies; and other economic, business, and/or competitive factors. Additional factors that may affect the future results of Great Plains Energy, Aquila and Black Hills Corporation are set forth in their most recent quarterly report on Form 10-Q or annual report on Form 10-K with the Securities and Exchange Commission ("SEC"), which are

-More-

available at www.greatplainsenergy.com, www.aquila.com and www.blackhillscorporation.com, respectively. Great Plains Energy, Black Hills Corporation and Aquila undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

Additional Information and Where to Find It

In connection with the acquisition of Aquila by Great Plains Energy, Great Plains Energy intends to file with the SEC a registration statement on Form S-4, containing a joint proxy statement/prospectus and other relevant materials. The final joint proxy statement/prospectus will be mailed to the stockholders of Great Plains Energy and Aquila. INVESTORS AND SECURITY HOLDERS OF GREAT PLAINS ENERGY AND AQUILA ARE URGED TO READ THE JOINT PROXY STATEMENT/PROSPECTUS AND THE OTHER RELEVANT MATERIALS WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT GREAT PLAINS ENERGY, AQUILA AND THE ACQUISITION. The registration statement and joint proxy statement/prospectus and other relevant materials (when they become available), and any other documents filed by Great Plains Energy or Aquila with the SEC, may be obtained free of charge at the SEC's website at www.sec.gov. In addition, investors and security holders may obtain free copies of the documents (when they are available) filed with the SEC by Great Plains Energy by directing a request to: Great Plains Energy, 1201 Walnut, Kansas City, MO, 64106, Attn: Investor Relations. Investors and security holders may obtain free copies of the documents filed with the SEC by Aquila by contacting Aquila, 20 West Ninth Street, Kansas City, Mo, 64105, Attn: Investor Relations.

Participants in Proxy Solicitation

Great Plains Energy, Aquila and their respective executive officers and directors may be deemed to be participants in the solicitation of proxies relating to the proposed transaction. Information about the executive officers and directors of Great Plains Energy and their ownership of Great Plains Energy common stock is set forth in Great Plains Energy's Annual Report on Form 10-K for the year ended December 31, 2005, which was filed with the SEC on March 8, 2006, and the proxy statement for Great Plains Energy's 2006 Annual Meeting of Stockholders, which was filed with the SEC on March 20, 2006. Information regarding Aquila's directors and executive officers and their ownership of Aquila common stock is set forth in Aquila's Annual Report on Form 10-K for the year ended December 31, 2005, which was filed with the SEC on March 7, 2006, and the proxy statement for Aquila's 2006 Annual Meeting of Stockholders, which was filed with the SEC on March 24, 2006. Investors and security holders may obtain more detailed information regarding the direct and indirect interests of Great Plains Energy, Aquila and their respective executive officers and directors in the proposed transaction by reading the joint proxy statement/prospectus regarding the proposed transaction when it becomes available.

###