BLACK HILLS CORPORATION

AMENDED AND RESTATED BYLAWS

ARTICLE I

MEETINGS OF SHAREHOLDERS

Section 1. Place. Meetings of the shareholders shall be held at such place within or without the State of South Dakota as the Board of Directors may from time to time determine and as stated in the notice of the meeting.

Section 2. Annual Meeting. The annual meeting of the shareholders shall be held at such time within six months after the end of each fiscal year of the Company as the Board of Directors designates for the purpose of electing directors and for the transacting of any other business as may be brought before the meeting.

Section 3. Special Meetings. All annual and special meetings of the shareholders shall be called by a majority of the Board of Directors.

Section 4. Notice. Unless all shareholders entitled to vote at the meeting waive notice in writing, written notice stating the place, day and hour of each meeting of shareholders, and in the case of a special meeting, further stating the purpose for which such meeting is called, shall be mailed at least ten days before the meeting when called by the Board of Directors to each stockholder of record who shall be entitled to vote thereat to the last known post office address of each such stockholder as it appears upon the stock transfer books of the Company. However, notice of a meeting, at which proposal to increase the capital stock or indebtedness is to be considered, shall be given at least sixty days prior to such meeting.

Section 5. Quorum. The holders of a majority of the issued and outstanding shares of the capital stock of the Company entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the shareholders except as may otherwise be provided by law or by the Articles of Incorporation. If a quorum or greater number as may be required by law or the Articles shall not be present or represented at any meeting of the shareholders, a majority of the shareholders who are present in person or by proxy and who are entitled to vote thereat shall have the power to adjourn the meeting from time to time without notice other than announcement at the meeting until such quorum or such greater number shall have been obtained.

Section 6. Adjourned Meeting. The majority of the shareholders who are entitled to vote and who are present in person or by proxy at any regular or special meeting of the shareholders shall have the right to adjourn the meeting from time to time without notice other than

announcement at the meeting to be adjourned; provided, however, the meeting may not be adjourned for a period longer than sixty days from the date of the meeting as set forth in the notice thereof.

Section 7. Voting. At each meeting of the shareholders, every stockholder having the right to vote shall be entitled to vote one vote per share in person or by proxy appointed by an instrument in writing subscribed by such stockholder. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. All voting for directors shall be by written ballot. All elections shall be had and all questions decided by a plurality except as otherwise provided by law or by the Articles of Incorporation.

Section 8. Inspectors. The Board of Directors or, if the Board shall not have made the appointment, the person presiding at any meeting of shareholders shall have power to appoint one or more persons, other than the nominees for directors, to act as inspectors to receive, canvass and report the votes cast by the shareholders at such meeting. Any inspector so appointed who for any reason does not serve in such capacity may be replaced by the person presiding at the meeting.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Definitions. For the purposes of these Bylaws an "Inside Director" is a director who is an employee of the Company, an officer of the Company, a person who has in the past served as an officer of the Company or any person whose relationship to the Company other than as a director gives him access on a regular basis to material information about the Company that is not generally available. Any director who is not an Inside Director would for the purpose of these Bylaws constitute an "Outside Director." For the purpose of this Section "Company" shall also include any subsidiary of the Company.

Section 2. Management of the Company. The property, business and affairs of the Company shall be managed by or under the direction of its Board of Directors.

Section 3. Qualifications of Directors. At the time a person is elected as director by the shareholders, that person must beneficially own at least 100 shares of the common stock of the Company; and if such person is elected by the shareholders, the person must be duly qualified to vote such stock at the said election. Each director is required to apply at least 50 percent of his or her retainer toward the purchase of additional shares until the director has accumulated at least 2,000 shares of common stock. No person shall be elected or stand for reelection as a director who will be seventy (70) years of age or older on the thirty-first day of December of the year of the election, except in the event the Board of Directors has not yet identified a director to be elected to replace any director who will be seventy (70) years of age during the year in which he

or she stands for reelection, a director may stand for reelection solely for the purpose of filling the slate of directors. However, upon the Board of Directors' choosing a replacement director, the incumbent director shall tender his or her resignation to the Chairman.

Section 4. Number and Election; Vacancies and Removal. The number of members of the Board of Directors shall not be less than nine (9); provided, the Board of Directors may change the number of directors through amendments to its Bylaws. The Board of Directors shall be and is divided into three classes, Class I, Class II and Class III, which shall be as nearly equal in number as possible. Each director shall serve for a term ending on the date of the third annual meeting following the annual meeting at which such director was elected; provided, each initial director in Class I shall hold office until the annual meeting of shareholders in 2002, each initial director in Class II shall hold office until the annual meeting of shareholders in 2003, and each initial director in Class III shall hold office until the annual meeting of shareholders in 2001.

The Board of Directors is expressly authorized to determine the rights, powers, duties, rules and procedures that affect the power of the Board of Directors to manage and direct the business and affairs of the Corporation, including the power to designate and empower committees of the Board of Directors, to elect, appoint and empower the officers and other agents of the Corporation, and to determine the time and place of, and the notice requirements for, Board meetings, as well as quorum and voting requirements for, and the manner of taking, Board action.

In the event of any change in the authorized number of directors, the Board of Directors shall apportion any newly created directorships to, or reduce the number of directorships in, such class or classes as shall, so far as possible, equalize the number of directors in each class. The Board of Directors shall allocate consistently with the rule that the three classes shall be as nearly equal in number of directors as possible, and appoint any newly-created directorship for a term of office continuing until the next election for the class to which such Director shall have been appointed.

Any vacancies in the Board of Directors for any reason, including any newly created directorships resulting from any increase in the number of directors, may be filled by the Board of Directors, acting by a majority of the directors then in office, although less than a quorum; and any directors so chosen shall hold office until the next election of the class for which such directors shall have been chosen.

Notwithstanding any of the foregoing, each director shall serve for a term continuing until the annual meeting of shareholders at which the term of the class to which he was elected expires and until his successor is elected and qualified or until his or her earlier death, resignation or removal; except, a director may be removed from office prior to the expiration of his or her term only for cause and by a vote of the majority of the total number of members of the Board of

Directors without including the director who is the subject of the removal determination and without such director being entitled to vote thereon.

Section 5. Compensation. Outside Directors shall be entitled to such compensation and expenses as may be determined by resolution of the Board. Outside Directors may serve the Company in other capacities and receive compensation therefor.

Section 6. Meetings. The Board of Directors may hold meetings within or without the State of South Dakota. Members of the Board of Directors or any committee thereof may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting.

Section 7. Regular Meetings. The annual meeting of the Board of Directors for the election of officers and to conduct such other business to be brought before the meeting shall, if practicable, be held on the same day as and immediately after the annual election of the directors by the shareholders or any adjournment thereof, and no notice thereof need be given. Further regular meetings of the Board may be held with or without notice at such time and place as shall from time to time be determined by the Board by resolution.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called either by the Chairman of the Board, the Chief Executive Officer, the President or by the Secretary upon the written request of any two directors by giving oral or written notice to each director stating the time and place of such meeting.

Section 9. Notice of Meetings. Notice shall be considered to have been given if a notice is either orally communicated to a director at least twelve hours prior to such meeting or placed in writing and mailed to the director at his last known post office address as shown by the records of the Company at least four days prior to the meeting. Any notice to be given a director for a meeting of the directors may be waived by the director in writing either before or after the meeting. Presence of any director at a meeting of the Board shall be considered to be a waiver of notice by such director unless such director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted nor the purpose of any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 10. Quorum. At all meetings of the Board of Directors a majority of the number of directors at the time in office shall constitute a quorum for the transaction of business; provided, less than a quorum of directors may fill vacancies as set forth in Section 4 of this Article II. The act of a majority of the number of directors at the time in office shall be the act of the Board of Directors. If at any meeting of the board there shall be less than a quorum present, a

majority of those present may adjourn the meeting from time to time until a quorum is obtained and no further notice thereof need be given other than by announcement at said meeting which shall be so adjourned.

Section 11. Manifestation of Dissent. A director of the Company who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Company immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 12. Action Taken Without Meeting. Any action which may be taken at a meeting of the directors or of a committee may be taken without a meeting if a consent in writing setting forth the actions so to be taken shall be signed before such action by all of the directors, or all of the members of the committee, as the case may be. Such consent shall have the same effect as a unanimous vote.

ARTICLE III

COMMITTEES

Section 1. Executive Committee. The Board of Directors shall appoint from among its members an executive committee of at least five directors. The Chairman of the Board, the Chief Executive Officer or the President shall be a member of the executive committee. At least three members of the executive committee shall be Outside Directors. The executive committee (i) shall recommend to the Board persons to be elected as officers, (ii) may consider and make recommendations to the Board on other Board actions, and (iii) may perform such other duties as may be permitted by law.

Section 2. Audit Committee. The Board of Directors shall appoint at least three of its Outside Directors to serve as an audit committee, all of whom shall have no relationship to the Company that may interfere with the exercise of their independence from management. The audit committee shall meet prior to and after each yearly audit with representatives of the independent accounting firm approved by the shareholders for the purpose of reviewing the audit of such firm of the Company's financial condition and shall each year recommend to the Board an independent accounting firm to be appointed by the Board for the ratification by the shareholders and shall perform such other duties as assigned by the Board.

Section 3. Compensation Committee. The Board of Directors shall appoint at least three of its Outside Directors to serve as a compensation committee. The compensation committee (i) shall perform any function required by directors in the administration of all federal and state

statutes relating to employment and compensation, (ii) shall recommend to the Board the compensation for officers, and (iii) shall consider and approve the compensation program, including the benefit program and stock ownership plans, of the Company.

Section 4. Governance Committee. The Board of Directors shall appoint a Governance Committee to be composed of a minimum of four Outside Directors as determined by the Board of Directors. An Outside Director shall be appointed by the Board of Directors to serve as Lead Director of the Governance Committee. The Governance Committee shall provide action and oversight on the following matters: (i) to recruit and nominate individuals to serve as Directors of the Company; (ii) to consider candidates to fill new positions created by expansion and vacancies that occur by resignation, retirement or for any other reason; (iii) to assess the size and other membership needs of the Board of Directors and establish selection criteria for Board Membership; (iv) to establish and regularly review guidelines for corporate governance; (v) to implement and administer an annual evaluation of the performance of the Board of Directors; (vi) to implement and administer the process for orienting new Directors both to the Company, and to their responsibilities as Board Members; (vii) to nominate on an annual basis an Outside Director to serve as Lead Director who will serve as Chairman of the Governance Committee; (viii) to regularly review the independence of Board Members; and (ix) to perform such other duties assigned by the Board.

Section 5. Other Committees. The Board of Directors may also appoint from among its own members such other committees as the Board may determine and assign such powers and duties as shall from time to time be prescribed by the Board.

Section 6. Removal from Committees and Rules of Procedure. Subject to these Bylaws directors may be removed from the committees and vacancies therein may be filled by a majority of the Board of Directors. A meeting of any committee may be called by any member of the committee. The provisions of these Bylaws concerning notice of meetings, compensation, manifestation of dissent and taking action without a meeting as they pertain to directors shall also pertain to committee meetings.

ARTICLE IV

OFFICERS

Section 1. Officers. The Board of Directors shall elect as officers of the Company a Chief Executive Officer, a President, a Vice President, a Secretary, and a Treasurer. If deemed desirable or expedient, the Board of Directors may elect a Chairman of the Board, a Controller, and such other Vice Presidents and officers as the Board may determine is necessary for the conduct of the business of the Company. Officers may also be directors. Any two or more offices may be held by the same person. No person shall hold an officer position after the last day of the month during which said person became sixty-five years of age.

Section 2. Term and Removal. All officers of the Company shall serve at the pleasure of the Board of Directors, and the Board at any regular or special meeting by the vote of a majority of the whole Board may remove an officer from an office.

Section 3. Duties of the Chairman of the Board and the Chief Executive Officer. The Chairman of the Board and the Chief Executive Officer may, but need not be the same person. The Chief Executive Officer shall be the chief administrative officer of the Company. The Chief Executive Officer (i) shall exercise such duties as customarily pertain to the office of Chief Executive Officer, (ii) shall have general and active management authority and supervision over the property, business and affairs of the company and over its officers and employees, (iii) may appoint employees, consultants and agents as deemed necessary for the proper conduct of the Company's business, (iv) may sign, execute and deliver in the name of the Company powers of attorney, contracts, bonds and other obligations subject to direction of the Board as set forth in Article VII of these Bylaws, (v) shall recommend to the Board of Directors persons for appointment to offices and committees and for nomination of directors, and (vi) shall perform such other duties as may be prescribed from time to time by the Board of Directors. The Chairman of the Board, or in his/her absence, the Chief Executive Officer or other Board designee, shall preside at stockholder meetings and at meetings of the Board of Directors, and shall perform such other duties as may be prescribed from time to time by the Board of Directors.

Section 4. Duties of the President. The President shall perform such duties as may be prescribed from time to time by the Board of Directors, the Chairman of the Board or the Chief Executive Officer. The President, in the absence or disability of the Chief Executive Officer, shall perform the duties and exercise the powers of the Chief Executive Officer.

Section 5. Duties of Vice Presidents. The Vice Presidents shall have such powers and perform such duties as may be assigned to them by the Board of Directors, the Chairman of the Board, and the Chief Executive Officer. In the absence or disability of the Chairman of the Board, the Chief Executive Officer, and the President, the Vice Presidents in the order as designated by the Board, or if the Board so directs, by the Chairman of the Board and the Chief Executive Officer, shall perform the duties and exercise the powers of the Chairman of the Board and the Chief Executive Officer.

Section 6. Duties of Secretary. The Secretary shall attend all meetings of the Board and shareholders, record all votes and the minutes of all proceedings in books to be kept for such purposes and shall perform like duties for the committees when required. The Secretary shall have the custody of the seal. The Secretary shall have the custody of the stock books and shall perform such other duties as may be prescribed by the Board of Directors or the Chairman of the Board and the Chief Executive Officer.

Section 7. Duties of Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books of the Company and shall deposit all monies and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Company as may be ordered by the Board, taking proper vouchers for such disbursements and shall render to the Chairman of the Board, the Chief Executive Officer and to the Board of Directors at its regular meetings or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Company.

Section 8. Duties of Other Officers. All other officers of the Company shall have such duties as shall be prescribed by the Board of Directors, the Chairman of the Board, and the Chief Executive Officer.

Section 9. Delegation of Duties of Officers. In the case of the absence of any officer of the Company or for any other reason that the Board may deem sufficient, the Board may delegate the powers or duties of any officer to any other officer or to any director for such time as determined by the Board.

Section 10. Compensation of Officers. The compensation of the Chairman of the Board and the Chief Executive Officer shall be determined by the Board of Directors. The compensation of each of the other officers shall be recommended by the Chief Executive Officer and approved by the Board of Directors. No officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Company.

ARTICLE V

INDEMNIFICATION

Section 1. Actions, Suits or Proceedings Other than by or in the Right of the Company. The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including all appeals, (other than an action by or in the right of the Company) by reason of the fact that he is or was or has agreed to become a director or officer of the Company, or is or was serving or had agreed to serve at the request of the Company as a director or officer of another corporation (including a subsidiary of the corporation, or subsidiaries of subsidiaries), partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against costs, charges, expenses (including attorneys' fees), judgments, fines, penalties and amounts paid in settlement actually and reasonably incurred by him or on his behalf in connection with such action, suit or proceeding and any appeal therefrom, if he acted in good faith and in a manner he reasonably believed to be within the scope of his authority and in, or not opposed to, the best interests of the

Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be within the scope of his authority and in, or not opposed to, the best interests of the Company and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Actions or Suits by or in the Right of the Company. The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, including all appeals, by or in the right of the Company to procure a judgment in its favor by reason of the fact that he is or was or has agreed to become a director or officer of the Company or is or was serving or has agreed to serve at the request of the Company as a director or officer of another corporation (including a subsidiary of the corporation or subsidiaries of subsidiaries), partnership, joint venture, trust or other enterprise, or by reason of any action alleged to have been taken or omitted in such capacity, against costs, charges and expenses (including attorneys' fees) actually and reasonably incurred by him or on his behalf in connection with the defense or settlement of such action or suit and any appeal therefrom, if he acted in good faith and in a manner he reasonably believed to be within the scope of his authority and in, or not opposed to, the best interests of the Company, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Company unless and only to the extent that the Courts of South Dakota or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of such liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such costs, charges and expenses which the Courts of South Dakota or such other court shall deem proper.

Section 3. Indemnification for Costs, Charges and Expenses of Successful Party. Notwithstanding the other provisions of this Article V, to the extent that a director or officer has been successful, on the merits or otherwise, including, without limitation, the dismissal of an action without prejudice, in defense of any action, suit or proceeding referred to in Sections 1 and 2 of this Article V, or in defense of any claim, issue or matter therein, he shall be indemnified against all costs, charges and expenses (including attorneys' fees) actually and reasonably incurred by him or on his behalf in connection therewith.

Section 4. Determination of Right to Indemnification. Any indemnification under Sections 1 and 2 of this Article V (unless ordered by a court) shall be paid by the Company unless a determination is made (i) by the board of directors by a majority vote of the directors who were not parties to such action, suit or proceeding, or if such majority of disinterested directors so directs, (ii) by independent legal counsel in a written opinion, or (iii) by the shareholders, that indemnification of the director or officer is not proper in the circumstances

because he has not met the applicable standard of conduct set forth in Sections 1 and 2 of this Article V.

Section 5. Advance of Costs, Charges and Expenses. Costs, charges and expenses (including attorneys' fees) incurred by a person referred to in Sections 1 or 2 of this Article V in defending a civil or criminal action, suit or proceeding shall be paid by the Company in advance of the final disposition of such action, suit or proceeding; provided, however, that the payment of such costs, charges and expenses incurred by a director or officer in his capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer) in advance of the final disposition of such action, suit or proceeding shall be made only upon receipt of an undertaking by or on behalf of the director or officer to repay all amounts so advanced in the event that it shall ultimately be determined that such director or officer is not entitled to be indemnified by the Company as authorized in this Article V. Such costs, charges and expenses incurred by other employees and agents may be so paid upon such terms and conditions, if any, as the majority of the directors deems appropriate. The majority of the directors may, in the manner set forth above, and upon approval of such director or officer of the Company, authorize the Company's counsel to represent such person, in any action, suit or proceeding, whether or not the Company is a party to such action, suit or proceeding.

Section 6. Procedure of Indemnification. Any indemnification under Sections 1, 2 and 3, or advance of costs, charges and expenses under Section 5 of this Article V shall be made promptly, and in any event within 60 days, upon the written request of the director or officer. The right to indemnification or advances as granted by this Article V shall be enforceable by the director or officer in any court of competent jurisdiction, if the Company denies such request, in whole or in part, or if no disposition thereof is made within 60 days. Such person's costs and expenses incurred in connection with successfully establishing his right to indemnification, in whole or in part, in any such action shall also be indemnified by the Company. It shall be a defense to any such action (other than an action brought to enforce a claim for the advance of costs, charges and expenses under Section 5 of this Article V where the required undertaking, if any, has been received by the Company) that the claimant has not met the standard of conduct set forth in Sections 1 or 2 of this Article V, but the burden of proving such defense shall be on the Company. Neither the failure of the Company (including its board of directors, its independent legal counsel and its shareholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 1 or 2 of this Article V, nor the fact that there has been an actual determination by the Company (including its board of directors, its independent legal counsel and its shareholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standards of conduct.

Section 7. Settlement. The Company shall not be obligated to reimburse the costs of any settlement to which it has not agreed. If in any action, suit or proceeding, including any appeal, within the scope of Sections 1 or 2 of this Article V, the person to be indemnified shall have unreasonably failed to enter into a settlement thereof offered or assented to by the opposing party or parties in such action, suit or proceeding, then, notwithstanding any other provision hereof, the indemnification obligation of the Company to such person in connection with such action, suit or proceeding shall not exceed the total of the amount at which settlement could have been made and the expenses incurred by such person prior to the time such settlement could reasonably have been effected.

Section 8. Subsequent Amendment. No amendment, termination or repeal of this Article V or of relevant provisions of the South Dakota corporation law or any other applicable laws shall affect or diminish in any way the rights of any director or officer of the Company to indemnification under the provisions hereof with respect to any action, suit or proceeding arising out of, or relating to, any actions, transactions or facts occurring prior to the final adoption of such amendment, termination or repeal.

Section 9. Other Rights, Continuation of Right to Indemnification. The indemnification provided by this Article V shall not be deemed exclusive of any other rights to which a director, officer, employee or agent seeking indemnification may be entitled under any law (common or statutory), agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in any other capacity while holding office or while employed by or acting as agent for the Company, and shall continue as to a person who has ceased to be a director, officer, employee or agent, and shall inure to the benefit of the estate, heirs, executors and administrators of such person. Nothing contained in this Article V shall be deemed to prohibit, and the Company is specifically authorized to enter into, agreements with officers and directors providing indemnification rights and procedures different from those set forth herein. All rights to indemnification under this Article V shall be deemed to be a contract between the Company and each director or officer of the Company who serves or served in such capacity at any time while this Article V is in effect. This Article V shall be binding upon any successor corporation to this Company, whether by way of acquisition, merger, consolidation or otherwise.

Section 10. Savings Clause. If this Article V or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Company shall nevertheless indemnify each director or officer of the Company as to any costs, charges, expenses (including attorneys' fees), judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Company, to the full extent permitted by any applicable portion of this Article V that shall not have been invalidated and to the full extent permitted by applicable law.

Section 11. Subsequent Legislation. If the South Dakota law is amended after the adoption of this Article V to further expand the indemnification permitted to directors and officers of the Company, then the Company shall indemnify such persons to the fullest extent permitted by the South Dakota law, as so amended.

ARTICLE VI

CAPITAL STOCK

Section 1. Stock Certificates. Certificates for stock of the Company shall be in such form as the Board of Directors may from time to time prescribe and shall be signed by the President or a Vice President and by a Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary. If certificates are signed by a transfer agent, acting in behalf of the Company, or registered by a registrar, the signatures of the officers of the Company may be facsimile. The Company, through its officers, may cause certificates to be issued and delivered bearing facsimile signatures of persons even though at the time of the issuance and delivery of such certificates, any of such persons may no longer be an officer of the Company.

Section 2. Transfer Agent. The Board of Directors shall have power to appoint one or more transfer agents and registrars for the transfer and registration of certificates of stock of any class and may require that stock certificates shall be countersigned and registered by one or more of such transfer agents and registrars. The transfer agent and registrar may be the same person.

Section 3. Transfer of Stock. Shares of the capital stock of the Company shall be transferable on the books of the Company only by the holder of record thereof in person or by a duly authorized attorney upon surrender and cancellation of certificates for a like number of shares properly endorsed.

Section 4. Lost Certificate. In case any certificates of the capital stock of the Company shall be lost, stolen or destroyed, the Company may cause replacement certificates to be issued upon such proof of the fact and such indemnity to be given to it and to its transfer agent and registrar, if any, as shall be deemed necessary or advisable by it.

Section 5. Holder of Record. The Company shall be entitled to treat the holder of record of any share or shares of stock as the holder thereof in fact and shall not be bound to recognize any equitable or other claim to or interest in such shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise expressly provided by law. The expression "stockholder" or "shareholders" whenever used in these Bylaws shall be deemed to mean only the holder or holders of record of stock.

Section 6. Closing of Transfer Books. The Board of Directors shall have power to close the stock transfer books of the Company for a stated period but not to exceed, in any case, fifty days, and in case of a meeting of shareholders not less than ten days, preceding the date of any meeting of shareholders, or the date for payment of any dividend, or the date for the allotment of rights, or the date when any change or conversion or exchange of capital stock shall go into effect, or in order to make a determination of shareholders for any other proper purpose; provided, however, that in lieu of closing the stock transfer books, the Board of Directors may fix in advance a date as the record date for any such determination of shareholders, not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken; and in such case only such shareholders as shall be shareholders of record on the date so fixed shall be entitled to such notice of, and to vote at, such meeting, or to receive payment of such dividend, or to receive such allotment of rights, or to exercise such rights, as the case may be, notwithstanding any transfer of any stock on the books of the Company after any such record date fixed as aforesaid. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

Section 7. Closing of Transfer Books to Authorize Increase in Indebtedness and Capital Stock. Notwithstanding Section 6 of this Article and in order to comply with Section 8 of Article XVII of the South Dakota Constitution, the notice to be given shareholders for a meeting at which a proposal to increase the Company's authorized indebtedness or capital stock is to be considered shall be given at least sixty days prior to the meeting and the record date for the determination of shareholders eligible to vote at such meeting may be set by the Board sixty or more days prior to the said meeting.

ARTICLE VII

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Company, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Company and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, etc. All checks, drafts, or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Company shall be signed by such officer or officers, agent or agents of the Company and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits and Investments. All funds of the Company not otherwise employed shall be deposited from time to time to the credit of the Company in such banks, trust companies or other depositories as the Board of Directors or officers of the Company designated by the Board of Directors may select; or be invested as authorized by the Board of Directors. Such authority may be general or confined to specific instances.

ARTICLE VIII

MISCELLANEOUS

Section 1. Offices. The principal office of the Company shall be in the City of Rapid City, County of Pennington, State of South Dakota. The Company may also have offices at such other places within or without the State of South Dakota as the Board of Directors may from time to time designate or as the business of the Company may require.

Section 2. Seal. The corporate seal shall have inscribed thereon the name of the Company and the words "Corporate Seal--2000--South Dakota."

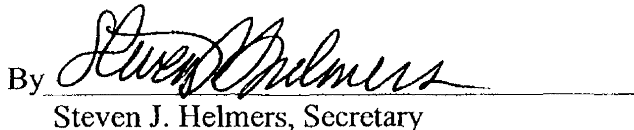
Section 3. Audit. The books of account of the Company shall be audited annually by an independent firm of public accountants who shall be appointed by the Board of Directors and ratified by the shareholders at each annual meeting. Such auditors shall submit to the Board of Directors each year certified financial statements of the Company for the preceding fiscal year.

ARTICLE IX

AMENDMENTS

These Bylaws may be altered, amended or repealed at any meeting of the Board of Directors by the affirmative vote of a majority of the whole Board; provided, no alteration or amendment may be in conflict with any provision of the Articles of Incorporation.

Dated this 20th day of December, 2002.

By 

Steven J. Helmers, Secretary

Limited Liability Company Articles of Organization

The name of the Limited Liability Company:

Black Hills/Kansas Gas Utility Company, LLC

File date: 03/19/2007
File time: 08:24:50
Business Entity ID Number: 6163687

Registered Office in Kansas:

200 SW 30th Street
Topeka, Kansas
66611

Name of the resident agent at the registered office:

CORPORATION SERVICE COMPANY

Mailing address for official mail:

Black Hills/Kansas Gas Utility Company, LLC
200 SW 30th Street
Topeka, KS
66611 USA

Name of the organizer(s):

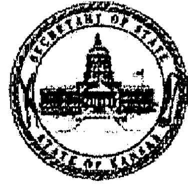
Anderson and Byrd, LLP

I/We declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

Execution date: 03/19/2007

The signature(s) of the organizer(s):

Daniel D. Covington
Authorized agent for Anderson and Byrd, LLP



I, Ron Thornburgh, Secretary of State of Kansas, do hereby certify that this is the true and correct copy of the original document filed electronically on 03/19/2007.

Ron Thornburgh

Kansas Secretary of State
Memorial Hall, 1st floor - 120 SW 10th Ave. - Topeka, Kansas 66612-1594
phone: (785) 296-4564 - email: kssos@kssos.org - url: www.kssos.org

I hereby certify this to be a true and correct copy of the original on file.
Certified on this date: 03/28/2007
Ron Thornburgh, Secretary of State

Black Hills Service Company

Cost Accounting Manual

Schedule 6

Black Hills Service Company Cost Accounting Manual
Table of Contents

1. Introduction 3
2. Service Company Organization 4
3. Direct and Indirect Costs 7
4. Transaction Coding 9
    a. Locations
    b. Cost Centers
    c. Work Orders
    d. Cost Codes
5. Recording Transaction to the General Ledger/Chart of Accounts 12
6. Timekeeping 13
7. Overhead 14
8. Allocation Factors and Cost Center Assignments 16
9. Changing Allocation Factors 19
10. Running Direct and Indirect Charges 21
11. Reconciliation of Direct and Indirect Charges 23
12. Subsidiary Payments for Direct and Indirect Charges 23
13. Executive Risk Committee Costs 24
14. Allocations to Black Hills Colorado 24
15. Income Tax 24

Introduction

The purpose of this cost accounting manual is to document the allocation processes of Black Hills Service Company, from recording the original transaction through the allocation of costs to Black Hills Corporation subsidiaries. Various topics to be addressed include the organization of the Service Company, the recording of transactions, calculating and assigning allocation factors, and recording and reconciling allocation transactions.

Black Hills Service Company (the Service Company) was formed on December 30, 2004, and was fully implemented and operational as of January 1, 2006. The Service Company was formed as required by the Public Utility Holding Company Act of 1935, which was administered by the Securities and Exchange Commission (SEC). Service companies were required of all registered holding companies under this law. Service companies coordinate corporate support functions and distribute costs to registered holding company subsidiaries using pre-defined allocation methodologies that had to be approved by the SEC.

Black Hills Corporation became a registered holding company at the end of 2004, and through a transition period and various amendments to the registered holding company filings, established the date of January 1, 2006 to fully implement the Service Company. In August of 2005, this law was repealed and replaced by the Public Utility Holding Company Act of 2005, which is administered by the Federal Energy Regulatory Commission (FERC). This new law was effective in February of 2006. Although certain administrative and reporting requirements changed as a result of the repeal, Black Hills Corporation did not change its implementation plan.

The Service Company is a wholly owned subsidiary of Black Hills Corporation (the Holding Company), and is a separate legal entity. The majority of operations and all employees were transferred out of the Holding Company on the effective date of implementation. The only transactions that remain at the Holding Company are transactions pertaining to long-term debt and related deferred finance costs, corporate credit facility and related deferred finance costs, and the administration of money pool transactions for both the utility money pool and the non-utility money pool. In addition, as will be discussed in greater detail later, certain corporate costs are allocated directly to the Holding Company. The most notable of these types of costs are corporate development costs.

Service Company Organization

The Service Company is organized into operating departments based upon the services that those departments provide to Black Hills Corporation subsidiaries. Below is a list of each department, as well as a brief description of the services they provide.

1. *Accounting Systems* – Maintains the corporate wide accounting systems of Black Hills Corporation, most notably the general ledger and financial statement preparation systems.

2. *Accounts Payable* – Processes payments to vendors and prepares 1099s and applicable documentation for Black Hills Power, Cheyenne Light Fuel & Power, Black Hills Service Company, Wyodak Resources Development Corporation, and Black Hills Wyoming.

3. *Corporate Communications and Governmental Affairs* – Provides oversight to the corporate communications processes. Provides advertising and branding development for the companies within Black Hills Corporation. Manages and tracks all contributions made on behalf of Black Hills and its subsidiaries, as well as Black Hills Corporation Foundation. Monitors, reviews and researches government legislation and acts as a liaison with legislators. Assists in the preparation of the annual report.

4. *Corporate Development and Strategic Planning* – Facilitates the development of the corporate strategy, prepares strategic plans, and evaluates potential business opportunities.

5. *Corporate Governance* – Develops and enforces corporate governance policies and procedures in accordance with applicable laws and regulations. Provides oversight of compliance with Securities and Exchange Commission rules and regulations. Oversees the administrative duties to the Board of Directors.

6. *Tax* – Prepares quarterly and annual tax provisions of all Black Hills Corporation subsidiaries. Maintains and reconciles all current and deferred income tax general ledger accounts. Prepares tax filings and ensures compliance with applicable laws and regulations. Oversees various tax planning projects.

7. *Risk Management and Analysis* – Provides risk management, risk evaluation, and risk analysis services. Provides support to the Executive Risk Committee.

8. *Legal* – Provides legal services related to labor and employment law, litigation, contracts, rates and regulation, Securities and Exchange Commission compliance, environmental matters, real estate and other legal matters. Oversees the hiring and administration of external counsel. Provides legal support to various corporate development projects.

9. *Environmental* – Establishes policies and procedures for compliance with environmental laws and regulations. Researches emerging environmental issues and monitors compliance with environmental requirements. Oversees environmental clean up projects.

10. *Executive Management Services* – Provides overall oversight of Black Hills Corporation subsidiaries. Guides the preparation of strategic plans and advises on potential corporate development opportunities. Provides the Board of Directors information for decision making purposes. Oversees communication with shareholders and the investor community.

11. *Safety* – Develops and implements safety planning activities and provides employee safety education. Administers the self-funded worker's compensation plan in South Dakota. Administers the corporation's wellness program.

12. *Finance and Treasury* – Coordinates activities related to securities issuance, including maintaining relationships with financial institutions, cash management, debt compliance, investing activities and monitoring the capital markets. Oversees the administration of corporate pension and 401(k) plans.

13. *Financial Reporting* – Oversees the corporate consolidation of subsidiary financial statements. Prepares monthly internal financial reports for management. Prepares quarterly and annual financial reports to the Securities and Exchange Commission. Researches emerging accounting issues and assists with the compliance of new accounting rules and regulations.

14. *General Accounting* – Provides overall oversight for the maintenance of accounting records. Researches emerging accounting issues. Assists in the compliance of all accounting rules and regulations. Provides accounting support to the Service Company and the Holding Company. Oversees the accumulation of subsidiary financial budgets and the consolidation of the corporate wide budget.

15. *Human Resources* – Establishes and administers policies related to employment, compensation and benefits. Coordinates the bargaining strategy and labor agreements with union employees. Provides technical and professional development training and general HR support services. Oversees the self-insured medical benefits plans and provides support to the third party administrators of the plans.

16. *Information Technology* – Provides various communications and electronic data processing services including but not limited to, development and support of mainframe computer software applications, procurement and support of personal computers, operation of a data center, operation of a help desk, development of information technology-related training resources, and installation and operation of a communications system.

17. *Insurance* – Facilitates physical risk management strategies through the purchase and evaluation of various types of insurance coverage. Provides claims management services.

18. *Internal Audit* – Reviews internal controls and procedures to ensure assets are safeguarded and transactions are properly authorized and recorded. Oversees the Sarbanes Oxley compliance efforts. Evaluates contract risks.

19. *Investor Relations* – Provides communications to investors and the financial community. Assists in the preparation of the annual report.

20. *Shareholder Services* – Provides various recordkeeping and administrative services related to shareholder services. Assists in the administration of equity-based compensation plans.

21. *Payroll* – Processes payroll for all Black Hills Corporation subsidiaries including but not limited to time reporting, calculation of salaries and wages, payroll tax reporting and compliance reports.

22. *Power Delivery Management* – Performs resource planning, power delivery management, strategic planning, and construction management for the corporation's power generation assets.

23. *Rates and Regulation* – Determines the regulatory strategy for the corporation's utility subsidiaries, including revenue requirements and rates for electric and gas customers. Coordinates the regulatory compliance requirements and maintains relationships with the regulatory bodies.

24. *Retail Accounting Operations* – Maintains the accounting records of the retail subsidiaries of the corporation. Assists in the compliance with regulatory accounting requirements. Prepares required filings with the Federal Energy Regulatory Commission and with applicable state commissions. Assists in the preparation of budgets for the retail subsidiaries of the corporation. Prepares various operating and financial reporting for retail management. Assists with the regulatory strategy for the utility subsidiaries.

25. *Retail Property Accounting* – Maintains the records for retail property, plant, and equipment for the retail subsidiaries of the corporation. Assists in the preparation of required filings with the Federal Energy Regulatory Commission and with applicable state commissions. Assists in the preparation of property tax returns for retail property. Assists in the preparation of various operating and financial reporting for retail management.

Direct Costs versus Indirect Costs

A key issue in distributing Service Company costs is distinguishing between direct costs and indirect costs. The account coding will change depending on whether the cost is a direct or indirect cost. Below is a summary of each of these types of costs and examples of these costs.

Direct costs are those costs that are specifically associated with an identified subsidiary or group of identified subsidiaries. This means that it is known exactly to which subsidiary or group of subsidiaries these costs relate. Here are some examples:

- A Payroll Processor is processing the payroll for Enserco. The labor costs incurred in processing payroll are specifically associated with an identified subsidiary. Therefore, this would be a direct cost.
- An Internal Auditor travels to Golden to complete audits for Enserco, Black Hills Exploration and Production and Black Hills Generation. The time associated with completing the audits would be charged to each company based on the time worked for each specific company project. The travel expenses could either be coded to each company based on time worked or coded using a combination of spreading those charges equally and charging costs specifically to one of the companies each day worked. For example, the airline ticket might be split evenly between the three subsidiaries, while the first meal might be charged to Enserco, while the next meal is charged to BHEP. Materiality is an important factor in determining how to charge costs in these instances, as it would not be cost-beneficial to split a $10 meal three ways.
- The Human Resources department incurs costs to bring an employment candidate on-site to Gillette for an interview with Wyodak. These travel costs incurred in bringing the employee in for the interview are specifically associated with an identified subsidiary. Therefore, this would be a direct cost.
- A Help Desk technician orders a replacement computer monitor for an employee at Black Hills Power. This hardware cost incurred is specifically associated with an identified subsidiary. Therefore, this would be a direct cost.

Indirect costs are those costs that are not associated with an identified subsidiary. This means that the costs indirectly support all companies or directly support the operation of the Service Company. In other words, costs that would be directly charged to the Service Company using the definition and examples above would be classified as indirect costs. Here are some examples:

- A Payroll Processor attends training on year-end payroll updates. The labor costs incurred in attending this training are not specifically associated with an identified subsidiary. Therefore, this would be an indirect cost.
- The Internal Audit department is completing a BHC consolidated financial statement audit. Since all entities indirectly affect the financial statements of consolidated BHC, this charge would be considered an indirect cost.
- An Environmental representative wishes to take Paid-Time-Off (PTO). This charge can not be directly attributable to any specifically identified company; therefore, this charge would be considered an indirect cost.

- A Help Desk technician orders a replacement computer monitor for an employee of the Service Company. This hardware cost incurred is specifically associated with the Service Company. Therefore, this would be an indirect cost.

It is important that when determining if a cost is a direct cost or an indirect cost to consider two things. (1) Can the costs be substantiated that are coded to a specific company or group of companies and (2) Can it be substantiated that a utility-based entity is not subsidizing the operations of non-utility based company with the time and expenses that have been charged to them. As can be seen from above, a certain level of judgment will be involved when deciding whether a particular cost should be directly charged or indirectly allocated.

There are certain costs that will always be considered direct or indirect costs, no matter the circumstances. Below is a list of significant Service Company expense that follow these rules:

Always considered direct costs:

- Capitalized costs (including capitalized labor)
- Corporate development project costs
- Corporate development department costs
- Professional fees related to pension plans paid to third parties
- Retiree healthcare costs

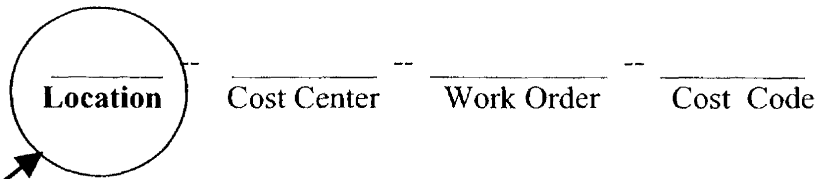
Always considered indirect costs:

- PTO and Holiday labor (they are included as a component of overhead)
- Corporate-wide bonuses and other methods of compensation that are included as a component of overhead
- Payroll taxes and 401(k) match expenses (they are included as components of overhead)
- Short or long-term disability expenses
- Board of Directors' fees and expenses
- General Office rent
- Depreciation
- Directors' and officers' insurance
- Investor relations expenses
- Shareholder expenses
- Intercompany interest expense and income

Transaction Coding

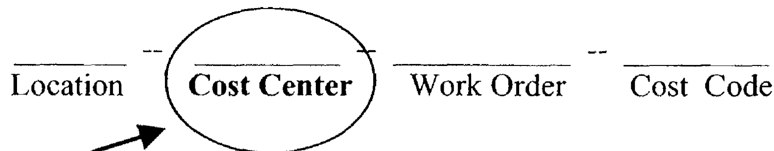
In addition to the normal general ledger software, the Service Company also utilizes the Project Tracking software system. Project Tracking allows for the accumulation and tracking of all Service Company income statement transactions. In addition, the system also handles the distribution of both direct and indirect costs to Black Hills Corporation subsidiaries.

All income statement transactions will use the coding as described below. The coding is comprised of four separate fields, each representing an important characteristic of the underlying transaction. Balance sheet transactions may either use this coding as well, or they may be recorded directly to the balance sheet, depending on the nature of the transaction.



Location:

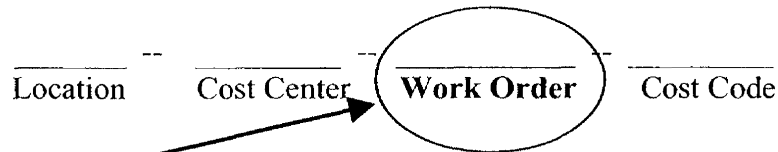
- Three (3) character numeric field.
- The location field is used to identify the transaction as either a direct cost or an indirect cost.
- If the cost is a direct cost, the location field will be populated using the location code for the company being directly charged. For example, the location code for Enserco is 017, the location code for BHEP is 025, and the location code for BHP is 005.
- If the cost is an indirect cost, the location field will be populated using the location code of 999. Please remember that indirect costs also include costs directly related to the Service Company.



Cost Center:

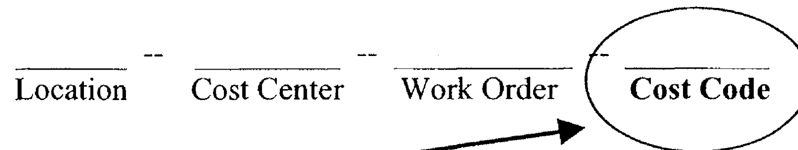
- Two (2) character numeric field.
- The cost center field is used to identify the department in which the costs originated.
- Each employee will use his or her department's unique cost center code when completing the account coding for costs they are initiating. If completing the account code on behalf of another individual, that individual's department's cost center code would be used instead. For example, if an administrative assistant is responsible for initiating invoices for a variety of cost centers, the account coding would include the cost centers for those departments and not the administrative assistant's own cost center.
- For the most part, when an employee completes a timesheet or codes an invoice, the cost center used will always be the same.

- Examples of cost center codes include 17 for Payroll, 15 for Human Resources, and 16 for Information Technology.



Work Order:

- Five (5) character numeric field.
- The work order field is used to identify the specific nature of the costs incurred. In essence, a work order is a cost pool to accumulate similar costs.
- Work orders can be used to track various types of costs required by departments or employees. For example, the Payroll department might have a work order to track costs for Payroll Processing, the Human Resources department might have a work order to track costs of Hiring/Recruiting, and the IT department might have a work order to track costs of providing IT User Support.
- For departmental budget-to-actual comparisons, it is important to use work orders to which departments have budget dollars assigned. This will require communication from department supervisors so that the correct work orders are used. The exception to this rule will be special projects that arise during the year.



Cost Code:

- Two (2) character numeric field.
- The cost code field is used to identify the general nature of the costs incurred. The cost code is loosely equivalent to financial statement expense accounts, and is the primary driver in deciding which income statement account to which the transaction is recorded.
- For instance, when a Payroll Processor is processing payroll and codes her timesheet, she will use cost code 31, for Labor-A&G. When the HR department codes travel costs for on-site interviews, they may use costs code for Travel-Airfare (37), Lodging (07), and Meals (04).

To further understand how the account coding string is completed for each transaction, please see the following examples:

- An Accounts Payable processor processes an A/P check run for Wyodak and needs to code her timesheet. This would be a direct charge because it is specifically associated with an identified subsidiary. The location code for Wyodak is 019, so that would be the first piece of the coding string. The Accounts Payable processor is part of the Accounts Payable department, whose cost center is 02. Let's say this department has a work order for Processing A/P Runs with a work order number of 30005. Lastly, the processor is

coding her timesheet, so a cost code of 31 would be used, which relates to Labor A&G. Here's how the completed string would look:

019	--	02	--	30005	--	31
Location		Cost Center		Work Order		Cost Code

- A non-company specific invoice is received for external financial statement audit fees. This would be an indirect cost because it is not associated with a specific company. Therefore, the location would be 999. This invoice would be initiated for payment by the General Accounting department, with a cost center of 14. Say the work order for Financial Statement Audits is 30125. Lastly, the cost code would be 10, for Audit Fees. Here's the string:

999	--	14	--	30125	--	10
Location		Cost Center		Work Order		Cost Code

- The Human Resources department incurs various consulting costs on changes to employee benefit plans. The location would be 999 because these costs are not associated with a specific company. Cost center 15 would be used for the Human Resources department. This department has work order 30168 for Human Resources Benefit Services. The cost code for Consulting/Professional Fees is 09. The coding string is:

999	--	15	--	30168	--	09
Location		Cost Center		Work Order		Cost Code

Recording Transactions to the General Ledger/Chart of Accounts

All Service Company income statement transactions must run through a Project Tracking account coding string. Project Tracking, however, is a separate system from the General Ledger. All transactions that are recorded through Project Tracking are simultaneously recorded to the General Ledger through a process referred to as "FERC-ing."

All work orders must be assigned a "FERC" relationship. All transactions that are recorded to that work order will be recorded to a General Ledger account based on the "FERC" relationship that is set-up. The work order, along with the cost center and cost code, decides which General Ledger account the transaction will hit. The location field will not have an impact on the General Ledger.

As new work orders are established, "FERC" relationships must also be established for all potential combinations of cost centers, work orders, and cost codes. Normally, for Service Company transactions, the key driver to the General Ledger is the cost code. The general rule is that all transactions recorded to the same cost code will be recorded to the same General Ledger account. There may be occasions where this general rule does not hold true, and in these cases, the work order will also help designate the General Ledger account used. For Service Company transactions, the cost center rarely affects the General Ledger account used, meaning that any transactions recorded to a work order/cost code combination will be recorded to the same General Ledger account no matter what cost center is used in the account coding string. However, the system does require that the "FERC" relationship include cost center, along with the work order and cost code.

At various times during the month, as well as at the end of the month after all transactions are posted, the Project Tracking system is balanced against the General Ledger. The purpose of this balancing is to ensure that transactions are properly reflected in both systems. Any differences are researched and corrected, or documented if the differences are acceptable.

The Service Company uses the Federal Energy Regulatory Commission's Uniform System of Accounts, as required by the Public Utility Holding Company Act of 2005. This chart of accounts prescribes which accounts are to be used for specific types of transactions. Because this is the same chart of accounts that a public utility uses, there are several groups of accounts that are not applicable to a service company. On the income statement, the primary group of accounts that is used are the Administrative and General Expenses accounts.

Timekeeping

All Service Company employees are required to complete a timesheet for each two week pay period, whether they are an employee paid hourly or an employee paid a salary. Timesheets are due by noon on Tuesday following the end of the pay period every other Sunday. Timesheets of all hourly employees must be approved by their supervisor. Timesheets of salaried employee are not required to be approved by their supervisor, but it is encouraged.

Timesheets are completed using a web-based program. Employees must complete the coding string, as previously discussed, for each time record. The timesheet will default the cost code field to the cost code for administrative and general labor, and the employee can skip the completion of this field. The only other allowable cost code on the timesheet is the cost code for capitalized labor. However, if the employee's activities can be capitalized, the employee will need to manually complete the cost code field. In addition, a pay code must also be designated for each time record. The pay code designates the time as such classifications as regular time, overtime, holiday time, or paid time off.

Employees are encouraged to enter their time in one half hour increments, although they may use smaller increments if they so choose. Employees are also encouraged to keep their timesheets updated on a regular basis, so that they don't have to enter two weeks worth of time on the last day of the pay period. It is best if they enter their time on a daily basis.

Overhead

Certain benefits that are provided to employees become an inherent cost of labor. To account for these benefits and allow for them to be charged to the appropriate subsidiary, they become part of an overhead rate that is added on to each payroll dollar. The Service Company utilizes two different overhead rates. A general overhead rate is added on to all payroll dollars, while a supplemental overhead rate is added on to payroll dollars of executive officers. The supplemental overhead rate is necessary because certain benefits are limited to executive officers, and including those benefits in an overhead rate for all employees would not fairly distribute benefit costs.

As payroll is processed, the overhead rates are calculated on the payroll dollars and follow the same location, cost center, and work order as the labor was coded to on the timesheet. The one difference is the cost code. Normal labor is coded to cost code 31, while capitalized labor is coded to cost code 39. Normal labor overhead is then coded to cost code 32, while capitalized labor overhead is coded to cost code 40. The General Ledger impact is that salary expense is grossed up for overhead, with a corresponding credit entry to Labor Overhead Offset, which is a contra expense. This means the net impact to the income statement will be zero. The one exception is capitalized labor overhead, which is added to capitalized labor on the balance sheet, with the offset recorded as a credit to the income statement, thereby reducing overall expenses.

The overhead rates are calculated at the beginning of the year based upon budgeted benefit expenses and budgeted labor. These rates are loaded into Project Tracking and used for payroll processing throughout the year. Adjustments to the rates may be made during the year if material changes occur or are expected to occur to employee benefits. Below is a list of components of the overhead rates:

General overhead:
- PTO and Holiday pay
- FICA, FUTA, and SUTA taxes
- Medical/health benefits for active employees
- Pension accruals for the defined benefit plan
- Retiree healthcare accruals
- Gainshare/results compensation bonus accruals
- Short-term incentive plan bonus accruals for non-officers
- Stock option expense

Supplemental overhead:
- Restricted stock expense
- Non-qualified pension accruals (PEP and SERP)
- Short-term incentive plan bonus accruals for officers
- Performance plan bonus accruals

At the end of each month, overhead calculated on payroll using the overhead rates must be true-ed up against actual employee benefit costs. The purpose for this true-up is due to the fact that the Service Company's income statement must net to zero, meaning there can be no net income

or net loss remaining at the Service Company. Overhead calculated on payroll is based on an estimated rate and budgeted benefits, so differences between actual benefits will be inherent to this process. The two main reasons for the difference is the employee benefit costs differ from the budget, or that payroll differs from budget. After the difference is calculated and reviewed for reasonableness, it is allocated to cost centers based upon payroll for the month. A separate work order is used to track the overhead true-up adjustments, and these adjustments are indirectly allocated to Black Hills Corporation subsidiaries.

Allocation Factors

As previously stated, Service Company costs are either directly charged to a subsidiary, or indirectly allocated when the cost is not associated with a specific subsidiary. Indirect costs are allocated out using one of several pre-defined allocation factors. Each cost center has been assigned one of these allocation factors. All indirect costs of that cost center are then allocated using that factor. When determining which allocation factor should be assigned to each cost center, a factor was selected based on the specific cost driver of that cost center. For instance, the expenses incurred by the Human Resources department are primarily related to their support of all company employees. In this example, the cost driver for the Human Resources department indirect costs is employees. Therefore, their indirect costs will be allocated based upon the Employee ratio.

For certain cost centers, a specific cost driver may not be clearly identifiable or the driver may not be cost efficient to compute on a continuing basis. In these instances, a three-pronged general allocation factor is used, which is referred to as the Blended ratio. This ratio equally weights three different general ratios: Gross Margin, Asset Cost (limited to PP&E), and Payroll Dollars. These factors were chosen to be included in the Blended ratio because they best allocate costs based on the diverse nature of BHC operations.

In addition, some cost centers utilize a Holding Company Blended ratio. The difference between the Blended Ratio and the Holding Company Blended ratio is that the Holding Company Blended Ratio allocates a percentage of costs to BHC Holding Company. For example, the Corporate Governance department will allocate indirect costs using the Holding Company Blended ratio because certain costs incurred, such as New York Stock Exchange fees and Board of Directors costs, relate to both the Holding Company and the subsidiary companies. It should also be noted that Corporate Development costs will be directly charged to the Holding Company and will not be allocated to the subsidiaries.

One additional item to note is that health care costs are allocated differently due to the self-insurance pool. Black Hills Corporation has chosen to pool all health care costs and spread the risk amongst all subsidiaries equally. The one exception is Cheyenne Light Fuel and Power, which has its own health care plan that is substantially different than Black Hills Corporation's health care plan. As a result, CLFP does not pool its costs with BHC, but rather pays directly all medical costs incurred. All other medical costs of BHC are paid by the Service Company and allocated to subsidiaries based on employee counts.

The following is a list of all allocations factors, including a brief description of the factor, the basis for the calculation of the factor, and the cost centers to which that factor has been assigned. Any asset factors and employee count factors are calculated as of period-end dates, while revenue and expense factors are calculated for twelve months ended as of period-end dates.

> *Asset Cost Ratio* – Based on the total cost of assets as of December 31 for the prior year, the numerator of which is for an applicable BHC subsidiary and the denominator of which is for all applicable BHC subsidiaries. Assets are limited to property, plant, and equipment, and include construction or work in process. Assets are also reported at their

GAAP value, meaning that assets for the utility subsidiaries will include the eliminations that are done to bring their FERC financial statements into compliance with GAAP. FERC requires that acquired fixed assets be recorded at their gross value with accumulated depreciation, while GAAP requires that acquired fixed assets be recorded at their net value. An elimination journal entry is used to eliminate the gross-up for preparation of GAAP financial statements, and this elimination journal entry is factored into the calculation of the Asset Cost Ratio.

The Environmental cost center utilizes this ratio, and it is a component in both the Blended Ratio and the Holding Company Blended Ratio.

Gross Margin Ratio – Based on the total gross margin for the prior year ending December 31, the numerator of which is for an applicable BHC subsidiary and the denominator of which is for all applicable BHC subsidiaries. Gross margin is defined as revenue less cost of sales. Certain intercompany transaction may be excluded from gross margin if they would not have occurred if the revenue relationship was with a third party instead of a related party.

No cost centers utilize this ratio, but it is a component in both the Blended Ratio and the Holding Company Blended Ratio.

Payroll $ Ratio – Based on the total payroll $ for the prior year ending December 31, the numerator of which is for an applicable BHC subsidiary and the denominator of which is for all applicable BHC subsidiaries. Payroll $ include all bonuses and compensation paid to employees, but do not include items that are only included on an employee's W-2 for gross-up and income tax purposes, such as life insurance premiums over $50,000.

No cost centers utilize this ratio, but it is a component in both the Blended Ratio and the Holding Company Blended Ratio.

Blended Ratio – A composite ratio comprised of an average of the Asset Cost Ratio, the Payroll $ Ratio, and the Gross Margin Ratio. These factors are equally weighted. This factor is sometimes referred to as the general allocation factor.

Cost centers that utilize this ratio include Accounting Systems, Accounts Payable, Corporate Communications and Governmental Affairs, General Accounting, Information Technology, Insurance, Internal Audit, Legal, Risk Management, Tax and Overhead/Depreciation/Miscellaneous.

Holding Company Blended Ratio – 5% of costs allocated to the Holding Company, with the remaining 95% of costs allocated using a composite ratio comprised of an average of the Asset Cost Ratio, the Payroll $ Ratio, and the Gross Margin Ratio. These factors are equally weighted.

Cost centers that utilize this ratio include Corporate Governance, Executive, Finance and Treasury, Financial Reporting, Investor Relations, and Shareholder Services.

In addition, directors and officer's insurance expense incurred through the Insurance cost center is allocated using the Holding Company Blended Ratio, as well as strategic planning costs of the Corporate Development cost center.

Employee Ratio – Based on the number of employees at the end of the prior year ending December 31, the numerator of which is for an applicable BHC subsidiary and the denominator of which is for all applicable BHC subsidiaries.

Cost centers that utilize this ratio include Payroll, Safety, and Human Resources.

Holding Company Employee Ratio – Based on the number of employees at the end of the prior year ending December 31, the numerator of which is for an applicable BHC subsidiary and the denominator of which is for all applicable BHC subsidiaries, but excluding Cheyenne Light Fuel & Power.

This ratio is used to allocate health and medical costs from the BHC self-insurance pool. CLFP maintains its own self-insurance pool for which its benefits are substantially different than the benefits offered by the BHC self-insurance pool. As a result, CLFP health and medical costs are not administered and allocated through the BHC self-insurance pool, but are paid directly by CLFP.

Power Generation Capacity Ratio – Based on the total power generation capacity at the end of the prior year ending December 31, the numerator of which is for an applicable BHC subsidiary and the denominator of which is for all applicable BHC subsidiaries. Power generation includes only capacity in service and does not include capacity under construction.

The Power Delivery Management cost center utilizes this ratio.

Retail Asset Cost Ratio – Based on the total cost of retail assets as of December 31 for the prior year, the numerator of which is for an applicable BHC retail subsidiary and the denominator of which is for all applicable BHC retail subsidiaries. Retail assets are limited to property, plant, and equipment, and include construction or work in process. Retail assets are also reported at their GAAP value, meaning that retail assets for the utility subsidiaries will include the eliminations that are done to bring their FERC financial statements into compliance with GAAP. FERC requires that acquired fixed assets be recorded at their gross value with accumulated depreciation, while GAAP requires that acquired fixed assets be recorded at their net value. An elimination journal entry is used to eliminate the gross-up for preparation of GAAP financial statements, and this elimination journal entry is factored into the calculation of the Retail Asset Cost Ratio.

The Retail Property Accounting cost center utilizes this ratio, and it is a component in the Retail Blended Ratio

Retail Gross Margin Ratio – Based on the total retail gross margin for the prior year ending December 31, the numerator of which is for an applicable BHC retail subsidiary and the denominator of which is for all applicable BHC retail subsidiaries. Retail gross margin is defined as revenue less cost of sales. Certain intercompany transaction may be excluded from retail gross margin if they would not have occurred if the revenue relationship was with a third party instead of a related party.

No cost centers utilize this ratio, but it is a component in the Retail Blended Ratio.

Retail Payroll $ Ratio – Based on the total retail payroll $ for the prior year ending December 31, the numerator of which is for an applicable BHC retail subsidiary and the denominator of which is for all applicable BHC retail subsidiaries. Retail payroll $ include all bonuses and compensation paid to employees, but do not include items that are only included on an employee's W-2 for gross-up and income tax purposes, such as life insurance premiums over $50,000.

No cost centers utilize this ratio, but it is a component in the Retail Blended Ratio.

Retail Blended Ratio – A composite ratio comprised of an average of the Retail Asset Cost Ratio, the Retail Payroll $ Ratio, and the Retail Gross Margin Ratio. These factors are equally weighted.

The cost centers that utilize this ratio include Retail Accounting and Rates.

Changing Allocation Factors

Allocation factors are set at the first of the year, based upon financial information from the prior year ending December 31st. Assets, retail assets, employee counts, and power generation capacity are based on values as of the previous period ending December 31st. Gross margin, retail gross margin, payroll $, and retail payroll $ are based on values for the 12 months ended December 31st.

Certain events may occur during the year that are deemed to be significant to Black Hills Corporation that will require corresponding adjustments made to the allocation factors. Examples of these types of events include acquisitions, divestitures, new generation, significant staffing changes or new, significant revenue streams.

When these events occur, indirect allocation factors will be adjusted. When adjusting allocation factors, it is the policy of the Service Company to not recalculate all allocation factors. Rather, allocations factors will be adjusted with pro forma changes. For example, if an acquisition occurs during the middle of the year, pro forma values will be loaded. Asset values at the time of the acquisition would be used, as well as pro forma gross margin and payroll $ for a 12 month period. It should be noted that estimations may be required, especially when significant additions or changes are expected as a result of the acquisition.

It should also be noted that asset values, gross margin, and payroll $ for the other companies will not be changed. However, the ratios will change because the base against which the ratios are calculated will change. Subsidiary companies would see decreased ratio values with acquisitions, and increased ratio values with divestitures. Changes will be effective as of the beginning of the month, and will apply to all transactions for the month. Access to the tables for indirect allocation factors and the assignment of these factors to cost centers is restricted to only appropriate personnel.

Any changes to indirect allocation factors are initiated by either the Senior Accounting Technician or the Accounting Manager, and are reviewed by either the Accounting Manager or the Director of Retail Accounting. All changes are documented in memo format, with the supporting documentation maintained. The Accounting Manager ensures that the factors in the system match the documented changes.

Running Direct and Indirect Charges

After all journal entries are posted and general ledger accounts are reconciled for the month, Service Company direct and allocated charges are run. The direct and allocated charge processing commands each have their own menu options within Project Tracking. The first step is to run these processing commands in "Error Only" mode to check and correct any errors. The main reason for errors is that Service Company account coding does not have a corresponding account to be mapped to on the subsidiaries' general ledgers. Mapping tables must be maintained for both direct charges and allocated charges. Any account coding combination that is used for Service Company transactions must be mapped to an account code combination for all subsidiaries that could receive those charges. This can be complex because when a charge is coded as indirect, it may be allocated to all BHC subsidiaries (depending on the allocation factor assigned to the cost center in which the charge originated), and coding must be set-up on each of the subsidiaries to receive these charges. In simplified terms, the system looks at the account coding string of each charge, and uses the mapping table to determine where it should be recorded on the subsidiaries' general ledger.

As previously noted, there are four fields to the account coding string. When determining where to map costs to the subsidiaries, three of these four fields are used: location, work order, and cost code. The location field determines to which subsidiary the charge is going, and the work order and cost code determine to what account on the subsidiaries' general ledgers the charge is going. Cost center is not relevant to the mapping process. For all locations except BHP and CLFP, the charge goes directly to the general ledger. Because BHP and CLFP are also Project Tracking companies, charges to them must be recorded to a Project Tracking account coding string.

Both the direct and allocated mapping tables work in the same manner, and for the most part, a Service Company charge will be recorded on the subsidiaries' general ledgers to the same account whether or not the charge was direct or indirect. However, separate tables must still be maintained. For allocated charges, the system will see that a charge has been given a location of 999, and use the cost center to determine the appropriate allocation factor and the companies associated with that allocation factor. For each company that has a portion of the ratio, the system will reference the allocation table and use the location code to determine the appropriate subsidiary coding. Access to the mapping tables for direct and allocated charges are restricted to only appropriate personnel.

It should be noted that not all charges are mapped to subsidiary general ledgers. The exception is actual overhead expenses. As previously discussed, an overhead rate is applied to all payroll dollars. Therefore, it is not appropriate to also bill out actual overhead expenses. Instead, these expenses remain at the Service Company, and are trued up against calculated overhead, as previously noted.

All overhead expenses are coded to location 999 when transactions occur. To prevent these expenses from being allocated, all work orders that accumulate overhead expenses are grouped together (referred to as projects), and the project is assigned a skip code to skip the direct and allocated charge process. This means that the system will note that all charges to any work orders in a project with a skip code will not need to be direct charged or allocated.

Once all mapping errors are cleared and the direct and allocated programs can be run in error only mode with no results, a reconciliation is completed to ensure that the revenue generated from the costs being charged out will match the actual costs being charged out. Service Company revenue is generated upon running direct and allocated programs. The Service Company is required to have a net income of zero, so revenues must equal expenses. This reconciliation consists of determining what revenue will be by running the direct and allocated programs in "Edit" mode and subtracting out capital. This needs to match what the current net loss is in the Service Company's general ledger. Subtracting capital is necessary because running direct capital charges does not generate revenue. Rather, these costs are originally recorded to a clearing account on the balance sheet, and when direct charges are run, this account is cleared out and will be zero. If the reconciliation does not net to zero, research is done to determine the cause, and corrections are made.

After the reconciliation is completed, the direct and allocated programs are run in "Update" mode. This generates interface files for all subsidiary companies. These interface files are then pulled into the general ledger (or Project Tracking for BHP and CLFP) and posted. Before these files are posted, the system validates that all account coding is correct. Although coding was first checked before direct and allocated programs were run, the system only made sure that there was necessary coding in the mapping tables. There is a chance that errors could exist in the mapping tables, or that general ledger accounts aren't activated on the subsidiaries' general ledgers. Any errors must be corrected before the system will post the transactions.

Reconciling Direct and Indirect Charges

After all direct and allocated charges have been posted, a reconciliation is completed to ensure that direct and allocated charges were properly recorded. One item to note is that when these charges are posted, they are posted in a manner that allows them to be segregated from other expenses of the companies. For all Lawson-based companies, a separate accounting unit is used to house Service Company costs. For all Project Tracking companies, a separate location/cost center combination is used, and for Artesia companies, a separate department is used. This allows for reports to be run to that will summarize Service Company charges after they have been posted. These reports are then tied back to Service Company direct and allocated reports, ensuring that costs were recorded as expected.

The final step in the process is to prepare an elimination entry. For consolidation purposes, Service Company revenue is eliminated against the Service Company expenses recorded on subsidiaries' general ledgers. This leaves original Service Company expenses on the consolidated financial statements. The entire amount of Service Company revenue is eliminated (it is recorded to only one revenue account), and each expense line item is eliminated at the subsidiary level. It should be noted that any capitalized costs that were first recorded by the Service Company are not eliminated and do not remain at the Service Company.

Subsidiary Payment for Direct and Indirect Charges

It is the policy of the Service Company to initiate the subsidiary payments for direct and allocated charges. The reason for this is to prevent the subsidiaries from protesting charges and withholding payment. All payments for direct and allocated charges must be remitted to the Service Company by the end of the following month. To initiate payment, the Service Company prepares payment authorizations, with appropriate back-up, and provides them directly to the accounts payable departments of the subsidiary companies. These payment authorizations may then be approved according to subsidiary payment approval policies. The Service Company will monitor payments received during the month to ensure that all subsidiary companies make payment in a timely manner.

Executive Risk Committee Costs

The Executive Risk Committee exists to provide risk management support to certain BHC subsidiaries that provide the largest risk exposure. The Committee normally meets once a month. The majority of the Service Company costs incurred in relation to the Committee are labor and overhead costs. Due to the diverse make-up of this committee, it was not feasible to design an allocation factor to distribute these costs fairly to the appropriate business units. As a result, a manual allocation is performed each month.

All Service Company employees who participate on this Committee are instructed to code their costs to Location 999 as an indirect cost and to work order 30177. It was decided that the Committee primarily supports Enserco, while also providing ancillary support to BHEP and BHP (due to its power marketing transactions). As a result, it was determined that 80% of the Committee's costs should be distributed to Enserco, 10% to BHEP, and 10% to BHP. These percentages were approved by the BHC CEO. These percentages are applied against total Committee costs incurred by the Service Company to determine each company's share. After all costs for the month have been incurred, they are distributed to business units with a manual journal entry that credits the costs out of Location 999 and to the locations for Enserco, BHEP, and BHP.

Allocations to Black Hills Colorado

In July 2006, Black Hills Corporation closed on the re-financing of long-term debt for its subsidiary, Black Hills Colorado, LLC. As part of the new debt agreement, certain restrictions exist on allowable cash flow. As a result, cash is not permitted to flow from Black Hills Colorado to Black Hills Service Company for corporate expenses, both direct and indirect. Instead, Black Hills Generation, the parent of Black Hills Colorado, will pay for all corporate expenses directly charged and indirectly allocated to Black Hills Colorado.

Costs directly related to Black Hills Colorado are still coded to Black Hills Colorado, and Black Hills Colorado remains a variable within the indirect allocation factors. However, during the month end close process, after direct and indirect cost programs have been run by Black Hills Service Company, a journal entry is made by Black Hills Colorado to credit all corporate expenses, and debit the payable back to Black Hills Service Company. A corresponding entry is made by Black Hills Generation to record corporate expenses, and credit a payable to Black Hills Service Company. These journal entries transfer Black Hills Colorado's entire share of corporate expenses to Black Hills Generation. This process was effective 7/1/06, and will remain in effect over the course of the debt agreement.

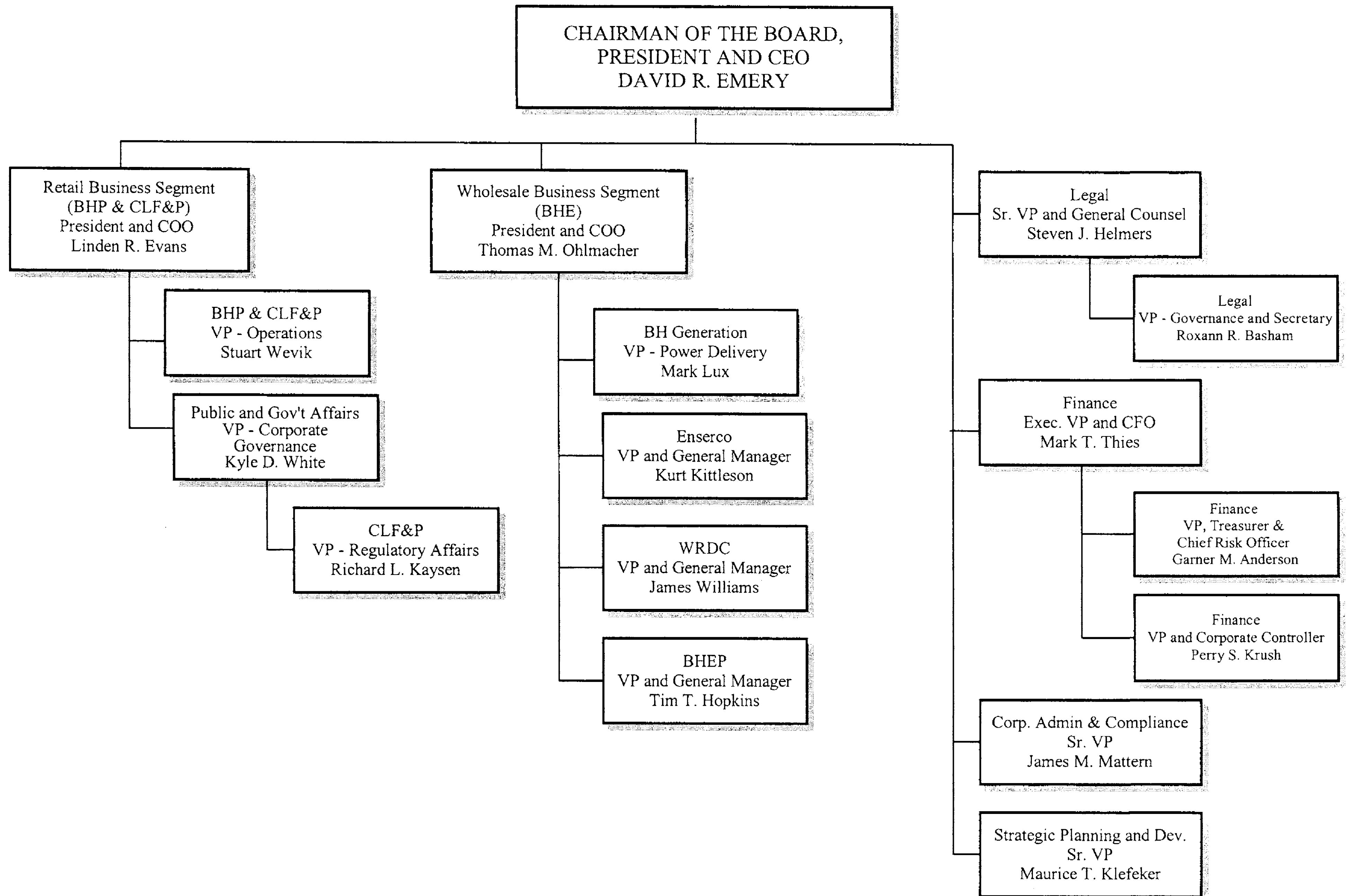
Income Tax

Calculating federal income taxes for the Service Company poses a unique challenge. While net income of the Service Company is zero at the end of each month, income tax expense is not zero due to permanent tax differences. The most common permanent tax differences incurred by the Service Company relate to non-deductible expenses such as 50% meals and entertainment and lobbying expenses. While temporary differences result in only classification changes between

current and deferred income taxes, permanent differences from non-deductible expenses will result in income tax expense for the Service Company. As previously noted, the net income for the Service Company must be zero at the end of each month, meaning that the income tax would have to be allocated. However, allocating federal income tax expense to all subsidiaries is not feasible, considering that some BHC subsidiaries are not organized as corporations and do not record federal income tax.

The solution to permanent differences and the tax consequences is to have the permanent differences reside at the subsidiary where the non-deductible expenses were originally allocated. For instance, if non-deductible meals and entertainment are allocated to BHEP, the permanent difference will be calculated and maintained by BHEP. Temporary differences will reside at the Service Company, but permanent differences will reside at the subsidiary level. This leaves the Service Company with offsetting current federal income taxes and deferred federal incomes taxes, and the net income remains at zero.

BLACK HILLS CORPORATION
Organization Chart



Schedule 7

Section 8, Black Hills' 2006 Annual Report on Form 10-K

(not scanned)

SCHEDULE 9

POST-TRANSACTION PRO FORMA FINANCIAL INFORMATION FOR BLACK HILLS CORPORATION (TO BE FILED WHEN IT BECOMES AVAILABLE)

EXECUTION COPY

Asset Purchase Agreement

by and among

Aquila, Inc.,

Black Hills Corporation,

Great Plains Energy Incorporated

and

Gregory Acquisition Corp.

Dated: February 6, 2007

1-LA/903877.26

Schedule 10

TABLE OF CONTENTS

		Page
ARTICLE I.	DEFINITIONS	1
1.1.	Definitions	1
1.2.	Other Definitional and Interpretive Matters	14
1.3.	Joint Negotiation and Preparation of Agreement	15
ARTICLE II.	PURCHASE AND SALE	15
2.1.	The Sale	15
2.2.	Excluded Assets	17
2.3.	Assumed Obligations	18
2.4.	Excluded Liabilities	19
2.5.	Post-Closing Liabilities	20
ARTICLE III.	PURCHASE PRICE	20
3.1.	Purchase Price	20
3.2.	Determination of Adjustment Amount and Purchase Price	21
3.3.	Allocation of Purchase Price	23
3.4.	Proration	23
ARTICLE IV.	THE CLOSING	24
4.1.	Time and Place of Closing	24
4.2.	Payment of Closing Payment Amount	24
4.3.	Deliveries by Parent and Seller	24
4.4.	Deliveries by Buyer	25
ARTICLE V.	REPRESENTATIONS AND WARRANTIES OF SELLER	26
5.1.	Organization; Qualification	26
5.2.	Authority Relative to this Agreement	26
5.3.	Consents and Approvals; No Violation	26
5.4.	Governmental Filings	27
5.5.	Financial Information	28
5.6.	No Material Adverse Effect	28
5.7.	Operation in the Ordinary Course	28
5.8.	Title	28
5.9.	Leases	29
5.10.	Environmental	29
5.11.	Labor Matters	30
5.12.	ERISA; Benefit Plans	30
5.13.	Certain Contracts and Arrangements	32
5.14.	Legal Proceedings and Orders	33
5.15.	Permits	33
5.16.	Compliance with Laws	33

5.17. Insurance 33
5.18. Taxes 34
5.19. Fees and Commissions 34
5.20. Sufficiency of Assets 34
5.21. Related-Party Agreements 34
5.22. Financial Hedges 34
5.23. No Other Representations and Warranties 34

ARTICLE VI. REPRESENTATIONS AND WARRANTIES OF BUYER 35

6.1. Organization 35
6.2. Authority Relative to this Agreement 35
6.3. Consents and Approvals; No Violation 35
6.4. Fees and Commissions 36
6.5. Financing 36
6.6. No Other Agreements 37
6.7. No Other Representations and Warranties 37

ARTICLE VII. REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB 37

7.1. Organization 37
7.2. Authority Relative to this Agreement 37
7.3. Consents and Approvals; No Violation 37
7.4. Merger Agreement 38
7.5. No Other Representations and Warranties 38
7.6. Fees and Commissions 38
7.7. No Other Agreements 39

ARTICLE VIII.COVENANTS OF THE PARTIES 39

8.1. Conduct of Business 39
8.2. Access to Information 43
8.3. Expenses 46
8.4. Further Assurances; Regulatory Filings; Consents and Approvals 46
8.5. Procedures with Respect to Certain Agreements and Other Assets 49
8.6. Public Statements 52
8.7. Tax Matters 52
8.8. Employees and Employee Benefits 53
8.9. Eminent Domain; Casualty Loss 59
8.10. Transitional Use of Signage and Other Materials Incorporating Seller's Name or other Logos 60
8.11. Litigation Support 60
8.12. Audit Assistance 60
8.13. Notification of Customers 61
8.14. Financing 61
8.15. Document Delivery 62
8.16. Surveys' Title Insurance, Estoppel Certificates, and Non-Disturbance Agreements 62

8.17. Post-Closing Release of Encumbrances and Transfer of Purchased Assets 62
8.18. Shared Code Licenses 63

ARTICLE IX. CONDITIONS TO CLOSING 63

9.1. Conditions to Each Party's Obligations to Effect the Closing 63
9.2. Conditions to Obligations of Buyer 64
9.3. Conditions to Obligations of Seller 65
9.4. Invoking Certain Provisions 65

ARTICLE X. TERMINATION AND OTHER REMEDIES 66

10.1. Termination 66
10.2. Procedure and Effect of Termination 67
10.3. Payment of Termination Fee 67
10.4. Remedies upon Termination 68

ARTICLE XI. MISCELLANEOUS PROVISIONS 68

11.1. Survival 68
11.2. Amendment and Modification 69
11.3. Waiver of Compliance 69
11.4. Notices 69
11.5. Assignment 70
11.6. No Third Party Beneficiaries 70
11.7. GOVERNING LAW AND VENUE; WAIVER OF JURY TRIAL 71
11.8. Severability 71
11.9. Specific Performance 71
11.10. Entire Agreement 72
11.11. Bulk Sales or Transfer Laws 72
11.12. No Consequential Damages 72
11.13. Counterparts 72

EXHIBITS AND SCHEDULES

Exhibit 1.1-A	Form of Assignment and Assumption Agreement
Exhibit 1.1-B	Form of Assignment of Easements
Exhibit 1.1-C	Form of Bill of Sale
Exhibit 8.8(d)(ii)(C)	Pension Matters
Schedule 1.1-A	Business Activities
Schedule 1.1-B	Business Employees
Schedule 1.1-C	Buyer Required Regulatory Approvals
Schedule 1.1-D	Central or Shared Functions
Schedule 1.1-E	Seller Required Regulatory Approvals
Schedule 1.1-F	Seller's Knowledge
Schedule 1.1-G	Material Adverse Effect Events or Conditions
Schedule 2.1(a)	Real Property
Schedule 2.1(d)	Tangible Personal Property
Schedule 2.1(n)	Other Assets
Schedule 2.2(l)	Retained Agreements
Schedule 3.1(a)	Capital Expenditures Budget
Schedule 3.1(b)	Reference Balance Sheet
Schedule 3.1(c)	Reference Working Capital
Schedule 5.3	Seller's Consents and Approvals
Schedule 5.5(a)	Selected Balance Sheet Information
Schedule 5.5(b)	Division Income Statement Information
Schedule 5.6	Material Adverse Effect
Schedule 5.7	Transactions Outside the Ordinary Course of Business
Schedule 5.8	Title
Schedule 5.9	Real Property Leases
Schedule 5.10(a)-1	Sufficiency of Environmental Permits
Schedule 5.10(a)-2	Environmental Permits
Schedule 5.10(b)	Environmental Notices
Schedule 5.10(c)	Hazardous Material Releases
Schedule 5.11	Labor Matters
Schedule 5.12(a)	Employee Benefit Plans
Schedule 5.12(d)	Administrator or Fiduciary Non-Compliance
Schedule 5.12(g)	Retiree Health and Welfare Benefits
Schedule 5.13(a)	Certain Contracts and Arrangements
Schedule 5.13(b)	Franchises
Schedule 5.14	Legal Proceedings and Orders
Schedule 5.22	Financial Hedges
Schedule 6.3	Buyer's Consents and Approvals
Schedule 7.3	Consents
Schedule 8.1	Conduct of Business
Schedule 8.5(d)	Shared Agreements
Schedule 8.8(d)(ii)(D)	Covered Individuals
Schedule 8.8(d)(ii)-A	Other Plan Participants

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)

Term	Reference
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)

Term	Reference
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)

Term	Reference
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)

Term	Reference
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