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

FORM 10-Q

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended: September 30, 2015

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission File Number: 001-11590

CHESAPEAKE UTILITIES CORPORATION
(Exact name of registrant as specified in its charter)

Delaware	**51-0064146**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

909 Silver Lake Boulevard, Dover, Delaware 19904
(Address of principal executive offices, including Zip Code)

(302) 734-6799
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	☐	Accelerated filer	x
Non-accelerated filer	☐	Smaller reporting company	☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No x

Common Stock, par value $0.4867 — 15,268,158 shares outstanding as of October 31, 2015.

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GLOSSARY OF DEFINITIONS

ASC: Accounting Standards Codification

ASU: Accounting Standards Update

Aspire Energy of Ohio: Aspire Energy of Ohio, LLC, a wholly-owned subsidiary of Chesapeake into which Gatherco, Inc. merged on April 1, 2015

BravePoint: BravePoint, Inc., our former advanced information services subsidiary, headquartered in Norcross, Georgia, which was sold on October 1, 2014

CDD: Cooling degree-day, which is the measure of the variation in weather based on the extent to which the daily average temperature (from 10:00 am to 10:00 am) is above 65 degrees Fahrenheit

Chesapeake: Chesapeake Utilities Corporation, its divisions and its subsidiaries, as appropriate in the context of the disclosure

Chesapeake Pension Plan: A defined benefit pension plan sponsored by Chesapeake

Chesapeake Postretirement Plan: An unfunded postretirement health care and life insurance plan sponsored by Chesapeake

Chesapeake SERP: An unfunded supplemental executive retirement pension plan sponsored by Chesapeake

CHP: A combined heat and power plant being constructed by Eight Flags in Nassau County, Florida

Company: Chesapeake Utilities Corporation, its divisions and its subsidiaries, as appropriate in the context of the disclosure

Credit Agreement: An agreement between Chesapeake, PNC and other participating lenders related to our unsecured revolving credit facility

Deferred Compensation Plan: A non-qualified, deferred compensation arrangement under which certain of our executives and members of the Board of Directors are able to defer payment of all or a part of certain specified types of compensation, including executive cash bonuses, executive performance shares, and directors' retainers and fees

Delmarva Peninsula: A peninsula on the east coast of the United States of America occupied by Delaware and portions of Maryland and Virginia

DNREC: Delaware Department of Natural Resources and Environmental Control

Dts/d: Dekatherms per day

Eastern Shore: Eastern Shore Natural Gas Company, a wholly-owned natural gas transmission subsidiary of Chesapeake

EGWIC: Eastern Gas & Water Investment Company, LLC, an affiliate of Eastern Shore Gas Company

Eight Flags: Eight Flags Energy, LLC, a subsidiary of Chesapeake OnSight Services, LLC

EPA: United States Environmental Protection Agency

ESG: Eastern Shore Gas Company and its affiliates

FASB: Financial Accounting Standards Board

FERC: Federal Energy Regulatory Commission, an independent agency of the United States government that regulates the interstate transmission of electricity, natural gas, and oil

FDEP: Florida Department of Environmental Protection

FDOT: Florida Department of Transportation

FGT: Florida Gas Transmission Company

FPU: Florida Public Utilities Company, a wholly-owned subsidiary of Chesapeake

FPU Medical Plan: A separate unfunded postretirement medical plan for FPU sponsored by Chesapeake

FPU Pension Plan: A separate defined benefit pension plan for FPU sponsored by Chesapeake

FRP: Fuel Retention Percentage

GAAP: Accounting principles generally accepted in the United States of America

Gatherco: Gatherco, Inc.

GRIP: Gas Reliability Infrastructure Program is a natural gas pipeline replacement program in Florida, pursuant to which we collect a surcharge from certain of our Florida customers to recover capital and other program-related costs associated with the replacement of qualifying distribution mains and services in Florida

Gulf Power: Gulf Power Company

Gulfstream: Gulfstream Natural Gas System, LLC

HDD: Heating degree-day, which is a measure of the variation in weather based on the extent to which the daily average temperature (from 10:00 am to 10:00 am) is below 65 degrees Fahrenheit

JEA: The community-owned utility located in Jacksonville, Florida, formerly known as Jacksonville Electric Authority

Lenders: Participating lenders, including PNC, which have committed funds to our Revolver

MDE: Maryland Department of Environment

MGP: Manufactured gas plant, which is a site where coal was previously used to manufacture gaseous fuel for industrial, commercial and residential use

NAM: Natural Attenuation Monitoring

NYSE: New York Stock Exchange

Note Agreement: Note Purchase Agreement entered into by Chesapeake with Note Holders on September 5, 2013

Note Holders: PAR U Hartford Life & Annuity Comfort Trust, The Prudential Insurance Company of America, The Gibraltar Life Insurance Co., Ltd., The Penn Mutual Life Insurance Company, Thrivent Financial for Lutherans, United of Omaha Life Insurance Company, and Companion Life Insurance Company, which are collectively the lenders that entered into the Note Agreement with Chesapeake on September 5, 2013

Notes: Series A and B unsecured Senior Notes that were entered into with the Note Holders

OPT ≤ 90 Service: Off Peak ≤ 90 Firm Transportation Service, a new tariff associated with Eastern Shore's firm transportation service that will allow Eastern Shore the right not to schedule service for up to 90 days during the peak months of November through April each year

OTC: Over-the-counter

Peninsula Pipeline: Peninsula Pipeline Company, Inc., our wholly-owned Florida intrastate pipeline subsidiary

PESCO: Peninsula Energy Services Company, Inc., our wholly-owned natural gas marketing subsidiary

PNC: PNC Bank, National Association, the administrative agent and primary lender for our Revolver

Prudential: Prudential Investment Management Inc., an institutional investment management firm, with which we have entered into the Shelf Agreement for the future purchase of our Shelf Notes

PSC: Public Service Commission, which is the state agency that regulates the rates and services provided by Chesapeake’s natural gas and electric distribution operations in Delaware, Maryland and Florida and Peninsula Pipeline in Florida

RAP: Remedial Action Plan, which is a plan that outlines the procedures taken or being considered in removing contaminants from a MGP formerly owned by Chesapeake or FPU

Revolver: The unsecured revolving credit facility issued to us by the Lenders, including PNC as the primary lender

Sandpiper: Sandpiper Energy, Inc.

Sanford Group: FPU and other responsible parties involved with the Sanford environmental site

SEC: Securities and Exchange Commission

Sharp: Sharp Energy, Inc., our wholly-owned propane distribution subsidiary

Shelf Agreement: An agreement entered into by Chesapeake and Prudential related to the purchase of the Shelf Notes

Shelf Notes: Unsecured senior promissory notes that we may request Prudential to purchase under the Shelf Agreement

SICP: 2013 Stock and Incentive Compensation Plan

SIR: A system improvement rate adder designed to fund system expansion costs within the city limits of Ocean City, Maryland

TETLP: Texas Eastern Transmission, LP

Xeron: Xeron, Inc., our propane wholesale marketing subsidiary, based in Houston, Texas

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

Chesapeake Utilities Corporation and Subsidiaries

Condensed Consolidated Statements of Income (Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
(in thousands, except shares and per share data)				
Operating Revenues				
Regulated Energy	**$ 63,796**	$ 59,356	**$ 235,438**	$ 223,168
Unregulated Energy and other	**28,117**	32,263	**119,238**	155,286
Total Operating Revenues	**91,913**	91,619	**354,676**	378,454
Operating Expenses				
Regulated Energy cost of sales	**23,161**	23,040	**101,414**	102,020
Unregulated Energy and other cost of sales	**17,959**	22,935	**73,465**	112,702
Operations	**26,388**	25,365	**79,522**	76,604
Maintenance	**2,603**	2,562	**8,033**	7,168
Gain from a settlement	**—**	—	**(1,500)**	—
Depreciation and amortization	**7,636**	6,774	**22,155**	20,146
Other taxes	**3,257**	3,151	**10,000**	9,942
Total Operating Expenses	**81,004**	83,827	**293,089**	328,582
Operating Income	**10,909**	7,792	**61,587**	49,872
Other income (loss), net of other expenses	**36**	(32)	**(3)**	380
Interest charges	**2,492**	2,495	**7,425**	6,954
Income Before Income Taxes	**8,453**	5,265	**54,159**	43,298
Income taxes	**3,334**	2,085	**21,638**	17,303
Net Income	**$ 5,119**	$ 3,180	**$ 32,521**	$ 25,995
Weighted Average Common Shares Outstanding:				
Basic	**15,258,819**	14,574,678	**15,035,569**	14,539,841
Diluted	**15,306,843**	14,616,665	**15,083,641**	14,588,130
Earnings Per Share of Common Stock:				
Basic	**$ 0.34**	$ 0.22	**$ 2.16**	$ 1.79
Diluted	**$ 0.33**	$ 0.22	**$ 2.16**	$ 1.78
Cash Dividends Declared Per Share of Common Stock	**$ 0.2875**	$ 0.2700	**$ 0.8450**	$ 0.7967

The accompanying notes are an integral part of these financial statements.

Chesapeake Utilities Corporation and Subsidiaries

Condensed Consolidated Statements of Comprehensive Income (Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	**2014**	**2015**	**2014**
(in thousands)				
Net Income	**$ 5,119**	$ 3,180	**$ 32,521**	$ 25,995
Other Comprehensive Income (Loss), net of tax:				
Employee Benefits, net of tax:				
Amortization of prior service cost, net of tax of $(7), $(5), $(20) and $(18), respectively	**(10)**	(9)	**(30)**	(26)
Net gain, net of tax of $62, $26, $187 and $80, respectively	**93**	39	**278**	118
Cash Flow Hedges, net of tax:				
Unrealized loss on commodity contract cash flow hedges, net of tax of $(51), $(18), $(29) and $(19), respectively	**(75)**	(27)	**(43)**	(28)
Total Other Comprehensive Income	**8**	3	**205**	64
Comprehensive Income	**$ 5,127**	$ 3,183	**$ 32,726**	$ 26,059

The accompanying notes are an integral part of these financial statements.

Chesapeake Utilities Corporation and Subsidiaries

Condensed Consolidated Balance Sheets (Unaudited)

Assets	**September 30, 2015**	**December 31, 2014**
(in thousands, except shares)		
Property, Plant and Equipment		
Regulated Energy	**$ 813,145**	$ 766,855
Unregulated Energy	**141,393**	84,773
Other businesses and eliminations	**19,190**	18,497
Total property, plant and equipment	**973,728**	870,125
Less: Accumulated depreciation and amortization	**(210,979)**	(193,369)
Plus: Construction work in progress	**56,441**	13,006
Net property, plant and equipment	**819,190**	689,762
Current Assets		
Cash and cash equivalents	**3,781**	4,574
Accounts receivable (less allowance for uncollectible accounts of $1,088 and $1,120, respectively)	**39,861**	53,300
Accrued revenue	**8,797**	13,617
Propane inventory, at average cost	**4,211**	7,250
Other inventory, at average cost	**4,143**	3,699
Regulatory assets	**7,653**	8,967
Storage gas prepayments	**3,839**	4,258
Income taxes receivable	**6,935**	18,806
Deferred income taxes	**338**	—
Prepaid expenses	**7,507**	6,652
Mark-to-market energy assets	**286**	1,055
Other current assets	**339**	195
Total current assets	**87,690**	122,373
Deferred Charges and Other Assets		
Goodwill	**16,048**	4,952
Other intangible assets, net	**2,317**	2,404
Investments, at fair value	**3,412**	3,678
Regulatory assets	**77,332**	78,136
Receivables and other deferred charges	**2,453**	3,164
Total deferred charges and other assets	**101,562**	92,334
Total Assets	**$ 1,008,442**	$ 904,469

The accompanying notes are an integral part of these financial statements.

Chesapeake Utilities Corporation and Subsidiaries

Condensed Consolidated Balance Sheets (Unaudited)

Capitalization and Liabilities	September 30, 2015	December 31, 2014
(in thousands, except shares and per share data)		
Capitalization		
Stockholders' equity		
Common stock, par value $0.4867 per share (authorized 25,000,000 shares)	**$ 7,429**	$ 7,100
Additional paid-in capital	**189,321**	156,581
Retained earnings	**162,036**	142,317
Accumulated other comprehensive loss	**(5,471)**	(5,676)
Deferred compensation obligation	**1,863**	1,258
Treasury stock	**(1,863)**	(1,258)
Total stockholders' equity	**353,315**	300,322
Long-term debt, net of current maturities	**155,909**	158,486
Total capitalization	**509,224**	458,808
Current Liabilities		
Current portion of long-term debt	**9,139**	9,109
Short-term borrowing	**127,093**	88,231
Accounts payable	**41,129**	44,610
Customer deposits and refunds	**24,020**	25,197
Accrued interest	**3,242**	1,352
Dividends payable	**4,388**	3,939
Deferred income taxes	**—**	832
Accrued compensation	**8,909**	10,076
Regulatory liabilities	**9,346**	3,268
Mark-to-market energy liabilities	**154**	1,018
Other accrued liabilities	**9,443**	6,603
Total current liabilities	**236,863**	194,235
Deferred Credits and Other Liabilities		
Deferred income taxes	**174,247**	160,232
Regulatory liabilities	**43,356**	43,419
Environmental liabilities	**9,003**	8,923
Other pension and benefit costs	**32,619**	35,027
Deferred investment tax credits and other liabilities	**3,130**	3,825
Total deferred credits and other liabilities	**262,355**	251,426
Other commitments and contingencies (Note 6)		
Total Capitalization and Liabilities	**$ 1,008,442**	$ 904,469

The accompanying notes are an integral part of these financial statements.

Chesapeake Utilities Corporation and Subsidiaries

Condensed Consolidated Statements of Cash Flows (Unaudited)

	Nine Months Ended September 30,	
	2015	**2014**
(in thousands)		
Operating Activities		
Net income	**$ 32,521**	$ 25,995
Adjustments to reconcile net income to net operating cash:		
Depreciation and amortization	**22,155**	20,146
Depreciation and accretion included in other costs	**5,280**	5,152
Deferred income taxes, net	**(1,155)**	(156)
Realized gain on commodity contracts/sale of assets/investments	**(411)**	(436)
Unrealized loss (gain) on investments/commodity contracts	**60**	(44)
Employee benefits and compensation	**901**	476
Share-based compensation	**1,445**	1,519
Other, net	**13**	2
Changes in assets and liabilities:		
Accounts receivable and accrued revenue	**21,898**	38,304
Propane inventory, storage gas and other inventory	**3,166**	4,137
Regulatory assets/liabilities, net	**6,467**	(8,865)
Prepaid expenses and other current assets	**(159)**	(804)
Accounts payable and other accrued liabilities	**(5,145)**	(18,704)
Income taxes receivable/payable	**14,883**	510
Customer deposits and refunds	**(1,177)**	(1,169)
Accrued compensation	**(1,406)**	(1,242)
Other assets and liabilities, net	**(652)**	198
Net cash provided by operating activities	**98,684**	65,019
Investing Activities		
Property, plant and equipment expenditures	**(102,051)**	(69,111)
Proceeds from sales of assets	**109**	505
Acquisitions, net of cash acquired	**(20,930)**	—
Environmental expenditures	**(113)**	(134)
Net cash used in investing activities	**(122,985)**	(68,740)
Financing Activities		
Common stock dividends	**(11,725)**	(10,879)
Issuance of stock for Dividend Reinvestment Plan	**633**	300
Change in cash overdrafts due to outstanding checks	**2,964**	(503)
Net borrowing (repayment) under line of credit agreements	**35,898**	(33,994)
Proceeds from issuance of long-term debt	**—**	49,975
Repayment of long-term debt and capital lease obligation	**(4,262)**	(2,249)
Net cash provided by financing activities	**23,508**	2,650
Net Decrease in Cash and Cash Equivalents	**(793)**	(1,071)
Cash and Cash Equivalents—Beginning of Period	**4,574**	3,356
Cash and Cash Equivalents—End of Period	**$ 3,781**	$ 2,285

The accompanying notes are an integral part of these financial statements.

Chesapeake Utilities Corporation and Subsidiaries

Condensed Consolidated Statements of Stockholders' Equity (Unaudited)

(in thousands, except shares and per share data)	Common Stock Number of Shares[1]	Common Stock Par Value	Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Deferred Compensation	Treasury Stock	Total
Balance at December 31, 2013	**14,457,345**	**$ 4,691**	**$ 152,341**	**$ 124,274**	**$ (2,533)**	**$ 1,124**	**$ (1,124)**	**$ 278,773**
Net income	—	—	—	36,092	—	—	—	36,092
Other comprehensive loss	—	—	—	—	(3,143)	—	—	(3,143)
Dividend declared ($1.0667 per share)	—	—	—	(15,675)	—	—	—	(15,675)
Retirement savings plan and dividend reinvestment plan	43,367	16	1,844	—	—	—	—	1,860
Conversion of debentures	47,313	15	520	—	—	—	—	535
Share-based compensation and tax benefit [2] [3]	40,686	13	1,876	—	—	—	—	1,889
Stock split in the form of stock dividend	—	2,365	—	(2,374)	—	—	—	(9)
Treasury stock activities	—	—	—	—	—	134	(134)	—
Balance at December 31, 2014	**14,588,711**	**7,100**	**156,581**	**142,317**	**(5,676)**	**1,258**	**(1,258)**	**300,322**
Net income	—	—	—	32,521	—	—	—	32,521
Other comprehensive income	—	—	—	—	205	—	—	205
Dividend declared ($0.8450 per share)	—	—	—	(12,802)	—	—	—	(12,802)
Retirement savings plan and dividend reinvestment plan	36,289	18	1,849	—	—	—	—	1,867
Common stock issued in acquisition	592,970	289	29,876	—	—	—	—	30,165
Share-based compensation and tax benefit [3]	45,703	22	1,015	—	—	—	—	1,037
Treasury stock activities	—	—	—	—	—	605	(605)	—
Balance at September 30, 2015	**15,263,673**	**$ 7,429**	**$ 189,321**	**$ 162,036**	**$ (5,471)**	**$ 1,863**	**$ (1,863)**	**$ 353,315**

(1) Includes 70,253 and 57,382 shares at September 30, 2015 and December 31, 2014, respectively, held in a Rabbi Trust related to our Deferred Compensation Plan.

(2) Includes amounts for shares issued for Directors' compensation.

(3) The shares issued under the SICP are net of shares withheld for employee taxes. For the nine months ended September 30, 2015, and for the year ended December 31, 2014, we withheld 12,620 and 12,687 shares, respectively, for taxes.

The accompanying notes are an integral part of these financial statements.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

1. Summary of Accounting Policies

Basis of Presentation

References in this document to the “Company,” “Chesapeake,” “we,” “us” and “our” are intended to mean Chesapeake Utilities Corporation, its divisions and/or its subsidiaries, as appropriate in the context of the disclosure.

The accompanying unaudited condensed consolidated financial statements have been prepared in compliance with the rules and regulations of the SEC and GAAP. In accordance with these rules and regulations, certain information and disclosures normally required for audited financial statements have been condensed or omitted. These financial statements should be read in conjunction with the consolidated financial statements and notes thereto, included in our latest Annual Report on Form 10-K for the year ended December 31, 2014. In the opinion of management, these financial statements reflect normal recurring adjustments that are necessary for a fair presentation of our results of operations, financial position and cash flows for the interim periods presented.

Due to the seasonality of our business, results for interim periods are not necessarily indicative of results for the entire fiscal year. Revenue and earnings are typically greater during the first and fourth quarters, when consumption of energy is highest due to colder temperatures.

Reclassifications

As a result of the sale of our advanced information services subsidiary in October 2014, we changed our operating segments (see Note 7, *Segment Information*). We reclassified certain amounts in the condensed consolidated statements of income for the three and nine months ended September 30, 2014 and condensed consolidated statements of cash flows for the nine months ended September 30, 2014 to conform to the current year's presentation. These reclassifications are considered immaterial to the overall presentation of our condensed consolidated financial statements.

Gain Contingency

Effective May 29, 2015, we entered into a settlement agreement with a vendor related to the implementation of a customer billing system. Pursuant to the agreement, we received $1.5 million in cash, which is reflected as "Gain from a settlement" in the accompanying condensed consolidated statements of income. Previously, at December 31, 2014, we recorded a $6.5 million pretax, non-cash impairment loss related to the same billing system implementation. We may also receive $750,000 in additional cash and discounts on future services; however, the receipt or retention of additional cash and future discounts is contingent upon engaging this vendor to provide agreed-upon services over the next five years.

Subsequent Events

On October 8, 2015, we entered into the Shelf Agreement with Prudential. See Note 14, *Long-Term Debt* for further details. On the same date, we also entered into the Credit Agreement with the Lenders for a $150.0 million Revolver for a term of five years. On October 19, 2015, we borrowed $25.0 million under the Revolver. See Note 15, *Short-Term Borrowing* for further details.

FASB Statements and Other Authoritative Pronouncements

Recent Accounting Standards Yet to be Adopted

Revenue from Contracts with Customers (ASC 606) - In May 2014, the FASB issued ASU 2014-09, *Revenue from Contracts with Customers.* This standard provides a single comprehensive revenue recognition model for all contracts with customers to improve comparability within industries, as well as across industries and capital markets. The standard contains principles that entities will apply to determine the measurement of revenue and when it is recognized. On July 9, 2015, the FASB affirmed its proposal to defer the implementation of this standard by one year. For public entities, this standard is effective for 2018 interim and annual financial statements. We are assessing the impact this standard may have on our financial position and results of operations.

Interest - Imputation of Interest (ASC 835-30) - In April 2015, the FASB issued ASU 2015-03, *Simplifying the Presentation of Debt Issuance Costs*. This standard requires debt issuance costs to be presented in the balance sheet as a direct deduction from the carrying value of the associated debt liability, consistent with the presentation of a debt discount. ASU 2015-03 is effective for our interim and annual financial statements issued beginning January 1, 2016. Early adoption is permitted for financial statements that have not been previously issued. As of September 30, 2015, we had $312,000 of unamortized

debt issuance costs included in the accompanying condensed consolidated balance sheets. Upon adoption of ASU 2015-03, this will be presented as a deduction from long-term debt, net of current maturities.

Debt Issuance Costs (ASC 835-30) - In August 2015, the FASB issued ASU 2015-15, *Simplifying the Presentation of Debt Issuance Costs Associated with Line-of-Credit Arrangements*. This standard clarifies treatment of debt issuance costs associated with line-of-credit arrangements which were not specifically addressed in ASU 2015-03. Issuance costs incurred in connection with line-of-credit arrangements may be treated as an asset and amortized over the term of the line-of-credit arrangement. ASU 2015-15 is effective for our interim and annual financial statements issued beginning January 1, 2016. Early adoption is permitted for financial statements that have not been previously issued. This standard is not expected to have a material impact on our financial position and results of operation.

Business Combinations (ASC 805) - In September 2015, the FASB issued ASU 2015-16, *Simplifying the Accounting for Measurement-Period Adjustments.* The standard eliminates the requirement to restate prior period financial statements for measurement period adjustments. The new guidance requires that the cumulative impact of a measurement period adjustment (including the impact of prior periods) be recognized in the reporting period in which the adjustment is identified. ASU 2015-16 will be effective for our interim and annual financial statements issued beginning January 1, 2016 and is to be adopted on a prospective basis. Early adoption is permitted for financial statements that have not been previously issued. We are assessing the impact this standard may have on our financial position and results of operation.

2. Calculation of Earnings Per Share

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	**2014**	**2015**	**2014**
(in thousands, except shares and per share data)				
Calculation of Basic Earnings Per Share:				
Net Income	**$ 5,119**	$ 3,180	**$ 32,521**	$ 25,995
Weighted average shares outstanding	**15,258,819**	14,574,678	**15,035,569**	14,539,841
Basic Earnings Per Share	**$ 0.34**	$ 0.22	**$ 2.16**	$ 1.79
Calculation of Diluted Earnings Per Share:				
Reconciliation of Numerator:				
Net Income	**$ 5,119**	$ 3,180	**$ 32,521**	$ 25,995
Reconciliation of Denominator:				
Weighted shares outstanding—Basic	**15,258,819**	14,574,678	**15,035,569**	14,539,841
Effect of dilutive securities:				
Share-based compensation	**48,024**	41,987	**48,072**	48,289
Adjusted denominator—Diluted	**15,306,843**	14,616,665	**15,083,641**	14,588,130
Diluted Earnings Per Share	**$ 0.33**	$ 0.22	**$ 2.16**	$ 1.78

3. Acquisitions

Gatherco Acquisition

On April 1, 2015, we completed the merger with Gatherco, in which Gatherco merged with and into Aspire Energy of Ohio, a newly formed, wholly-owned subsidiary of Chesapeake. As a result, Aspire Energy of Ohio provides natural gas midstream services, including natural gas gathering services and natural gas liquid processing services to over 300 producers, through 16 gathering systems and over 2,000 miles of pipelines in Central and Eastern Ohio. Aspire Energy of Ohio also supplies natural gas to Columbia Gas of Ohio, regional marketers of natural gas, and over 6,000 customers in Ohio through the Consumers Gas Cooperative, an independent entity, which Aspire Energy of Ohio manages under an operating agreement.

At closing, we issued 592,970 shares of our common stock, valued at $30.2 million based on the closing price of our common stock as reported on the NYSE on April 1, 2015. In addition, we paid $27.5 million in cash and assumed $1.7 million of existing outstanding debt, which we paid off on the same date. We also acquired $6.8 million of cash on hand at closing.

(in thousands)		
Chesapeake common stock	$	30,164
Cash		27,494
Acquired debt		1,696
Aggregate amount paid in the acquisition		59,354
Less: cash acquired		(6,806)
Net amount paid in the acquisition	$	52,548

The merger agreement provides for additional contingent cash consideration to Gatherco's shareholders of up to $15.0 million based on a percentage of revenue generated from potential new gathering opportunities over the next five years.

We incurred $1.3 million in transaction costs associated with this merger, $514,000 of which was expensed in the nine months ended September 30, 2015. Transactions costs are included in operations expense in the accompanying condensed consolidated statements of income. The revenue and net income from this acquisition for the three months ended September 30, 2015, included in our condensed consolidated statement of income, were $5.7 million and $55,000, respectively. The revenue and net loss from this acquisition for the nine months ended September 30, 2015, included in our condensed consolidated statement of income, were $11.0 million and $133,000, respectively. The financial results of Aspire Energy of Ohio are projected to have a minimal impact on our earnings per share in 2015, since the merger was completed after the first quarter. The first quarter includes key winter months, which have historically produced a significant portion of Gatherco's annual earnings. This acquisition is expected to be accretive to our earnings in the first full year of operations, which will include the first quarter of 2016.

The preliminary purchase price allocation of the Gatherco acquisition is as follows:

(in thousands)		
Purchase price	$	57,658
Property plant and equipment		52,578
Cash		6,806
Accounts receivable		3,629
Income taxes receivable		3,012
Other assets		247
Total assets acquired		66,272
Long-term debt		1,696
Deferred income taxes		13,863
Accounts payable		3,837
Other current liabilities		314
Total liabilities assumed		19,710
Net identifiable assets acquired		46,562
Goodwill	$	11,096

The excess of the purchase price over the estimated fair values of the assets acquired and the liabilities assumed was recognized as goodwill at the acquisition date. The goodwill reflects the value paid primarily for opportunities for growth in a new, strategic geographic area. All of the goodwill from this acquisition was recorded in the Unregulated Energy segment and is not expected to be deductible for income tax purposes.

The initial accounting for the Gatherco acquisition is not complete because the valuation necessary to assess the fair values of property, plant and equipment and the related impact on deferred income tax amounts is considered preliminary as we continue to evaluate these assets. The valuation of additional contingent cash consideration and potential

environmental remediation costs may be adjusted as additional information becomes available. Although the purchase price allocation can be modified up to one year from the date of the acquisition, we intend to finalize the allocation as soon as practicable.

Other acquisitions

On May 7, 2015, we purchased certain propane distribution assets used to serve 253 customers in Citrus County, Florida for approximately $242,000. In connection with this acquisition, we recorded $186,000 in intangible assets related to a non-compete agreement and the customer list to be amortized over six and 10 years, respectively. The remaining purchase price was allocated to property, plant and equipment and accounts receivable. The revenue and net income from this acquisition that were included in our condensed consolidated statements of income for the three and nine months ended September 30, 2015 were not material.

4. Rates and Other Regulatory Activities

Our natural gas and electric distribution operations in Delaware, Maryland and Florida are subject to regulation by their respective PSC; Eastern Shore, our natural gas transmission subsidiary, is subject to regulation by the FERC; and Peninsula Pipeline, our intrastate pipeline subsidiary, is subject to regulation by the Florida PSC. Chesapeake's Florida natural gas distribution division and FPU's natural gas and electric distribution operations continue to be subject to regulation by the Florida PSC as separate entities.

Delaware

There were no significant rates and other regulatory activities in Delaware during the first nine months of 2015.

Maryland

Ocean City SIR Filing: On July 2, 2015, Sandpiper filed an application with the Maryland PSC, to establish an SIR to further fund system expansion within the city limits of Ocean City, Maryland. The proposed SIR, which would only be charged to customers located within city limits, was supported by Ocean City's local government. On August 5, 2015, the Maryland PSC approved the application.

Florida

On January 16, 2015, Chesapeake's Florida natural gas distribution division filed a petition with the Florida PSC for approval of a contract with its affiliate, Peninsula Pipeline, for additional natural gas transportation services in the vicinity of Haines City, located in Polk County, Florida. This petition was approved by the Florida PSC at its Agenda Conference on May 5, 2015.

On July 1, 2015, FPU's electric division filed an electric depreciation study with the Florida PSC. Depending upon the Florida PSC's decision in this proceeding, depreciation expense may change for FPU's electric division as a result of a change in depreciation rates effective January 1, 2015. This action is scheduled for review by the Florida PSC at its Agenda Conference to be held in December 2015.

On September 1, 2015, FPU's electric division filed to recover the cost of the proposed Florida Power & Light Company interconnect project through the annual Fuel and Purchased Power Cost Recovery Clause filing. The project will enable FPU's electric division to negotiate a new power purchase agreement that will mitigate fuel costs for its Northeast Division. The hearing on this Docket was held on November 4, 2015. Ruling by the Florida PSC on the docket is expected at the Agenda Conference to be held in December 2015.

Eastern Shore

White Oak Mainline Expansion Project: On November 21, 2014, Eastern Shore submitted an application to the FERC seeking authorization to construct, own and operate certain expansion facilities designed to provide 45,000 Dts/d of firm transportation service to an industrial customer in Kent County, Delaware. Eastern Shore proposes to construct approximately 7.2 miles of 16-inch diameter pipeline looping in Chester County, Pennsylvania and 3,550 horsepower of additional compression at Eastern Shore's existing Delaware City Compressor Station in New Castle County, Delaware. The estimated cost of the project is $29.8 million. On January 22, 2015, the FERC issued a Notice of Intent to Prepare an Environmental Assessment for this project. In February, April and May 2015, Eastern Shore filed environmental data in response to comments regarding evaluation of alternate routes for a segment of the pipeline route in the vicinity of the Kemblesville Historic District. On June 2, 2015, a field meeting was conducted to review the proposed route and alternate routes. In response to comments received from the National Park Service and other stakeholders, FERC Staff requested

that Eastern Shore conduct an additional investigation in relation to Eastern Shore's existing right-of-way. On July 9, 2015, FERC issued a 30-day public scoping notice in advance of issuing an Environmental Assessment in order to solicit comments from the public regarding construction of the Kemblesville loop. On August 18, 2015, Eastern Shore submitted supplemental information to the FERC regarding the results of its investigation of the Kemblesville loop.

System Reliability Project: On May 22, 2015, Eastern Shore submitted an application to the FERC seeking authorization to construct, own and operate approximately 10.1 miles of 16-inch pipeline looping and auxiliary facilities in New Castle and Kent Counties, Delaware and a new compressor at its existing Bridgeville compressor station in Sussex County, Delaware. Eastern Shore further proposes to reinforce critical points on its pipeline system. The total project will benefit all of Eastern Shore's customers by modifying the pipeline system to respond to severe operational conditions experienced during actual winter peak days in 2014 and 2015. The estimated cost of the project is $32.1 million. Since the project is intended to improve system reliability, Eastern Shore requested a predetermination of rolled-in rate treatment for the costs of the project, and an order granting the requested authorization by December 2015.

On June 8, 2015, the FERC filed a notice of the application, and the comment period ended on June 29, 2015. Eastern Shore anticipates FERC approval of this project in the fourth quarter of 2015 and estimates that construction will start in the first quarter of 2016.

TETLP Capacity Expansion Project: On October 13, 2015, Eastern Shore submitted an application to the FERC to make certain measurement and related improvements at its TETLP interconnect facilities which will enable Eastern Shore to increase natural gas receipts from TETLP by 53,000 Dts/day, for a total capacity of 160,000 Dts/d. Eastern Shore expects the project to be approved by the end of the year.

5. Environmental Commitments and Contingencies

We are subject to federal, state and local laws and regulations governing environmental quality and pollution control. These laws and regulations require us to remove or remediate at current and former operating sites the effect on the environment of the disposal or release of specified substances.

We have participated in the investigation, assessment or remediation of, and have exposures at seven former MGP sites. Those sites are located in Salisbury, Maryland, Seaford, Delaware and Winter Haven, Key West, Pensacola, Sanford and West Palm Beach, Florida. We have also been in discussions with the MDE regarding another former MGP site located in Cambridge, Maryland.

As of September 30, 2015, we had approximately $10.0 million in environmental liabilities, representing our estimate of the future costs associated with all of FPU's MGP sites in Florida, which include the Key West, Pensacola, Sanford and West Palm Beach sites. FPU has approval to recover, from insurance and from customers through rates, up to $14.0 million of its environmental costs related to all of its MGP sites, approximately $10.0 million of which has been recovered as of September 30, 2015, leaving approximately $4.0 million in regulatory assets for future recovery of environmental costs from FPU's customers.

In addition to the FPU MGP sites, we had $389,000 in environmental liabilities at September 30, 2015 related to Chesapeake's MGP sites in Maryland and Florida, representing our estimate of future costs associated with these sites. As of September 30, 2015, we had approximately $116,000 in regulatory and other assets for future recovery through Chesapeake's rates.

During the first quarter of 2015, we established $273,000 in environmental liabilities related to Chesapeake's MGP site in Seaford, Delaware, representing our estimate of future costs associated with this site, and recorded a regulatory asset for the same amount for probable future recovery through Chesapeake's rates, although we have not yet sought Delaware PSC approval for recovery. As of September 30, 2015, we had approximately $239,000 in environmental liabilities and $273,000 in regulatory and other assets related to this site.

Environmental liabilities for all of our MGP sites are recorded on an undiscounted basis based on the estimate of future costs provided by independent consultants. We continue to expect that all costs related to environmental remediation and related activities, including any potential future remediation costs for which we do not currently have approval for regulatory recovery, will be recoverable from customers through rates.

West Palm Beach, Florida

We are evaluating remedial options to respond to environmental impacts to soil and groundwater at, and in the immediate vicinity of, a parcel of property owned by FPU in West Palm Beach, Florida, where FPU previously operated a MGP.

FPU is implementing a remedial plan approved by the FDEP for the east parcel of the West Palm Beach site, which includes installation of monitoring test wells, sparging of air into the groundwater system and extraction of vapors from the subsurface. We anticipate that similar remedial actions will ultimately be implemented for other portions of the site. Estimated costs of remediation for the West Palm Beach site range from approximately $4.5 million to $15.4 million, including costs associated with the relocation of FPU's operations at this site, which is necessary to implement the remedial plan, and any potential costs associated with future redevelopment of the properties.

Sanford, Florida

FPU is the current owner of property in Sanford, Florida, which was a former MGP site that was operated by several other entities before FPU acquired the property. FPU was never an owner or an operator of the MGP at this site. In January 2007, FPU and the Sanford Group signed a Third Participation Agreement, which provides for the funding of the final remedy approved by the EPA for the site. FPU's share of remediation costs under the Third Participation Agreement is set at five percent of a maximum of $13.0 million, or $650,000. As of September 30, 2015, FPU has paid $650,000 to the Sanford Group escrow account for its entire share of the funding requirements.

In December 2014, the EPA issued a preliminary close-out report, documenting the completion of all physical remediation construction activities at the Sanford site. Groundwater monitoring and statutory five-year reviews to ensure performance of the approved remedy will continue on this site. The total cost of the final remedy is estimated to be over $20.0 million, which includes long-term monitoring and the settlement of claims asserted by two adjacent property owners to resolve damages that the property owners allege they have incurred and will incur as a result of the implementation of the EPA-approved remediation. In settlement of these claims, members of the Sanford Group, which in this instance does not include FPU, have agreed to pay specified sums of money to the parties. FPU has refused to participate in the funding of the third-party settlement agreements based on its contention that it did not contribute to the release of hazardous substances at the site giving rise to the third-party claims. FPU has advised the other members of the Sanford Group that it is unwilling at this time to agree to pay any sum in excess of the $650,000 committed by FPU in the Third Participation Agreement.

As of September 30, 2015, FPU's remaining remediation expenses, including attorneys' fees and costs, are estimated to be $24,000. However, we are unable to determine, to a reasonable degree of certainty, whether the other members of the Sanford Group will accept FPU's asserted defense to liability for costs exceeding $13.0 million to implement the final remedy for this site, as provided in the Third Participation Agreement, or will pursue a claim against FPU for a sum in excess of the $650,000 that FPU has paid under the Third Participation Agreement. No such claims have been made as of September 30, 2015.

Key West, Florida

FPU formerly owned and operated a MGP in Key West, Florida. Field investigations performed in the 1990s identified limited environmental impacts at the site, which is currently owned by an unrelated third party. In 2010, after 17 years of regulatory inactivity, FDEP observed that some soil and groundwater standards were exceeded and requested implementation of additional soil and groundwater fieldwork. The scope of work is limited to the installation of two additional monitoring wells and periodic monitoring of the new and existing wells. The two additional monitoring wells were installed in November 2011, and groundwater monitoring began in December 2011. The first semi-annual report from the monitoring program was issued in May 2012. The data from the June 2012 and September 2012 monitoring events were submitted to the FDEP on October 4, 2012. FDEP responded on October 9, 2012 that, based on the data, NAM appears to be an appropriate remedy for the site.

In October 2012, FDEP issued a RAP approval order, which requires a limited semi-annual monitoring program. The most recent groundwater-monitoring event was conducted on September 14, 2015. Natural Attenuation Default criteria were met at all locations sampled. The next semi-annual sampling event is scheduled for March 2016.

Although the duration of the FDEP-required limited NAM cannot be determined with certainty, we anticipate that total costs to complete the remedial action will not exceed $50,000. The annual cost to conduct the limited NAM program is not expected to exceed $8,000.

Pensacola, Florida

FPU formerly owned and operated a MGP in Pensacola, Florida, which was subsequently owned by Gulf Power. Portions of the site are now owned by the City of Pensacola and the FDOT. In October 2009, FDEP informed Gulf Power that it would approve a conditional No Further Action determination for the site with the requirement for institutional and engineering controls. On June 16, 2014, FDEP issued a draft memorandum of understanding between FDOT and FDEP

to implement site closure with approved institutional and engineering controls for the site. We anticipate that FPU's share of remaining legal and cleanup costs will not exceed $5,000.

Winter Haven, Florida

The Winter Haven site is located on the eastern shoreline of Lake Shipp, in Winter Haven, Florida. Pursuant to a consent order entered into with FDEP, we are obligated to assess and remediate environmental impacts at this former MGP site. Groundwater monitoring results have shown a continuing reduction in contaminant concentrations from the sparging system, which has been in operation since 2002. On September 12, 2014, FDEP issued a letter approving shutdown of the sparging operations on the northern portion of the site, contingent upon continued semi-annual monitoring.

Groundwater monitoring results on the southern portion of this site indicate that natural attenuation default criteria continue to be exceeded. Plans to modify the monitoring network on the southern portion of the site in order to collect additional data to support the development of a remedial plan were specified in a letter to FDEP, dated October 17, 2014. The well installation and abandonment program was implemented in October 2014, and documentation was reported in the semi-annual RAP implementation status report submitted on January 8, 2015. Although specific remedial actions have not yet been identified, we estimate that future remediation costs for the subsurface soils and groundwater at the site should not exceed $443,000, which includes an estimate of $100,000 to implement additional actions, such as institutional controls, at the site. We continue to believe that the entire amount will be recoverable from customers through rates.

FDEP previously indicated that we could also be required to remediate sediments along the shoreline of Lake Shipp, immediately west of the site. Based on studies performed to date, and our recent meeting with FDEP, we believe that corrective measures for lake sediments are not warranted and will not be required by FDEP; therefore, we have not recorded a liability for sediment remediation.

Salisbury, Maryland

We have substantially completed remediation of a site in Salisbury, Maryland, where it was determined that a former MGP caused localized groundwater contamination. In February 2002, the MDE granted permission to permanently decommission the systems used for remediation and to discontinue all on-site and off-site well monitoring, except for one well, which is being maintained for periodic product monitoring and recovery. We anticipate that the remaining costs of the one remaining monitoring well will not exceed $5,000 annually. We cannot predict at this time when the MDE will grant permission to permanently decommission the one remaining monitoring well.

Seaford, Delaware

In a letter dated December 5, 2013, the DNREC notified us that it would be conducting a facility evaluation of a former MGP site in Seaford, Delaware. In a report issued in January 2015, DNREC provided the evaluation, which found several compounds within the groundwater and soil that require further investigation. We submitted an application to the DNREC on April 2, 2015, which was approved on September 17, 2015, to enter this site into the voluntary cleanup program. We estimate the cost of potential remedial actions, based on the findings of the DNREC report, to be between $273,000 and $465,000.

Other

We are in discussions with the MDE regarding a former MGP site located in Cambridge, Maryland. The outcome of this matter cannot be determined at this time; therefore, we have not recorded an environmental liability for this location.

6. Other Commitments and Contingencies

Natural Gas, Electric and Propane Supply

Our natural gas, electric and propane distribution operations have entered into contractual commitments to purchase natural gas, electricity and propane from various suppliers. The contracts have various expiration dates. Our Delaware and Maryland natural gas distribution divisions have a contract through March 31, 2017, with an unaffiliated energy marketing and risk management company to manage a portion of their natural gas transportation and storage capacity.

In May 2013, Sandpiper entered into a capacity, supply and operating agreement with EGWIC to purchase propane over a six-year term. Approximately three years, four months remain under this contract. Sandpiper's current annual commitment is estimated at approximately 6.5 million gallons. Sandpiper has the option to enter into either a fixed per-gallon price for some or all of the propane purchases or a market-based price utilizing one of two local propane pricing indices.

Also in May 2013, Sharp entered into a separate supply and operating agreement with EGWIC. Under this agreement, Sharp has a commitment to supply propane to EGWIC over a six-year term. Sharp's current annual commitment is estimated at approximately 6.5 million gallons. The agreement between Sharp and EGWIC is separate from the agreement between Sandpiper and EGWIC, and neither agreement permits the parties to set off the rights and obligations specified in one agreement against those specified in the other agreement.

Chesapeake's Florida natural gas distribution division has firm transportation service contracts with FGT and Gulfstream. Pursuant to a capacity release program approved by the Florida PSC, all of the capacity under these agreements has been released to various third parties, including PESCO. Under the terms of these capacity release agreements, Chesapeake is contingently liable to FGT and Gulfstream should any party that acquired the capacity through release fail to pay the capacity charge.

In May 2015, PESCO renewed contracts to purchase natural gas from various suppliers. The total monthly purchase commitment ranges from 9,982 to 13,423 Dts/d from June 2015 to May 2016. These contracts expire in May 2016.

FPU's electric fuel supply contracts require FPU to maintain an acceptable standard of creditworthiness based on specific financial ratios. FPU's agreement with JEA requires FPU to comply with the following ratios based on the results of the prior 12 months: (a) total liabilities to tangible net worth less than 3.75 times, and (b) a fixed charge coverage ratio greater than 1.5 times. If FPU fails to comply with either of these ratios, it has 30 days to cure the default or, if the default is not cured, to provide an irrevocable letter of credit. FPU's electric fuel supply agreement with Gulf Power requires FPU to meet the following ratios based on the average of the prior six quarters: (a) funds from operations interest coverage ratio (minimum of 2 times), and (b) total debt to total capital (maximum of 65 percent). If FPU fails to meet either of these ratios, it has to provide the supplier a written explanation of actions taken, or proposed to be taken, to become compliant. Failure to comply with the ratios specified in the Gulf Power agreement could also result in FPU having to provide an irrevocable letter of credit. As of September 30, 2015, FPU was in compliance with all of the requirements of its fuel supply contracts.

Corporate Guarantees

The Board of Directors has authorized us to issue corporate guarantees securing obligations of our subsidiaries and to obtain letters of credit securing our obligations, including the obligations of our subsidiaries. The maximum authorized liability under such guarantees and letters of credit is $50.0 million.

We have issued corporate guarantees to certain vendors of our subsidiaries, the largest portion of which is for Xeron and PESCO. These corporate guarantees provide for the payment of propane and natural gas purchases, respectively, in the event that Xeron or PESCO defaults. Neither subsidiary has ever defaulted on its obligations to pay its suppliers. The liabilities for these purchases are recorded when incurred. The aggregate amount guaranteed at September 30, 2015 was $36.1 million, with the guarantees expiring on various dates through September 22, 2016.

Chesapeake also guarantees the payment of FPU's first mortgage bonds. The maximum exposure under the guarantee is the outstanding principal plus accrued interest balances. The outstanding principal balances of FPU's first mortgage bonds approximate their carrying values (see Note 14, *Long-Term Debt*, for further details).

In addition to the corporate guarantees, we have issued a letter of credit for $1.0 million, which expires on September 12, 2016, related to the electric transmission services for FPU's northwest electric division. We have also issued a letter of credit to our current primary insurance company for $1.2 million which expires on October 31, 2016, as security to satisfy the deductibles under our various insurance policies. As a result of a change in our primary insurance company, we renewed and decreased the letter of credit for $24,000 to our former primary insurance company, which will expire on June 1, 2016. We have also issued a letter of credit of $1.0 million which expires on March 31, 2016, related to PESCO's transactions at the Natural Gas Exchange, Inc.

We provided a letter of credit for $2.3 million to TETLP related to the firm transportation service agreement with our Delaware and Maryland divisions.

There have been no draws on these letters of credit as of September 30, 2015. We do not anticipate that the letters of credit will be drawn upon by the counterparties, and we expect that the letters of credit will be renewed to the extent necessary in the future.

Tax-related Contingencies

We are subject to various audits and reviews by the federal, state, local and other governmental authorities regarding income taxes and taxes other than income. As of September 30, 2015, we maintained a liability of $100,000 related to unrecognized income tax benefits and $404,000 related to contingencies for taxes other than income. As of December 31, 2014, we maintained a liability of $100,000 related to unrecognized income tax benefits and $724,000 related to contingencies for taxes other than income.

Other

We are involved in certain other legal actions and claims arising in the normal course of business. We are also involved in certain legal and administrative proceedings before various governmental agencies concerning rates. In the opinion of management, the ultimate disposition of these proceedings will not have a material effect on our consolidated financial position, results of operations or cash flows.

7. Segment Information

We use the management approach to identify operating segments. We organize our business around differences in regulatory environment and/or products or services, and the operating results of each segment are regularly reviewed by the chief operating decision maker (our Chief Executive Officer) in order to make decisions about resources and to assess performance. The segments are evaluated based on their pre-tax operating income. Our operations comprise two reportable segments:

- *Regulated Energy*. The Regulated Energy segment includes natural gas distribution, natural gas transmission and electric distribution operations. All operations in this segment are regulated, as to their rates and services, by the PSC having jurisdiction in each operating territory or by the FERC in the case of Eastern Shore.
- *Unregulated Energy.* The Unregulated Energy segment includes propane distribution and wholesale marketing operations, and natural gas marketing operations, which are unregulated as to their rates and services. Effective April 1, 2015, this segment includes Aspire Energy of Ohio, whose services include natural gas gathering and processing (See Note 3, *Acquisitions*, regarding the acquisition of Gatherco). Also included in this segment are other unregulated energy services, such as energy-related merchandise sales and heating, ventilation and air conditioning, plumbing and electrical services.

We had previously identified "Other" as a separate reportable segment, which consisted primarily of our advanced information services subsidiary. As a result of the sale of that subsidiary on October 1, 2014, "Other" is no longer a separate reportable segment.

The following table presents financial information about our reportable segments:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	**2014**	**2015**	**2014**
(in thousands)				
Operating Revenues, Unaffiliated Customers				
Regulated Energy segment	**$ 63,526**	$ 59,086	**$ 234,608**	$ 222,308
Unregulated Energy segment	**28,387**	27,041	**120,068**	141,215
Other businesses	**—**	5,492	**—**	14,931
Total operating revenues, unaffiliated customers	**$ 91,913**	$ 91,619	**$ 354,676**	$ 378,454
Intersegment Revenues [1]				
Regulated Energy segment	**$ 270**	$ 270	**$ 830**	$ 860
Unregulated Energy segment	**1,222**	30	**3,095**	150
Other businesses	**220**	258	**660**	760
Total intersegment revenues	**$ 1,712**	$ 558	**$ 4,585**	$ 1,770
Operating Income (Loss)				
Regulated Energy segment	**$ 11,828**	$ 9,202	**$ 47,616**	$ 41,004
Unregulated Energy segment	**(1,022)**	(1,972)	**13,666**	8,843
Other businesses and eliminations	**103**	562	**305**	25
Total operating income	**10,909**	7,792	**61,587**	49,872
Other income (loss), net of other expenses	**36**	(32)	**(3)**	380
Interest	**2,492**	2,495	**7,425**	6,954
Income before Income Taxes	**8,453**	5,265	**54,159**	43,298
Income taxes	**3,334**	2,085	**21,638**	17,303
Net Income	**$ 5,119**	$ 3,180	**$ 32,521**	$ 25,995

[1] All significant intersegment revenues are billed at market rates and have been eliminated from consolidated operating revenues.

(in thousands)	September 30, 2015	December 31, 2014
Identifiable Assets		
Regulated Energy segment	**$ 824,330**	$ 796,021
Unregulated Energy segment	**156,838**	84,732
Other businesses and eliminations	**27,274**	23,716
Total identifiable assets	**$ 1,008,442**	$ 904,469

Our operations are entirely domestic.

8. Accumulated Other Comprehensive Loss

Defined benefit pension and postretirement plan items and unrealized gains (losses) of our propane swap agreements and call options, designated as commodity contracts cash flow hedges, are the components of our accumulated comprehensive loss. The following tables present the changes in the balance of accumulated other comprehensive loss for the nine months ended September 30, 2015 and 2014. All amounts are presented net of tax.

(in thousands)	**Defined Benefit Pension and Postretirement Plan Items**	**Commodity Contracts Cash Flow Hedges**	**Total**
As of December 31, 2014	**$ (5,643)**	**$ (33)**	**$ (5,676)**
Other comprehensive loss before reclassifications	**—**	**(76)**	**(76)**
Amounts reclassified from accumulated other comprehensive loss	**248**	**33**	**281**
Net current-period other comprehensive income	**248**	**(43)**	**205**
As of September 30, 2015	**$ (5,395)**	**$ (76)**	**$ (5,471)**

(in thousands)	**Defined Benefit Pension and Postretirement Plan Items**	**Commodity Contracts Cash Flow Hedges**	**Total**
As of December 31, 2013	$ (2,533)	$ —	$ (2,533)
Other comprehensive loss before reclassifications	—	(28)	(28)
Amounts reclassified from accumulated other comprehensive loss	92	—	92
Net current-period other comprehensive income (loss)	92	(28)	64
As of September 30, 2014	$ (2,441)	$ (28)	$ (2,469)

The following table presents amounts reclassified out of accumulated other comprehensive loss for the three and nine months ended September 30, 2015 and 2014. Deferred gains or losses for our commodity contracts cash flow hedges are recognized in earnings upon settlement.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
(in thousands)				
Amortization of defined benefit pension and postretirement plan items:				
Prior service cost [1]	**$ 17**	$ 14	**$ 50**	$ 44
Net gain [1]	**(155)**	(65)	**(465)**	(198)
Total before income taxes	**(138)**	(51)	**(415)**	(154)
Income tax benefit	**55**	21	**167**	62
Net of tax	**$ (83)**	$ (30)	**$ (248)**	$ (92)
Gains and losses on commodity contracts cash flow hedges				
Propane swap agreements [2]	**$ —**	$ —	**$ —**	$ —
Call options [2]	**—**	—	**(55)**	—
Total before income taxes	**—**	—	**(55)**	—
Income tax benefit	**—**	—	**22**	—
Net of tax	**—**	—	**(33)**	—
Total reclassifications for the period	**$ (83)**	$ (30)	**$ (281)**	$ (92)

[1] These amounts are included in the computation of net periodic costs (benefits). See Note 9, *Employee Benefit Plans*, for additional details.
[2] These amounts are included in the effects of gains and losses from derivative instruments. See Note 12, *Derivative Instruments*, for additional details.

Amortization of defined benefit pension and postretirement plan items is included in operations expense and gains and losses on propane swap agreements and call options are included in cost of sales in the accompanying condensed consolidated statements of income. The income tax benefit is included in income tax expense in the accompanying condensed consolidated statements of income.

9. Employee Benefit Plans

Net periodic benefit costs for our pension and post-retirement benefits plans for the three and nine months ended September 30, 2015 and 2014 are set forth in the following tables:

	Chesapeake Pension Plan		FPU Pension Plan		Chesapeake SERP		Chesapeake Postretirement Plan		FPU Medical Plan	
For the Three Months Ended September 30,	**2015**	**2014**	**2015**	**2014**	**2015**	**2014**	**2015**	**2014**	**2015**	**2014**
(in thousands)										
Interest cost	**$ 102**	$ 107	**$ 626**	$ 647	**$ 23**	$ 23	**$ 11**	$ 13	**$ 15**	$ 17
Expected return on plan assets	**(135)**	(133)	**(777)**	(773)	**—**	—	**—**	—	**—**	—
Amortization of prior service cost	**—**	—	**—**	—	**2**	5	**(19)**	(19)	**—**	—
Amortization of net loss	**91**	37	**114**	—	**25**	12	**17**	16	**2**	—
Net periodic cost (benefit)	**58**	11	**(37)**	(126)	**50**	40	**9**	10	**17**	17
Amortization of pre-merger regulatory asset	**—**	—	**191**	191	**—**	—	**—**	—	**2**	2
Total periodic cost	**$ 58**	$ 11	**$ 154**	$ 65	**$ 50**	$ 40	**$ 9**	$ 10	**$ 19**	$ 19

For the Nine Months Ended September 30, *(in thousands)*	Chesapeake Pension Plan		FPU Pension Plan		Chesapeake SERP		Chesapeake Postretirement Plan		FPU Medical Plan	
	2015	**2014**	**2015**	**2014**	**2015**	**2014**	**2015**	**2014**	**2015**	**2014**
Interest cost	**$ 306**	$ 320	**$ 1,877**	$ 1,941	**$ 68**	$ 69	**$ 33**	$ 39	**$ 45**	$ 50
Expected return on plan assets	**(405)**	(398)	**(2,330)**	(2,318)	**—**	—	**—**	—	**—**	—
Amortization of prior service cost	**—**	—	**—**	—	**8**	14	**(58)**	(58)	**—**	—
Amortization of net loss	**272**	112	**341**	—	**74**	36	**53**	50	**5**	—
Net periodic cost (benefit)	**173**	34	**(112)**	(377)	**150**	119	**28**	31	**50**	50
Amortization of pre-merger regulatory asset	**—**	—	**571**	571	**—**	—	**—**	—	**6**	6
Total periodic cost	**$ 173**	$ 34	**$ 459**	$ 194	**$ 150**	$ 119	**$ 28**	$ 31	**$ 56**	$ 56

We expect to record pension and postretirement benefit costs of approximately $1.2 million for 2015. Included in these costs is $769,000 related to continued amortization of the FPU pension regulatory asset, which represents the portion attributable to FPU's regulated energy operations for the changes in funded status that occurred, but were not recognized, as part of net periodic benefit costs prior to the FPU merger in 2009. This was deferred as a regulatory asset by FPU prior to the merger, to be recovered through rates pursuant to a previous order by the Florida PSC. The unamortized balance of this regulatory asset was $3.1 million and $3.6 million at September 30, 2015 and December 31, 2014, respectively. The amortization included in pension expense is also being added to a net periodic loss of $381,000, which will increase our total expected benefit costs to $1.2 million.

Pursuant to a Florida PSC order, FPU continues to record as a regulatory asset a portion of the unrecognized pension and postretirement benefit costs related to its regulated operations after the FPU merger. The portion of the unrecognized pension and postretirement benefit costs related to FPU's unregulated operations and Chesapeake's operations is recorded to accumulated other comprehensive loss. The following table presents the amounts included in the regulatory asset and accumulated other comprehensive loss that were recognized as components of net periodic benefit cost during the three and nine months ended September 30, 2015 and 2014:

For the Three Months Ended September 30, 2015 *(in thousands)*	Chesapeake Pension Plan	FPU Pension Plan	Chesapeake SERP	Chesapeake Postretirement Plan	FPU Medical Plan	Total
Prior service cost (credit)	$ —	$ —	$ 2	$ (19)	$ —	$ (17)
Net loss	91	114	25	17	2	249
Total recognized in net periodic benefit cost	$ 91	$ 114	$ 27	$ (2)	$ 2	$ 232
Recognized from accumulated other comprehensive loss [(1)]	$ 91	$ 22	$ 27	$ (2)	$ —	$ 138
Recognized from regulatory asset	—	92	—	—	2	94
Total	$ 91	$ 114	$ 27	$ (2)	$ 2	$ 232

For the Nine Months Ended September 30, 2015 *(in thousands)*	Chesapeake Pension Plan	FPU Pension Plan	Chesapeake SERP	Chesapeake Postretirement Plan	FPU Medical Plan	Total
Prior service cost (credit)	$ —	$ —	$ 8	$ (58)	$ —	$ (50)
Net loss	272	341	74	53	5	745
Total recognized in net periodic benefit cost	$ 272	$ 341	$ 82	$ (5)	$ 5	$ 695
Recognized from accumulated other comprehensive loss [1]	$ 272	$ 65	$ 82	$ (5)	$ 1	$ 415
Recognized from regulatory asset	—	276	—	—	4	280
Total	$ 272	$ 341	$ 82	$ (5)	$ 5	$ 695

For the Three Months Ended September 30, 2014 *(in thousands)*	Chesapeake Pension Plan	FPU Pension Plan	Chesapeake SERP	Chesapeake Postretirement Plan	FPU Medical Plan	Total
Prior service cost (credit)	$ —	$ —	$ 5	$ (19)	$ —	$ (14)
Net loss	37	—	12	16	—	65
Total recognized in net periodic benefit cost	$ 37	$ —	$ 17	$ (3)	$ —	$ 51
Recognized from accumulated other comprehensive loss [1]	$ 37	$ —	$ 17	$ (3)	$ —	$ 51
Recognized from regulatory asset	—	—	—	—	—	—
Total	$ 37	$ —	$ 17	$ (3)	$ —	$ 51

For the Nine Months Ended September 30, 2014 *(in thousands)*	Chesapeake Pension Plan	FPU Pension Plan	Chesapeake SERP	Chesapeake Postretirement Plan	FPU Medical Plan	Total
Prior service cost (credit)	$ —	$ —	$ 14	$ (58)	$ —	$ (44)
Net loss	112	—	36	50	—	198
Total recognized in net periodic benefit cost	$ 112	$ —	$ 50	$ (8)	$ —	$ 154
Recognized from accumulated other comprehensive loss [1]	$ 112	$ —	$ 50	$ (8)	$ —	$ 154
Recognized from regulatory asset	—	—	—	—	—	—
Total	$ 112	$ —	$ 50	$ (8)	$ —	$ 154

[1] See Note 8, *Accumulated Other Comprehensive Loss*.

During the three and nine months ended September 30, 2015, we contributed $127,000 and $346,000, respectively, to the Chesapeake Pension Plan and $402,000 and $1.1 million, respectively, to the FPU Pension Plan. We expect to contribute a total of $475,000 and $1.6 million to the Chesapeake Pension Plan and FPU Pension Plan, respectively, during 2015, which represent the minimum annual contribution payments required.

The Chesapeake SERP, the Chesapeake Postretirement Plan and the FPU Medical Plan are unfunded and are expected to be paid out of our general funds. Cash benefits paid under the Chesapeake SERP for the three and nine months ended September 30, 2015, were $38,000 and $109,000, respectively. We expect to pay total cash benefits of approximately $151,000 under the Chesapeake Pension SERP in 2015. Cash benefits paid under the Chesapeake Postretirement Plan, primarily for medical claims for the three and nine months ended September 30, 2015, were $14,000 and $42,000, respectively. We estimate that approximately $79,000 will be paid for such benefits under the Chesapeake Postretirement Plan in 2015. Cash benefits paid under the FPU Medical Plan, primarily for medical claims for the three and nine months ended September 30, 2015, were $47,000 and $163,000, respectively. We estimate that approximately $207,000 will be paid for such benefits under the FPU Medical Plan in 2015.

10. Investments

The investment balances at September 30, 2015 and December 31, 2014, consisted of the following:

(in thousands)	September 30, 2015	December 31, 2014
Rabbi trust (associated with the Deferred Compensation Plan)	**$ 3,394**	$ 3,678
Investments in equity securities	**18**	—
Total	**$ 3,412**	$ 3,678

We classify these investments as trading securities and report them at their fair value. For the three months ended September 30, 2015 and 2014, we recorded a net unrealized gain of $238,000 and $41,000, respectively, in other income in the condensed consolidated statements of income related to these investments. For the nine months ended September 30, 2015 and 2014, we recorded a net unrealized loss of $131,000 and a net unrealized gain of $111,000, respectively, in other income in the condensed consolidated statements of income related to these investments. For the investment in the Rabbi Trust, we also have recorded an associated liability, which is included in other pension and benefit costs in the condensed consolidated balance sheets and is adjusted each month for the gains and losses incurred by the Rabbi Trust.

11. Share-Based Compensation

Our non-employee directors and key employees are granted share-based awards through the SICP. We record these share-based awards as compensation costs over the respective service period for which services are received in exchange for an award of equity or equity-based compensation. The compensation cost is based primarily on the fair value of the shares awarded, using the estimated fair value of each share on the grant date and the number of shares to be issued at the end of the service period.

The table below presents the amounts included in net income related to share-based compensation expense for the three and nine months ended September 30, 2015 and 2014:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2015	2014	2015	2014
(in thousands)				
Awards to non-employee directors	**$ 165**	$ 137	**$ 475**	$ 394
Awards to key employees	**334**	317	**970**	1,125
Total compensation expense	**499**	454	**1,445**	1,519
Less: tax benefit	**(201)**	(183)	**(582)**	(612)
Share-based compensation amounts included in net income	**$ 298**	$ 271	**$ 863**	$ 907

Non-employee Directors

Shares granted to non-employee directors are issued in advance of the directors' service periods and are fully vested as of the grant date. We record a prepaid expense equal to the fair value of the shares issued and amortize the expense equally over a service period of one year. In May 2015, each of our non-employee directors received an annual retainer of 1,207 shares of common stock under the SICP for Board service through the 2016 Annual Meeting of Stockholders. A summary of the stock activity for our non-employee directors during the nine months ended September 30, 2015 is presented below:

	Number of Shares	Weighted Average Fair Value
Outstanding— December 31, 2014	—	$ —
Granted	14,484	$ 45.54
Vested	(14,484)	$ 45.54
Outstanding— September 30, 2015	—	$ —

At September 30, 2015, there was $385,000 of unrecognized compensation expense related to these awards. This expense will be recognized over the directors' remaining service periods ending April 30, 2016.

Key Employees

The table below presents the summary of the stock activity for awards to key employees for the nine months ended September 30, 2015:

	Number of Shares	Weighted Average Fair Value
Outstanding— December 31, 2014	123,038	$ 32.60
Granted	33,719	$ 48.21
Vested	(43,839)	$ 28.01
Expired	(2,520)	$ 28.83
Outstanding— September 30, 2015	110,398	$ 38.34

In January and March 2015, our Board of Directors granted awards of 33,719 shares of common stock to key employees under the SICP. The shares granted in January and March 2015 are multi-year awards that will vest at the end of the three-year service period ending December 31, 2017. All of these stock awards are earned based upon the successful achievement of long-term goals, growth and financial results, which comprise both market-based and performance-based conditions or targets. The fair value of each performance-based condition or target is equal to the market price of our common stock on the grant date of each award. For the market-based conditions, we used the Black-Scholes pricing model to estimate the fair value of each market-based award granted.

At September 30, 2015, the aggregate intrinsic value of the SICP awards granted to key employees was $5.9 million. At September 30, 2015, there was $1.7 million of unrecognized compensation cost related to these awards, which is expected to be recognized during 2015 through 2017.

12. Derivative Instruments

We use derivative and non-derivative contracts to engage in trading activities and manage risks related to obtaining adequate supplies and the price fluctuations of natural gas, electricity and propane. Our natural gas, electric and propane distribution operations have entered into agreements with suppliers to purchase natural gas, electricity and propane for resale to their customers. Purchases under these contracts typically either do not meet the definition of derivatives or are considered “normal purchases and sales” and are accounted for on an accrual basis. Our propane distribution operation may also enter into fair value hedges of its inventory or cash flow hedges of its future purchase commitments in order to mitigate the impact of wholesale price fluctuations. As of September 30, 2015, our natural gas and electric distribution operations did not have any outstanding derivative contracts.

Hedging Activities in 2015

In March, May and June 2015, Sharp paid a total of $143,000 to purchase put options to protect against a decline in propane prices and related potential inventory losses associated with 2.5 million gallons for the propane price cap program in the upcoming heating season. The put options are exercised if propane prices fall below the strike prices of $0.4950, $0.4888 and $0.4500 per gallon in December 2015 through February 2016 and $0.4200 per gallon in January through March 2016. If exercised, we will receive the difference between the market price and the strike price during those months. We accounted for the put options as fair value hedges, and there is no ineffective portion of these hedges. As of September 30, 2015, the put options had a fair value of $64,000. The change in fair value of the put options effectively reduced our propane inventory balance.

In March, May and June 2015, Sharp entered into swap agreements to mitigate the risk of fluctuations in wholesale propane index prices associated with 2.5 million gallons expected to be purchased for the upcoming heating season. Under these swap agreements, Sharp receives the difference between the index prices (Mont Belvieu prices in December 2015 through March 2016) and the swap prices of $0.5950, $0.5888, $0.5500 and $0.5200 per gallon for each swap agreement, to the extent the index prices exceed the swap prices. If the index prices are lower than the swap prices, Sharp will pay the difference. These swap agreements essentially fix the price of the 2.5 million gallons that we expect to purchase for the upcoming heating season. We accounted for the swap agreements as cash flow hedges, and there is no ineffective portion of these hedges. At September 30, 2015, the swap agreements had a liability fair value of $128,000. The change in the fair value of the swap agreements is recorded as unrealized gain/loss in other comprehensive income (loss).

Hedging Activities in 2014

In August and October 2014, Sharp entered into call options to protect against an increase in propane prices associated with 1.3 million gallons purchased at market-based prices to supply the demands of our propane price cap program customers. The retail price that we charged to those customers during the heating season was capped at a pre-determined level. We would have exercised the call options if the propane prices had risen above the strike price of $1.0875 per gallon in December 2014 through February of 2015, and $1.0650 per gallon in January through March 2015. In that event, we would have received the difference between the market price and the strike price during those months. We paid $98,000 to purchase the call options, which expired without exercise as the market prices were below the strike prices. We accounted for the call options as cash flow hedges.

In May 2014, Sharp entered into swap agreements to mitigate the risk of fluctuations in wholesale propane index prices associated with 630,000 gallons purchased in December 2014 through February 2015. Under these swap agreements, Sharp would have received the difference between the index prices (Mont Belvieu prices in December 2014 through February 2015) and the swap prices of $1.1350, $1.0975 and $1.0475 per gallon for each swap agreement, to the extent the index prices exceeded the swap prices. If the index prices were lower than the swap prices, Sharp would pay the difference. These swap agreements essentially fixed the price of the 630,000 gallons purchased during this period. We had initially accounted for them as cash flow hedges as the swap agreements met all the requirements. We paid $1.1 million, representing the difference between the market prices and strike prices during those months for the swap agreements. At December 31, 2014, we elected to discontinue hedge accounting on the swap agreements and reclassified $735,000 of unrealized loss from other comprehensive loss to propane cost of sales. Subsequently, we accounted for them as derivative instruments on a mark-to-market basis with the change in the fair value reflected in current period earnings.

In May 2014, Sharp entered into put options to protect against declines in propane prices and related potential inventory losses associated with 630,000 gallons for the propane price cap program in December 2014 through February 2015. We exercised the put options because the propane prices fell below the strike prices of $1.0350, $0.9975, and $0.9475 per gallon, for each option agreement in December 2014 through February 2015, respectively. We paid $128,000 to purchase the put options and received $868,000, representing the difference between the market prices and strike prices during those months. We accounted for them as fair value hedges.

Commodity Contracts for Trading Activities

Xeron engages in trading activities using forward and futures contracts. These contracts are considered derivatives and have been accounted for using the mark-to-market method of accounting. Under this method, the trading contracts are recorded at fair value, and the changes in fair value of those contracts are recognized as unrealized gains or losses in the statements of income for the period of change. As of September 30, 2015, we had the following outstanding trading contracts, which we accounted for as derivatives:

At September 30, 2015	Quantity in Gallons	Estimated Market Prices	Weighted Average Contract Prices
Forward Contracts			
Sale	2,940,000	$0.4750 - $0.5288	$ 0.5210
Purchase	2,940,000	$0.4350 - $0.5025	$ 0.4545

Estimated market prices and weighted average contract prices are in dollars per gallon. All contracts expire by the end of the fourth quarter of 2015.

Xeron has entered into master netting agreements with two counterparties to mitigate exposure to counterparty credit risk. The master netting agreements enable Xeron to net these two counterparties' outstanding accounts receivable and payable, which are presented on a gross basis in the accompanying condensed consolidated balance sheets. At September 30, 2015, Xeron had no accounts receivable or accounts payable balances to offset with these two

counterparties. At December 31, 2014, Xeron had a right to offset $1.6 million and $1.2 million of accounts receivable and accounts payable, respectively, with these two counterparties.

The following tables present information about the fair value and related gains and losses of our derivative contracts. We did not have any derivative contracts with a credit-risk-related contingency. The fair values of the derivative contracts recorded in the condensed consolidated balance sheets as of September 30, 2015 and December 31, 2014, are as follows:

		Asset Derivatives	
		Fair Value As Of	
(in thousands)	Balance Sheet Location	September 30, 2015	December 31, 2014
Derivatives not designated as hedging instruments			
Forward contracts	Mark-to-market energy assets	**$ 222**	$ 407
Derivatives designated as fair value hedges			
Put options	Mark-to-market energy assets	**64**	622
Derivatives designated as cash flow hedges			
Call options	Mark-to-market energy assets	**—**	26
Total asset derivatives		**$ 286**	$ 1,055

		Liability Derivatives	
		Fair Value As Of	
(in thousands)	Balance Sheet Location	September 30, 2015	December 31, 2014
Derivatives not designated as hedging instruments			
Forward contracts	Mark-to-market energy liabilities	**$ 26**	$ 283
Propane swap agreements	Mark-to-market energy liabilities	**—**	735
Derivatives designated as cash flow hedges			
Propane swap agreements	Mark-to-market energy liabilities	**128**	—
Total liability derivatives		**$ 154**	$ 1,018

The effects of gains and losses from derivative instruments on the condensed consolidated financial statements are as follows:

		Amount of Gain (Loss) on Derivatives:			
	Location of Gain	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
(in thousands)	(Loss) on Derivatives	2015	2014	2015	2014
Derivatives not designated as hedging instruments					
Realized gain on forward contracts [1]	Revenue	**$ 187**	$ 54	**$ 393**	$ 1,384
Unrealized gain (loss) on forward contracts [1]	Revenue	**(7)**	(5)	**71**	(67)
Call option	Cost of sales	**—**	—	**—**	137
Propane swap agreements	Cost of sales	**—**	**—**	**18**	**—**
Derivatives designated as fair value hedges					
Put options	Cost of sales	**—**	(43)	**506**	(92)
Put options [2]	Propane Inventory	**(46)**	—	**(79)**	—
Derivatives designated as cash flow hedges					
Propane swap agreements	Other Comprehensive Loss	**(126)**	(45)	**(128)**	(46)
Call options	Cost of sales	**—**	—	**(81)**	—
Total		**$ 8**	$ (39)	**$ 700**	$ 1,316

[1] All of the realized and unrealized gain (loss) on forward contracts represents the effect of trading activities on our condensed consolidated statements of income.

[2] As a fair value hedge with no ineffective portion, the unrealized gains and losses associated with this put option are recorded in cost of sales, offset by the corresponding change in the value of propane inventory (hedged item), which is also recorded in cost of sales. The amounts in cost of sales offset to zero, and the unrealized gains and losses of this put option effectively changed the value of propane inventory.

13. Fair Value of Financial Instruments

GAAP establishes a fair value hierarchy that prioritizes the inputs to valuation methods used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are the following:

Level 1: Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities;

Level 2: Quoted prices in markets that are not active, or inputs which are observable, either directly or indirectly, for substantially the full term of the asset or liability; and

Level 3: Prices or valuation techniques requiring inputs that are both significant to the fair value measurement and unobservable (i.e. supported by little or no market activity).

Financial Assets and Liabilities Measured at Fair Value

The following table summarizes our financial assets and liabilities that are measured at fair value on a recurring basis and the fair value measurements, by level, within the fair value hierarchy as of September 30, 2015 and December 31, 2014:

As of September 30, 2015 *(in thousands)*	Fair Value	Fair Value Measurements Using: Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Investments—equity securities	$ 18	$ 18	$ —	$ —
Investments—guaranteed income fund	$ 276	$ —	$ —	$ 276
Investments—other	$ 3,118	$ 3,118	$ —	$ —
Mark-to-market energy assets, incl. put options and swap agreements	$ 286	$ —	$ 286	$ —
Liabilities:				
Mark-to-market energy liabilities incl. swap agreements	$ 154	$ —	$ 154	$ —

As of December 31, 2014 *(in thousands)*	Fair Value	Fair Value Measurements Using: Quoted Prices in Active Markets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Investments—guaranteed income fund	$ 287	$ —	$ —	$ 287
Investments—other	$ 3,391	$ 3,391	$ —	$ —
Mark-to-market energy assets, incl. put/call options	$ 1,055	$ —	$ 1,055	$ —
Liabilities:				
Mark-to-market energy liabilities, incl. swap agreements	$ 1,018	$ —	$ 1,018	$ —

The following valuation techniques were used to measure fair value assets in the tables above on a recurring basis as of September 30, 2015 and December 31, 2014:

Level 1 Fair Value Measurements:

Investments- equity securities—The fair values of these trading securities are recorded at fair value based on unadjusted quoted prices in active markets for identical securities.

Investments- other—The fair values of these investments, comprised of money market and mutual funds, are recorded at fair value based on quoted net asset values of the shares.

Level 2 Fair Value Measurements:

Mark-to-market energy assets and liabilities—These forward contracts are valued using market transactions in either the listed or OTC markets.

Propane put/call options and swap agreements—The fair value of the propane put/call options and swap agreements are determined using market transactions for similar assets and liabilities in either the listed or OTC markets.

Level 3 Fair Value Measurements:

Investments- guaranteed income fund—The fair values of these investments are recorded at the contract value, which approximates their fair value.

The following table sets forth the summary of the changes in the fair value of Level 3 investments for the nine months ended September 30, 2015 and 2014:

	Nine Months Ended September 30,	
	2015	**2014**
(in thousands)		
Beginning Balance	**$ 287**	$ 458
Purchases and adjustments	**(11)**	(89)
Transfers	**(3)**	(58)
Investment income	**3**	4
Ending Balance	**$ 276**	$ 315

Investment income from the Level 3 investments is reflected in other income (loss) in the accompanying condensed consolidated statements of income.

At September 30, 2015, there were no non-financial assets or liabilities required to be reported at fair value. We review our non-financial assets for impairment at least on an annual basis, as required.

Other Financial Assets and Liabilities

Financial assets with carrying values approximating fair value include cash and cash equivalents and accounts receivable. Financial liabilities with carrying values approximating fair value include accounts payable and other accrued liabilities and short-term debt. The fair value of cash and cash equivalents is measured using the comparable value in the active market and approximates its carrying value (Level 1 measurement). The fair value of short-term debt approximates the carrying value due to its short maturities and because interest rates approximate current market rates (Level 3 measurement).

At September 30, 2015, long-term debt, including current maturities but excluding a capital lease obligation, had a carrying value of $159.9 million. This compares to a fair value of $175.8 million, using a discounted cash flow methodology that incorporates a market interest rate based on published corporate borrowing rates for debt instruments with similar terms and average maturities, and with adjustments for duration, optionality, and risk profile. At December 31, 2014, long-term debt, including the current maturities but excluding a capital lease obligation, had a carrying value of $161.5 million, compared to the estimated fair value of $180.7 million. The valuation technique used to estimate the fair value of long-term debt would be considered a Level 3 measurement.

14. Long-Term Debt

Our outstanding long-term debt is shown below:

(in thousands)	September 30, 2015	December 31, 2014
FPU secured first mortgage bonds [1]:		
9.08% bond, due June 1, 2022	**$ 7,973**	$ 7,969
Uncollateralized senior notes:		
6.64% note, due October 31, 2017	**8,182**	8,182
5.50% note, due October 12, 2020	**12,000**	12,000
5.93% note, due October 31, 2023	**25,500**	27,000
5.68% note, due June 30, 2026	**29,000**	29,000
6.43% note, due May 2, 2028	**7,000**	7,000
3.73% note, due December 16, 2028	**20,000**	20,000
3.88% note, due May 15, 2029	**50,000**	50,000
Promissory notes	**238**	314
Capital lease obligation	**5,155**	6,130
Total long-term debt	**165,048**	167,595
Less: current maturities	**(9,139)**	(9,109)
Total long-term debt, net of current maturities	**$ 155,909**	$ 158,486

[1] *FPU secured first mortgage bonds are guaranteed by Chesapeake.*

Shelf Agreement

On October 8, 2015, we entered into a Shelf Agreement with Prudential. Under the terms of the Shelf Agreement, we may request that Prudential purchase, over the next three years, up to $150.0 million of our Shelf Notes at a fixed interest rate and with a maturity date not to exceed twenty years from the date of issuance. Prudential is under no obligation to purchase any of the Shelf Notes. The interest rate and terms of payment of any series of Shelf Notes will be determined at the time of purchase. We currently anticipate the proceeds from the sale of any series of Shelf Notes will be used for general corporate purposes, including refinancing of short-term borrowing and/or repayment of outstanding indebtedness and financing capital expenditures on future projects; however, actual use of such proceeds will be determined at the time of a purchase and each request for purchase with respect to a series of Shelf Notes will specify the exact use of the proceeds.

The Shelf Agreement sets forth certain business covenants to which we are subject when any Shelf Note is outstanding, including covenants that limit or restrict us and our subsidiaries from incurring indebtedness and incurring liens and encumbrances on any of our property.

15. Short-Term Borrowing

On October 8, 2015, we entered into a Credit Agreement with the Lenders for a $150.0 million Revolver for a term of five years subject to the terms and conditions of the Credit Agreement. Borrowings under the Revolver will be used for general corporate purposes, including repayments of short-term borrowings, working capital requirements and capital expenditures.

Borrowings under the Revolver will bear interest at: (i) the LIBOR Rate plus an applicable margin of 1.25 percent or less, with such margin based on total indebtedness as a percentage of total capitalization, both as defined by the Credit Agreement, or (ii) the base rate plus 0.25 percent or less. Interest will be payable quarterly and the Revolver is subject to a commitment fee on the unused portion of the facility. We may extend the expiration date for up to two years on any anniversary date of the Revolver, with such extension subject to the Lenders' approval. We may also request the Lenders to increase the Revolver to $200.0 million, with any increase at the sole discretion of each Lender. On October 19, 2015, we borrowed $25.0 million under the Revolver.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations

Management's Discussion and Analysis of Financial Condition and Results of Operations is designed to provide a reader of the financial statements with a narrative report on our financial condition, results of operations and liquidity. This discussion and analysis should be read in conjunction with the attached unaudited condensed consolidated financial statements and notes thereto and our Annual Report on Form 10-K for the year ended December 31, 2014, including the audited consolidated financial statements and notes thereto.

Safe Harbor for Forward-Looking Statements

We make statements in this Quarterly Report on Form 10-Q that do not directly or exclusively relate to historical facts. Such statements are "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. One can typically identify forward-looking statements by the use of forward-looking words, such as "project," "believe," "expect," "anticipate," "intend," "plan," "estimate," "continue," "potential," "forecast" or other similar words, or future or conditional verbs such as "may," "will," "should," "would" or "could." These statements represent our intentions, plans, expectations, assumptions and beliefs about future financial performance, business strategy, projected plans and objectives of the Company. These statements are subject to many risks, uncertainties and other important factors that could cause actual results to differ materially from those expressed in the forward-looking statements. Such factors include, but are not limited to:

- state and federal legislative and regulatory initiatives (including deregulation) that affect cost and investment recovery, have an impact on rate structures, and affect the speed at, and the degree to which, competition enters the electric and natural gas industries;
- the outcomes of regulatory, tax, environmental and legal matters, including whether pending matters are resolved within current estimates and whether the costs associated with such matters are adequately covered by insurance or recoverable in rates;
- the loss of customers due to government-mandated sale of our utility distribution facilities;
- industrial, commercial and residential growth or contraction in our markets or service territories;
- the weather and other natural phenomena, including the economic, operational and other effects of hurricanes, ice storms and other damaging weather events;
- the timing and extent of changes in commodity prices and interest rates;
- general economic conditions, including any potential effects arising from terrorist attacks and any hostilities or other external factors over which we have no control;
- changes in environmental and other laws and regulations to which we are subject and environmental conditions of property that we now or may in the future own or operate;
- the results of financing efforts, including our ability to obtain financing on favorable terms, which can be affected by various factors, including credit ratings and general economic conditions;
- the impact of potential downturns in the financial markets, lower discount rates, or costs associated with the Patient Protection and Affordable Care Act on the asset values and resulting higher costs and funding obligations of the Company's pension and other postretirement benefit plans;
- the creditworthiness of counterparties with which we are engaged in transactions;
- the extent of our success in connecting natural gas and electric supplies to transmission systems and in expanding natural gas and electric markets;
- the effect of accounting pronouncements issued periodically by accounting standard-setting bodies;
- conditions of the capital markets and equity markets during the periods covered by the forward-looking statements;
- the ability to successfully execute, manage and integrate merger, acquisition or divestiture plans; regulatory or other limitations imposed as a result of a merger, acquisition or divestiture; and the success of the business following a merger, acquisition or divestiture;
- the ability to establish and maintain new key supply sources;
- the effect of spot, forward and future market prices on our distribution, wholesale marketing and energy trading businesses;
- the effect of competition on our businesses;
- the ability to construct facilities at or below estimated costs; and
- risks related to cyber-attack or failure of information technology systems.

Introduction

We are a diversified energy company engaged, directly or through our operating divisions and subsidiaries, in regulated and unregulated energy businesses.

Our strategy is focused on growing earnings from a stable utility foundation and investing in related businesses and services that provide opportunities for returns greater than traditional utility returns. The key elements of this strategy include:

- executing a capital investment program in pursuit of organic growth opportunities that generate returns equal to or greater than our cost of capital;
- expanding the regulated energy distribution and transmission businesses into new geographic areas and providing new services in our current service territories;
- expanding the propane distribution business in existing and new markets through leveraging our community gas system services and our bulk delivery capabilities;
- expanding both our regulated energy and unregulated energy businesses through strategic acquisitions;
- utilizing our expertise across our various businesses to improve overall performance;
- pursuing and entering new unregulated energy markets and business lines that will complement our existing strategy and operating units;
- enhancing marketing channels to attract new customers;
- providing reliable and responsive customer service to existing customers so they become our best promoters;
- engaging our customers through a distinctive service excellence initiative;
- developing and retaining a high-performing team that advances our goals;
- empowering and engaging our employees at all levels to live our brand and vision;
- demonstrating community leadership and engaging our local communities and governments in a cooperative and mutually beneficial way;
- maintaining a capital structure that enables us to access capital as needed;
- continuing to build a branded culture that drives a shared mission, vision, and values;
- maintaining a consistent and competitive dividend for shareholders; and
- creating and maintaining a diversified customer base, energy portfolio and utility foundation.

Due to the seasonality of our business, results for interim periods are not necessarily indicative of results for the entire fiscal year. Revenue and earnings are typically greater during the first and fourth quarters, when consumption of energy is normally highest due to colder temperatures.

The following discussions and those elsewhere in the document on operating income and segment results include the use of the term "gross margin." Gross margin is determined by deducting the cost of sales from operating revenue. Cost of sales includes the purchased cost of natural gas, electricity and propane and the cost of labor spent on direct revenue-producing activities. Gross margin should not be considered an alternative to operating income or net income, which is determined in accordance with GAAP. We believe that gross margin, although a non-GAAP measure, is useful and meaningful to investors as a basis for making investment decisions. It provides investors with information that demonstrates the profitability achieved by us under our allowed rates for regulated energy operations and under our competitive pricing structure for non-regulated segments. Our management uses gross margin in measuring our business units' performance and has historically analyzed and reported gross margin information publicly. Other companies may calculate gross margin in a different manner.

Unless otherwise noted, earnings per share information is presented on a diluted basis.

As a result of the sale of BravePoint in October 2014, we no longer report the Other segment.

Results of Operations for the Three and Nine Months ended September 30, 2015

Overview and Highlights

Our net income for the quarter ended September 30, 2015 was $5.1 million, or $0.33 per share. This represents an increase of $1.9 million, or $0.11 per share, compared to net income of $3.2 million, or $0.22 per share, as reported for the same quarter in 2014. Increases in operating income from both the Regulated Energy and Unregulated Energy segments were the key drivers in our net income growth.

	Three Months Ended September 30,		Increase
	2015	**2014**	**(decrease)**
(in thousands except per share)			
Business Segment:			
Regulated Energy segment	**$ 11,828**	$ 9,202	$ 2,626
Unregulated Energy segment	**(1,022)**	(1,972)	950
Other businesses and eliminations	**103**	562	(459)
Operating Income	**$ 10,909**	$ 7,792	3,117
Other Income (Loss), net of Other Expenses	**36**	(32)	68
Interest Charges	**2,492**	2,495	(3)
Pre-tax Income	**8,453**	5,265	3,188
Income Taxes	**3,334**	$ 2,085	1,249
Net Income	**$ 5,119**	$ 3,180	$ 1,939
Earnings Per Share of Common Stock			
Basic	**$ 0.34**	$ 0.22	$ 0.12
Diluted	**$ 0.33**	$ 0.22	$ 0.11

Key variances included:

(in thousands, except per share)	Pre-tax Income	Net Income	Earnings Per Share
Third Quarter of 2014 Reported Results	$ 5,265	$ 3,180	$ 0.22
Adjusting for Unusual Items:			
Absence of BravePoint, which was sold in October 2014	(454)	(274)	(0.02)
	(454)	(274)	(0.02)
Increased (Decreased) Gross Margins:			
Contribution from Aspire Energy of Ohio	2,037	1,230	0.08
Service expansions (See Major Projects and Initiatives table)	1,708	1,031	0.07
GRIP	1,144	691	0.05
Higher retail propane margins	1,029	621	0.04
Natural gas growth (excluding service expansions)	895	540	0.04
FPU electric base rate increase	673	406	0.03
Natural gas marketing	479	289	0.02
	7,965	4,808	0.33
Increased Other Operating Expenses:			
Expenses from Aspire Energy of Ohio	(1,933)	(1,167)	(0.08)
Higher payroll and benefits costs	(1,098)	(663)	(0.05)
Higher depreciation, asset removal and property tax costs due to recent capital investments	(647)	(391)	(0.03)
Increased accrual for incentive compensation	(314)	(190)	(0.01)
	(3,992)	(2,411)	(0.17)
Interest Charges	3	2	—
Net Other Changes [(1)]	(334)	(186)	(0.03)
Third Quarter of 2015 Reported Results	$ 8,453	$ 5,119	$ 0.33

[(1)] The earnings per share impact net of other changes shown above includes $(0.01) of dilution from the issuance of 592,970 shares of our common stock in conjunction with the merger of Gatherco into Aspire Energy of Ohio on April 1, 2015.

Our net income for the nine months ended September 30, 2015 was $32.5 million, or $2.16 per share. This represents an increase of $6.5 million, or $0.38 per share, compared to net income of $26.0 million, or $1.78 per share, as reported for the same period in 2014. Increases in operating income from both the Regulated Energy and Unregulated Energy segments were the key drivers in our net income growth. Also included in our results for the nine months ended September 30, 2015 was a $902,000 after-tax gain ($1.5 million in operating income), or $0.06 per share, related to cash received from a settlement with a vendor regarding a customer billing system implementation.

	Nine Months Ended September 30,		Increase
	2015	**2014**	**(decrease)**
(in thousands except per share)			
Business Segment:			
Regulated Energy segment	**$ 47,616**	$ 41,004	$ 6,612
Unregulated Energy segment	**13,666**	8,843	4,823
Other businesses and eliminations	**305**	25	280
Operating Income	**61,587**	49,872	11,715
Other Income (Loss), net of Other Expenses	**(3)**	380	(383)
Interest Charges	**7,425**	6,954	471
Pre-tax Income	**54,159**	43,298	10,861
Income Taxes	**21,638**	17,303	4,335
Net Income	**$ 32,521**	$ 25,995	$ 6,526
Earnings Per Share of Common Stock			
Basic	**$ 2.16**	$ 1.79	$ 0.37
Diluted	**$ 2.16**	$ 1.78	$ 0.38

Key variances included:

(in thousands, except per share)	Pre-tax Income	Net Income	Earnings Per Share
Nine months ended September 30, 2014 Reported Results	$ 43,298	$ 25,995	$ 1.78
Adjusting for Unusual Items:			
Gain from a customer billing system settlement	1,500	902	0.06
Gain on sale of business, recorded in 2014	(397)	(238)	(0.02)
Absence of BravePoint, which was sold in October 2014	303	182	0.01
	1,406	846	0.05
Increased (Decreased) Gross Margins:			
Higher retail propane margins	6,742	4,048	0.28
Service expansions (See Major Projects and Initiatives table)	4,085	2,453	0.17
Contribution from Aspire Energy of Ohio	3,661	2,198	0.15
Natural gas growth (excluding service expansions)	3,149	1,891	0.13
GRIP	3,070	1,843	0.13
FPU electric base rate increase	2,366	1,421	0.10
Propane wholesale marketing	(854)	(513)	(0.04)
	22,219	13,341	0.92
Increased Other Operating Expenses:			
Expenses from Aspire Energy of Ohio	(3,828)	(2,298)	(0.16)
Higher payroll and benefits costs	(2,762)	(1,658)	(0.11)
Higher depreciation, asset removal costs and property tax costs due to recent capital investments	(1,700)	(1,021)	(0.07)
Increased accruals for incentive compensation	(1,150)	(690)	(0.05)
Costs associated with a customer billing system settlement and other transactions	(1,081)	(649)	(0.04)
Higher facility maintenance	(729)	(438)	(0.03)
Higher service contractor and other consulting costs	(694)	(417)	(0.03)
Higher amortization expense	(463)	(278)	(0.02)
	(12,407)	(7,449)	(0.51)
Interest Charges	(471)	(283)	(0.02)
Net Other Changes [(1)]	114	71	(0.06)
Nine months ended September 30, 2015 Reported Results	$ 54,159	$ 32,521	$ 2.16

[(1)] The earnings per share impact net of other changes shown above includes $(0.06) of dilution from the issuance of 592,970 shares of our common stock in conjunction with the merger of Gatherco into Aspire Energy of Ohio on April 1, 2015.

Summary of Key Factors

Major Projects and Initiatives

The following table summarizes gross margin for our existing and future major projects and initiatives (dollars in thousands):

	Gross Margin for the Period							
	Three Months Ended September 30,		Nine Months Ended September 30,		Total 2014 Margin	Estimate for		
	2015	2014	2015	2014		2015	2016	2017
Existing major projects and initiatives	$ 7,490	$ 1,928	$ 17,030	$ 3,848	$ 7,114	$ 25,510	$ 33,438	$ 35,295
Future major projects and initiatives	—	—	—	—	—	—	11,200	17,450
	$ 7,490	$ 1,928	$ 17,030	$ 3,848	$ 7,114	$ 25,510	$ 44,638	$ 52,745

Existing Major Projects and Initiatives

The following table summarizes our major projects and initiatives commenced since 2014 (dollars in thousands):

	Gross Margin for the Period [1]									
	Three Months Ended September 30,			Nine Months Ended September 30,			Total 2014	Estimate for		
	2015	2014	Variance	2015	2014	Variance	Margin	2015	2016	2017
Acquisition:										
Aspire Energy of Ohio (formerly Gatherco) [2]	$ 2,037	$ —	$ 2,037	$ 3,661	$ —	$ 3,661	$ —	$ 7,673	$ 13,000	$ 13,000
Natural Gas Transmission Expansions and Contracts:										
Short-term contracts										
New Castle County, Delaware	$ 507	$ 657	$ (150)	$ 1,998	$ 1,256	$ 742	$ 2,026	$ 2,505	$ 2,029	$ 1,561
Kent County, Delaware [3]	1,055	—	1,055	1,453	—	1,453	—	1,663	—	—
Total short-term Contracts	1,562	657	905	3,451	1,256	2,195	2,026	4,168	2,029	1,561
Long-term Contracts										
Kent County, Delaware	463	—	463	1,389	—	1,389	463	1,844	1,815	1,789
Polk County, Florida	340	—	340	501	—	501	—	908	1,627	1,627
Total long-term contracts	$ 803	$ —	$ 803	$ 1,890	$ —	$ 1,890	$ 463	$ 2,752	$ 3,442	$ 3,416
Total Expansions & Contracts	$ 2,365	$ 657	$ 1,708	$ 5,341	$ 1,256	$ 4,085	$ 2,489	$ 6,920	$ 5,471	$ 4,977
Florida GRIP	$ 2,067	$ 923	$ 1,144	$ 5,314	$ 2,244	$ 3,070	$ 3,356	$ 7,355	$ 11,405	$ 13,756
Florida Electric Rate Case	$ 1,021	$ 348	$ 673	$ 2,714	$ 348	$ 2,366	$ 1,269	$ 3,562	$ 3,562	$ 3,562
Total Major Projects and Initiatives	$ 7,490	$ 1,928	$ 5,562	$ 17,030	$ 3,848	$ 13,182	$ 7,114	$ 25,510	$ 33,438	$ 35,295

[1] Gross margin of $4.7 million and $16.5 million for the three and nine months ended September 30, 2014, respectively, and $21.8 million for the year ended December 31, 2014, related to projects initiated prior to 2014. These projects were previously disclosed and are excluded from this table as they no longer result in period-over-period variances.

[2] During the three and nine months ended September 30, 2015, we incurred $1.9 million and $3.8 million, respectively, in other operating expenses related to Aspire Energy of Ohio's operation. We expect to incur a total of $6.0 million in other operating expenses in 2015.

[3] The gross margin is attributable to interruptible service Eastern Shore provided to an industrial customer beginning in April 2015. The interruptible service will be replaced by a 20-year OPT ≤ 90 Service beginning in the third quarter of 2016.

Gatherco Acquisition

On April 1, 2015, we completed the merger with Gatherco, pursuant to which Gatherco merged with and into Aspire Energy of Ohio. Aspire Energy of Ohio provides unregulated natural gas midstream services including natural gas gathering services and natural gas liquid processing services to over 300 producers through 16 gathering systems and over 2,000 miles of pipelines in Central and Eastern Ohio. Aspire Energy of Ohio also supplies natural gas to Columbia Gas of Ohio, regional marketers of natural gas, and over 6,000 customers in Ohio through the Consumers Gas Cooperative, an independent entity, which Aspire Energy of Ohio manages under an operating agreement.

Aspire Energy of Ohio generated $2.0 million in additional gross margin and incurred $1.9 million in other operating expenses for the three months ended September 30, 2015. For the six months following the merger through September 30, 2015, we generated $3.7 million of gross margin and incurred $3.8 million of other operating expenses. The results of Aspire Energy of Ohio are projected to have a minimal impact on our earnings per share in 2015, since the merger was completed after the first quarter, which has historically produced a significant portion of Gatherco's annual earnings. This acquisition is expected to be accretive to our earnings in the first full year of operations, which will include the first quarter of 2016.

Service Expansions

During 2014, Eastern Shore, executed a one-year contract with an industrial customer in New Castle County, Delaware to provide 50,000 Dts/d of additional transmission service from April 2014 to April 2015. This contract was subsequently amended to provide 55,580 Dts/d of transmission service at a lower reservation rate through August 2020. The net impact of the contract resulted in a gross margin decline of $150,000 for the quarter ended September 30, 2015. For the nine months ended September 30, 2015, the extension of the contract generated additional gross margin of $509,000, net of the impact of the lower rate, compared to the same period in 2014, and will generate additional gross margin of $334,000 for 2015 compared to 2014.

In December 2014, Eastern Shore executed another short-term contract with the same customer in New Castle County, Delaware to provide an additional 10,000 Dts/d of OPT ≤ 90 Service from December 2014 to March 2015. This short-term contract generated additional gross margin of $233,000 for the nine months ended September 30, 2015.

On October 1, 2014, Eastern Shore commenced a new lateral service to an industrial customer facility in Kent County, Delaware. This service commenced after construction of new facilities, including approximately 5.5 miles of pipeline lateral and metering facilities extending from Eastern Shore's mainline to the new industrial customer facility. This service generated $463,000 and $1.4 million of gross margin for the three and nine months ended September 30, 2015, respectively. On an annual basis, we expect this service to generate $1.8 million of gross margin in 2015 and annual gross margin of approximately $1.2 million to $1.8 million during the 37-year service period.

In April 2015, Eastern Shore commenced interruptible service to the same industrial customer in Kent County, Delaware and generated additional gross margin of $1.1 million and $1.5 million for the three and nine months ended September 30, 2015, respectively. The interruptible service is expected to generate $1.7 million of gross margin in 2015, and it is expected to be replaced by a 20-year OPT ≤ 90 Service beginning in the third quarter of 2016.

On January 16, 2015, the Florida PSC approved a firm transportation agreement between Peninsula Pipeline and our Florida natural gas distribution division. Under this agreement, Peninsula Pipeline provides natural gas transmission service to support our expansion of natural gas distribution service in Polk County, Florida. Peninsula Pipeline began the initial phase of its service to Chesapeake in March 2015, generating $340,000 and $501,000 of additional gross margin for the three and nine months ended September 30, 2015, respectively. This service is expected to generate an estimated annual gross margin of $908,000 in 2015 and, once completed, all phases of this service will generate an estimated annualized gross margin of $1.6 million.

GRIP

GRIP is a natural gas pipe replacement program approved by the Florida PSC, designed to expedite the replacement of qualifying distribution mains and services (any material other than coated steel or plastic) to enhance reliability and integrity of our Florida natural gas distribution systems. This program allows recovery, through regulated rates, of capital and other program-related costs, inclusive of a return on investment, associated with the replacement of the mains and services. Since the program's inception in August 2012, our Florida natural gas distribution operations have invested $69.6 million to replace 153 miles of qualifying distribution mains, $25.5 million of which was invested during the first nine months of 2015. We expect to invest an additional $3.4 million in this program through the end of 2015. The increased investment in GRIP generated additional gross margin of $1.1 million and $3.1 million, for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014.

Florida Electric Rate Case

On September 15, 2014, the Florida PSC approved a settlement agreement between FPU and the Florida Office of Public Counsel in FPU's base rate case filing for its electric operation, which included, among other things, an increase in FPU's annual revenue requirement of approximately $3.8 million and a 10.25 percent rate of return on common equity. The new rates became effective for all meter reads on or after November 1, 2014. Previously, the Florida PSC approved interim rate relief, effective for meter readings on or after August 10, 2014. The higher base rates in FPU's electric operation generated $673,000 and $2.4 million in additional gross margin for the three and nine months ended September 30, 2015, respectively.

Future Major Projects and Initiatives

White Oak Mainline Expansion Project: In December 2014, Eastern Shore entered into a precedent agreement with an industrial customer in Kent County, Delaware, to provide a 20-year natural gas transmission service for 45,000 Dts/d for the customer's new facility, upon the satisfaction of certain conditions. This new service will be provided as OPT ≤ 90 Service and is expected to generate at least $5.8 million in annual gross margin. In November 2014, Eastern Shore requested authorization by the FERC to construct 7.2 miles of 16-inch pipeline looping and 3,550 horsepower of new compression in Delaware to provide this service. The estimated cost of these new facilities is approximately $30.0 million. Eastern Shore anticipates service to commence in the third quarter of 2016, following construction of the new facilities. As previously discussed, during the three and nine months ended September 30, 2015, we generated $1.1 million and $1.5 million, respectively, in additional gross margin by providing interruptible service to this customer.

System Reliability Project: On May 22, 2015, Eastern Shore submitted an application to the FERC seeking authorization to construct, own and operate approximately 10.1 miles of 16-inch pipeline looping and auxiliary facilities in New Castle and Kent Counties, Delaware and a new compressor at its existing Bridgeville compressor station in Sussex County, Delaware. Eastern Shore further proposes to reinforce critical points on its pipeline system. The total project will benefit all of Eastern Shore’s customers by modifying the pipeline system to respond to severe operational conditions experienced during actual winter peak days in 2014 and 2015. Since the project is intended to improve system reliability, Eastern Shore requested a predetermination of rolled-in rate treatment for the costs of the project and an order granting the requested authorization by December 2015. This project is expected to be in service by late third quarter of 2016 and will be included in Eastern Shore's upcoming 2017 rate case filing. The estimated cost of the project is $32.1 million. The estimated annual gross margin associated with this project, assuming recovery in the 2017 rate case filing, is approximately $4.5 million.

TETLP Capacity Expansion Project: On October 13, 2015, Eastern Shore submitted an application to the FERC to make certain measurement and related improvements at its TETLP interconnect facilities which will enable Eastern Shore to increase natural gas receipts from TETLP by 53,000 Dts/day, for a total capacity of 160,000 Dts/d. Eastern Shore expects the project to be approved by the end of the year and in service by the end of February 2016. On a short-term basis, we anticipate that Eastern Shore will generate approximately $2.1 million in additional gross margin.

Eight Flags: Eight Flags, one of our unregulated energy subsidiaries, is engaged in the development and construction of a CHP plant in Nassau County, Florida. This CHP plant, which will consist of a natural-gas-fired turbine and associated electric generator, is designed to generate approximately 20 megawatts of base load power and will include a heat recovery system generator capable of providing approximately 75,000 pounds per hour of unfired steam. Eight Flags will sell the power generated from the CHP plant to FPU for distribution to its retail electric customers pursuant to a 20-year power purchase agreement. It will also sell the steam to an industrial customer pursuant to a separate 20-year contract. FPU will transport natural gas through its distribution system to Eight Flags’ CHP plant, which will produce power and steam. On a consolidated basis, this project is expected to generate approximately $7.3 million in annual gross margin, which could fluctuate based upon various factors, including, but not limited to, the quantity of steam delivered and the CHP plant’s hours of operations. Eight Flags' CHP plant is expected to be operational at the beginning of the third quarter of 2016. Our total projected investment, by Eight Flags and our affiliates, to construct the CHP plant and associated facilities is approximately $40.0 million.

The following table summarizes estimated in-service dates and gross margin for the foregoing projects (dollars in thousands):

Project	Estimated In-Service Date	Estimate for Annualized Margin	Estimate for 2016	Estimate for 2017
White Oak Mainline Expansion Project in Kent County, Delaware	Third quarter of 2016	$ 5,400	$ 5,400	$ 5,800
Eastern Shore System Reliability Project	Late third quarter of 2016	4,500	—	2,250
Eastern Shore TETLP Capacity Expansion Project	February 2016	2,100	2,100	2,100
Eight Flags CHP plant in Nassau County, Florida	Early third quarter of 2016	7,300	3,700	7,300
		$ 19,300	$ 11,200	$ 17,450

Other factors contributing to gross margin increase

Weather and Consumption

Weather was not a significant factor in the gross margin increase for the quarter ended September 30, 2015, compared to the same period in 2014. Weather was also not a significant factor in the gross margin increase for the nine months ended September 30, 2015, compared to the same period in 2014, because the first quarter of 2015 and 2014 were both significantly colder than normal (10-year average weather) on the Delmarva Peninsula. The following tables summarize the heating degree-day ("HDD") and cooling degree-day ("CDD") information for the three and nine months ended September 30, 2015 and 2014 and the gross margin variance resulting from weather fluctuations in those periods.

HDD and CDD Information

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2015	**2014**	**Variance**	**2015**	**2014**	**Variance**
Delmarva						
Actual HDD	**41**	89	(48)	**3,249**	3,262	(13)
10-Year Average HDD ("Normal")	**65**	61	4	**2,908**	2,893	15
Variance from Normal	**(24)**	28		**341**	369	
Florida						
Actual HDD	**—**	—	—	**501**	574	(73)
10-Year Average HDD ("Normal")	**—**	—	—	**557**	555	2
Variance from Normal	**—**	—		**(56)**	19	
Florida						
Actual CDD	**1,591**	1,528	63	**2,827**	2,498	329
10-Year Average CDD ("Normal")	**1,524**	1,519	5	**2,506**	2,501	5
Variance from Normal	**67**	9		**321**	(3)	

Gross Margin Variance attributed to Weather

(in thousands)	Q3 2015 vs. Q3 2014	Q3 2015 vs. Normal	Q3 2014 vs. Normal	YTD 2015 vs. YTD 2014	YTD 2015 vs. Normal	YTD 2014 vs. Normal
Delmarva						
Regulated Energy segment	**$ (157)**	**$ (31)**	**$ 167**	**$ (87)**	**$ 872**	**$ 803**
Unregulated Energy segment	**(8)**	**27**	**(13)**	**20**	**1,005**	**1,037**
Florida						
Regulated Energy segment	**(232)**	**(40)**	**38**	**134**	**(239)**	**(284)**
Unregulated Energy segment	**—**	**—**	**—**	**(10)**	**122**	**81**
Total	**$ (397)**	**$ (44)**	**$ 192**	**$ 57**	**$ 1,760**	**$ 1,637**

Propane prices

Higher retail margins per gallon generated $597,000 and $5.7 million in additional gross margin by the Delmarva propane distribution operation for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014. A large decline in propane prices in the first quarter of 2015 had a significant impact on the amount of revenue and cost of sales associated with our propane distribution operations. Based on the Mont Belvieu wholesale propane index, propane prices in the first quarter of 2015 were approximately 59 percent lower than prices in the same quarter in 2014. As a result of favorable supply management and hedging activities, the Delmarva propane distribution operation experienced a decrease in its average propane cost in addition to the decrease in wholesale prices, which generated increased retail margins per gallon. During the second and third quarters of 2015, wholesale propane prices continued to remain significantly lower than prices in the same quarters of 2014.

In Florida, higher retail propane margins per gallon as a result of local market conditions generated $432,000 and $1.1 million of additional gross margin for the three and nine months ended September 30, 2015, respectively.

These market conditions, which are influenced by competition with other propane suppliers as well as the availability and price of alternative energy sources, may fluctuate based on changes in demand, supply and other energy commodity prices. The level of retail margins per gallon generated during the first nine months of 2015 is not typical and, therefore, is not included in our long-term financial plans or forecasts.

Xeron, which benefits from wholesale price volatility by entering into trading transactions, generated additional gross margin of $131,000 for the three months ended September 30, 2015. On a year-to-date basis, Xeron experienced a gross margin decrease of $854,000, compared to the same period in 2014, due to lower wholesale price volatility.

Other Natural Gas Growth - Distribution Operations

In addition to service expansions, the natural gas distribution operations on the Delmarva Peninsula generated $250,000 and $1.1 million in additional gross margin for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014, due to an increase in residential, commercial and industrial customers served. The number of residential customers on the Delmarva Peninsula increased by 2.7 percent in the third quarter of 2015, compared to the same quarter in 2014. The natural gas distribution operations in Florida generated $443,000 and $1.4 million in additional gross margin for the three and nine months ended September 30, 2015, respectively, compared to the same periods in 2014, due primarily to an increase in commercial and industrial customers in Florida.

Capital Expenditures

We have revised our capital expenditures forecast for 2015 to be in the range of $130.0 million to $160.0 million, excluding amounts expended to acquire Gatherco. This range represents a significant increase over the average level of annual capital expenditures during the past three years, which equaled $94.8 million. The updated capital forecast reflects a shift in the timing of certain capital expenditures from 2015 to 2016. Major projects currently underway, such as the Eight Flags' CHP plant and associated facilities, anticipated new facilities to serve an industrial customer in Kent County, Delaware under the OPT ≤ 90 Service, and additional GRIP investments projected for 2015, account for approximately $99.0 million of the capital expenditures forecast for 2015. In addition, Eastern Shore is seeking FERC approval of a $32.1 million project to construct facilities that will improve the overall reliability and flexibility of its pipeline system. Capital expenditures are subject to continuous review and

modification by our management and Board of Directors, and some anticipated capital expenditures are subject to approval by the applicable regulators. Actual capital requirements may vary from the above estimates due to a number of factors, including changing economic conditions, changes in customer expectations or service needs, customer growth in existing areas, regulation, new growth or acquisition opportunities and availability of capital. Historically, actual capital expenditures have typically lagged behind the budgeted amounts.

In order to fund the 2015 capital expenditures currently budgeted, we expect to increase the level of borrowings during the remainder of 2015 to supplement cash provided by operating activities. Our target ratio of equity to total capitalization, including short-term borrowings, is between 50 and 60 percent, and we have maintained a ratio of equity to total capitalization, including short-term borrowings, between 54 and 60 percent during the past three years. If we increase the level of debt during 2015 and 2016 to fund the budgeted capital expenditures, our ratio of equity to total capitalization, including short-term borrowings, will temporarily decline.

On October 8, 2015, we entered into the Revolver with the Lenders, which increased our borrowing capacity by $150.0 million. To facilitate the refinancing of a portion of the short-term borrowings into long-term debt, as appropriate, we entered into a long-term private placement Shelf Agreement also for $150.0 million. The exact timing of any long-term debt or equity issuance(s) will be based on market conditions. In addition, for larger capital projects, we will seek to align, as much as feasible, any such long-term debt or equity issuance(s) with the earnings associated with commencement of service on such projects. For additional information on the Shelf Agreement and Revolver, see Note 14, *Long-Term Debt*, and Note 15, *Short-Term Borrowing* in the Condensed Consolidated Financial Statements.

Regulated Energy Segment

For the quarter ended September 30, 2015 compared to the quarter ended September 30, 2014

	Three Months Ended September 30,		Increase
	2015	**2014**	**(decrease)**
(in thousands)			
Revenue	**$ 63,796**	$ 59,356	$ 4,440
Cost of sales	**23,161**	23,040	121
Gross margin	**40,635**	36,316	4,319
Operations & maintenance	**19,882**	18,906	976
Depreciation & amortization	**6,129**	5,633	496
Other taxes	**2,796**	2,575	221
Other operating expenses	**28,807**	27,114	1,693
Operating income	**$ 11,828**	$ 9,202	$ 2,626

Operating income for the Regulated Energy segment for the quarter ended September 30, 2015 was $11.8 million, an increase of $2.6 million, or 28.5 percent, compared to the same quarter in 2014. The increased operating income reflects additional gross margin of $4.3 million, which was partially offset by a net increase in other operating expenses of $1.7 million to support growth.

Gross Margin

Items contributing to the quarter-over-quarter increase of $4.3 million, or 11.9 percent, in gross margin are listed in the following table:

(in thousands)	
Gross margin for the three months ended September 30, 2014	$ 36,316
Factors contributing to the gross margin increase for the three months ended September 30, 2015:	
Service expansions	1,708
Additional revenue from GRIP in Florida	1,144
Natural gas distribution customer growth	693
FPU electric base rate increase	673
Growth in natural gas transmission services (other than service expansions)	203
Other	(101)
Gross margin for the three months ended September 30, 2015	$ 40,635

The following is a narrative discussion of the significant items, which we believe is necessary to understand the information disclosed in the foregoing table.

Service Expansions

Increased gross margin from natural gas service expansions was generated primarily from the following:

- $1.1 million from interruptible service that commenced in April 2015 to an industrial customer in Kent County, Delaware. The interruptible service is expected to generate $1.7 million of gross margin in 2015, and it is expected to be replaced by a 20-year OPT ≤ 90 Service beginning in the third quarter of 2016.
- $463,000 from a new service to the same industrial customer in Kent County, Delaware, that commenced on October 1, 2014, upon completion of new facilities, including approximately 5.5 miles of pipeline lateral and metering facilities extending from Eastern Shore's mainline to the industrial customer facility. This service is expected to generate $1.8 million of gross margin in 2015.
- $340,000 from natural gas transmission service as part of the major expansion initiative in Polk County, Florida.

- These increases were partially offset by a decrease in gross margin of $150,000 due primarily to a decrease in the reservation rate for a contract with an existing industrial customer in New Castle County, Delaware to provide 50,000 Dts/d of service from April 2014 to April 2015. This contract was subsequently amended to provide 55,580 Dts/d of service through August 2020 at a lower reservation rate. The increased Dts/d to be transported under the contract, net of the lower reservation rate, is expected to generate $2.3 million of gross margin in 2015, compared to $1.9 million of gross margin generated in 2014.

Additional Revenue from GRIP in Florida

Additional GRIP investments during 2014 and 2015 by our Florida natural gas distribution operations generated $1.1 million in additional gross margin.

Natural Gas Distribution Customer Growth

Increased gross margin from other growth in natural gas distribution services was generated primarily from the following:

- $443,000 from Florida natural gas customer growth due primarily to new services to commercial and industrial customers; and
- $250,000 from a 2.7-percent increase in residential customers in the Delmarva natural gas distribution operations, as well as growth in commercial and industrial customers in Worcester County, Maryland.

FPU Electric Base Rate Increase

FPU's electric distribution operation generated additional gross margin of $673,000 due to higher base rates approved by the Florida PSC in September 2014 as a result of the rate case settlement. The new rates became effective for all meter reads on or after November 1, 2014.

Growth in Natural Gas Transmission Services (Other Than Service Expansions)

Increased gross margin from other growth in natural gas transmission services was generated primarily from the following:

- $236,000 from natural gas transmission service to commercial customers in Florida, partially offset by a decrease of $34,000 from interruptible service to an industrial customer in New Castle County, Delaware.

Other Operating Expenses

The increase in other operating expenses was due primarily to:

- $696,000 in higher payroll and benefits costs as a result of additional personnel to support growth;
- $507,000 in higher depreciation, asset removal and property tax costs associated with recent capital investments to support growth; and
- $208,000 in higher accruals for incentive compensation as a result of the higher quarterly financial results.

For the nine months ended September 30, 2015 compared to the nine months ended September 30, 2014

	Nine Months Ended September 30,		Increase
	2015	**2014**	**(decrease)**
(in thousands)			
Revenue	**$ 235,438**	$ 223,168	$ 12,270
Cost of sales	**101,415**	102,020	(605)
Gross margin	**134,023**	121,148	12,875
Operations & maintenance	**59,648**	55,416	4,232
Depreciation & amortization	**18,109**	16,783	1,326
Other taxes	**8,650**	7,945	705
Other operating expenses	**86,407**	80,144	6,263
Operating income	**$ 47,616**	$ 41,004	$ 6,612

Operating income for the Regulated Energy segment for the nine months ended September 30, 2015 was $47.6 million, an increase of $6.6 million, or 16.1 percent, compared to the same period in 2014. The increased operating income reflects additional gross margin of $12.9 million and $1.5 million received in connection with the customer billing system settlement, which were partially offset by an increase in other operating expenses of $7.8 million to support growth.

Gross Margin

Items contributing to the period-over-period increase of $12.9 million, or 10.6 percent, in gross margin are listed in the following table:

(in thousands)		
Gross margin for the nine months ended September 30, 2014	$	121,148
Factors contributing to the gross margin increase for the nine months ended September 30, 2015:		
Service expansions		4,085
Additional revenue from GRIP in Florida		3,070
Natural gas distribution customer growth		2,517
FPU electric base rates increase		2,366
Growth in natural gas transmission services (other than service expansions)		633
Other		204
Gross margin for the nine months ended September 30, 2015	$	134,023

The following is a discussion of the significant items, which we believe is necessary to understand the information disclosed in the foregoing table.

Service Expansions

Increased gross margin from natural gas service expansions was generated primarily from the following:

- $1.5 million from interruptible service that commenced in April 2015 to an industrial customer facility in Kent County, Delaware mentioned above. The interruptible service is expected to generate $1.7 million in 2015, and it is expected to be replaced by a 20-year OPT ≤ 90 Service beginning in the third quarter of 2016.
- $1.4 million from a new service to the same industrial customer in Kent County, Delaware, that commenced on October 1, 2014 upon completion of new facilities, which included approximately 5.5 miles of pipeline lateral and metering facilities extending from Eastern Shore's mainline to the new industrial customer facility. This service is expected to generate $1.8 million of gross margin in 2015.
- $509,000 from a short-term contract with an existing industrial customer in New Castle County, Delaware to provide 50,000 Dts/d of service from April 2014 to April 2015. This contract was subsequently amended to provide 55,580 Dts/d of service at a lower reservation rate through August 2020. Although the lower rate decreased gross margin by $384,000

for the nine months ended September 30, 2015, the extension of the contract at a higher volume generated additional gross margin of $893,000 for the nine months ended September 30, 2015. This service is expected to generate $2.3 million of gross margin in 2015 compared to $1.9 million of gross margin generated in 2014.

- $233,000 from another short-term contract with the same industrial customer in New Castle County, Delaware, to provide an additional 10,000 Dts/d of OPT≤90 Service transmission service from December 2014 to March 2015.
- $501,000 from natural gas transmission service as part of the major expansion initiative in Polk County, Florida.

Additional Revenue from GRIP in Florida

GRIP investments during 2014 and 2015 by our Florida natural gas distribution operations generated $3.1 million in additional gross margin.

Natural Gas Distribution Customer Growth

Increased gross margin from other natural gas growth was generated primarily from the following:

- $1.4 million from Florida natural gas customer growth due primarily to new services to commercial and industrial customers; and
- $1.1 million from a 2.7-percent increase in residential customers in the Delmarva natural gas distribution operations, as well as growth in commercial and industrial customers in Worcester County, Maryland.

FPU Electric Base Rate Increase

FPU's electric distribution operation generated additional gross margin of $2.4 million due to higher base rates approved in September 2014 as a result of the rate case settlement. The new rates became effective for all meter reads on or after November 1, 2014.

Growth in Natural Gas Transmission Services (Other Than Service Expansions)

Increased gross margin from other growth in natural gas transmission services was generated primarily from the following:

- $559,000 from natural gas transmission service to commercial customers in Florida, and
- $57,000 from interruptible service to an industrial customer in New Castle County, Delaware.

Other Operating Expenses

The increase in other operating expenses was due primarily to:

- $1.9 million in higher payroll and benefits costs as a result of additional personnel to support growth and increased overtime on the Delmarva Peninsula in early 2015 due to colder weather;
- $1.3 million in higher depreciation, asset removal and property tax costs associated with recent capital investments to support growth;
- $987,000 in legal and consulting costs associated with the billing system settlement and other initiatives;
- $811,000 in higher accruals for incentive compensation as a result of improved year-to-date financial performance;
- $680,000 in higher service contractor and other consulting costs;
- $497,000 in additional amortization expense due to a change in the amortization of regulatory assets and liabilities, primarily in the Florida electric distribution operation; and
- $353,000 in additional costs for facility maintenance.

These increases were partially offset by a gain of $1.5 million from the billing system settlement, which reduced other operating expenses for the nine months ended September 30, 2015.

Unregulated Energy Segment

For the quarter ended September 30, 2015 compared to the quarter ended September 30, 2014

	Three Months Ended September 30,		Increase
	2015	**2014**	**(decrease)**
(in thousands)			
Revenue	**$ 29,609**	$ 27,071	$ 2,538
Cost of sales	**19,402**	20,623	(1,221)
Gross margin	**10,207**	6,448	3,759
Operations & maintenance	**9,305**	7,063	2,242
Depreciation & amortization	**1,483**	1,014	469
Other taxes	**441**	343	98
Other operating expenses	**11,229**	8,420	2,809
Operating Loss	**$ (1,022)**	$ (1,972)	$ 950

Operating loss for the Unregulated Energy segment decreased by $950,000, to $1.0 million in the third quarter of 2015, compared to $2.0 million in the same quarter of 2014. The Unregulated Energy segment typically reports an operating loss in the third quarter due to the seasonal nature of our operations of a large portion of this segment. The results for the third quarter include gross margin of $2.0 million and other operating expenses of $1.9 million from Aspire Energy of Ohio. Excluding these impacts, gross margin increased by $1.7 million, which was partially offset by an $877,000 increase in other operating expenses.

Gross Margin

Items contributing to the quarter-over-quarter increase of $3.8 million, or 58.3 percent, in gross margin are listed in the following table:

(in thousands)	
Gross margin for the three months ended September 30, 2014	$ 6,448
Factors contributing to the gross margin increase for the three months ended September 30, 2015:	
Contributions from acquisitions	2,047
Increased retail propane margins	1,029
Natural gas marketing	479
Other	204
Gross margin for the three months ended September 30, 2015	$ 10,207

The following is a discussion of the significant items, which we believe is necessary to understand the information disclosed in the foregoing table.

Contributions from Acquisitions

Aspire Energy of Ohio generated $2.0 million in additional gross margin for the three months ended September 30, 2015.

Increased Retail Propane Margins

Higher retail propane margins for our Delmarva Peninsula and Florida propane distribution operations during the third quarter of 2015 generated $597,000 and $432,000, respectively, in additional gross margin. The higher retail propane margins were due to the retail pricing strategy guided by local market conditions and lower propane costs.

Natural Gas Marketing

Our natural gas marketing operation generated $479,000 in additional gross margin for the quarter ended September 30, 2015, as the results of our strategic growth initiatives have started to materialize.

Other Operating Expenses

The increase in other operating expenses was due primarily to:

- $1.9 million in costs from the operation of Aspire Energy of Ohio, following the acquisition of Gatherco on April 1, 2015;
- $443,000 in higher payroll and benefits costs primarily due to additional personnel hired to support growth;
- $141,000 in higher depreciation and property tax costs reflecting a higher level of assets resulting from our growth;
- $126,000 in additional costs for facility maintenance; and
- $102,000 in higher accruals for incentive compensation as a result of the higher year-to-date financial results and a larger workforce.

For the nine months ended September 30, 2015 compared to the nine months ended September 30, 2014

	Nine Months Ended September 30,		Increase
	2015	**2014**	**(decrease)**
(in thousands)			
Revenue	**$ 123,164**	$ 141,365	$ (18,201)
Cost of sales	**77,235**	105,802	(28,567)
Gross margin	**45,929**	35,563	10,366
Operations & maintenance	**26,993**	22,508	4,485
Depreciation & amortization	**3,973**	2,981	992
Other taxes	**1,297**	1,231	66
Other operating expenses	**32,263**	26,720	5,543
Operating Income	**$ 13,666**	$ 8,843	$ 4,823

Operating income for the Unregulated Energy segment increased by $4.8 million, or 54.5 percent, to $13.7 million in the first nine months of 2015, compared to $8.8 million in the same period of 2014. Excluding the impact generated by Aspire Energy of Ohio as a result of the Gatherco acquisition on April 1, 2015 ($3.7 million in gross margin and $3.8 million of other operating expenses), the increased operating income was driven by a $6.7 million increase in gross margin, which was partially offset by a $1.7 million increase in other operating expenses.

Gross Margin

A significant decline in natural gas and propane commodity prices decreased both revenue and related cost of commodities sold to our propane distribution and natural gas marketing customers, resulting in a period-over-period increase of $10.4 million, or 29.2 percent, in gross margin. Items contributing to this increase are listed in the following table:

(in thousands)	
Gross margin for the nine months ended September 30, 2014	$ 35,563
Factors contributing to the gross margin increase for the nine months ended September 30, 2015:	
Increase in retail propane margins	6,742
Contributions from acquisitions	3,679
Propane wholesale marketing	(854)
Natural gas marketing	404
Increased customer consumption - weather and other	258
Other	137
Gross margin for the nine months ended September 30, 2015	$ 45,929

The following is a discussion of the significant items, which we believe is necessary to understand the information disclosed in the foregoing table.

Increased Retail Propane Margins

Higher retail propane margins for our Delmarva Peninsula and Florida propane distribution operations during the first nine months of 2015 generated $5.7 million and $1.1 million, respectively, in additional gross margin. A large decline in wholesale propane prices during 2015, coupled with favorable supply management and hedging activities, resulted in a decrease in the average propane costs for the Delmarva propane distribution operation, which generated increased retail propane margins per gallon.

Contributions from Acquisitions

Aspire Energy of Ohio generated $3.7 million in additional gross margin in the first nine months of 2015.

Lower Propane Wholesale Marketing Results

Xeron's gross margin decreased by $854,000 during the first nine months of 2015, compared to the same period in 2014, as a result of a 12-percent decrease in trading activity and lower margins on executed trades. In contrast, Xeron experienced higher price volatility and higher trading volumes in the first nine months of 2014, which resulted in unusually high profitability during that period.

Natural Gas Marketing

Our natural gas marketing operation generated $404,000 in additional gross margin for the first nine months of 2015, compared to the same period in 2014. The increase in natural gas marketing margin was primarily from execution of its growth strategy.

Increased Customer Consumption - Weather and Other

Higher customer consumption increased gross margin by $258,000. The increase was due to an increase in non-weather consumption on the Delmarva Peninsula partially offset by decreased non-weather consumption in Florida.

Other Operating Expenses

Other operating expenses increased by $5.5 million due primarily to $3.8 million of other operating expenses incurred by Aspire Energy of Ohio. The remaining increase in other operating expenses was due primarily to:

- $1.0 million in higher payroll and benefits expense due to increased seasonal overtime and additional resources hired to support growth;
- $379,000 in additional costs for facility maintenance;
- $337,000 in increased accruals for incentive compensation as a result of improved year-to-date financial results in 2015 as well as a larger workforce; and
- $184,000 in lower expenses for credit and collections activities, which partially offset the above increases in expenses.

Interest Charges

For the quarter ended September 30, 2015 compared to the quarter ended September 30, 2014

Interest charges for the three months ended September 30, 2015 decreased slightly by approximately $3,000, compared to the same quarter in 2014.

For the nine months ended September 30, 2015 compared to the nine months ended September 30, 2014

Interest charges for the nine months ended September 30, 2015 increased by approximately $471,000, or seven percent, compared to the same period in 2014. The increase in interest charges is attributable to an increase of $262,000 in long-term interest charges as a result of $50.0 million of Notes issued in May 2014 and an increase of $122,000 in interest expense from short-term borrowings.

Income Taxes

For the quarter ended September 30, 2015 compared to the quarter ended September 30, 2014

Income tax expense was $3.3 million in the third quarter of 2015, compared to $2.1 million in the same quarter in 2014. The increase in income tax expense was due primarily to higher taxable income. Our effective income tax rate was at 39.4 percent for the third quarter of 2015 and 39.6 percent for the third quarter of 2014.

For the nine months ended September 30, 2015 compared to the nine months ended September 30, 2014

Income tax expense was $21.6 million in the nine months ended September 30, 2015, compared to $17.3 million in the same period in 2014. The increase in income tax expense was due primarily to higher taxable income. Our effective income tax rate remained unchanged at 40.0 percent for the first nine months of 2015 and 2014.

FINANCIAL POSITION, LIQUIDITY AND CAPITAL RESOURCES

Our capital requirements reflect the capital-intensive and seasonal nature of our business and are principally attributable to investment in new plant and equipment, retirement of outstanding debt and seasonal variability in working capital. We rely on cash generated from operations, short-term borrowings, and other sources to meet normal working capital requirements and to finance capital expenditures.

Our natural gas, electric and propane distribution businesses are weather-sensitive and seasonal. We normally generate a large portion of our annual net income and subsequent increases in our accounts receivable in the first and fourth quarters of each year due to significant volumes of natural gas, electricity, and propane delivered by our natural gas, electric, and propane distribution operations to customers during the peak heating season. In addition, our natural gas and propane inventories, which usually peak in the fall months, are largely drawn down in the heating season and provide a source of cash as the inventory is used to satisfy winter sales demand.

Our largest capital requirements are for investments in new or acquired plant and equipment. Our current forecast of capital expenditures for 2015 ranges from $130.0 million to $160.0 million. The following table sets forth the revised 2015 forecast of capital expenditures by segment:

	Range of Capital Expenditures	
(dollars in thousands)	Low	High
Regulated Energy:		
Natural gas distribution	$ 59,589	$ 80,281
Natural gas transmission	21,426	30,734
Electric distribution	4,824	4,824
Total Regulated Energy	85,839	115,839
Unregulated Energy:		
Propane distribution	9,196	9,196
Other unregulated energy	28,447	28,447
Total Unregulated Energy	37,643	37,643
Other	6,518	6,518
Total 2015 projected capital expenditures	$ 130,000	$ 160,000

The current forecast of capital expenditures is a significant increase over our average annual level of capital expenditures over the past three years of $94.8 million. This increase is due to expansions of our natural gas distribution and transmission systems, increased natural gas infrastructure improvement activities, improvement of our facilities and systems and other strategic initiatives and investments expected in 2015. The reduction from the original capital expenditure budget of $223.4 million to the current forecast of capital expenditures is due primarily to a shift in the timing of certain capital expenditures from 2015 to 2016.

Actual capital requirements may vary from estimates due to a number of factors, including changing economic conditions, customer growth in existing areas, regulation, new growth or acquisition opportunities and availability of capital. Historically, actual capital expenditures have typically lagged behind the budgeted amounts.

The acquisition of Gatherco, which we completed on April 1, 2015, was not included in our original capital budget of $223.4 million or in our current 2015 capital expenditure forecast shown above. At closing, we issued 592,970 shares of our common stock, valued at $30.2 million based on the closing price of our common stock, as reported on the NYSE on April 1, 2015, and paid $27.5 million in cash. We also acquired $6.8 million of Gatherco's cash at closing and assumed $1.7 million of Gatherco’s debt, which was paid off on the same day.

Capital Structure

We are committed to maintaining a sound capital structure and strong credit ratings to provide the financial flexibility needed to access capital markets when required. This commitment, along with adequate and timely rate relief for our regulated operations, is intended to ensure our ability to attract capital from outside sources at a reasonable cost. We believe that the achievement of these objectives will provide benefits to our customers, creditors and investors. The following table presents our capitalization, excluding and including short-term borrowings, as of September 30, 2015 and December 31, 2014:

	September 30, 2015		December 31, 2014	
(in thousands)				
Long-term debt, net of current maturities	**$ 155,909**	**31%**	$ 158,486	35%
Stockholders' equity	**353,315**	**69%**	300,322	65%
Total capitalization, excluding short-term debt	**$ 509,224**	**100%**	$ 458,808	100%

	September 30, 2015		December 31, 2014	
(in thousands)				
Short-term debt	**$ 127,093**	**20%**	$ 88,231	16%
Long-term debt, including current maturities	**165,048**	**26%**	167,595	30%
Stockholders' equity	**353,315**	**54%**	300,322	54%
Total capitalization, including short-term debt	**$ 645,456**	**100%**	$ 556,148	100%

Included in the long-term debt balances at September 30, 2015 and December 31, 2014, was a capital lease obligation associated with Sandpiper's capacity, supply and operating agreement ($3.8 million and $4.8 million, respectively, net of current maturities and $5.2 million and $6.1 million, respectively, including current maturities). Sandpiper entered into this six-year agreement at the closing of the ESG acquisition in May 2013. The capacity portion of this agreement is accounted for as a capital lease.

In order to fund the 2015 capital expenditures, currently estimated to be in the range of $130.0 million to $ 160.0 million, we expect to increase the level of borrowings during the remainder of 2015 to supplement cash provided by operating activities. Our target ratio of equity to total capitalization, including short-term borrowings, is between 50 and 60 percent. We have maintained a ratio of equity to total capitalization, including short-term borrowings, between 54 percent and 60 percent during the past three years. As we increase the level of debt during 2015 to fund the capital expenditures we expect to fund at this time, the ratio of equity to total capitalization, including short-term borrowings, will temporarily decline. As described below under "Short-term Borrowings", we entered into a new Revolver with the Lenders on October 8, 2015, which increased our borrowing capacity by $150.0 million. To facilitate the refinancing of a portion of the short-term borrowings into long-term debt, as appropriate, we also entered in a long-term private placement Shelf Agreement with Prudential that is further described below under "Shelf Agreement."

We will seek to align, as much as feasible, any such long-term debt or equity issuance(s) with the commencement of service, and associated earnings, for larger revenue generating projects. In addition, the exact timing of any long-term debt or equity issuance(s) will be based on market conditions.

Short-term Borrowings

Our outstanding short-term borrowings at September 30, 2015 and December 31, 2014 were $127.1 million and $88.2 million, respectively, at weighted average interest rates of 1.09 percent and 1.15 percent, respectively.

We utilize bank lines of credit to provide funds for our short-term cash needs to meet seasonal working capital requirements and to temporarily fund portions of the capital expenditure program. As of September 30, 2015, we had six unsecured bank credit facilities with three financial institutions with $210.0 million of total available credit. Three of these credit facilities, totaling $120.0 million, are available under committed lines of credit. Two of these credit facilities, totaling $40.0 million, were available under uncommitted lines of credit, which expired on October 31, 2015, and were not renewed. None of these unsecured bank lines of credit requires compensating balances. Advances offered under the uncommitted lines of credit are subject to the discretion of the banks. In addition to these bank lines of credit, one of the lenders has made available a $50.0 million short-term revolving credit note. We are currently authorized by our Board of Directors to borrow up to $200.0 million of short-term borrowings, as required.

On October 8, 2015, we entered into the Credit Agreement with the Lenders to provide a $150.0 million Revolver for five years subject to the terms and conditions in the Credit Agreement. Borrowings under the Revolver will be used for general corporate purposes, including repayments of short-term borrowings, working capital requirements and capital expenditures.

Borrowings under the Revolver will bear interest at: (i) the LIBOR Rate plus an applicable margin of 1.25 percent or less, with such margin based on total indebtedness as a percentage of total capitalization, both as defined by the Credit Agreement, or (ii) the base rate plus 0.25% or less. Interest is payable quarterly and the Revolver is subject to a commitment fee on the unused portion of the facility. We may extend the expiration date for up to two years on any anniversary date of the Revolver, with such extension subject to the Lenders' approval. We may also request the Lenders to increase the Revolver to $200.0 million with any increase at the sole discretion of each Lender. On October 19, 2015, we borrowed $25.0 million under the Revolver.

Shelf Agreement

On October 8, 2015, we entered into a committed Shelf Agreement with Prudential and other purchasers that may become a party to the Shelf Agreement. Under the terms of the Shelf Agreement, we may request that Prudential purchase, over the next three years, up to $150.0 million of our Shelf Notes at a fixed interest rate and with a maturity date not to exceed twenty years from the date of issuance. Prudential and its affiliates are under no obligation to purchase any of the Shelf Notes. The interest rate and terms of payment of any series of Shelf Notes will be determined at the time of purchase. We currently anticipate that the proceeds from the sale of any series of Shelf Notes will be used for general corporate purposes, including refinancing of short-term borrowings and/or repayment of outstanding indebtedness and financing of capital expenditures on future projects; however, actual use of such proceeds will be determined at the time of a purchase and each request for purchase with respect to a series of Shelf Notes will specify the exact use of the proceeds.

The Shelf Agreement sets forth certain business covenants to which we are subject when any Shelf Note is outstanding, including covenants that limit or restrict us and our subsidiaries from incurring indebtedness and incurring liens and encumbrances on any of our property.

Cash Flows

The following table provides a summary of our operating, investing and financing cash flows for the nine months ended September 30, 2015 and 2014:

	Nine Months Ended September 30,	
	2015	**2014**
(in thousands)		
Net cash provided by (used in):		
Operating activities	**$ 98,684**	$ 65,019
Investing activities	**(122,985)**	(68,740)
Financing activities	**23,508**	2,650
Net decrease in cash and cash equivalents	**(793)**	(1,071)
Cash and cash equivalents—beginning of period	**4,574**	3,356
Cash and cash equivalents—end of period	**$ 3,781**	$ 2,285

Cash Flows Provided By Operating Activities

Changes in our cash flows from operating activities are attributable primarily to changes in net income, non-cash adjustments for depreciation, deferred income taxes and working capital. Changes in working capital are determined by a variety of factors, including weather, the prices of natural gas, electricity and propane, the timing of customer collections, payments for purchases of natural gas, electricity and propane, and deferred fuel cost recoveries.

During the nine months ended September 30, 2015 and 2014, net cash provided by operating activities was $98.7 million and $65.0 million, respectively, resulting in an increase in cash flows of $33.7 million. Significant operating activities generating the cash flows change were as follows:

- The changes in net regulatory assets and liabilities increased cash flows by $15.3 million, due primarily to the change in fuel costs collected through the various fuel cost recovery mechanisms.
- The change in income taxes receivable increased cash flows by $14.4 million, due primarily to the receipt of a tax refund related to our 2014 federal income tax obligation. Our tax deductions, which were higher-than-projected, due to bonus depreciation (approved by the President of the United States in December 2014), reduced our 2014 federal income tax obligation.

- The changes in net accounts receivable and payable decreased cash flows by $2.8 million, due primarily to the timing of the collections and payments associated with trading contracts entered into by our propane wholesale marketing subsidiary, which were partially offset by an increase in net cash flows from receivables and payables in various other operations.
- Net income, adjusted for reconciling activities, increased cash flows by $8.2 million, due primarily to higher earnings and higher non-cash adjustments for depreciation and amortization.
- Net cash flows from changes in propane, natural gas and materials inventories decreased by approximately $971,000, compared to 2014.

Cash Flows Used in Investing Activities

Net cash used in investing activities totaled $123.0 million and $68.7 million during the nine months ended September 30, 2015 and 2014, respectively, resulting in a decrease in cash flows of $54.2 million. Significant investing activities generating the cash flows change were as follows:

- An increase in cash paid for capital expenditures, due primarily to our GRIP investment in our Florida natural gas distribution operations and Eight Flags' construction of the CHP plant, decreased cash flows by $32.9 million.
- We paid $20.7 million ($27.5 million paid less $6.8 million of cash acquired) in conjunction with the acquisition of Gatherco on April 1, 2015.

Cash Flows Provided by Financing Activities

Net cash provided by financing activities totaled $23.5 million in the first nine months of 2015, compared to $2.7 million in the same period in 2014. The increase in net cash provided by financing activities during the first nine months of 2015 was due primarily to $69.9 million in higher borrowing under our line of credit agreements and a $3.5 million increase in cash overdrafts, which were partially offset by $50.0 million in proceeds from the issuance of long-term debt in May 2014 and $1.7 million of outstanding debt assumed in the Gatherco merger that was paid off immediately after the closing of the merger on April 1, 2015.

Off-Balance Sheet Arrangements

We have issued corporate guarantees to certain vendors of our subsidiaries, primarily Xeron and PESCO, which provide for the payment of propane and natural gas purchases in the event that the subsidiary defaults. Neither subsidiary has ever defaulted on its obligations to pay its suppliers. The liabilities for these purchases are recorded in our financial statements when incurred. The aggregate amount guaranteed at September 30, 2015 was $36.1 million, with the guarantees expiring on various dates through September 22, 2016.

We issued a letter of credit for $1.0 million, which was renewed through September 12, 2016, related to the electric transmission services for FPU’s northwest electric division. We also issued a letter of credit to our current primary insurance company for $1.2 million, which expires on October 31, 2016, as security to satisfy the deductibles under our various insurance policies. As a result of a change in our primary insurance company, we renewed and decreased to $24,000 the letter of credit to our former primary insurance company, which will expire on April 8, 2016. We have also issued a letter of credit of $1.0 million, which expires on March 31, 2016, related to PESCO's transactions at the Natural Gas Exchange, Inc.

We provided a letter of credit for $2.3 million to TETLP related to the firm transportation service agreement with our Delaware and Maryland divisions.

There have been no draws on these letters of credit as of September 30, 2015. We do not anticipate that the letters of credit will be drawn upon by the counterparties, and we expect that the letters of credit will be renewed to the extent necessary in the future.

Contractual Obligations

There has not been any material change in the contractual obligations presented in our 2014 Annual Report on Form 10-K, except for commodity purchase obligations and forward contracts entered into in the ordinary course of our business. The following table summarizes commodity and forward contract obligations at September 30, 2015.

	Payments Due by Period				
	Less than 1 year	1 - 3 years	3 - 5 years	More than 5 years	Total
(in thousands)					
Purchase obligations - Commodity [1]	$ 40,246	$ 6,088	$ 1,425	$ —	**$ 47,759**
Forward purchase contracts - Propane [2]	1,336	—	—	—	**1,336**
Total	**$ 41,582**	**$ 6,088**	**$ 1,425**	**$ —**	**$ 49,095**

[1] In addition to the obligations noted above, the natural gas, electric and propane distribution operations have agreements with commodity suppliers that have provisions with no minimum purchase requirements. There are no monetary penalties for reducing the amounts purchased; however, the propane contracts allow the suppliers to reduce the amounts available in the winter season if we do not purchase specified amounts during the summer season. Under these contracts, the commodity prices will fluctuate as market prices fluctuate.

[2] We have also entered into forward sale contracts. See Item 3, *Quantitative and Qualitative Disclosures About Market Risk* for further information.

Rates and Regulatory Matters

Our natural gas distribution operations in Delaware, Maryland and Florida and electric distribution operation in Florida are subject to regulation by the respective state PSC; Eastern Shore is subject to regulation by the FERC; and Peninsula Pipeline is subject to regulation by the Florida PSC. At September 30, 2015, we were involved in regulatory matters in each of the jurisdictions in which we operate. Our significant regulatory matters are fully described in Note 4, *Rates and Other Regulatory Activities*, to the unaudited condensed consolidated financial statements in this Quarterly Report on Form 10-Q.

Recent Authoritative Pronouncements on Financial Reporting and Accounting

Recent accounting developments applicable to us and their impact on our financial position, results of operations and cash flows are described in Note 1, *Summary of Accounting Policies*, to the unaudited condensed consolidated financial statements in this Quarterly Report on Form 10-Q.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Market risk represents the potential loss arising from adverse changes in market rates and prices. Long-term debt is subject to potential losses based on changes in interest rates. Our long-term debt consists of fixed-rate senior notes and secured debt. All of our long-term debt, excluding a capital lease obligation, is fixed-rate debt and was not entered into for trading purposes. The carrying value of our long-term debt, including current maturities, but excluding a capital lease obligation, was $159.9 million at September 30, 2015, as compared to a fair value of $175.8 million, using a discounted cash flow methodology that incorporates a market interest rate based on published corporate borrowing rates for debt instruments with similar terms and average maturities, with adjustments for duration, optionality, credit risk, and risk profile. We evaluate whether to refinance existing debt or permanently refinance existing short-term borrowing, based in part on the fluctuation in interest rates.

Our propane distribution business is exposed to market risk as a result of our propane storage activities and entering into fixed price contracts for supply. We can store up to approximately 6.5 million gallons of propane (including leased storage and rail cars) during the winter season to meet our customers' peak requirements and to serve metered customers. Decreases in the wholesale price of propane may cause the value of stored propane to decline. To mitigate the impact of price fluctuations, we have adopted a Risk Management Policy that allows the propane distribution operation to enter into fair value hedges or other economic hedges of our inventory.

Our propane wholesale marketing operation is a party to natural gas liquids (primarily propane) forward contracts, with various third parties, which require that the propane wholesale marketing operation purchase or sell natural gas liquids at a fixed price at fixed future dates. At expiration, the contracts are typically settled financially without taking physical delivery of propane. The propane wholesale marketing operation also enters into futures contracts that are traded on the Intercontinental Exchange, Inc. In certain cases, the futures contracts are settled by the payment or receipt of a net amount equal to the difference between the current market price of the futures contract and the original contract price; however, they may also be settled by physical receipt or delivery of propane.

The forward and futures contracts are entered into for trading and wholesale marketing purposes. The propane wholesale marketing business is subject to commodity price risk on its open positions to the extent that market prices for natural gas liquids deviate from fixed contract settlement prices. Market risk associated with the trading of futures and forward contracts is monitored daily for compliance with our Risk Management Policy, which includes volumetric limits for open positions. To manage exposures to

changing market prices, open positions are marked up or down to market prices and reviewed daily by our oversight officials. In addition, the Risk Management Committee reviews periodic reports on markets and the credit risk of counter-parties, approves any exceptions to the Risk Management Policy (within limits established by the Board of Directors) and authorizes the use of any new types of contracts. Quantitative information on forward and future contracts at September 30, 2015 is presented in the following table:

At September 30, 2015	Quantity in Gallons	Estimated Market Prices	Weighted Average Contract Prices
Forward Contracts			
Sale	2,940,000	$0.4750 - $0.5288	$ 0.5210
Purchase	2,940,000	$0.4350 - $0.5025	$ 0.4545

Estimated market prices and weighted average contract prices are in dollars per gallon. All contracts expire by the end of the fourth quarter of 2015.

Our natural gas distribution, electric distribution and natural gas marketing operations have entered into agreements with various suppliers to purchase natural gas, electricity and propane for resale to their customers. Purchases under these contracts either do not meet the definition of derivatives or are considered “normal purchases and sales” and are accounted for on an accrual basis.

At September 30, 2015 and December 31, 2014, we marked these forward and other contracts to market, using market transactions in either the listed or OTC markets, which resulted in the following assets and liabilities:

(in thousands)	September 30, 2015	December 31, 2014
Mark-to-market energy assets, including put and call options and swap agreements	**$ 286**	$ 1,055
Mark-to-market energy liabilities, including swap agreements	**$ 154**	$ 1,018

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

The Chief Executive Officer and Chief Financial Officer of the Company, with the participation of other Company officials, have evaluated our “disclosure controls and procedures” (as such term is defined under Rules 13a-15(e) and 15d-15(e), promulgated under the Securities Exchange Act of 1934, as amended) as of September 30, 2015. Based upon their evaluation, the Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of September 30, 2015.

Changes in Internal Control over Financial Reporting

During the quarter ended September 30, 2015, there was no change in our internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings

As disclosed in Note 6, *Other Commitments and Contingencies*, of the unaudited condensed consolidated financial statements in this Quarterly Report on Form 10-Q, we are involved in certain legal actions and claims arising in the normal course of business. We are also involved in certain legal and administrative proceedings before various governmental or regulatory agencies concerning rates and other regulatory actions. In the opinion of management, the ultimate disposition of these proceedings and claims will not have a material effect on our condensed consolidated financial position, results of operations or cash flows.

Item 1A. Risk Factors

Our business, operations, and financial condition are subject to various risks and uncertainties. The risk factors described in Part I, "Item 1A. Risk Factors" in our Annual Report on Form 10-K, for the year ended December 31, 2014, should be carefully considered, together with the other information contained or incorporated by reference in this Quarterly Report on Form 10-Q and in our other filings with the SEC in connection with evaluating the Company, our business and the forward-looking statements contained in this Quarterly Report on Form 10-Q. Additional risks and uncertainties not known to us at present, or that we currently deem immaterial also may affect the Company. The occurrence of any of these known or unknown risks could have a material adverse impact on our business, financial condition, and results of operations.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (2)	Maximum Number of Shares That May Yet Be Purchased Under the Plans or Programs (2)
July 1, 2015 through July 31, 2015 (1)	369	$ 54.45	—	—
August 1, 2015 through August 31, 2015	—	$ —	—	—
September 1, 2015 through September 30, 2015	—	$ —	—	—
Total	369	$ 54.45	—	—

(1) Chesapeake purchased shares of stock on the open market for the purpose of reinvesting the dividend on deferred stock units held in the Rabbi Trust accounts for certain Directors and Senior Executives under the Deferred Compensation Plan. The Deferred Compensation Plan is discussed in detail in Item 8 under the heading "Notes to the Consolidated Financial Statements—Note 16, *Employee Benefit Plans*" in our latest Annual Report on Form 10-K for the year ended December 31, 2014. During the quarter ended September 30, 2015, 369 shares were purchased through the reinvestment of dividends on deferred stock units.

(2) Except for the purposes described in Footnote (1), Chesapeake has no publicly announced plans or programs to repurchase its shares.

Item 3. Defaults upon Senior Securities

None.

Item 5. Other Information

None.

Item 6. Exhibits

4.1	Private Shelf Agreement dated October 8, 2015, between Chesapeake Utilities Corporation, as issuer, and Prudential Investment Management Inc., relating to the purchase of Chesapeake Utilities Corporation unsecured senior notes, is filed herewith.
10.1	Revolving Credit Agreement dated October 8, 2015, between Chesapeake Utilities Corporation and PNC Bank, National Association, Bank of America, N.A., Citizens Bank N.A., Royal Bank of Canada and Wells Fargo Bank, National Association as lenders, is filed herewith.
10.2	Form of Performance Share Agreement, dated March 6, 2015 for the period 2015 to 2017, pursuant to Chesapeake Utilities Corporation 2013 Stock and Incentive Compensation Plan by and between Chesapeake Utilities Corporation and James F. Moriarty, is filed herewith.
31.1	Certificate of Chief Executive Officer of Chesapeake Utilities Corporation pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, dated November 5, 2015.
31.2	Certificate of Chief Financial Officer of Chesapeake Utilities Corporation pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934, dated November 5, 2015.
32.1	Certificate of Chief Executive Officer of Chesapeake Utilities Corporation pursuant to 18 U.S.C. Section 1350, dated November 5, 2015.
32.2	Certificate of Chief Financial Officer of Chesapeake Utilities Corporation pursuant to 18 U.S.C. Section 1350, dated November 5, 2015.
101.INS*	XBRL Instance Document.
101.SCH*	XBRL Taxonomy Extension Schema Document.
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase Document.

SIGNATURES

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

CHESAPEAKE UTILITIES CORPORATION

/S/ BETH W. COOPER

Beth W. Cooper
Senior Vice President and Chief Financial Officer

Date: November 5, 2015

CHESAPEAKE UTILITIES CORPORATION

$150,000,000

PRIVATE SHELF FACILITY

PRIVATE SHELF AGREEMENT

Dated as of October 8, 2015

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CHESAPEAKE UTILITIES CORPORATION
909 Silver Lake Boulevard
Dover, Delaware 19904

$150,000,000 Private Shelf Facility

Dated as of October 8, 2015

To Prudential Investment Management, Inc. (**"Prudential"**)

To each other Prudential Affiliate which becomes
bound by this Agreement as hereinafter
provided (each, a **"Purchaser"** and collectively,
the **"Purchasers"**):

Ladies and Gentlemen:

CHESAPEAKE UTILITIES CORPORATION, a Delaware corporation (together with any successor thereto that becomes a party hereto pursuant to Section 10.2, the **"Company"**), agrees with each of the Purchasers as follows:

SECTION 1. AUTHORIZATION OF NOTES.

The Company has authorized the issue of its senior promissory notes (the **"Notes"**, such term to include any such notes issued in substitution thereof pursuant to Section 13) up to a maximum aggregate principal amount of $150,000,000, to be dated the date of issue thereof, to mature, in the case of each Note so issued, no more than 20 years after the date of original issuance thereof, to have an average life, in the case of each Note so issued, of no more than 20 years after the date of original issuance thereof, to bear interest on the unpaid balance thereof from the date thereof at the rate per annum, and to have such other particular terms, as shall be set forth, in the case of each Note so issued, in the Confirmation of Acceptance with respect to such Note delivered pursuant to Section 2(f), and to be substantially in the form of Schedule 1 attached hereto. The terms **"Note"** and **"Notes"** as used herein shall include each Note delivered pursuant to any provision of this Agreement and each Note delivered in substitution or exchange for any such Note pursuant to any such provision. Notes which have (1) the same final maturity, (2) the same principal prepayment dates, (3) the same principal prepayment amounts (as a percentage of the original principal amount of each Note), (4) the same interest rate, (5) the same interest payment periods and (6) the same date of issuance (which, in the case of a Note issued in exchange for another Note, shall be deemed for these purposes to be the date on which such Note's ultimate predecessor Note was issued), are herein called a **"Series"** of Notes. Certain capitalized and other terms used in this Agreement are defined in Schedule A. References to a "Schedule" are references to a Schedule attached to this Agreement unless otherwise specified.

References to a "Section" are references to a Section of this Agreement unless otherwise specified.

SECTION 2. SALE AND PURCHASE OF NOTES.

(a) *Facility.* Prudential is willing to consider, in its sole discretion and within limits which may be authorized for purchase by Prudential Affiliates from time to time, the purchase of Notes pursuant to this Agreement. The willingness of Prudential to consider such purchase of Notes is herein called the **"Facility."** At any time, subject to the additional limitations in Section 2(b), the aggregate principal amount of Notes stated in Section 1, *minus* the aggregate principal amount of Notes purchased and sold pursuant to this Agreement prior to such time, *minus* the aggregate principal amount of Accepted Notes (as hereinafter defined) which have not yet been purchased and sold hereunder prior to such time, is herein called the **"Available Facility Amount"** at such time. **NOTWITHSTANDING THE WILLINGNESS OF PRUDENTIAL TO CONSIDER PURCHASES OF NOTES BY PRUDENTIAL AFFILIATES, THIS AGREEMENT IS ENTERED INTO ON THE EXPRESS UNDERSTANDING THAT NEITHER PRUDENTIAL NOR ANY PRUDENTIAL AFFILIATE SHALL BE OBLIGATED TO MAKE OR ACCEPT OFFERS TO PURCHASE NOTES, OR TO QUOTE RATES, SPREADS OR OTHER TERMS WITH RESPECT TO SPECIFIC PURCHASES OF THE NOTES, AND THE FACILITY SHALL IN NO WAY BE CONSTRUED AS A COMMITMENT BY PRUDENTIAL OR ANY PRUDENTIAL AFFILIATE.**

(b) *Issuance Period.* Notes may be issued and sold pursuant to this Agreement until the earlier of (1) the third anniversary of the date of this Agreement (or if such anniversary date is not a Business Day, the Business Day next preceding such anniversary) and (2) the 30th day after Prudential shall have given to the Company, or the Company shall have given to Prudential, a written notice stating that it elects to terminate the issuance and sale of Notes pursuant to this Agreement (or if such 30th day is not a Business Day, the Business Day next preceding such 30th day). The period during which Notes may be issued and sold pursuant to this Agreement is herein called the **"Issuance Period."**

(c) *Periodic Spread Information.* Provided no Default or Event of Default exists, not later than 9:30 a.m. (New York City local time) on a Business Day during the Issuance Period if there is an Available Facility Amount on such Business Day, the Company may request by telecopier or telephone, and Prudential will, to the extent reasonably practicable, provide to the Company on such Business Day (or, if such request is received after 9:30 a.m. (New York City local time) on such Business Day, on the following Business Day), information (by telecopier or telephone) with respect to various spreads at which Prudential Affiliates might be interested in purchasing Notes of different average lives; *provided, however,* that the Company may not make such requests more frequently than once in every five Business Days or such other period as shall be mutually agreed to by the Company and Prudential. The amount and content of information so provided shall be in the sole discretion of Prudential but it is the intent of Prudential to provide information which will be of use to the Company in determining whether to initiate procedures for use of the Facility. Information so provided shall not constitute an offer to purchase Notes, and neither Prudential nor any Prudential Affiliate

shall be obligated to purchase Notes at the spreads specified. Information so provided shall be representative of potential interest only for the period commencing on the day such information is provided and ending on the earlier of the fifth Business Day after such day and the first day after such day on which further spread information is provided. Prudential may suspend or terminate providing information pursuant to this Section 2(c) for any reason, including its determination that the credit quality of the Company has declined since the date of this Agreement.

(d) *Request for Purchase.* The Company may from time to time during the Issuance Period make requests for purchases of Notes (each such request being a **"Request for Purchase"**). Each Request for Purchase shall be made to Prudential by telecopier or overnight delivery service, and shall (1) specify the aggregate principal amount of Notes covered thereby, which shall not be less than $5,000,000 and not be greater than the Available Facility Amount at the time such Request for Purchase is made, (2) specify the principal amounts, final maturities, principal prepayment dates and amounts and interest payment periods (quarterly or semi-annually in arrears) of the Notes covered thereby, (3) specify the use of proceeds of such Notes, (4) specify the proposed Closing Day for the purchase and sale of such Notes, which shall be a Business Day during the Issuance Period not less than 10 days and not more than 25 days after the making of such Request for Purchase unless otherwise specified in the Request for Purchase and agreed to in the Confirmation of Acceptance for such Notes, (5) specify the number of the account and the name and address of the depository institution to which the purchase prices of such Notes are to be transferred on the Closing for such purchase and sale, (6) identify each order of a State Commission or other Governmental Authority necessary or required for the Company to incur the indebtedness to be evidenced by such Notes, (7) certify that the representations and warranties contained in Section 5 are true on and as of the date of such Request for Purchase and that there exists on the date of such Request for Purchase no Event of Default or Default, and (8) be substantially in the form of Schedule 2(d) attached hereto. Each Request for Purchase shall be in writing signed by the Company and shall be deemed made when received by Prudential.

(e) *Rate Quotes.* Not later than five Business Days after the Company shall have given Prudential a Request for Purchase pursuant to Section 2(d), Prudential may, but shall be under no obligation to, provide to the Company by telephone or telecopier, in each case between 9:30 a.m. and 1:00 p.m. New York City local time (or such later time as Prudential may elect) interest rate quotes for the several principal amounts, maturities, principal prepayment schedules, and interest payment periods of Notes specified in such Request for Purchase. Each quote shall represent the interest rate per annum payable on the proposed outstanding principal balance of such Notes at which a Prudential Affiliate would be willing to purchase such Notes at 100% of the principal amount thereof.

(f) *Acceptance.* Within 30 minutes (or such shorter period as Prudential may elect) (the **"Acceptance Window"**) with respect to any interest rate quotes provided pursuant to Section 2(e), the Company may, subject to Section 2(g), elect to accept such interest rate quotes as to not less than $5,000,000 aggregate principal amount of the Notes specified in the related Request for Purchase. Such election shall be made by an Authorized Officer of the Company notifying Prudential by telephone or telecopier

within the Acceptance Window that the Company elects to accept such interest rate quotes, specifying the Notes (each such Note being an **"Accepted Note"**) as to which such acceptance (an **"Acceptance"**) relates. The day the Company notifies Prudential of an Acceptance with respect to any Accepted Notes is herein called the **"Acceptance Day"** for such Accepted Notes. Any interest rate quotes as to which Prudential does not receive an Acceptance within the Acceptance Window shall expire, and no purchase or sale of Notes hereunder shall be made based on such expired interest rate quotes. Subject to Section 2(g) and the other terms and conditions hereof, the Company agrees to sell to a Prudential Affiliate, and Prudential agrees to cause the purchase by a Prudential Affiliate of, the Accepted Notes at 100% of the principal amount of such Notes. As soon as practicable following the Acceptance Day, the Company, Prudential and each Prudential Affiliate which is to purchase any such Accepted Notes will execute a confirmation of such Acceptance substantially in the form of Schedule 2(f) attached hereto (a **"Confirmation of Acceptance"**). If the Company should fail to execute and return to Prudential within three Business Days following the Company's receipt thereof a Confirmation of Acceptance with respect to any Accepted Notes, Prudential may at its election at any time prior to Prudential's receipt thereof cancel the Closing with respect to such Accepted Notes by so notifying the Company in writing.

(g) *Market Disruption.* Notwithstanding the provisions of Section 2(f), if Prudential shall have provided interest rate quotes pursuant to Section 2(e) and thereafter prior to the time an Acceptance with respect to such quotes shall have been notified to Prudential in accordance with Section 2(f) the domestic market for U.S. Treasury securities or derivatives shall have closed or there shall have occurred a general suspension, material limitation, or significant disruption of trading in Securities generally on the New York Stock Exchange or in the domestic market for U.S. Treasury securities or derivatives, then such interest rate quotes shall expire, and no purchase or sale of Notes hereunder shall be made based on such expired interest rate quotes. If the Company thereafter notifies Prudential of the Acceptance of any such interest rate quotes, such Acceptance shall be ineffective for all purposes of this Agreement, and Prudential shall promptly notify the Company that the provisions of this Section 2(g) are applicable with respect to such Acceptance.

(h) *Fees.*

(1) *Structuring Fee.* In consideration for the time, effort and expense involved in the preparation, negotiation and execution of this Agreement, at the time of the execution and delivery of this Agreement by the Company and Prudential, the Company will pay to Prudential in immediately available funds a fee (the **"Structuring Fee"**) in the amount of $25,000.

(2) *Issuance Fee.* The Company will pay to each Purchaser in immediately available funds a fee (the **"Issuance Fee"**) on each Closing Day (other than any Closing Day occurring on or prior to the 60th day following the date of this Agreement) in an amount equal to 0.125% of the aggregate principal amount of Notes sold to such Purchaser on such Closing Day.

(3) *Delayed Delivery Fee.* If the closing of the purchase and sale of any Accepted Note is delayed for any reason (other than in the case where all conditions in Section 4 have been satisfied and a Purchaser fails to purchase its Accepted Notes) beyond the original Closing Day for such Accepted Note, the Company will pay to each Purchaser which shall have agreed to purchase such Accepted Note on the Cancellation Date or actual closing date of such purchase and sale a fee (the **"Delayed Delivery Fee"**) calculated as follows:

(BEY - MMY) x DTS/360 x PA

where **"BEY"** means Bond Equivalent Yield, *i.e.*, the bond equivalent yield per annum of such Accepted Note; **"MMY"** means Money Market Yield, *i.e.*, the yield per annum on a commercial paper investment of the highest quality selected by Prudential on the date Prudential receives notice of the delay in the closing for such Accepted Note having a maturity date or dates the same as, or closest to, the Rescheduled Closing Day or Rescheduled Closing Days for such Accepted Note (a new alternative investment being selected by Prudential each time such closing is delayed); **"DTS"** means Days to Settlement, *i.e.*, the number of actual days elapsed from and including the original Closing Day with respect to such Accepted Note (in the case of the first such payment with respect to such Accepted Note) or from and including the date of the next preceding payment (in the case of any subsequent delayed delivery fee payment with respect to such Accepted Note) to but excluding the date of such payment; and **"PA"** means Principal Amount, *i.e.*, the principal amount of the Accepted Note for which such calculation is being made. In no case shall the Delayed Delivery Fee be less than zero. Nothing contained herein shall obligate any Purchaser to purchase any Accepted Note on any day other than the Closing Day for such Accepted Note, as the same may be rescheduled from time to time in compliance with Section 3.2.

(4) *Cancellation Fee.* If the Company at any time notifies Prudential in writing that the Company is canceling the closing of the purchase and sale of any Accepted Note, or if Prudential notifies the Company in writing under the circumstances set forth in the last sentence of Section 2(f) or the penultimate sentence of Section 3.2 that the closing of the purchase and sale of such Accepted Note is to be canceled, or if the closing of the purchase and sale of such Accepted Note is not consummated on or prior to the last day of the Issuance Period (the date of any such notification, or the last day of the Issuance Period, as the case may be, being the **"Cancellation Date"**), the Company will pay to each Purchaser which shall have agreed to purchase such Accepted Note no later than one day after the Cancellation Date in immediately available funds an amount (the **"Cancellation Fee"**) calculated as follows:

PI x PA

where **"PI"** means Price Increase, *i.e.*, the quotient (expressed in decimals) obtained by dividing (a) the excess of the ask price (as determined by Prudential) of the Hedge Treasury Note(s) on the Cancellation Date over the bid price (as

determined by Prudential) of the Hedge Treasury Notes(s) on the Acceptance Day for such Accepted Note by (b) such bid price; and **"PA"** has the meaning in Section 2(h)(3). The foregoing bid and ask prices shall be as reported by TradeWeb LLC (or, if such data for any reason ceases to be available through TradeWeb LLC, any publicly available source of similar market data). Each price shall be based on a U.S. Treasury security having a par value of $100.00 and shall be rounded to the second decimal place. In no case shall the Cancellation Fee be less than zero.

SECTION 3. CLOSING.

Section 3.1 Facility Closings. Not later than 11:30 a.m. (New York City local time) on the Closing Day for any Accepted Notes, the Company will deliver to each Purchaser listed in the Confirmation of Acceptance relating thereto at the offices of Schiff Hardin LLP, 666 Fifth Avenue, Suite 1700, New York, NY 10103, Attention: Mark A. Sternberg or at such other place pursuant to the directions of Prudential, the Accepted Notes to be purchased by such Purchaser in the form of one or more Notes in authorized denominations as such Purchaser may request for each Series of Accepted Notes to be purchased on the Closing Day, dated the Closing Day and registered in such Purchaser's name (or in the name of its nominee), against payment of the purchase price thereof by transfer of immediately available funds for credit to the Company's account specified in the Request for Purchase of such Notes. Each Shelf Closing is referred to as a **"Closing."**

Section 3.2 Rescheduled Facility Closings. If the Company fails to tender to any Purchaser the Accepted Notes to be purchased by such Purchaser on the scheduled Closing Day for such Accepted Notes as provided above in Section 3.1, or any of the conditions specified in Section 4 shall not have been fulfilled by the time required on such scheduled Closing Day, the Company shall, prior to 1:00 p.m., New York City local time, on such scheduled Closing Day notify Prudential (which notification shall be deemed received by each Purchaser) in writing whether (a) such closing is to be rescheduled (such rescheduled date to be a Business Day during the Issuance Period not less than one Business Day and not more than 10 Business Days after such scheduled Closing Day (the **"Rescheduled Closing Day"**)) and certify to Prudential (which certification shall be for the benefit of each Purchaser) that the Company reasonably believes that it will be able to comply with the conditions set forth in Section 4 on such Rescheduled Closing Day and that the Company will pay the Delayed Delivery Fee in accordance with Section 2(h)(3) or (b) such closing is to be canceled. In the event that the Company shall fail to give such notice referred to in the preceding sentence, Prudential (on behalf of each Purchaser) may at its election, at any time after 1:00 p.m., New York City local time, on such scheduled Closing Day, notify the Company in writing that such closing is to be canceled. Notwithstanding anything to the contrary appearing in this Agreement, the Company may not elect to reschedule a closing with respect to any given Accepted Notes on more than one occasion, unless Prudential shall have otherwise consented in writing

SECTION 4. CONDITIONS TO CLOSING.

Each Purchaser's obligation to purchase and pay for the Notes to be sold to such Purchaser at the Closing for such Notes is subject to the fulfillment to such Purchaser's satisfaction, prior to or at such Closing, of the following conditions:

Section 4.1 Representations and Warranties. The representations and warranties of the Company in this Agreement shall be correct when made and at the applicable Closing (except to the extent of changes caused by the transactions herein contemplated); *provided* that, with respect to such Closing, the Company shall be permitted to make additions and deletions to either Schedule 5.4 or Schedule 5.15 after the date of this Agreement but prior to such Closing, so long as (a) the Company shall have provided updated copies of the relevant Schedules to such Purchaser in the related Request for Purchase and (b) any such additions or deletions are in all respects satisfactory to such Purchaser as a condition to such Closing (excluding any additions or deletions to Schedule 5.4 that modify the representations set forth in Section 5.4 which additions or deletions shall be deemed to be satisfactory to the Purchasers *provided* that the Company is in compliance with Section 10.5 as of the date of such Closing).

Section 4.2 Performance; No Default. The Company shall have performed and complied with all agreements and conditions contained in this Agreement required to be performed or complied with by it prior to or at such Closing. From the date of this Agreement to such Closing, assuming that Sections 9 and 10 are applicable from the date of this Agreement, before and after giving effect to the issue and sale of the Notes at such Closing (and the application of the proceeds thereof as contemplated by Section 5.14), no Default or Event of Default shall have occurred and be continuing.

Section 4.3 Certificates.

(a) *Officer's Certificate*. The Company shall have delivered to such Purchaser an Officer's Certificate, dated the date of such Closing, certifying that the conditions specified in Sections 4.1, 4.2, 4.9 and 4.10 have been fulfilled.

(b) *Secretary's Certificate*. The Company shall have delivered to such Purchaser a certificate of its Secretary or Assistant Secretary, dated the date of such Closing, certifying as to (1) the resolutions attached thereto and other corporate proceedings and governmental approvals, if any, relating to the authorization, execution and delivery of such Notes and this Agreement, (2) the Company's organizational documents as then in effect and (3) the names and true signatures of the officers of the Company authorized to sign this Agreement and the Notes and the other documents to be delivered hereunder; *provided,* that, in lieu of the delivery of any item required by clause (1), (2) or (3) above, for any Closing, the Company may certify that there has been no change to such item since the date on which a certificate in respect of such item was most recently delivered to such Purchaser under this Section 4.3; and

(c) A good standing certificate for the Company from the Secretary of Delaware dated of a recent date prior to such Closing and such other evidence of the status of the Company as such Purchaser may reasonably request.

Section 4.4 Opinions of Counsel. Such Purchaser shall have received opinions in form and substance satisfactory to such Purchaser, dated the date of such Closing (a) from Baker & Hostetler LLP, counsel for the Company, substantially in the form set forth in Schedule 4.4(a) and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs its counsel to deliver such opinion to the Purchasers), (b) from Parkowski, Guerke and Swayze, Delaware counsel for the Company, substantially in the form set forth in Schedule 4.4(b) and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs its Delaware counsel to deliver such opinion to the Purchasers), (c) from Venable LLP, Maryland counsel for the Company, substantially in the form set forth in Schedule 4.4(c) and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs its Maryland counsel to deliver such opinion to the Purchasers), (d) from Gunster, Yoakley & Steward, P.A., Florida counsel for the Company, substantially in the form set forth in Schedule 4.4(d) and covering such other matters incident to the transactions contemplated hereby as such Purchaser or its counsel may reasonably request (and the Company hereby instructs its Florida counsel to deliver such opinion to the Purchasers and (e) from Schiff Hardin LLP, the Purchasers' special counsel in connection with such transactions, substantially in the form set forth in Schedule 4.4(e) and covering such other matters incident to such transactions as such Purchaser may reasonably request.

Section 4.5 Purchase Permitted by Applicable Law, Etc. On the date of such Closing, such Purchaser's purchase of Notes shall (a) be permitted by the laws and regulations of each jurisdiction to which such Purchaser is subject, without recourse to provisions (such as section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment, (b) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System) and (c) not subject such Purchaser to any tax, penalty or liability under or pursuant to any applicable law or regulation, which law or regulation was not in effect on the date of this Agreement. If requested by such Purchaser, such Purchaser shall have received an Officer's Certificate certifying as to such matters of fact as such Purchaser may reasonably specify to enable such Purchaser to determine whether such purchase is so permitted.

Section 4.6 Sale of Notes.

(a) Such Purchaser shall have received the Note(s) to be purchased by such Purchaser at such Closing.

(b) Contemporaneously with such Closing, the Company shall sell to each other Purchaser and each other Purchaser shall purchase the Notes to be purchased by it at such Closing as specified in the applicable Confirmation of Acceptance.

Section 4.7 Payment of Fees.

(a) Without limiting Section 15.1, the Company shall have paid to Prudential and each Purchaser on or before such Closing any fees due it pursuant to or in connection with this Agreement, including any Structuring Fee due pursuant to Section 2(h)(1), any Issuance Fee due pursuant to Section 2(h)(2) and any Delayed Delivery Fee due pursuant to Section 2(h)(3).

(b) Without limiting Section 15.1, the Company shall have paid on or before the date of this Agreement and the date of such Closing the fees, charges and disbursements of the Purchasers' special counsel referred to in Section 4.4(e) to the extent reflected in a statement of such counsel rendered to the Company at least one Business Day prior to such date.

Section 4.8 Private Placement Number. A Private Placement Number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the SVO) shall have been obtained for such Notes.

Section 4.9 Changes in Corporate Structure. The Company shall not have changed its jurisdiction of incorporation or organization, as applicable, or been a party to any merger or consolidation or succeeded to all or any substantial part of the liabilities of any other entity, at any time following the date of this Agreement, except for any such transaction where the Company is (a) in compliance with Section 10.2 and (b) the surviving or acquiring corporation.

Section 4.10 Diversification Event. No Diversification Event shall have occurred.

Section 4.11 Orders. Such Purchaser shall have received complete and correct copies of the orders identified in the applicable Request for Purchase which orders shall be satisfactory to such Purchaser and, on the date of such Closing, shall be final and in full force and effect. No appeal, review or contest of either thereof shall be pending on the date of such Closing, and, as of the date of such Closing, the time for appeal or to seek review or reconsideration of such orders shall have expired. Any conditions contained in either order shall have been satisfied to such Purchaser's reasonable satisfaction.

Section 4.12 Proceedings and Documents. All corporate and other proceedings in connection with the transactions contemplated by this Agreement and all documents and instruments incident to such transactions shall be reasonably satisfactory to such Purchaser and its special counsel, and such Purchaser and its special counsel shall have received all such counterpart originals or certified or other copies of such documents as such Purchaser or such special counsel may reasonably request.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

On the date of this Agreement and on the date of each Closing, the Company represents and warrants to each Purchaser that:

Section 5.1 Organization; Power and Authority. The Company is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, and is duly qualified as a foreign corporation and is in good standing in each

jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Company has the corporate power and authority to own or hold under lease the properties it purports to own or hold under lease, to transact the business it transacts and currently proposes to transact, to execute and deliver this Agreement and the Notes and to perform the provisions hereof and thereof.

Section 5.2 Authorization, Etc. This Agreement and the Notes have been duly authorized by all necessary corporate action on the part of the Company, and this Agreement constitutes, and upon execution and delivery thereof each Note will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section 5.3 Disclosure. This Agreement and the documents, certificates or other writings (including the financial statements provided pursuant to the terms hereof) delivered to the Purchasers by or on behalf of the Company in connection with the transactions contemplated hereby and identified in Schedule 5.3 (this Agreement and such documents, certificates or other writings and such financial statements delivered to each Purchaser prior to the applicable Closing being referred to, collectively, as the **"Disclosure Documents"**), taken as a whole, do not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading in light of the circumstances under which they were made. Except as disclosed in the Disclosure Documents, since the end of the most recent fiscal year for which audited financial statements have been furnished, there has been no change in the financial condition, operations, business or properties of the Company or any Subsidiary except changes that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.4 Organization and Ownership of Shares of Subsidiaries.

(a) Schedule 5.4 is (except as noted therein) a complete and correct list of the Company's Subsidiaries, showing, as to each Subsidiary, the name thereof, the jurisdiction of its organization, and the percentage of shares of each class of its capital stock or similar equity interests outstanding owned by the Company and each other Subsidiary.

(b) All of the outstanding shares of capital stock or similar equity interests of each Subsidiary shown in Schedule 5.4 as being owned by the Company and its Subsidiaries have been validly issued, are fully paid and non-assessable and are owned by the Company or another Subsidiary free and clear of any Lien that is prohibited by this Agreement.

(c) Each Subsidiary is a corporation or other legal entity duly organized, validly existing and, where applicable, in good standing under the laws of its jurisdiction

of organization, and is duly qualified as a foreign corporation or other legal entity and, where applicable, is in good standing in each jurisdiction in which such qualification is required by law, other than those jurisdictions as to which the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each such Subsidiary has the corporate or other power and authority to own or hold under lease the properties it purports to own or hold under lease and to transact the business it transacts and currently proposes to transact.

Section 5.5 Financial Statements; Material Liabilities. The Company has delivered to each Purchaser of Accepted Notes copies of the following financial statements identified by a principal financial officer of the Company: (a) consolidated balance sheets of the Company and its Subsidiaries as at December 31 in each of the three fiscal years of the Company most recently completed prior to the date as of which this representation is made or repeated to such Purchaser (other than fiscal years completed within 120 days prior to such date for which audited financial statements have not been released) and consolidated statements of income, stockholders' equity and cash flows of the Company and its Subsidiaries for each such year, all reported on by independent public accountants of recognized national standing and (b) a consolidated balance sheet of the Company and its Subsidiaries as at the end of the quarterly period, if any, most recently completed prior to such date and after the end of such fiscal year (other than quarterly periods completed within 60 days prior to such date for which financial statements have not been released) and the comparable quarterly period in the preceding fiscal year and consolidated statements of income, stockholders' equity and cash flows for the periods from the beginning of the fiscal years in which such quarterly periods are included to the end of such quarterly periods, prepared by the Company. All of such financial statements (including in each case the related schedules and notes) fairly present in all material respects the consolidated financial position of the Company and its Subsidiaries as of the respective dates thereof and the consolidated results of their operations and cash flows for the respective periods indicated and have been prepared in accordance with GAAP consistently applied throughout the periods involved except as set forth in the notes thereto (subject, in the case of any interim financial statements, to audits and normal year-end adjustments). The Company and its Subsidiaries do not have any Material liabilities that are not disclosed in the Disclosure Documents.

Section 5.6 Compliance with Laws, Other Instruments, Etc. The execution, delivery and performance by the Company of this Agreement and the Notes will not (a) contravene, result in any breach of, or constitute a default under, or result in the creation of any Lien in respect of any property of the Company or any Subsidiary under, any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, corporate charter or by-laws, shareholders agreement or any other Material agreement or instrument to which the Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected, (b) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority applicable to the Company or any Subsidiary, (c) violate any provision of any statute or other rule or regulation of any Governmental Authority applicable to the Company or any Subsidiary or (d) contravene, result in any breach of, or constitute a default under any indenture, mortgage, deed of trust, loan, purchase or credit agreement, lease, shareholders agreement or any other agreement or instrument to which the

Company or any Subsidiary is bound or by which the Company or any Subsidiary or any of their respective properties may be bound or affected if such contravention, breach or default could reasonably be expected to result in any liability to any Purchaser.

Section 5.7 Governmental Authorizations, Etc. No consent, approval or authorization of, or registration, filing or declaration with, any Governmental Authority is required in connection with the execution, delivery or performance by the Company of this Agreement or the Notes, other than (a) routine filings after the date of this Agreement with the SEC and/or state Blue Sky authorities, if any, and (b) those orders identified in the applicable Request for Purchase, which orders have been duly issued, are final and in full force and effect, no appeal, review or contest thereof is pending and the time for appeal or to seek review or reconsideration thereof has expired or which form a part of notice filings to be filed after the applicable Closing.

Section 5.8 Litigation; Observance, Statutes and Orders.

(a) There are no actions, suits, investigations or proceedings pending or, to the best knowledge of the Company, threatened against or affecting the Company or any Subsidiary or any property of the Company or any Subsidiary in any court or before any arbitrator of any kind or before or by any Governmental Authority that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Neither the Company nor any Subsidiary is (1) in violation of any order, judgment, decree or ruling of any court, arbitrator or Governmental Authority or (2) in violation of any applicable law, ordinance, rule or regulation of any Governmental Authority (including, without limitation, Environmental Laws, the USA PATRIOT Act or any of the other laws and regulations that are referred to in Section 5.16), in each case, which violation would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.9 Taxes. The Company and its Subsidiaries have filed all tax returns that to the knowledge of the Company are required to have been filed in any jurisdiction, and have paid all taxes shown to be due and payable on such returns and all other taxes and assessments payable by them, to the extent such taxes and assessments have become due and payable and before they have become delinquent, except for any taxes and assessments (a) the amount of which, individually or in the aggregate, is not Material or (b) the amount, applicability or validity of which is currently being contested in good faith by appropriate proceedings and with respect to which the Company or a Subsidiary, as the case may be, has established adequate reserves in accordance with GAAP. The U.S. federal income tax liabilities of the Company and its Subsidiaries have been finally determined (whether by reason of completed audits or the statute of limitations having run) for all fiscal years up to and including the fiscal year ended December 31, 2011.

Section 5.10 Title to Property; Leases. The Company and its Subsidiaries have good and sufficient title to their respective Material properties, including all such properties reflected in the most recent audited balance sheet referred to in Section 5.5 (except as sold or

otherwise disposed of in the ordinary course of business) or purported to have been acquired by the Company or any Subsidiary after such date (except as sold or otherwise disposed of in the ordinary course of business), in each case free and clear of Liens prohibited by this Agreement, except for defects in title that, individually or in the aggregate, would not have a Material Adverse Effect. All Material leases are valid and subsisting and are in full force and effect in all material respects.

Section 5.11 Licenses, Permits, Etc. The Company and its Subsidiaries own or possess all licenses, permits, franchises, authorizations, patents, copyrights, proprietary software, service marks, trademarks and trade names, or rights thereto, that are Material, without known conflict with the rights of others, except for those conflicts that, individually or in the aggregate, would not have a Material Adverse Effect.

Section 5.12 Compliance with ERISA.

(a) The Company and each ERISA Affiliate have operated and administered each Plan in compliance with all applicable laws except for such instances of noncompliance as have not resulted in and would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any ERISA Affiliate has incurred any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to Plans, and no event, transaction or condition has occurred or exists that would, individually or in the aggregate, reasonably be expected to result in the incurrence of any such liability by the Company or any ERISA Affiliate, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate, in either case pursuant to Title I or IV of ERISA or to section 430(k) of the Code or to any such penalty or excise tax provisions under the Code or federal law or section 4068 of ERISA or by the granting of a security interest in connection with the amendment of a Plan, other than such penalties, excise taxes, liabilities or Liens that would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) The present value of the aggregate benefit liabilities under each of the Plans (other than Multiemployer Plans), determined as of December 31, 2014, which as of the date of this Agreement was the end of such Plan's most recently ended plan year, on the basis of the actuarial assumptions specified for funding purposes in such Plan's actuarial valuation report, did not exceed the aggregate current value of the assets of such Plan allocable to such benefit liabilities by more than $15,066,120 in the case of any single Plan and by more than $16,304,539 in the aggregate for all Plans and such amounts, together with any increases therein occurring after December 31, 2014, would not reasonably be expected to result in a Material Adverse Effect. The term **"benefit liabilities"** has the meaning specified in section 4001 of ERISA and the terms **"current value"** and **"present value"** have the meaning specified in section 3 of ERISA.

(c) The Company and its ERISA Affiliates have not incurred, and do not presently expect to incur, withdrawal liabilities under section 4201 or 4204 of ERISA in respect of Multiemployer Plans that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(d) The expected postretirement benefit obligation (determined as of the last day of the Company's most recently ended fiscal year in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 715-60, without regard to liabilities attributable to continuation coverage mandated by section 4980B of the Code) of the Company and its Subsidiaries is not Material.

(e) The execution and delivery of this Agreement and the issuance and sale of the Notes hereunder will not involve any transaction that is subject to the prohibitions of section 406 of ERISA or in connection with which a tax could be imposed pursuant to section 4975(c)(1)(A)-(D) of the Code. The representation by the Company to each Purchaser in the first sentence of this Section 5.12(e) is made in reliance upon and subject to the accuracy of such Purchaser's representation in Section 6.2 as to the sources of the funds to be used to pay the purchase price of the Notes to be purchased by such Purchaser.

Section 5.13 Private Offering by the Company. Neither the Company nor anyone acting on its behalf has offered the Notes or any similar Securities for sale to, or solicited any offer to buy the Notes or any similar Securities from, or otherwise approached or negotiated in respect thereof with, any Person other than the Purchasers and other Institutional Accredited Investors, each of which has been offered the Notes at a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance or sale of the Notes to the registration requirements of section 5 of the Securities Act or to the registration requirements of any Securities or blue sky laws of any applicable jurisdiction.

Section 5.14 Use of Proceeds; Margin Regulations. The Company will apply the proceeds of the sale of the Notes as set forth in the applicable Request for Purchase. No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for the purpose of buying or carrying any margin stock within the meaning of Regulation U of the Board of Governors of the Federal Reserve System (12 CFR 221), or for the purpose of buying or carrying or trading in any Securities under such circumstances as to involve the Company in a violation of Regulation X of said Board (12 CFR 224) or to involve any broker or dealer in a violation of Regulation T of said Board (12 CFR 220). Margin stock does not constitute more than 5% of the value of the consolidated assets of the Company and its Subsidiaries and the Company does not have any present intention that margin stock will constitute more than 5% of the value of such assets. As used in this Section, the terms **"margin stock"** and **"purpose of buying or carrying"** shall have the meanings assigned to them in said Regulation U.

Section 5.15 Existing Indebtedness.

(a) Neither the Company nor any of its Subsidiaries has outstanding any Indebtedness except as permitted by Section 10.3. Neither the Company nor any Subsidiary is in default and no waiver of default is currently in effect, in the payment of any principal or interest on any Indebtedness of the Company or such Subsidiary and no event or condition exists with respect to any Indebtedness of the Company or any Subsidiary that would permit (or that with notice or the lapse of time, or both, would

permit) one or more Persons to cause such Indebtedness to become due and payable before its stated maturity or before its regularly scheduled dates of payment.

(b) Neither the Company nor any Subsidiary is a party to, or otherwise subject to any provision contained in, any instrument evidencing Indebtedness of the Company or such Subsidiary, any agreement relating thereto or any other agreement (including, but not limited to, its charter or any other organizational document) that limits the amount of, or otherwise imposes restrictions on the incurring of, Indebtedness of the Company, except as disclosed in Schedule 5.15.

Section 5.16 Foreign Assets Control Regulations, Etc.

(a) Neither the Company nor any Controlled Entity is (1) a Person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control, United States Department of the Treasury (**"OFAC"**) (an **"OFAC Listed Person"**) (2) an agent, department, or instrumentality of, or is otherwise beneficially owned by, controlled by or acting on behalf of, directly or indirectly, (i) any OFAC Listed Person or (ii) any Person, entity, organization, foreign country or regime that is subject to any OFAC Sanctions Program, or (3) otherwise blocked, subject to sanctions under or engaged in any activity in violation of other United States economic sanctions, including but not limited to, the Trading with the Enemy Act, the International Emergency Economic Powers Act, CISADA or any similar law or regulation with respect to Iran or any other country, the Sudan Accountability and Divestment Act, any OFAC Sanctions Program, or any economic sanctions regulations administered and enforced by the United States or any enabling legislation or executive order relating to any of the foregoing (collectively, **"U.S. Economic Sanctions"**) (each OFAC Listed Person and each other Person, entity, organization and government of a country described in clause (1), clause (2) or clause (3), a **"Blocked Person"**). Neither the Company nor any Controlled Entity has been notified that its name appears or may in the future appear on a state list of Persons that engage in investment or other commercial activities in Iran or any other country that is subject to U.S. Economic Sanctions.

(b) No part of the proceeds from the sale of the Notes hereunder constitutes or will constitute funds obtained on behalf of any Blocked Person or will otherwise be used by the Company or any Controlled Entity, directly or indirectly, (1) in connection with any investment in, or any transactions or dealings with, any Blocked Person, or (2) otherwise in violation of U.S. Economic Sanctions.

(c) Neither the Company nor any Controlled Entity, within the last five years, (1) has been found in violation of, charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes under the Currency and Foreign Transactions Reporting Act of 1970 (otherwise known as the Bank Secrecy Act), the USA PATRIOT Act or any other United States law or regulation governing such activities (collectively, **"Anti-Money Laundering Laws"**) or any U.S. Economic Sanctions violations, (2) to the Company's actual knowledge after making due inquiry, is under investigation by any Governmental Authority for possible violation of

Anti-Money Laundering Laws or any U.S. Economic Sanctions violations, (3) has been assessed civil penalties under any Anti-Money Laundering Laws or any U.S. Economic Sanctions, or (4) has had any of its funds seized or forfeited in an action under any Anti-Money Laundering Laws. The Company has established procedures and controls which it reasonably believes are adequate (and otherwise comply with applicable law) to ensure that the Company and each Controlled Entity is and will reasonably be expected to continue to be in compliance with all applicable current and future Anti-Money Laundering Laws and U.S. Economic Sanctions.

(d) (1) Neither the Company nor any Controlled Entity, within the last five years, (i) has been charged with, or convicted of bribery or any other anti-corruption related activity under any applicable law or regulation in a U.S. or any non-U.S. country or jurisdiction, including but not limited to, the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act 2010 (collectively, **"Anti-Corruption Laws"**), (ii) to the Company's actual knowledge after making due inquiry, is under investigation by any U.S. or non-U.S. Governmental Authority for possible violation of Anti-Corruption Laws, (iii) has been assessed civil or criminal penalties under any Anti-Corruption Laws or (iv) has been or is the target of sanctions imposed by the United Nations or the European Union;

(2) To the Company's actual knowledge after making due inquiry, neither the Company nor any Controlled Entity has, within the last five years, directly or indirectly offered, promised, given, paid or authorized the offer, promise, giving or payment of anything of value to a Governmental Official or commercial counterparty for the purposes of: (i) influencing any act, decision or failure to act by a Governmental Official in his or her official capacity or such commercial counterparty, (ii) inducing a Governmental Official to do or omit to do any act in violation of the Governmental Official's lawful duty, or (iii) inducing a Governmental Official or a commercial counterparty to use his or her influence with a government or instrumentality to affect any act or decision of such government or entity; in each case in order to obtain, retain or direct business or to otherwise secure an improper advantage in violation of any applicable law or regulation or which would cause any holder to be in violation of any law or regulation applicable to such holder; and

(3) No part of the proceeds from the sale of the Notes hereunder will be used, directly or indirectly, for any improper payments, including bribes, to any Governmental Official or commercial counterparty in order to obtain, retain or direct business or obtain any improper advantage. The Company has established procedures and controls which it reasonably believes are adequate (and otherwise comply with applicable law) to ensure that the Company and each Controlled Entity is and will reasonably be expected to continue to be in compliance with all applicable current and future Anti-Corruption Laws.

Section 5.17 Status under Certain Statutes. The Company is not an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended. The Company is not a "holding company" or a "subsidiary company" or an "affiliate" of a "holding company" within the meaning of the

Energy Policy Act of 2005, and is not a "public utility" within the meaning of the Federal Power Act, as amended. By purchasing the Notes, no Purchaser will be (a) a "public utility company," a "holding company" or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company" within the meaning of the Energy Policy Act of 2005, (b) a "transmitting utility" or an "electric utility" within the meaning of the Federal Power Act, as amended, (c) a "public utility" or an "electric utility" under Delaware law, Florida law, Maryland law or the law of any other state or (d) subject to the jurisdiction of the FERC, the Public Service Commission of the State of Delaware, the Public Service Commission of the State of Florida or any other commission or Person in any other state.

Section 5.18 Environmental Matters.

(a) Neither the Company nor any Subsidiary has actual knowledge of any claim or has received any notice of any claim and no proceeding has been instituted asserting any claim against the Company or any of its Subsidiaries or any of their respective real properties or other assets now or formerly owned, leased or operated by any of them, alleging any damage to the environment or violation of any Environmental Laws, except, in each case, such as would not reasonably be expected to result in a Material Adverse Effect.

(b) Neither the Company nor any Subsidiary has actual knowledge of any facts which would reasonably be expected to give rise to any claim, public or private, of violation of Environmental Laws or damage to the environment emanating from, occurring on or in any way related to real properties now or formerly owned, leased or operated by any of them or to other assets or their use, except, in each case, such as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(c) Neither the Company nor any Subsidiary has stored any Hazardous Materials on real properties now or formerly owned, leased or operated by any of them in a manner which is contrary to any Environmental Law that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(d) Neither the Company nor any Subsidiary has disposed of any Hazardous Materials in a manner which is contrary to any Environmental Law that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(e) All buildings on all real properties now owned, leased or operated by the Company or any Subsidiary are in compliance with applicable Environmental Laws, except where failure to comply could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 5.19 Notes Rank Pari Passu. The obligations of the Company under this Agreement and the Notes rank *pari passu* in right of payment with all other unsecured senior Indebtedness (actual or contingent) of the Company.

Section 5.20 Hostile Tender Offers. None of the proceeds of the sale of any Notes will be used to finance a Hostile Tender Offer.

SECTION 6. REPRESENTATIONS OF THE PURCHASERS.

Section 6.1 Purchase for Investment. Each Purchaser severally represents that (a) it is purchasing the Notes for its own account or for one or more separate accounts maintained by such Purchaser or for the account of one or more pension or trust funds and not with a view to the distribution thereof, *provided* that the disposition of such Purchaser's or their property shall at all times be within such Purchaser's or their control and (b) it is an "accredited investor" as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act (an **"Institutional Accredited Investor"**). Each Purchaser understands that the Notes have not been registered under the Securities Act and may be resold only if registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, except under circumstances where neither such registration nor such an exemption is required by law, and that the Company is not required to register the Notes.

Section 6.2 Source of Funds. Each Purchaser severally represents that at least one of the following statements is an accurate representation as to each source of funds (a **"Source"**) to be used by such Purchaser to pay the purchase price of the Notes to be purchased by such Purchaser hereunder:

(a) the Source is an "insurance company general account" (as the term is defined in the United States Department of Labor's Prohibited Transaction Exemption (**"PTE"**) 95-60) in respect of which the reserves and liabilities (as defined by the annual statement for life insurance companies approved by the NAIC (the **"NAIC Annual Statement"**)) for the general account contract(s) held by or on behalf of any employee benefit plan together with the amount of the reserves and liabilities for the general account contract(s) held by or on behalf of any other employee benefit plans maintained by the same employer (or affiliate thereof as defined in PTE 95-60) or by the same employee organization in the general account do not exceed 10% of the total reserves and liabilities of the general account (exclusive of separate account liabilities) *plus* surplus as set forth in the NAIC Annual Statement filed with such Purchaser's state of domicile; or

(b) the Source is a separate account that is maintained solely in connection with such Purchaser's fixed contractual obligations under which the amounts payable, or credited, to any employee benefit plan (or its related trust) that has any interest in such separate account (or to any participant or beneficiary of such plan (including any annuitant)) are not affected in any manner by the investment performance of the separate account; or

(c) the Source is either (1) an insurance company pooled separate account, within the meaning of PTE 90-1 or (2) a bank collective investment fund, within the meaning of the PTE 91-38 and, except as disclosed by such Purchaser to the Company in writing pursuant to this clause (c), no employee benefit plan or group of plans maintained by the same employer or employee organization beneficially owns more than 10% of all assets allocated to such pooled separate account or collective investment fund; or

(d) the Source constitutes assets of an "investment fund" (within the meaning of Part VI of PTE 84-14 (the **"QPAM Exemption"**)) managed by a "qualified professional asset manager" or "QPAM" (within the meaning of Part VI of the QPAM Exemption), no employee benefit plan's assets that are managed by the QPAM in such investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Part VI(c)(1) of the QPAM Exemption) of such employer or by the same employee organization and managed by such QPAM, represent more than 20% of the total client assets managed by such QPAM, the conditions of Part I(c) and (g) of the QPAM Exemption are satisfied, neither the QPAM nor a Person controlling or controlled by the QPAM maintains an ownership interest in the Company that would cause the QPAM and the Company to be "related" within the meaning of Part VI(h) of the QPAM Exemption and (1) the identity of such QPAM and (2) the names of any employee benefit plans whose assets in the investment fund, when combined with the assets of all other employee benefit plans established or maintained by the same employer or by an affiliate (within the meaning of Part VI(c)(1) of the QPAM Exemption) of such employer or by the same employee organization, represent 10% or more of the assets of such investment fund, have been disclosed to the Company in writing pursuant to this clause (d); or

(e) the Source constitutes assets of a "plan(s)" (within the meaning of Part IV(h) of PTE 96-23 (the **"INHAM Exemption"**)) managed by an "in-house asset manager" or "INHAM" (within the meaning of Part IV(a) of the INHAM Exemption), the conditions of Part I(a), (g) and (h) of the INHAM Exemption are satisfied, neither the INHAM nor a Person controlling or controlled by the INHAM (applying the definition of "control" in Part IV(d)(3) of the INHAM Exemption) owns a 10% or more interest in the Company and (1) the identity of such INHAM and (2) the name(s) of the employee benefit plan(s) whose assets constitute the Source have been disclosed to the Company in writing pursuant to this clause (e); or

(f) the Source is a governmental plan; or

(g) the Source is one or more employee benefit plans, or a separate account or trust fund comprised of one or more employee benefit plans, each of which has been identified to the Company in writing pursuant to this clause (g); or

(h) the Source does not include assets of any employee benefit plan, other than a plan exempt from the coverage of ERISA.

As used in this Section 6.2, the terms **"employee benefit plan," "governmental plan,"** and **"separate account"** shall have the respective meanings assigned to such terms in section 3 of ERISA.

SECTION 7. INFORMATION AS TO COMPANY.

Section 7.1 Financial and Business Information. The Company shall deliver to each holder of a Note that is an Institutional Investor:

(a) *Quarterly Statements* — within 60 days (or such shorter period as is the earlier of (x) 15 days greater than the period applicable to the filing of the Company's Quarterly Report on Form 10-Q (the "**Form 10-Q**") with the SEC regardless of whether the Company is subject to the filing requirements thereof and (y) the date by which such financial statements are required to be delivered under any Material Credit Facility or the date on which such corresponding financial statements are delivered under any Material Credit Facility if such delivery occurs earlier than such required delivery date) after the end of each quarterly fiscal period in each fiscal year of the Company (other than the last quarterly fiscal period of each such fiscal year), duplicate copies of,

(1) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such quarter, and

(2) consolidated statements of income, stockholders' equity and cash flows of the Company and its Subsidiaries, for such quarter and (in the case of the second and third quarters) for the portion of the fiscal year ending with such quarter,

setting forth in each case in comparative form the figures for the corresponding periods in the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP applicable to quarterly financial statements generally, and certified by a Senior Financial Officer as fairly presenting, in all material respects, the financial position of the companies being reported on and their results of operations and cash flows, subject to changes resulting from year-end adjustments, *provided* that delivery within the time period specified above of copies of the Company's Form 10-Q prepared in compliance with the requirements therefor and filed with the SEC shall be deemed to satisfy the requirements of this Section 7.1(a);

(b) *Annual Statements* — within 120 days (or such shorter period as is the earlier of (x) 15 days greater than the period applicable to the filing of the Company's Annual Report on Form 10-K (the **"Form 10-K"**) with the SEC regardless of whether the Company is subject to the filing requirements thereof and (y) the date by which such financial statements are required to be delivered under any Material Credit Facility or the date on which such corresponding financial statements are delivered under any Material Credit Facility if such delivery occurs earlier than such required delivery date) after the end of each fiscal year of the Company, duplicate copies of,

(1) a consolidated balance sheet of the Company and its Subsidiaries as at the end of such year,

(2) consolidated statements of income, stockholders' equity and cash flows of the Company and its Subsidiaries for such year, and

(3) consolidating balance sheets and statements of income of the Company and its Subsidiaries for such year,

setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, prepared in accordance with GAAP, and accompanied by an opinion

thereon (without a "going concern" or similar qualification or exception and without any qualification or exception as to the scope of the audit on which such opinion is based) of independent public accountants of recognized national standing, which opinion shall state that such financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their results of operations and cash flows and have been prepared in conformity with GAAP, and that the examination of such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances, *provided* that the delivery within the time period specified above of the Company's Form 10-K for such fiscal year (together with the Company's annual report to shareholders, if any, prepared pursuant to Rule 14a-3 under the Securities Exchange Act of 1934) prepared in accordance with the requirements therefor and filed with the SEC, shall be deemed to satisfy the requirements of this Section 7.1(b);

(c) *Audit Reports* — promptly upon receipt thereof, one copy of each other report submitted to the Company or any Subsidiary by independent accountants in connection with any annual, interim or special audit made by them of the books of the Company or any Subsidiary;

(d) *SEC and Other Reports* — promptly upon their becoming available, one copy of (1) each financial statement, report, notice or proxy statement sent by the Company or any Subsidiary to its principal lending banks as a whole (excluding information sent to such banks in the ordinary course of administration of a bank facility, such as information relating to pricing and borrowing availability) or to its public Securities holders generally, and (2) each regular or periodic report, each registration statement that shall have become effective (without exhibits except as expressly requested by such holder), and each prospectus and all amendments thereto (other than registration statements on Form S-8 and any corresponding prospectus) filed by the Company or any Subsidiary with the SEC;

(e) *Notice of Default or Event of Default* — promptly, and in any event within five days after a Responsible Officer becoming aware of the existence of any Default or Event of Default, a written notice specifying the nature and period of existence thereof and what action the Company is taking or proposes to take with respect thereto;

(f) *Report on Proceedings* — promptly upon the Company's making public information with respect to (1) any proposed or pending investigation of it or any Subsidiary by any Governmental Authority, or (2) any court or administrative proceeding, that in either case would reasonably be expected to have a Material Adverse Effect, a notice specifying its nature and the action the Company is taking with respect thereto;

(g) *ERISA Matters* — promptly, and in any event within 10 days after a Responsible Officer becoming aware of any of the following, a written notice setting forth the nature thereof and the action, if any, that the Company or an ERISA Affiliate proposes to take with respect thereto:

(1) with respect to any Plan, any reportable event, as defined in section 4043(c) of ERISA and the regulations thereunder, for which notice thereof has not been waived pursuant to such regulations as in effect on the date hereof; or

(2) the taking by the PBGC of steps to institute, or the threatening by the PBGC of the institution of, proceedings under section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Company or any ERISA Affiliate of a notice from a Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan; or

(3) any event, transaction or condition that could result in the incurrence of any liability by the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to Plans, or in the imposition of any Lien on any of the rights, properties or assets of the Company or any ERISA Affiliate pursuant to Title I or IV of ERISA or such penalty or excise tax provisions, if such penalty, excise tax, liability or Lien, taken together with any other such liabilities or Liens then existing, would reasonably be expected to have a Material Adverse Effect;

(h) *Annual Regulatory Reports* — promptly upon their becoming available, copies of each annual report required to be filed by the Company or any Subsidiary with any of the State Commissions or with the FERC;

(i) *Resignation or Replacement of Auditors* — within 10 days following the date on which the Company's independent auditors resign or the Company elects to change independent auditors, as the case may be, notification thereof, together with such supporting information as the Required Holders may request; and

(j) *Requested Information* — with reasonable promptness, such other data and information relating to the business, operations, affairs, financial condition, assets or properties of the Company or any of its Subsidiaries (including, but without limitation, actual copies of the Company's Form 10-Q and Form 10-K) or relating to the ability of the Company to perform its obligations hereunder and under the Notes as from time to time may be reasonably requested by any such holder of a Note.

Section 7.2 Officer's Certificate. Each set of financial statements delivered to a holder of a Note pursuant to Section 7.1(a) or Section 7.1(b) shall be accompanied by a certificate of a Senior Financial Officer:

(a) *Covenant Compliance* — setting forth the information from such financial statements that is required in order to establish whether the Company was in compliance with the requirements of Section 10 during the quarterly or annual period covered by the statements then being furnished, (including with respect to each such provision that involves mathematical calculations, the information from such financial statements that is required to perform such calculations) and detailed calculations of the maximum or minimum amount, ratio or percentage, as the case may be, permissible under the terms of

such Section, and the calculation of the amount, ratio or percentage then in existence. In the event that the Company or any Subsidiary has made an election to measure any financial liability using fair value (which election is being disregarded for purposes of determining compliance with this Agreement pursuant to Section 22.2) as to the period covered by any such financial statement, such Senior Financial Officer's certificate as to such period shall include a reconciliation from GAAP with respect to such election; and

(b) *Event of Default* — certifying that such Senior Financial Officer has reviewed the relevant terms hereof and has made, or caused to be made, under his or her supervision, a review of the transactions and conditions of the Company and its Subsidiaries from the beginning of the quarterly or annual period covered by the statements then being furnished to the date of the certificate and that such review shall not have disclosed the existence during such period of any condition or event that constitutes a Default or an Event of Default or, if any such condition or event existed or exists specifying the nature and period of existence thereof and what action the Company shall have taken or proposes to take with respect thereto.

Section 7.3 Visitation. The Company shall permit the representatives of each holder of a Note that is an Institutional Investor:

(a) *No Default* — if no Default or Event of Default then exists, at the expense of such holder and upon reasonable prior notice to the Company, to visit the principal executive office of the Company, to discuss the affairs, finances and accounts of the Company and its Subsidiaries with the Company's officers, and (with the consent of the Company, which consent will not be unreasonably withheld) to visit the other offices and properties of the Company and each Subsidiary, all at such reasonable times and as often as may be reasonably requested in writing; and

(b) *Default* — if a Default or Event of Default then exists, at the expense of the Company to visit and inspect any of the offices or properties of the Company or any Subsidiary, to examine all their respective books of account, records, reports and other papers, to make copies and extracts therefrom, and to discuss their respective affairs, finances and accounts with their respective officers and independent public accountants (and by this provision the Company authorizes said accountants to discuss the affairs, finances and accounts of the Company and its Subsidiaries), all at such times and as often as may be requested.

Section 7.4 Electronic Delivery. Financial statements, opinions of independent certified public accountants, other information and Officers' Certificates that are required to be delivered by the Company pursuant to Sections 7.1(a), (b) or (d) and Section 7.2 shall be deemed to have been delivered if the Company satisfies any of the following requirements with respect thereto:

(a) such financial statements satisfying the requirements of Section 7.1(a) or (b) and related Officer's Certificate satisfying the requirements of Section 7.2 are delivered to each holder of a Note by e-mail;

(b) the Company shall have timely filed such Form 10–Q or Form 10–K, satisfying the requirements of Section 7.1(a) or Section 7.1(b), as the case may be, with the SEC on EDGAR and shall have made such form and the related Officer's Certificate satisfying the requirements of Section 7.2 available on its home page on the internet, which is located at http://chpk.com as of the date of this Agreement;

(c) such financial statements satisfying the requirements of Section 7.1(a) or Section 7.1(b) and related Officer's Certificate satisfying the requirements of Section 7.2 are timely posted by or on behalf of the Company on IntraLinks or on any other similar website to which each holder of Notes has free access; or

(d) the Company shall have filed any of the items referred to in Section 7.1(d) with the SEC on EDGAR and shall have made such items available on its home page on the internet or on IntraLinks or on any other similar website to which each Purchaser and each holder of Notes has free access;

provided however, that in the case of any of clauses (b), (c) or (d), upon the request of any holder of a Note that is an Institutional Investor to receive written notice of posting and/or paper copies of such forms, financial statements and Officer's Certificates, (1) the Company shall give such holder of a Note prior written notice, which may be by e-mail or in accordance with Section 18, of such posting or filing in connection with each delivery, and (2) the Company will promptly e-mail such documents or deliver such paper copies, as the case may be, to such holder. Each holder of Notes that is an Institutional Investor shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

SECTION 8. PAYMENT AND PREPAYMENT OF THE NOTES.

Section 8.1 Required Prepayments; Maturity.

Each Series of Notes shall be subject to required prepayments, if any, set forth in the Notes of such Series, *provided* that upon any partial prepayment of the Notes of any Series pursuant to Section 8.2, the principal amount of each required prepayment of the Notes of such Series becoming due under this Section 8.1 on and after the date of such prepayment shall be reduced in the same proportion as the aggregate unpaid principal amount of the Notes of such Series is reduced as a result of such prepayment.

As provided therein, the entire unpaid principal balance of each Note shall be due and payable on the Maturity Date thereof.

Section 8.2 Optional Prepayments with Make-Whole Amount. The Company may, at its option, upon notice as provided below, prepay at any time all, or from time to time any part of, any Series of Notes, in an amount not less than $1,000,000 (and integral multiples of $100,000 in excess thereof) of the aggregate principal amount of such Series of Notes then outstanding in the case of a partial prepayment, at 100% of the principal amount so prepaid, and the Make-Whole Amount determined for the prepayment date with respect to such principal amount. The Company will give each holder of the Series of Notes to be prepaid written notice of each optional prepayment under this Section 8.2 not less than 10 days and not more than 60 days prior to the date fixed for such prepayment unless the Company and the

Required Holders agree to another time period pursuant to Section 17. Each such notice shall specify such date (which shall be a Business Day), the aggregate principal amount of the Series of Notes to be prepaid on such date, the principal amount of each Note held by such holder to be prepaid (determined in accordance with Section 8.3), and the interest to be paid on the prepayment date with respect to such principal amount being prepaid, and shall be accompanied by a certificate of a Senior Financial Officer as to the estimated Make-Whole Amount due in connection with such prepayment (calculated as if the date of such notice were the date of the prepayment), setting forth the details of such computation. Two Business Days prior to such prepayment, the Company shall deliver to each holder of the Series of Notes to be prepaid a certificate of a Senior Financial Officer specifying the calculation of such Make-Whole Amount as of the specified prepayment date.

Section 8.3 Allocation of Partial Prepayments. In the case of any partial prepayment of the Notes of any Series pursuant to any required prepayments, if any, set forth in the Notes of such Series or Section 8.2, the principal amount of the Notes of such Series to be prepaid shall be allocated among all of the Notes of such Series at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof not theretofore called for prepayment.

Section 8.4 Maturity; Surrender, Etc. In the case of each optional prepayment of Notes of any Series pursuant to this Section 8, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date and the applicable Make-Whole Amount, if any. From and after such date, unless the Company shall fail to pay such principal amount when so due and payable, together with the interest and Make-Whole Amount, if any, as aforesaid, interest on such principal amount shall cease to accrue. Any Note paid or prepaid in full shall be surrendered to the Company and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

Section 8.5 Purchase of Notes. The Company will not, and will not permit any Affiliate to, purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the outstanding Notes of any Series except (a) upon the payment or prepayment of the Notes of such Series in accordance with this Agreement and the Notes of such Series or (b) pursuant to an offer to purchase made by the Company or an Affiliate pro rata to the holders of all Notes of such Series at the time outstanding upon the same terms and conditions. Any such offer shall provide each holder of a Note of such Series with sufficient information to enable it to make an informed decision with respect to such offer, and shall remain open for at least 20 Business Days. If the holders of more than 25% of the principal amount of the Notes of such Series then outstanding accept such offer, the Company shall promptly notify the remaining holders of Notes of such Series of such fact and the expiration date for the acceptance by holders of Notes of such Series of such offer shall be extended by the number of days necessary to give each such remaining holder at least five Business Days from its receipt of such notice to accept such offer. The Company will promptly cancel all Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of Notes pursuant to this Agreement and no Notes may be issued in substitution or exchange for any such Notes.

Section 8.6 Make-Whole Amount.

"Make-Whole Amount" means, with respect to any Note, an amount equal to the excess, if any, of the Discounted Value of the Remaining Scheduled Payments with respect to the Called Principal of such Note over the amount of such Called Principal, *provided* that the Make-Whole Amount may in no event be less than zero. For the purposes of determining the Make-Whole Amount, the following terms have the following meanings:

"Called Principal" means, with respect to any Note, the principal of such Note that is to be prepaid pursuant to Section 8.2 or Section 8.8 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

"Discounted Value" means, with respect to the Called Principal of any Note, the amount obtained by discounting all Remaining Scheduled Payments with respect to such Called Principal from their respective scheduled due dates to the Settlement Date with respect to such Called Principal, in accordance with accepted financial practice and at a discount factor (applied on the same periodic basis as that on which interest on the Notes is payable) equal to the Reinvestment Yield with respect to such Called Principal.

"Reinvestment Yield" means, with respect to the Called Principal of any Note, 0.50% over the yield to maturity implied by the ask-side yield(s) reported as of 10:00 a.m. (New York City time) on the second Business Day preceding the Settlement Date with respect to such Called Principal, on the display designated as "Page PX1" (or such other display as may replace Page PX1) on Bloomberg Financial Markets for the most recently issued actively traded on-the-run U.S. Treasury securities (**"Reported"**) having a maturity equal to the Remaining Average Life of such Called Principal as of such Settlement Date. If there are no such U.S. Treasury securities Reported having a maturity equal to such Remaining Average Life, then such implied yield to maturity will be determined by (a) converting U.S. Treasury bill quotations to bond equivalent yields in accordance with accepted financial practice and (b) interpolating linearly between the ask-side yields Reported for the applicable most recently issued actively traded on-the-run U.S. Treasury securities with the maturities (1) closest to and greater than such Remaining Average Life and (2) closest to and less than such Remaining Average Life. The Reinvestment Yield shall be rounded to the number of decimal places as appears in the interest rate of the applicable Note.

If such yields are not Reported or the yields Reported as of such time are not ascertainable (including by way of interpolation), then "Reinvestment Yield" means, with respect to the Called Principal of any Note, 0.50% over the yield to maturity implied by the U.S. Treasury constant maturity yields reported, for the latest day for which such yields have been so reported as of the second Business Day preceding the Settlement Date with respect to such Called Principal, in Federal Reserve Statistical Release H.15 (or any comparable successor publication) for the U.S. Treasury constant maturity having a term equal to the Remaining Average Life of such Called Principal as of such Settlement Date. If there is no such U.S. Treasury constant maturity having a term equal to such Remaining Average Life, such implied yield to maturity will be determined by interpolating linearly between (i) the U.S. Treasury constant maturity so reported with the term closest to and greater than such Remaining Average Life and (ii) the U.S. Treasury constant maturity so reported with the term closest to and less than such Remaining Average Life. The Reinvestment Yield shall be rounded to the number of decimal places as appears in the interest rate of the applicable Note.

"Remaining Average Life" means, with respect to any Called Principal, the number of years obtained by dividing (a) such Called Principal into (b) the sum of the products obtained by multiplying (1) the principal component of each Remaining Scheduled Payment with respect to such Called Principal by (2) the number of years, computed on the basis of a 360-day year composed of twelve 30-day months and calculated to two decimal places, that will elapse between the Settlement Date with respect to such Called Principal and the scheduled due date of such Remaining Scheduled Payment.

"Remaining Scheduled Payments" means, with respect to the Called Principal of any Note, all payments of such Called Principal and interest thereon that would be due after the Settlement Date with respect to such Called Principal if no payment of such Called Principal were made prior to its scheduled due date, *provided* that if such Settlement Date is not a date on which interest payments are due to be made under the Notes, then the amount of the next succeeding scheduled interest payment will be reduced by the amount of interest accrued to such Settlement Date and required to be paid on such Settlement Date pursuant to Section 8.4 or Section 12.1.

"Settlement Date" means, with respect to the Called Principal of any Note, the date on which such Called Principal is to be prepaid pursuant to Section 8.2 or Section 8.8 or has become or is declared to be immediately due and payable pursuant to Section 12.1, as the context requires.

Section 8.7 Payments Due on Non-Business Days. Anything in this Agreement or the Notes to the contrary notwithstanding, (a) subject to clause (b), any payment of interest on any Note that is due on a date that is not a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day; and (b) any payment of principal of or Make-Whole Amount on any Note (including principal due on the Maturity Date of such Note) that is due on a date that is not a Business Day shall be made on the next succeeding Business Day and shall include the additional days elapsed in the computation of interest payable on such next succeeding Business Day.

Section 8.8 Offer to Prepay Upon Diversification Event. If, at any time, the aggregate net book value of all assets that are used in the regulated utilities business segments of the Company and its Subsidiaries is less than 50% of Consolidated Total Assets (a **"Diversification Event"**), each holder of any of the Notes then outstanding may elect, at its option, by written notice to the Company, to declare the outstanding Notes held by such holder to be due and payable on the next Business Day after the 30th day following such notice (the **"Diversification Event Prepayment Date"**). Upon such election by any holder of the Notes, the Company will pay the aggregate principal amount of such holder's Notes on the Diversification Event Prepayment Date, together with interest accrued to the Diversification Event Prepayment Date on such principal amount, and an amount equal to the Make-Whole Amount, if any, applicable to such payment. Upon the occurrence of a Diversification Event, the Company shall deliver to each holder of the outstanding Notes a notice that such event has occurred and the reason or reasons for such occurrence. Two Business Days prior to the Diversification Event Prepayment Date, the Company shall deliver to each holder of Notes a

certificate of a Senior Financial Officer specifying the calculation of such Make-Whole Amount as of the Diversification Event Prepayment Date.

SECTION 9. AFFIRMATIVE COVENANTS.

The Company covenants that so long as any of the Notes are outstanding:

Section 9.1 Compliance with Laws. Without limiting Section 10.7, the Company will, and will cause each of its Subsidiaries to, comply with all laws, ordinances or governmental rules or regulations to which each of them is subject, including, without limitation, ERISA, Environmental Laws, the USA PATRIOT Act and the other laws and regulations that are referred to in Section 5.16, and will obtain and maintain in effect all licenses, certificates, permits, franchises and other governmental authorizations necessary to the ownership of their respective properties or to the conduct of their respective businesses, in each case to the extent necessary to ensure that non-compliance with such laws, ordinances or governmental rules or regulations or failures to obtain or maintain in effect such licenses, certificates, permits, franchises and other governmental authorizations would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.2 Insurance. The Company will, and will cause each of its Subsidiaries to, maintain, with financially sound and reputable insurers, insurance with respect to their respective properties and businesses against such casualties and contingencies, of such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is customary in the case of entities of established reputations engaged in the same or a similar business and similarly situated.

Section 9.3 Maintenance of Properties. The Company will, and will cause each of its Subsidiaries to, maintain and keep, or cause to be maintained and kept, their respective properties in good repair, working order and condition (other than ordinary wear and tear), so that the business carried on in connection therewith may be properly conducted at all times, *provided* that this Section shall not prevent the Company or any Subsidiary from discontinuing the operation and the maintenance of any of its properties if such discontinuance is desirable in the conduct of its business and the Company has concluded that such discontinuance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.4 Payment of Taxes. The Company will, and will cause each of its Subsidiaries to, file all income or similar tax returns required to be filed in any jurisdiction and to pay and discharge all taxes shown to be due and payable on such returns and all other taxes, assessments, governmental charges, or levies payable by any of them, to the extent the same have become due and payable and before they have become delinquent, *provided* that neither the Company nor any Subsidiary need pay any such tax, assessment, charge or levy if (a) the amount, applicability or validity thereof is contested by the Company or such Subsidiary on a timely basis in good faith and in appropriate proceedings, and the Company or a Subsidiary has established adequate reserves therefor in accordance with GAAP on the books of the Company or such Subsidiary or (b) the nonpayment of all such taxes, assessments, charges or levies would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 9.5 Corporate Existence, Etc. Subject to Section 10.2, the Company will at all times preserve and keep its corporate existence in full force and effect. Subject to Sections 10.2 and 10.5, the Company will at all times preserve and keep in full force and effect the corporate existence of each of its Subsidiaries (unless merged into the Company or a Wholly-Owned Subsidiary) and all rights and franchises of the Company and its Subsidiaries unless, in the good faith judgment of the Company, the termination of or failure to preserve and keep in full force and effect such corporate existence, right or franchise would not, individually or in the aggregate, have a Material Adverse Effect.

Section 9.6 Books and Records. The Company will, and will cause each of its Subsidiaries to, maintain proper books of record and account in conformity with GAAP and all applicable requirements of any Governmental Authority having legal or regulatory jurisdiction over the Company or such Subsidiary, as the case may be. The Company will, and will cause each of its Subsidiaries to, keep books, records and accounts which, in reasonable detail, accurately reflect all transactions and dispositions of assets. The Company and its Subsidiaries have devised a system of internal accounting controls sufficient to provide reasonable assurances that their respective books, records, and accounts accurately reflect all transactions and dispositions of assets and the Company will, and will cause each of its Subsidiaries to, continue to maintain such system.

Section 9.7 Subsidiary Guarantors. The Company will cause each of its Subsidiaries that guarantees or otherwise becomes liable at any time, whether as a borrower or an additional or co-borrower or otherwise, for or in respect of any Indebtedness under any Material Credit Facility to concurrently therewith:

(a) enter into an agreement in form and substance satisfactory to the Required Holders providing for the guaranty by such Subsidiary, on a joint and several basis with all other such Subsidiaries, of (1) the prompt payment in full when due of all amounts payable by the Company pursuant to the Notes (whether for principal, interest, Make-Whole Amount or otherwise) and this Agreement, including, without limitation, all indemnities, fees and expenses payable by the Company thereunder and (2) the prompt, full and faithful performance, observance and discharge by the Company of each and every covenant, agreement, undertaking and provision required pursuant to the Notes or this Agreement to be performed, observed or discharged by it (a **"Subsidiary Guaranty"**); and

(b) deliver the following to each holder of a Note:

(1) an executed counterpart of such Subsidiary Guaranty;

(2) a certificate signed by an authorized responsible officer of such Subsidiary containing representations and warranties on behalf of such Subsidiary to the same effect, *mutatis mutandis*, as those contained in Sections 5.1, 5.2, 5.6 and 5.7 of this Agreement (but with respect to such Subsidiary and such Subsidiary Guaranty rather than the Company);

(3) all documents as may be reasonably requested by the Required Holders to evidence the due organization, continuing existence and good standing of such Subsidiary and the due authorization by all requisite action on the part of such Subsidiary of the execution and delivery of such Subsidiary Guaranty and the performance by such Subsidiary of its obligations thereunder; and

(4) an opinion of counsel reasonably satisfactory to the Required Holders covering such matters relating to such Subsidiary and such Subsidiary Guaranty as the Required Holders may reasonably request.

(c) If at any time, pursuant to the terms and conditions of any Material Credit Facility, a Subsidiary Guarantor is discharged and released from its guaranty of Indebtedness under such Material Credit Facility and (1) such Subsidiary Guarantor is no longer a borrower or an additional or co-borrower under such Material Credit Facility or a guarantor, borrower or additional or co-borrower under any other Material Credit Facility and (2) the Company shall have delivered to each holder of a Note an Officer's Certificate certifying that (i) the conditions specified in clause (1) above have been satisfied and (ii) immediately before the release of such Subsidiary Guarantor from its Subsidiary Guaranty and after giving effect thereto, no Default or Event of Default shall have existed or would exist, then, upon receipt by the holders of Notes of such Officer's Certificate, such Subsidiary Guarantor will be discharged and released, automatically and without the need for any further action, from its obligations under its Subsidiary Guaranty; *provided* that, if in connection with any release of a Subsidiary Guarantor from its guaranty of Indebtedness under such Material Credit Facility any fee or other consideration (excluding any repayment of the principal or interest or payment of any pre-existing prepayment of similar repayment fee under such Material Credit Facility in connection with such release) is paid or given to any holder of Indebtedness under such Material Credit Facility in connection with such release, each holder of a Note shall receive equivalent consideration on a pro rata basis (determined, in respect of revolving credit facilities, based upon the commitment in effect thereunder rather than amounts outstanding thereunder) in connection with such Subsidiary Guarantor's release from its Subsidiary Guaranty. Without limiting the foregoing, for purposes of further assurance, each holder of a Note agrees to provide to the Company and such Subsidiary Guarantor, if reasonably requested by the Company or such Subsidiary Guarantor and at the Company's expense, written evidence of such discharge and release signed by such Purchaser or holder.

SECTION 10. NEGATIVE COVENANTS.

The Company covenants that so long as any of the Notes are outstanding:

Section 10.1 Transactions with Affiliates. The Company will not, and will not permit any Subsidiary to, enter into directly or indirectly any Material transaction or Material group of related transactions (including without limitation the purchase, lease, sale or exchange of properties of any kind or the rendering of any service) with any Affiliate (other than the Company or another Subsidiary), except pursuant to the reasonable requirements of the Company's or such Subsidiary's business and upon fair and reasonable terms no less favorable

to the Company or such Subsidiary than would be obtainable in a comparable arm's-length transaction with a Person not an Affiliate; *provided* that the foregoing restriction shall not apply to the payment or grant of reasonable compensation, benefits and indemnities to any director or officer of the Company or any Subsidiary. Notwithstanding the foregoing, nothing in this Section 10.1 shall restrict transactions with any Affiliate that have been approved by or are entered into pursuant to any orders or decisions of any Governmental Authority having jurisdiction over the Company or any of its Subsidiaries.

Section 10.2 Merger, Consolidation. The Company will not, and will not permit any Subsidiary to, be a party to any merger or consolidation or sell, lease or otherwise transfer all or substantially all of its assets in a single transaction or series of transactions, *provided* that the Company may merge or consolidate with, or sell all or substantially all of its assets to, another Person if all of the following conditions are met:

(a) the surviving or acquiring entity is a solvent corporation or limited liability company organized and existing under the laws of the United States or any State thereof (including the District of Columbia);

(b) the surviving or acquiring corporation or limited liability company, if not the Company, shall have executed and delivered to each Purchaser and each holder of a Note its assumption of the due and punctual performance and observance of each covenant and condition of this Agreement and the Notes; and

(c) immediately before and immediately after giving effect to such transaction, the surviving or acquiring corporation or limited liability company would be in compliance with Section 10.3 (*provided* that, in the case of Section 10.3(a), all Indebtedness is determined as of such time and not as of the last day of the immediately preceding fiscal quarter) and no Default or Event of Default shall have occurred and be continuing;

provided, *further*, that any Subsidiary may merge or consolidate with or into the Company, any other Subsidiary or any other Person so long as (1) immediately before and immediately after giving effect to such transaction, the Company would be in compliance with Section 10.3 (*provided* that, in the case of Section 10.3(a), all Indebtedness is determined as of such time and not as of the last day of the immediately preceding fiscal quarter), (2) at the time of such transaction and immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing, (3) in any merger or consolidation involving the Company, the Company shall be the surviving or continuing corporation and (4) in any merger or consolidation involving any Subsidiary and any other Person (other than the Company or another Subsidiary), (i) such Subsidiary shall be the surviving or continuing entity or (ii) such other Person shall become a Subsidiary as of the effective time of the merger or consolidation.

No such sale, lease or other transfer of all or substantially all of the assets of the Company shall have the effect of releasing the Company or any successor corporation or limited liability company that shall have become such in the manner prescribed in this Section 10.2 from its liability under this Agreement or the Notes.

Section 10.3 Limitations on Indebtedness.

(a) The Company will not, as of the last day of each fiscal quarter of the Company, permit the aggregate principal amount of all outstanding secured and unsecured Funded Indebtedness of the Company and secured and unsecured Current and Funded Indebtedness of Subsidiaries (excluding Indebtedness owed by a Subsidiary to the Company or a Wholly-Owned Subsidiary) to exceed 65% of Total Capitalization.

(b) The Company will not, at any time, permit the aggregate principal amount of (1) outstanding Purchase Money Indebtedness of the Company and its Subsidiaries, *plus* (2) outstanding Indebtedness secured by Liens permitted pursuant to Sections 10.4(i) and (j) and (3) outstanding unsecured Current or Funded Indebtedness of Subsidiaries (excluding (i) the FPU Indebtedness and (ii) Current or Funded Indebtedness owed by a Subsidiary to the Company or a Wholly-Owned Subsidiary) to exceed 20% of Total Capitalization.

For the avoidance of doubt, this Section 10.3 does not prohibit the Company from creating, incurring, becoming liable for or guaranteeing any Current Indebtedness.

Section 10.4 Liens and Encumbrances. The Company will not, and will not permit any Subsidiary to, cause or permit or agree or consent to cause or permit in the future (upon the happening of a contingency or otherwise), any of its property, whether now owned or subsequently acquired, to be subject to a Lien except:

(a) Liens securing the payment of taxes, assessments or governmental charges or levies or the demands of suppliers, mechanics, materialmen, repairmen, carriers, warehousers, landlords and other like Persons, *provided* that payment thereof is not at the time required by Section 9.4;

(b) Liens incurred or deposits made in the ordinary course of business (1) in connection with worker's compensation, unemployment insurance, social security and other like laws, (2) to secure the performance of letters of credit, bids, tenders, sales contracts, leases, statutory obligations, surety, appeal and performance bonds and other similar obligations or (3) to secure Permitted Commodity Hedging Obligations, in each case not incurred in connection with the borrowing of money, the obtaining of advances or the payment of the deferred purchase price of property;

(c) attachment, judgment and other similar Liens arising in connection with court proceedings, *provided* that (1) execution and other enforcement are effectively stayed, (2) all claims which the Liens secure are being actively contested in good faith and by appropriate proceedings, (3) adequate book reserves have been established with respect thereto, and (4) the owning company's right to use its property is not materially adversely affected thereby;

(d) Liens on property of a Subsidiary, *provided* that they secure only obligations owing to the Company or a Wholly-Owned Subsidiary;

(e) the Liens existing at the date of this Agreement which are set forth in Schedule 10.4(e) and any renewal, extension or refunding of any such Lien, *provided* that in the case of any such renewal, extension or refunding (1) the principal amount of Indebtedness secured by such Lien immediately prior to such extension, renewal or refunding is not increased or the maturity thereof reduced, (2) such Lien is not extended to any other property and (3) immediately before and after such renewal, extension or refunding, no Default or Event of Default shall have occurred and be continuing;

(f) non-exclusive licenses, leases or subleases granted to other Persons in the ordinary course of business and not interfering in any material respect with the business of the Company and its Subsidiaries;

(g) customary bankers' Liens and rights of setoff arising, in each case, by operation of law and incurred on deposits made in the ordinary course of business;

(h) Liens securing Purchase Money Indebtedness of the Company or a Subsidiary, *provided* that (1) the Purchase Money Indebtedness secured by such Liens is then permitted by Section 10.3 (*provided* that, in the case of Section 10.3(a), all Indebtedness is determined as of the date of the incurrence of such Lien and not as of the last day of the immediately preceding fiscal quarter) and (2) no such Lien shall extend to or cover any property not originally subject thereto, other than improvements to the property originally subject thereto;

(i) (1) any Lien existing on property of a Person immediately prior to its being consolidated with or merged into the Company or a Subsidiary or its becoming a Subsidiary, or any Lien existing on any property acquired by the Company or a Subsidiary at the time such property is so acquired (whether or not the Indebtedness secured thereby shall have assumed), *provided* that (i) any Indebtedness secured by such Liens is then permitted by Section 10.3 (*provided* that, in the case of Section 10.3(a), all Indebtedness is determined as of the date of such consolidation or merger, such Person becoming a Subsidiary or such acquisition, as applicable, and not as of the last day of the immediately preceding fiscal quarter), (ii) no such Lien shall have been created in contemplation of such consolidation or merger or such Person's becoming a Subsidiary or such acquisition of property and (iii) no such Lien shall extend to or cover any property not originally subject thereto, other than improvements to the property originally subject thereto and (2) any renewal, extension or refunding of any Lien in Section 10.4(i)(1), *provided* that in the case of any such renewal, extension or refunding (i) the principal amount of Indebtedness secured by such Lien immediately prior to such extension, renewal or refunding is not increased or the maturity thereof reduced, (ii) such Lien is not extended to any other property and (iii) immediately before and after such renewal, extension or refunding, no Default or Event of Default shall have occurred and be continuing; and

(j) other Liens not otherwise permitted by paragraphs (a) through (i), inclusive, of this Section 10.4 securing Indebtedness of the Company or its Subsidiaries, *provided*, that the Indebtedness secured by such Liens is then permitted by Section 10.3 (*provided* that, in the case of Section 10.3(a), all Indebtedness is determined as of the date

of the incurrence of such Lien and not as of the last day of the immediately preceding fiscal quarter) and *provided further* that, notwithstanding the foregoing, the Company will not, and will not permit any of its Subsidiaries to, secure any Indebtedness outstanding under or pursuant to any Material Credit Facility pursuant to this Section 10.4(j) unless and until the Notes (and any guaranty delivered in connection therewith) shall concurrently be secured equally and ratably with such Indebtedness pursuant to documentation reasonably acceptable to the Required Holders in substance and in form, including, without limitation, an intercreditor agreement and opinions of counsel to the Company and/or any such Subsidiary, as the case may be, from counsel that is reasonably acceptable to the Required Holders.

Section 10.5 Sale of Property and Subsidiary Stock.

(a) The Company will not, and will not permit any Subsidiary to, except in the ordinary course of business, sell, lease, transfer or otherwise dispose of any of its assets (not including Excluded Assets); *provided* that the foregoing restriction does not apply to the sale of assets for a cash consideration to a Person other than an Affiliate, if all of the following conditions are met:

(1) the amount of such assets (valued at net book value), together with all other assets of the Company and Subsidiaries previously disposed of (other than in the ordinary course of business) as permitted by this Section 10.5(a) and the assets of any Subsidiary disposed of as permitted by Section 10.5(b)(2) during the fiscal year in which the disposition occurs does not exceed 10% of Consolidated Total Assets as of the end of the fiscal year then most recently ended; *provided* that assets, as so valued, may be sold in excess of 10% of Consolidated Total Assets in any fiscal year if either (i) within one year of such sale, the proceeds from the sale of such assets are used, or committed by the Company's Board of Directors to be used, to acquire other assets of at least equivalent value and earning power, or (ii) with the written consent of the holders of the Notes, the proceeds from sale of such assets are used immediately upon receipt to prepay pro rata the Notes of all Series under Section 8.2 and other senior Funded Indebtedness of the Company; and

(2) in the opinion of the Company's Board of Directors, the sale is for fair value and is in the best interest of the Company; and

(3) immediately before and immediately after the consummation of the sale, and after giving effect thereto, no Default or Event of Default would exist.

For the purpose of this paragraph (a), any transfer by the Company of any assets of its Florida division and the propane assets of Sharp Energy and Sharpgas located in Florida to FPU at a time when FPU is a Wholly-Owned Subsidiary shall be deemed to be in the ordinary course of business.

(b) The Company will not, and will not permit any Subsidiary to, dispose of its investment in any Subsidiary, and the Company will not, and will not permit any

Subsidiary to, issue or transfer any shares of a Subsidiary's capital stock or any other Securities exchangeable or convertible into such Subsidiary's stock (such stock and other Securities being called **"Subsidiary Stock"**), if the effect would be to reduce the direct or indirect proportionate interest of the Company in the outstanding Subsidiary Stock of the Subsidiary whose shares are the subject of the transaction, *provided* that these restrictions do not apply to (1) the issue of directors' qualifying shares or (2) the sale for a cash consideration to a Person other than an Affiliate of the entire investment of the Company and its other Subsidiaries (i) in any Excluded Assets or (ii) in any other Subsidiary *provided* the Company would be permitted to dispose of all of the assets of such other Subsidiary at the time in compliance with the conditions specified in clauses (1), (2) and (3) of Section 10.5(a).

Section 10.6 Line of Business. The Company will not, and will not permit any Subsidiary to, engage in any business if, as a result, the general nature of the business in which the Company and its Subsidiaries, taken as a whole, would then be engaged would be substantially changed from the general nature of the business in which the Company and its Subsidiaries, taken as a whole, are engaged on the date of this Agreement as described in Schedule 10.6.

Section 10.7 Terrorism Sanctions Regulations. The Company will not, and will not permit any Controlled Entity to, (a) become (including by virtue of being owned or controlled by a Blocked Person), own or control a Blocked Person or any Person that is the target of sanctions imposed by the United Nations or by the European Union, (b) directly or indirectly to have any investment in or engage in any dealing or transaction (including, without limitation, any investment, dealing or transaction involving the proceeds of the Notes) with any Person if such investment, dealing or transaction (1) would cause any holder to be in violation of any law or regulation applicable to such holder, or (2) is prohibited by or subject to sanctions under any U.S. Economic Sanctions, or (c) engage, nor shall any Affiliate of either engage, in any activity that could subject such Person or any holder to sanctions under CISADA or any similar law or regulation with respect to Iran or any other country that is subject to U.S. Economic Sanctions.

SECTION 11. EVENTS OF DEFAULT.

An **"Event of Default"** shall exist if any of the following conditions or events shall occur and be continuing:

(a) the Company defaults in the payment of any principal or Make-Whole Amount, if any, on any Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise; or

(b) the Company defaults in the payment of any interest on any Note for more than five Business Days after the same becomes due and payable; or

(c) the Company defaults in the performance of or compliance with any term contained in Section 7.1(e) or Section 10 (other than Section 10.1); or

(d) the Company or any Subsidiary Guarantor defaults in the performance of or compliance with any term contained herein (other than those referred to in Sections 11(a), (b) and (c)) or in any Subsidiary Guaranty and such default is not remedied within 30 days after the earlier of (1) a Responsible Officer obtaining actual knowledge of such default and (2) the Company receiving written notice of such default from any holder of a Note (any such written notice to be identified as a "notice of default" and to refer specifically to this Section 11(d)); or

(e) (1) any representation or warranty made in writing by or on behalf of the Company or by any officer of the Company in this Agreement or any writing furnished in connection with the transactions contemplated hereby proves to have been false or incorrect in any material respect on the date as of which it was made, or (2) any representation or warranty made in writing by or on behalf of any Subsidiary Guarantor or by any officer of such Subsidiary Guarantor in any Subsidiary Guaranty or any writing furnished in connection with such Subsidiary Guaranty proves to have been false or incorrect in any material respect on the date as of which it was made; or

(f) (1) the Company or any Significant Subsidiary is in default (as principal or as guarantor or other surety) in the payment of any principal of or premium or make-whole amount or interest on any Indebtedness that is outstanding in an aggregate principal amount of at least $15,000,000 beyond any period of grace provided with respect thereto, or (2) the Company or any Significant Subsidiary is in default in the performance of or compliance with any term of any evidence of any Indebtedness in an aggregate outstanding principal amount of at least $15,000,000 or of any mortgage, indenture or other agreement relating thereto or any other condition exists, and as a consequence of such default or condition such Indebtedness has become, or has been declared (or one or more Persons are entitled to declare such Indebtedness to be), due and payable before its stated maturity or before its regularly scheduled dates of payment, or (3) as a consequence of the occurrence or continuation of any event or condition (other than the passage of time or the right of the holder of Indebtedness to convert such Indebtedness into equity interests), (i) the Company or any Significant Subsidiary has become obligated to purchase or repay Indebtedness before its regular maturity or before its regularly scheduled dates of payment in an aggregate outstanding principal amount of at least $15,000,000, or (ii) one or more Persons have the right to require the Company or any Significant Subsidiary so to purchase or repay such Indebtedness; or

(g) the Company or any Significant Subsidiary (1) is generally not paying, or admits in writing its inability to pay, its debts as they become due, (2) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy, insolvency, reorganization, moratorium or other similar law of any jurisdiction, (3) makes an assignment for the benefit of its creditors, (4) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, (5) is adjudicated as insolvent or to be liquidated, or (6) takes corporate action for the purpose of any of the foregoing; or

(h) a court or other Governmental Authority of competent jurisdiction enters an order appointing, without consent by the Company or any of its Significant Subsidiaries, a custodian, receiver, trustee or other officer with similar powers with respect to it or with respect to any substantial part of its property, or constituting an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Company or any of its Significant Subsidiaries, or any such petition shall be filed against the Company or any of its Significant Subsidiaries and such petition shall not be dismissed within 60 days; or

(i) one or more final judgments or orders for the payment of money aggregating in excess of $15,000,000, including, without limitation, any such final order enforcing a binding arbitration decision, are rendered against one or more of the Company and its Significant Subsidiaries and which judgments are not, within 60 days after entry thereof, bonded, discharged or stayed pending appeal, or are not discharged within 60 days after the expiration of such stay;

(j) if (1) any Plan shall fail to satisfy the minimum funding standards of ERISA or the Code for any plan year or part thereof or a waiver of such standards or extension of any amortization period is sought or granted under section 412 of the Code, (2) a notice of intent to terminate any Plan shall have been filed with the PBGC or the PBGC shall have instituted proceedings under ERISA section 4042 to terminate or appoint a trustee to administer any Plan or the PBGC shall have notified the Company or any ERISA Affiliate that a Plan will become a subject of any such proceedings, (3) the aggregate "amount of unfunded benefit liabilities" (within the meaning of section 4001(a)(18) of ERISA) under all Plans, determined in accordance with Title IV of ERISA, shall exceed an amount that could reasonably be expected to have a Material Adverse Effect, (4) the Company or any ERISA Affiliate shall have incurred or is reasonably expected to incur any liability pursuant to Title I or IV of ERISA or the penalty or excise tax provisions of the Code relating to employee benefit plans, (5) the Company or any ERISA Affiliate withdraws from any Multiemployer Plan, or (6) the Company or any Subsidiary establishes or amends any Plan that provides post-employment welfare benefits in a manner that would increase the liability of the Company or any Subsidiary thereunder; and any such event or events described in clauses (1) through (6) above, either individually or together with any other such event or events, would reasonably be expected to have a Material Adverse Effect; or

(k) any Subsidiary Guaranty shall cease to be in full force and effect other than a Subsidiary Guaranty that has been released in accordance with Section 9.7(c), any Subsidiary Guarantor or any Person acting on behalf of any Subsidiary Guarantor shall contest in any manner the validity, binding nature or enforceability of any Subsidiary Guaranty, or the obligations of any Subsidiary Guarantor under any Subsidiary Guaranty are not or cease to be legal, valid, binding and enforceable in accordance with the terms of such Subsidiary Guaranty.

SECTION 12. REMEDIES ON DEFAULT, ETC.

Section 12.1 Acceleration.

(a) If an Event of Default with respect to the Company described in Section 11(g) or (h) (other than an Event of Default described in clause (1) of Section 11(g) or described in clause (6) of Section 11(g) by virtue of the fact that such clause encompasses clause (1) of Section 11(g)) has occurred, all the Notes then outstanding shall automatically become immediately due and payable.

(b) If any other Event of Default has occurred and is continuing, the Required Holders may at any time at its or their option, by notice or notices to the Company, declare all the Notes then outstanding to be immediately due and payable.

(c) If any Event of Default described in Section 11(a) or (b) has occurred and is continuing, any holder or holders of Notes at the time outstanding affected by such Event of Default may at any time, at its or their option, by notice or notices to the Company, declare all the Notes held by it or them to be immediately due and payable.

Upon any Notes becoming due and payable under this Section 12.1, whether automatically or by declaration, such Notes will forthwith mature and the entire unpaid principal amount of such Notes, plus (x) all accrued and unpaid interest thereon (including, but not limited to, interest accrued thereon at the applicable Default Rate) and (y) the Make-Whole Amount determined in respect of such principal amount (to the full extent permitted by applicable law), shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each holder of a Note has the right to maintain its investment in the Notes free from repayment by the Company (except as herein specifically provided for) and that the provision for payment of a Make-Whole Amount by the Company in the event that the Notes are prepaid or are accelerated as a result of an Event of Default, is intended to provide compensation for the deprivation of such right under such circumstances.

Section 12.2 Other Remedies. If any Default or Event of Default has occurred and is continuing, and irrespective of whether any Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any Note at the time outstanding may proceed to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein or in any Note or Subsidiary Guaranty, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

Section 12.3 Rescission. At any time after any Notes have been declared due and payable pursuant to Section 12.1(b) or (c), the Required Holders, by written notice to the Company, may rescind and annul any such declaration and its consequences if (a) the Company has paid all overdue interest on the Notes, all principal of and Make-Whole Amount, if any, on any Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and Make-Whole Amount, if any, and

(to the extent permitted by applicable law) any overdue interest in respect of the Notes, at the applicable Default Rate, (b) neither the Company nor any other Person shall have paid any amounts which have become due solely by reason of such declaration, (c) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to Section 17, and (d) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

Section 12.4 No Waivers or Election of Remedies, Expenses, Etc. No course of dealing and no delay on the part of any holder of any Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement, any Subsidiary Guaranty or any Note upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under Section 15, the Company will pay to the holder of each Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

SECTION 13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NOTES.

Section 13.1 Registration of Notes. The Company shall keep at its principal executive office a register for the registration and registration of transfers of Notes. The name and address of each holder of one or more Notes, each transfer thereof and the name and address of each transferee of one or more Notes shall be registered in such register. If any holder of one or more Notes is a nominee, then (a) the name and address of the beneficial owner of such Note or Notes shall also be registered in such register as an owner and holder thereof and (b) at any such beneficial owner's option, either such beneficial owner or its nominee may execute any amendment, waiver or consent pursuant to this Agreement. Prior to due presentment for registration of transfer, the Person(s) in whose name any Note(s) shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be affected by any notice or knowledge to the contrary. The Company shall give to any holder of a Note that is an Institutional Investor promptly upon request therefor, a complete and correct copy of the names and addresses of all registered holders of Notes.

Section 13.2 Transfer and Exchange of Notes. Upon surrender of any Note to the Company at the address and to the attention of the designated officer (all as specified in Section 18(3)), for registration of transfer or exchange (and in the case of a surrender for registration of transfer accompanied by a written instrument of transfer duly executed by the registered holder of such Note or such holder's attorney duly authorized in writing and accompanied by the relevant name, address and other information for notices of each transferee of such Note or part thereof), within 10 Business Days thereafter, the Company shall execute and deliver, at the Company's expense (except as provided below), one or more new Notes (as requested by the holder thereof) of the same Series as such surrendered Note in exchange

therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered Note. Each such new Note shall be payable to such Person as such holder may request and shall be substantially in the form of Schedule 1. Each such new Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note or dated the date of the surrendered Note if no interest shall have been paid thereon. The Company may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of Notes. Notes shall not be transferred in denominations of less than $100,000, *provided* that if necessary to enable the registration of transfer by a holder of its entire holding of Notes of a Series, one Note of such Series may be in a denomination of less than $100,000. Any transferee, by its acceptance of a Note registered in its name (or the name of its nominee), shall be deemed to have made the representation set forth in Section 6.2.

Section 13.3 Replacement of Notes. Upon receipt by the Company at the address and to the attention of the designated officer (all as specified in Section 18(3)) of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (*provided* that if the holder of such Note is, or is a nominee for, an original Purchaser or another holder of a Note with a minimum net worth of at least $50,000,000 or a Qualified Institutional Buyer, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

within 10 Business Days thereafter, the Company at its own expense shall execute and deliver, in lieu thereof, a new Note of the same Series as such lost, stolen, destroyed or mutilated Note, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note or dated the date of such lost, stolen, destroyed or mutilated Note if no interest shall have been paid thereon.

SECTION 14. PAYMENTS ON NOTES.

Section 14.1 Place of Payment. Subject to Section 14.2, payments of principal, Make-Whole Amount, if any, and interest becoming due and payable on the Notes shall be made in New York, New York at the principal office of PNC Bank, NA in such jurisdiction. The Company may at any time, by notice to each holder of a Note, change the place of payment of the Notes so long as such place of payment shall be either the principal office of the Company in such jurisdiction or the principal office of a bank or trust company in such jurisdiction.

Section 14.2 Home Office Payment. So long as any Purchaser or its nominee shall be the holder of any Note, and notwithstanding anything contained in Section 14.1 or in such Note to the contrary, the Company will pay all sums becoming due on such Note for principal, Make-Whole Amount, if any, interest and all other amounts becoming due hereunder by the

method and at the address specified for such purpose below such Purchaser's name in such Purchaser's Confirmation of Acceptance, or by such other method or at such other address as such Purchaser shall have from time to time specified to the Company in writing for such purpose, without the presentation or surrender of such Note or the making of any notation thereon, except that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of any Note, such Purchaser shall surrender such Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 14.1. Prior to any sale or other disposition of any Note held by a Purchaser or its nominee, such Purchaser will, at its election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such Note to the Company in exchange for a new Note or Notes of the same Series as such Note being sold or otherwise disposed of pursuant to Section 13.2. The Company will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any Note purchased by a Purchaser under this Agreement and that has made the same agreement relating to such Note as the Purchasers have made in this Section 14.2.

SECTION 15. EXPENSES, ETC.

Section 15.1 Transaction Expenses. Whether or not the transactions contemplated hereby are consummated, the Company will pay all costs and expenses (including reasonable attorneys' fees of a special counsel and, if reasonably required by the Required Holders, local or other counsel) incurred by the Purchasers and each other holder of a Note in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement, any Subsidiary Guaranty or the Notes (whether or not such amendment, waiver or consent becomes effective) within 15 Business Days after the Company's receipt of any invoice therefor, including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement, any Subsidiary Guaranty or the Notes or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement, any Subsidiary Guaranty or the Notes, or by reason of being a holder of any Note, (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Company or any Subsidiary or in connection with any work-out or restructuring of the transactions contemplated hereby and by the Notes and any Subsidiary Guaranty and (c) the costs and expenses incurred in connection with the initial filing of this Agreement and all related documents and financial information with the SVO *provided*, that such costs and expenses under this clause (c) shall not exceed $1,500 per Series of Notes. In the event that any such invoice is not paid within 15 Business Days after the Company's receipt thereof, interest on the amount of such invoice shall be due and payable at the Default Rate commencing with the 16th Business Day after the Company's receipt thereof until such invoice has been paid. The Company will pay, and will save each Purchaser and each other holder of a Note harmless from, (1) all claims in respect of any fees, costs or expenses, if any, of brokers and finders (other than those, if any, retained by a Purchaser or other holder in connection with its purchase of the Notes) and (2) any and all wire transfer fees that any bank deducts from any payment under such Note to such holder or otherwise charges to a holder of a Note with respect to a payment under such Note.

Section 15.2 Survival. The obligations of the Company under this Section 15 will survive the payment or transfer of any Note, the enforcement, amendment or waiver of any provision of this Agreement, any Subsidiary Guaranty or the Notes, and the termination of this Agreement.

SECTION 16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained herein shall survive the execution and delivery of this Agreement and the Notes, the purchase or transfer by any Purchaser of any Note or portion thereof or interest therein and the payment of any Note, and may be relied upon by any subsequent holder of a Note, regardless of any investigation made at any time by or on behalf of such Purchaser or any other holder of a Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company pursuant to this Agreement shall be deemed representations and warranties of the Company under this Agreement. Subject to the preceding sentence, this Agreement, the Notes and any Subsidiary Guaranties embody the entire agreement and understanding between each Purchaser and the Company and supersede all prior agreements and understandings relating to the subject matter hereof.

SECTION 17. AMENDMENT AND WAIVER.

Section 17.1 Requirements. This Agreement and the Notes may be amended, and the observance of any term hereof or of the Notes may be waived (either retroactively or prospectively), only with the written consent of the Company and the Required Holders, except that:

(a) no amendment or waiver of any of Sections 1, 2, 3, 4, 5, 6 or 21, or any defined term (as it is used therein), will be effective as to any Purchaser unless consented to by such Purchaser in writing;

(b) (1) with the written consent of Prudential (and without the consent of any other holder of Notes), the provisions of Section 2 may be amended or waived (except insofar as any such amendment or waiver would affect any rights or obligations with respect to the purchase and sale of Notes which shall have become Accepted Notes prior to such amendment or waiver), and (2) with the written consent of all of the Purchasers which shall have become obligated to purchase Accepted Notes of any Series (and not without the written consent of all such Purchasers), any of the provisions of Sections 2 and 4 may be amended or waived insofar as such amendment or waiver would affect only rights or obligations with respect to the purchase and sale of the Accepted Notes of such Series or the terms and provisions of such Accepted Notes; and

(c) no amendment or waiver may, without the written consent of each Purchaser and the holder of each Note at the time outstanding, (1) subject to Section 12 relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce the rate or change the time of payment or method of computation of (i) interest on the Notes or (ii) the Make-Whole Amount, (2) change the percentage of the principal amount of the Notes the holders of which are required to

consent to any amendment or waiver, or (3) amend any of Sections 8, 11(a), 11(b), 12, 17 or 20.

Section 17.2 Solicitation of Holders of Notes.

(a) *Solicitation.* The Company will provide each holder of a Note with sufficient information, sufficiently far in advance of the date a decision is required, to enable such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof or of the Notes or any Subsidiary Guaranty, unless such proposed amendment, waiver or consent relates only to a specific Series of Accepted Notes which have not yet been purchased, in which case such information will only be required to be delivered to the Purchasers which shall have become obligated to purchase Accepted Notes of such Series. The Company will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to this Section 17 or any Subsidiary Guaranty to each holder of a Note promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of Notes.

(b) *Payment.* The Company will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security or provide other credit support, to any holder of a Note or any such Purchaser described in Section 17.2(a) as consideration for or as an inducement to the entering into by such holder or such Purchaser of any waiver or amendment of any of the terms and provisions hereof or of any Subsidiary Guaranty or any Note unless such remuneration is concurrently paid, or security is concurrently granted or other credit support concurrently provided, on the same terms, ratably to each holder of a Note and any such Purchaser even if holder did not consent to such waiver or amendment.

(c) *Consent in Contemplation of Transfer.* Any consent given pursuant to this Section 17 or any Subsidiary Guaranty by a holder of a Note that has transferred or has agreed to transfer its Note to the Company or any other Person in connection with such consent shall be void and of no force or effect except solely as to such holder, and any amendments effected or waivers granted or to be effected or granted that would not have been or would not be so effected or granted but for such consent (and the consents of all other holders of Notes that were acquired under the same or similar conditions) shall be void and of no force or effect except solely as to such holder.

Section 17.3 Binding Effect, Etc. Any amendment or waiver consented to as provided in this Section 17 or any Subsidiary Guaranty applies equally to all holders of Notes and is binding upon them and upon each future holder of any Note and upon the Company without regard to whether such Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company and any Purchaser or holder of a Note and no delay in exercising any rights hereunder or under any Note or Subsidiary Guaranty shall operate as a waiver of any rights of any Purchaser or holder of such Note.

Section 17.4 Notes Held by Company, Etc. Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement, any Subsidiary Guaranty or the Notes, or have directed the taking of any action provided herein or in any Subsidiary Guaranty or the Notes to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Company or any of its Affiliates shall be deemed not to be outstanding.

SECTION 18. NOTICES.

Except to the extent otherwise provided in Section 7.4, all notices and communications provided for hereunder shall be in writing and sent (a) by telecopy if the sender on the same day sends a confirming copy of such notice by an internationally recognized overnight delivery service (charges prepaid), (b) by registered or certified mail with return receipt requested (postage prepaid), or (c) by an internationally recognized overnight delivery service (charges prepaid). Any such notice must be sent:

(1) if to any Purchaser or its nominee, to such Purchaser or nominee at the address specified for such communications in its Confirmation of Acceptance, or at such other address as such Purchaser or nominee shall have specified to the Company in writing,

(2) if to any other holder of any Note, to such holder at such address as such other holder shall have specified to the Company in writing, or

(3) if to the Company, to the Company at its address set forth at the beginning hereof to the attention of the Chief Financial Officer, or at such other address as the Company shall have specified to the holder of each Note in writing.

Notices under this Section 18 will be deemed given only when actually received.

Notwithstanding anything to the contrary in this Section 18, any communication pursuant to Section 2 shall be made by the method specified for such communication in Section 2, and shall be effective to create any rights or obligations under this Agreement only if, in the case of a telephone communication, an Authorized Officer of the party conveying the information and of the party receiving the information are parties to the telephone call, and in the case of a telecopier communication, the communication is signed by an Authorized Officer of the party conveying the information, addressed to the attention of an Authorized Officer of the party receiving the information, and in fact received at the telecopier terminal the number of which is listed for the party receiving the communication in Schedule B or at such other telecopier terminal as the party receiving the information shall have specified in writing to the party sending such information.

SECTION 19. REPRODUCTION OF DOCUMENTS.

This Agreement and all documents relating hereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by

any Purchaser at any Closing (except the Notes themselves), and (c) financial statements, certificates and other information previously or hereafter furnished to any Purchaser or any other holder of a Note, may be reproduced by such Purchaser or holder by any photographic, photostatic, electronic, digital, or other similar process and such Purchaser or holder may destroy any original document so reproduced. The Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by such Purchaser or holder in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit the Company or any other Purchaser or holder of a Note from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

SECTION 20. CONFIDENTIAL INFORMATION.

For the purposes of this Section 20, "**Confidential Information**" means information delivered to Prudential or any Purchaser by or on behalf of the Company or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by Prudential or such Purchaser as being confidential information of the Company or such Subsidiary, *provided* that such term does not include information that (a) was publicly known or otherwise known to Prudential or such Purchaser prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by Prudential or such Purchaser or any Person acting on such Prudential's or Purchaser's behalf, (c) otherwise becomes known to Prudential or such Purchaser other than through disclosure by the Company or any Subsidiary or (d) constitutes financial statements delivered to Prudential or such Purchaser under Section 7.1 that are otherwise publicly available. Each of Prudential and each Purchaser will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by Prudential or such Purchaser in good faith to protect confidential information of third parties delivered to Prudential or such Purchaser, *provided* that Prudential or such Purchaser may deliver or disclose Confidential Information to (1) its directors, officers, employees, agents, attorneys, trustees and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by its Notes), (2) its auditors, financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with this Section 20, (3) any other holder of any Note, (4) any Institutional Investor to which it sells or offers to sell such Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by this Section 20), (5) any Person from which it offers to purchase any Security of the Company (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by this Section 20), (6) any federal or state regulatory authority having jurisdiction over Prudential or such Purchaser, (7) the NAIC or the SVO or, in each case, any similar organization, or any nationally recognized rating agency that requires access to information about Prudential's or such Purchaser's investment portfolio, or (8) any other Person to which such delivery or disclosure may be necessary or appropriate (i) to effect compliance with any law, rule, regulation or order applicable to Prudential or such Purchaser, (ii) in response to any subpoena or other legal process, (iii) in connection with any litigation to

which Prudential or such Purchaser is a party or (iv) if an Event of Default has occurred and is continuing, to the extent Prudential or such Purchaser may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under such Purchaser's Notes, this Agreement or any Subsidiary Guaranty. Each holder of a Note, by its acceptance of a Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by the Company in connection with the delivery to any holder of a Note of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with the Company embodying this Section 20.

In the event that as a condition to receiving access to information relating to the Company or its Subsidiaries in connection with the transactions contemplated by or otherwise pursuant to this Agreement, Prudential or any Purchaser or holder of a Note is required to agree to a confidentiality undertaking (whether through IntraLinks, another secure website, a secure virtual workspace or otherwise) which is different from this Section 20, this Section 20 shall not be amended thereby and, as between Prudential or such Purchaser or such holder and the Company, this Section 20 shall supersede any such other confidentiality undertaking.

SECTION 21. SUBSTITUTION OF PURCHASER.

Each Purchaser shall have the right to substitute any one of its Affiliates or another Purchaser or any one of such other Purchaser's Affiliates (a **"Substitute Purchaser"**) as the purchaser of the Notes that it has agreed to purchase hereunder, by written notice to the Company, which notice shall be signed by both such Purchaser and such Substitute Purchaser, shall contain such Substitute Purchaser's agreement to be bound by this Agreement and shall contain a confirmation by such Substitute Purchaser of the accuracy with respect to it of the representations set forth in Section 6. Upon receipt of such notice, any reference to such Purchaser in this Agreement (other than in this Section 21), shall be deemed to refer to such Substitute Purchaser in lieu of such original Purchaser. In the event that such Substitute Purchaser is so substituted as a Purchaser hereunder and such Substitute Purchaser thereafter transfers to such original Purchaser all of the Notes then held by such Substitute Purchaser, upon receipt by the Company of notice of such transfer, any reference to such Substitute Purchaser as a "Purchaser" in this Agreement (other than in this Section 21), shall no longer be deemed to refer to such Substitute Purchaser, but shall refer to such original Purchaser, and such original Purchaser shall again have all the rights of an original holder of the Notes under this Agreement.

SECTION 22. MISCELLANEOUS.

Section 22.1 Successors and Assigns. All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a Note) whether so expressed or not.

Section 22.2 Accounting Terms. All accounting terms used herein which are not expressly defined in this Agreement have the meanings respectively given to them in accordance with GAAP. Except as otherwise specifically provided herein, (a) all computations

made pursuant to this Agreement shall be made in accordance with GAAP, and (b) all financial statements shall be prepared in accordance with GAAP. For purposes of determining compliance with this Agreement (including, without limitation, Section 9, Section 10 and the definition of "Indebtedness"), any election by the Company to measure any financial liability using fair value (as permitted by Financial Accounting Standards Board Accounting Standards Codification Topic No. 825-10-25 – *Fair Value Option*, International Accounting Standard 39 – *Financial Instruments: Recognition and Measurement* or any similar accounting standard) shall be disregarded and such determination shall be made as if such election had not been made.

Section 22.3 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 22.4 Construction, Etc. Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

Section 22.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

Section 22.6 Governing Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

Section 22.7 Jurisdiction and Process; Waiver of Jury Trial.

(a) The Company irrevocably submits to the non-exclusive jurisdiction of any New York State or federal court sitting in the Borough of Manhattan, The City of New York, over any suit, action or proceeding arising out of or relating to this Agreement or the Notes. To the fullest extent permitted by applicable law, the Company irrevocably waives and agrees not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

(b) The Company consents to process being served by or on behalf of any holder of a Note in any suit, action or proceeding of the nature referred to in Section 22.7(a) by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, return receipt requested, to it at its address specified in Section 18 or at such other address of which such holder shall then have been notified pursuant to said Section. The Company agrees that such service upon receipt (1) shall be deemed in every respect effective service of process upon it in any such suit, action or proceeding and (2) shall, to the fullest extent permitted by applicable law, be taken and held to be valid personal service upon and personal delivery to it. Notices hereunder shall be conclusively presumed received as evidenced by a delivery receipt furnished by the United States Postal Service or any reputable commercial delivery service.

(c) Nothing in this Section 22.7 shall affect the right of any holder of a Note to serve process in any manner permitted by law, or limit any right that any holder of a Note may have to bring proceedings against the Company in the courts of any appropriate jurisdiction or to enforce in any lawful manner a judgment obtained in one jurisdiction in any other jurisdiction.

(d) The parties hereto hereby waive trial by jury in any action brought on or with respect to this Agreement, the Notes or any other document executed in connection herewith or therewith.

Section 22.8 Transaction References. Upon prior written consent by the Company, Prudential may (a) refer to its role in establishing the Facility, as well as the identity of the Company and the maximum aggregate principal amount of the Notes and the date on which the Facility was established, on its internet site or in marketing materials, press releases, published "tombstone" announcements or any other print or electronic medium and (b) display the Company's corporate logo in conjunction with any such.

* * * * *

If you are in agreement with the foregoing, please sign the form of agreement on a counterpart of this Agreement and return it to the Company, whereupon this Agreement shall become a binding agreement between you and the Company.

Very truly yours,

CHESAPEAKE UTILITIES CORPORATION

By: Beth W. Cooper
Name: Beth W. Cooper
Title: Senior Vice President and Chief Financial Officer

This Agreement is hereby accepted and agreed to as of the date hereof.

PRUDENTIAL INVESTMENT MANAGEMENT, INC.

By:_____
Vice President

DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"Acceptance" is defined in Section 2(f).

"Acceptance Day" is defined in Section 2(f).

"Acceptance Window" is defined in Section 2(f).

"Accepted Note" is defined in Section 2(f).

"Affiliate" means, at any time, (a) with respect to any Person, any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person, (b) with respect to the Company, shall include any Person beneficially owning or holding, directly or indirectly, 5% or more of any class of voting or equity interests of the Company or any Subsidiary or any Person of which the Company and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 5% or more of any class of voting or equity interests and (c) with respect to Prudential, shall include any managed account, investment fund or other vehicle for which Prudential or any Prudential Affiliate acts as investment advisor or portfolio manager. As used in this definition, "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "Affiliate" is a reference to an Affiliate of the Company.

"Agreement" means this Private Shelf Agreement, including all Schedules attached to this Agreement, as it may be amended, restated, supplemented or otherwise modified from time to time among the Company, Prudential and the Purchasers dated as of October 8, 2015.

"Anti-Corruption Laws" is defined in Section 5.16(d)(1).

"Anti-Money Laundering Laws" is defined in Section 5.16(c).

"Authorized Officer" means (a) in the case of the Company, its chief executive officer, its chief financial officer, any other Person authorized by the Company to act on behalf of the Company and designated as an "Authorized Officer" of the Company in Schedule B attached hereto or any other Person authorized by the Company to act on behalf of the Company and designated as an "Authorized Officer" of the Company for the purpose of this Agreement in an Officer's Certificate executed by the Company's chief executive officer or chief financial officer and delivered to Prudential, and (b) in the case of Prudential, any officer of Prudential designated as its "Authorized Officer" in Schedule B or any officer of Prudential designated as its "Authorized Officer" for the purpose of this Agreement in a certificate executed by one of its Authorized Officers or a lawyer in its law department. Any action taken under this Agreement on behalf of the Company by any individual who on or after the date of this Agreement shall

have been an Authorized Officer of the Company and whom Prudential in good faith believes to be an Authorized Officer of the Company at the time of such action shall be binding on the Company even though such individual shall have ceased to be an Authorized Officer of the Company, and any action taken under this Agreement on behalf of Prudential by any individual who on or after the date of this Agreement shall have been an Authorized Officer of Prudential and whom the Company in good faith believes to be an Authorized Officer of Prudential at the time of such action shall be binding on Prudential even though such individual shall have ceased to be an Authorized Officer of Prudential.

"Available Facility Amount" is defined in Section 2(a).

"Blocked Person" is defined in Section 5.16(a).

"Business Day" means (a) for the purposes of Section 8.6 only, any day other than a Saturday, a Sunday or a day on which commercial banks in New York City are required or authorized to be closed, (b) for the purpose of Section 2 only, a day on which Prudential is open for business and (c) for the purposes of any other provision of this Agreement, any day other than a Saturday, a Sunday or a day on which commercial banks in New York, New York or Dover, Delaware are required or authorized to be closed.

"Cancellation Date" is defined in Section 2(h)(iv).

"Cancellation Fee" is defined in Section 2(h)(iv).

"CISADA" means the Comprehensive Iran Sanctions, Accountability and Divestment Act, as amended from time to time.

"Closing" is defined in Section 3.1.

"Closing Day" means, with respect to any Accepted Note, the Business Day specified for the closing of the purchase and sale of such Accepted Note in the Confirmation of Acceptance for such Accepted Note, *provided* that (a) if the Company and the Purchaser which is obligated to purchase such Accepted Note agree on an earlier Business Day for such closing (which day may not be less than five Business Days prior to the Acceptance Day for such Accepted Note), the **"Closing Day"** for such Accepted Note shall be such earlier Business Day, and (2) if the closing of the purchase and sale of such Accepted Note is rescheduled pursuant to Section 3.2, the Closing Day for such Accepted Note, for all purposes of this Agreement except references to "original Closing Day" in Section 2(h)(3), shall mean the Rescheduled Closing Day with respect to such Accepted Note.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

"Company" means Chesapeake Utilities Corporation, a Delaware corporation or any successor that becomes such in the manner prescribed in Section 10.2.

"Confidential Information" is defined in Section 20.

"Confirmation of Acceptance" is defined in Section 2(f).

"Consolidated Net Worth" means as of any date, the sum of the amounts that would be shown on a consolidated balance sheet of the Company and its Subsidiaries at such date for (a) capital stock, (b) capital surplus and (c) stockholders' equity.

"Consolidated Total Assets" means as of any date the aggregate amount at which the assets of the Company and its Subsidiaries would be shown on a consolidated balance sheet at such date.

"Controlled Entity" means (a) any of the Subsidiaries of the Company and any of their or the Company's respective Controlled Affiliates and (b) if the Company has a parent company, such parent company and its Controlled Affiliates. As used in this definition, "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Current Indebtedness" with respect to any Person, means all liabilities for borrowed money and all liabilities secured by any Lien existing on property owned by that Person (whether or not those liabilities have been assumed) which, in either case, are payable on demand or within one year from their creation, *plus* the aggregate amount of Guaranties by that Person of all such liabilities of other Persons, except: (1) any liabilities which are renewable or extendible at the option of the debtor to a date more than one year from the date of creation thereof; and (2) any liabilities which, although payable within one year, constitute principal payments on indebtedness expressed to mature more than one year from the date of its creation.

"Default" means an event or condition the occurrence or existence of which would, with the lapse of time or the giving of notice or both, become an Event of Default.

"Default Rate" means, with respect to any Note, that rate of interest that is the greater of (a) 2.00% per annum above the rate of interest stated in clause (a) of the first paragraph of such Note or (b) 2.00% over the rate of interest publicly announced by PNC Bank, NA in Pittsburgh, Pennsylvania as its "base" or "prime" rate.

"Delayed Delivery Fee" is defined in Section 2(h)(3).

"Disclosure Documents" is defined in Section 5.3.

"Diversification Event" is defined in Section 8.8.

"Diversification Event Prepayment Date" is defined in Section 8.8.

"EDGAR" means the SEC's Electronic Data Gathering, Analysis and Retrieval System or any successor SEC electronic filing system for such purposes.

"Energy Policy Act of 2005" means the Energy Policy Act of 2005, as amended from time to time.

"Environmental Laws" means any and all federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions having the force of law relating to pollution and the protection of the environment or the release of any Hazardous Materials into the environment.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that is treated as a single employer together with the Company under section 414 of the Code.

"Event of Default" is defined in Section 11.

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

"Excluded Assets" means (a) each of the following Subsidiaries or the assets of any of the following Subsidiaries: Sharp Water, Inc.; BravePoint, Inc.; Skipjack, Inc.; Eastern Shore Real Estate, Inc.; aQuality Company, Inc.; Peninsula Pipeline Company, Inc.; Peninsula Energy Services Company, Inc.; and Chesapeake OnSight Services, LLC and (b) any Subsidiary that the Company may create or acquire after the date of this Agreement which is not (1) a "public utility company," a "holding company" or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company" within the meaning of the Energy Policy Act of 2005 or (2) a "transmitting utility" within the meaning of the Federal Power Act, as amended.

"Facility" is defined in Section 2(a).

"FERC" means the Federal Energy Regulatory Commission or a successor thereto.

"Financing Lease" means any lease which is shown or is required to be shown in accordance with GAAP as a liability on a balance sheet of the lessee thereunder.

"Financing Lease Obligation" means the obligation of the lessee under a Financing Lease. The amount of a Financing Lease Obligation at any date is the amount at which the lessee's liability under the Financing Lease would be required to be shown on its balance sheet at such date.

"Form 10-K" is defined in Section 7.1(b).

"Form 10-Q" is defined in Section 7.1(a).

"FPU" means Florida Public Utilities Company, a Florida corporation.

"FPU Indebtedness" means FPU's 9.08% First Mortgage Bonds due June 1, 2022, which Indebtedness is described on Schedule 5.15.

"Funded Indebtedness" with respect to any Person, means without duplication: (a) its liabilities for borrowed money, other than Current Indebtedness; (b) liabilities secured by any Lien existing on property owned by the Person (whether or not those liabilities have been assumed); (c) the aggregate amount of Guaranties by the Person, other than Guaranties which constitute Current Indebtedness; and (d) its Financing Lease Obligations.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States of America.

"Governmental Authority" means

(a) the government of

(1) the United States of America or any state or other political subdivision thereof, or

(2) any other jurisdiction in which the Company or any Subsidiary conducts all or any part of its business, or which asserts jurisdiction over any properties of the Company or any Subsidiary, or

(b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

"Governmental Official" means any governmental official or employee, employee of any government-owned or government-controlled entity, political party, any official of a political party, candidate for political office, official of any public international organization or anyone else acting in an official capacity.

"Guaranty" with respect to any Person, means all guaranties of, and all other obligations which in effect guaranty, any indebtedness, dividend or other obligation of any other Person (the **"primary obligor"**) in any manner (except any indebtedness or other obligation of any Subsidiary or any Funded Indebtedness of the Company), including obligations incurred through an agreement, contingent or otherwise, by such Person:

(a) to purchase such indebtedness or obligation or any property constituting security therefor;

(b) to advance or supply funds

(1) for the purchase or payment of such indebtedness or obligation, or

(2) to maintain working capital or any balance sheet or income statement condition;

(3) to lease property, or to purchase Securities or other property or services, primarily for the purpose of assuring the owner of such indebtedness or obligation of the ability of the primary obligor to make payment of the indebtedness or obligation; or

(4) otherwise to assure the owner of such indebtedness or obligation, or the primary obligor, against loss;

but excluding endorsements in the ordinary course of business of negotiable instruments for deposit or collection.

The amount of any Guaranty shall be deemed to be the maximum amount for which such Person may be liable, upon the occurrence of any contingency or otherwise, under or by virtue of the Guaranty.

"Hazardous Materials" means any and all pollutants, toxic or hazardous substances or other materials that have been determined by a Governmental Authority to pose a hazard to human health and safety, or are regulated as a pollutant, contaminant, petroleum product, coal combustion residual, manufactured gas plant residual, toxic substance, hazardous substance, hazardous material or hazardous waste including, but not limited to, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum products, lead based paint, radon gas, or similar restricted or prohibited substances.

"Hedge Treasury Note(s)" means, with respect to any Accepted Note, the United States Treasury Note or Notes whose duration (as determined by Prudential) most closely matches the duration of such Accepted Note.

"holder" means, with respect to any Note, the Person in whose name such Note is registered in the register maintained by the Company pursuant to Section 13.1, *provided, however*, that if such Person is a nominee, then for the purposes of Sections 7, 8.8, 12, 17.2 and 18 and any related definitions in this Schedule A, "holder" shall mean the beneficial owner of such Note whose name and address appears in such register.

"Hostile Tender Offer" means, with respect to the use of proceeds of any Note, any offer to purchase, or any purchase of, shares of capital stock of any corporation or equity interests in any other entity, or Securities convertible into or representing the beneficial ownership of, or rights to acquire, any such shares or equity interests, if such shares, equity interests, Securities or rights are of a class which is publicly traded on any securities exchange or in any over-the-counter market, other than purchases of such shares, equity interests, Securities or rights representing less than 5% of the equity interests or beneficial ownership of such corporation or other entity for portfolio investment purposes, and such offer or purchase has not been duly approved by the board of directors of such corporation or the equivalent governing body of such other entity prior to the date on which the Company makes the Request for Purchase of such Note.

"Indebtedness" means Current Indebtedness and Funded Indebtedness.

"INHAM Exemption" is defined in Section 6.2(e).

"Institutional Accredited Investor" is defined in Section 6.1(b).

"Institutional Investor" means (a) any Purchaser of a Note, (b) any holder of a Note holding (together with one or more of its affiliates) more than $2,000,000 of the aggregate

principal amount of the Notes of any Series then outstanding, (c) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form, and (d) any Related Fund of any holder of any Note.

"Issuance Fee" is defined in Section 2(h)(2).

"Issuance Period" is defined in Section 2(b).

"Lien" means any interest in property securing an obligation owed to, or a claim by, a Person other than the owner of the property, whether the interest is based on common law, statute or contract (including the security interest lien arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes). The term "Lien" shall not include minor reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions and other minor title exceptions affecting property, *provided* that they do not constitute security for a monetary obligation. For the purposes of this Agreement, the Company or a Subsidiary shall be deemed to be the owner of any property which it has acquired or holds subject to a Financing Lease or a conditional sale agreement or other arrangement pursuant to which title to the property has been retained by or vested in some other Person for security purposes, and such retention or vesting shall be deemed to be a Lien.

"Make-Whole Amount" is defined in Section 8.6.

"Material" means material in relation to the business, operations, affairs, financial condition, assets or properties of the Company and its Subsidiaries taken as a whole.

"Material Adverse Effect" means a material adverse effect on (a) the business, operations, affairs, financial condition, assets or properties of the Company and its Subsidiaries taken as a whole, (b) the ability of the Company to perform its obligations under this Agreement and the Notes, (c) the ability of any Subsidiary Guarantor to perform its obligations under its Subsidiary Guaranty, or (d) the validity or enforceability of this Agreement, the Notes or any Subsidiary Guaranty.

"Material Credit Facility" means, as to the Company and its Subsidiaries,

(a) each of the agreements in respect of the Indebtedness set forth on Schedule 5.15 including any renewals, extensions, amendments, supplements, restatements, replacements or refinancing thereof; and

(b) any other agreement(s) creating or evidencing indebtedness for borrowed money entered into on or after the date of this Agreement by the Company or any Subsidiary, or in respect of which the Company or any Subsidiary is an obligor or otherwise provides a guarantee or other credit support (**"Credit Facility"**), in a principal amount outstanding or available for borrowing equal to or greater than $25,000,000 (or the equivalent of such amount in the relevant currency of payment, determined as of the date of the closing of such facility based on the exchange rate of such other currency);

and if no Credit Facility or Credit Facilities equal or exceed such amounts, then the largest Credit Facility shall be deemed to be a Material Credit Facility.

"Maturity Date" is defined in the first paragraph of each Note.

"Multiemployer Plan" means any Plan that is a "multiemployer plan" (as such term is defined in section 4001(a)(3) of ERISA).

"NAIC" means the National Association of Insurance Commissioners or any successor thereto.

"Notes" is defined in Section 1.

"OFAC" is defined in Section 5.16(a).

"OFAC Listed Person" is defined in Section 5.16(a).

"OFAC Sanctions Program" means any economic or trade sanction that OFAC is responsible for administering and enforcing. A list of OFAC Sanctions Programs may be found at http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx.

"Officer's Certificate" means a certificate of a Senior Financial Officer or of any other officer of the Company whose responsibilities extend to the subject matter of such certificate.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA or any successor thereto.

"Permitted Commodity Hedging Obligation" means obligations of the Company with respect to commodity agreements or other similar agreements or arrangements entered into in the ordinary course of business designed to protect against, or mitigate risks with respect to, fluctuations of commodity prices to which the Company or any Subsidiary is exposed to in the conduct of its business so long as (a) the management of the Company has determined that entering into such agreements or arrangements are bona fide hedging activities which comply with the Company's risk management policies and (b) such agreements or arrangements are not entered into for speculative purposes and are not of a speculative nature.

"Person" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, business entity or Governmental Authority.

"Plan" means an "employee benefit plan" (as defined in section 3(3) of ERISA) subject to Title I of ERISA that is or, within the preceding five years, has been established or maintained, or to which contributions are or, within the preceding five years, have been made or required to be made, by the Company or any ERISA Affiliate or with respect to which the Company or any ERISA Affiliate has any liability.

"property" or **"properties"** means, unless otherwise specifically limited, real or personal property of any kind, tangible or intangible, choate or inchoate.

"Prudential" is defined in the addressee line to this Agreement.

"Prudential Affiliate" means any Affiliate of Prudential.

"PTE" is defined in Section 6.2(a).

"Purchaser" is defined in the addressee line to this Agreement.

"Purchase Money Indebtedness" means Indebtedness of the Company or any Subsidiary which is secured by a Lien on property of the Company or such Subsidiary which either existed at the time of the original acquisition of the property by the Company or such Subsidiary or was granted or retained in connection with the acquisition or improvement of the property by the Company or such Subsidiary in order to facilitate the financing of such acquisition or improvement.

"Qualified Institutional Buyer" means any Person who is a "qualified institutional buyer" within the meaning of such term as set forth in Rule 144A(a)(1) under the Securities Act.

"QPAM Exemption" is defined in Section 6.2(e).

"Related Fund" means, with respect to any holder of any Note, any fund or entity that (a) invests in Securities or bank loans, and (b) is advised or managed by such holder, the same investment advisor as such holder or by an affiliate of such holder or such investment advisor.

"Request for Purchase" is defined in Section 2(d).

"Required Holders" means, at any time on or after the Closing, the holders of more than 50% in principal amount of the Notes at the time outstanding (exclusive of Notes then owned by the Company or any of its Affiliates).

"Rescheduled Closing Day" is defined in Section 3.2.

"Responsible Officer" means any Senior Financial Officer and any other officer of the Company with responsibility for the administration of the relevant portion of this Agreement.

"SEC" means the Securities and Exchange Commission of the United States, or any successor thereto.

"Securities" or **"Security"** shall have the meaning specified in section 2(1) of the Securities Act.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"Senior Financial Officer" means the chief financial officer, principal accounting officer, treasurer or comptroller of the Company.

"Series" is defined in Section 1.

"Shelf Closing" means, with respect to any Series of Notes, the closing of the sale and purchase of such Series of Notes.

"Significant Subsidiary" means any Subsidiary which is a "significant subsidiary" (as defined in Article I, Rule 1-02 of Regulation S-X, promulgated under the Securities Act) of the Company.

"Source" is defined in Section 6.2.

"State Commissions" means the Delaware, Florida and Maryland public utilities commissions or other bodies which regulate the rates of the Company or its Subsidiaries as a natural gas distribution company or otherwise.

"Structuring Fee" is defined in Section 2(h)(1).

"Subsidiary" means any corporation organized under the laws of any State of the United States of America, which conducts the major portion of its business in and makes the major portion of its sales to Persons located in the United States of America, and not less than 80% of the total combined voting power of all classes of Voting Stock, and 80% of all other equity Securities, of which shall, at the time as of which any determination is being made, be owned by the Company either directly or through Subsidiaries. Unless the context otherwise clearly requires, any reference to a "Subsidiary" is a reference to a Subsidiary of the Company.

"Subsidiary Guarantor" means each Subsidiary that has executed and delivered a Subsidiary Guaranty.

"Subsidiary Guaranty" is defined in Section 9.7(a).

"Subsidiary Stock" is defined in Section 10.5(b).

"Substitute Purchaser" is defined in Section 21.

"SVO" means the Securities Valuation Office of the NAIC or any successor to such Office.

"Total Capitalization" means at any date, the aggregate amount at that date, as determined on a consolidated basis, of the Funded Indebtedness of the Company and its Subsidiaries, *plus* Consolidated Net Worth.

"USA PATRIOT Act" means United States Public Law 107-56, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as amended from time to time, and the rules and regulations promulgated thereunder from time to time in effect.

"U.S. Economic Sanctions" is defined in Section 5.16(a).

"Voting Stock" means Securities, the holders of which are ordinarily, in the absence of contingencies, entitled to elect the corporate directors (or Persons performing similar functions).

"Wholly-Owned Subsidiary" means any Subsidiary whose financial results are consolidated with the financial results of the Company, and all of the equity Securities of which (except director's qualifying shares) are owned by the Company and/or one or more Wholly-Owned Subsidiaries of the Company.

INFORMATION SCHEDULE

PRUDENTIAL INVESTMENT MANAGEMENT, INC.

(1) All payments to Prudential shall be made by wire transfer of immediately available funds for credit to:

JPMorgan Chase Bank
New York, NY
ABA No.: 021-000-021
Account No.: 304232491
Account Name: PIM Inc. - PCG

(2) Address for all notices relating to payments:

Prudential Investment Management, Inc.
c/o The Prudential Insurance Company of America
Investment Operations Group
Gateway Center Two, 10th Floor
100 Mulberry Street
Newark, NJ 07102-4077

Attention: Manager

(3) Address for all other communications and notices:

Prudential Investment Management, Inc.
c/o Prudential Capital Group
[Regional Office]

Attention: Managing Director

(4) Recipient of telephonic prepayment notices:

Manager, Trade Management Group

Telephone: (973) 367-3141
Facsimile: (888) 889-3832

(5) Tax Identification No.: 22-2540245

SCHEDULE B
(to Private Shelf Agreement)

(6) Authorized Officers:

Ric E. Abel
Managing Director
Prudential Capital Group
2200 Ross Avenue
Suite 4300
Dallas, TX 75201

Telephone: (214) 720-6272
Facsimile: (214) 720-6297

Matthew A. Baker
Vice President
Prudential Capital Group
2200 Ross Avenue
Suite 4300
Dallas, TX 75201

Telephone: (214) 720-6253
Facsimile: (214) 720-6222

Julia B. Buthman
Managing Director
Prudential Capital Group
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Suite 4300
Dallas, TX 75201

Telephone: (214) 720-6273
Facsimile: (214) 720-6299

Richard P. Carrell
Vice President
Prudential Capital Group
2200 Ross Avenue
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Telephone: (214) 720-6287
Facsimile: (214) 720-6297

Brien F. Davis
Vice President
Prudential Capital Group
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Telephone: (214) 720-6256
Facsimile: (214) 720-6299

Randall M. Kob
Managing Director
Prudential Capital Group
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Facsimile: (214) 720-6201

Christopher L. Halloran
Vice President
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Brian E. Lemons
Vice President
Prudential Capital Group
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Facsimile: (214) 720-6222

Timothy M. Laczkowski
Vice President
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Brian N. Thomas
Managing Director
Prudential Capital Group
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Telephone: (214) 720-6216
Facsimile: (214) 720-6222

Ingrida Soldatova
Vice President
Prudential Capital Group
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Dallas, TX 75201

Telephone: (214) 720-6230
Facsimile: (214) 720-6297

Ty Bowman
Vice President
Prudential Capital Group
2200 Ross Avenue
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Dallas, TX 75201

Telephone: (214) 720-6263
Facsimile: (214) 720-6297

Wendy A. Carlson
Managing Director
Prudential Capital Group
2200 Ross Avenue
Suite 4300
Dallas, TX 75201

Telephone: (214) 720-6229
Facsimile: (214) 720-6297

Authorized Officers for Company

Thomas E. Mahn
Treasurer
Chesapeake Utilities Corporation
909 Silver Lake Boulevard
Dover, Delaware 19904

Telephone: 302-736-7656
Facsimile: 302-734-6750

Beth W. Cooper
Senior Vice President & Chief Financial Officer
Chesapeake Utilities Corporation
909 Silver Lake Boulevard
Dover, Delaware 19904

Telephone: 302-734-6022
Facsimile: 302-734-6750

FORM OF NOTE

CHESAPEAKE UTILITIES CORPORATION

[__.__]% SENIOR NOTE, SERIES [__], DUE [_____ __, 20__]

NO. [_____]
PPN[_____]
ORIGINAL PRINCIPAL AMOUNT:
ORIGINAL ISSUE DATE:
INTEREST RATE:
INTEREST PAYMENT DATES:
FINAL MATURITY DATE:
PRINCIPAL PREPAYMENT DATES AND AMOUNTS:

FOR VALUE RECEIVED, the undersigned, **CHESAPEAKE UTILITIES CORPORATION** (herein called the **"Company"**), a corporation organized and existing under the laws of the State of Delaware, hereby promises to pay to _____, or registered assigns, the principal sum of _____ DOLLARS [on the Final Maturity Date specified above (or so much thereof as shall not have been prepaid),] [, payable on the Principal Prepayment Dates and in the amounts specified above, and on the Final Maturity Date specified above in an amount equal to the unpaid balance of the principal hereof,] with interest (computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance hereof at the Interest Rate per annum specified above, payable on each Interest Payment Date specified above and on the Final Maturity Date specified above, commencing with the Interest Payment Date next succeeding the date hereof, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law, (1) on any overdue payment of interest and (2) during the continuance of an Event of Default, on such unpaid balance and on any overdue payment of any Make-Whole Amount, at a rate per annum (the **"Default Rate"**) from time to time equal to the greater of (i) 2.00% over the Interest Rate specified above or (ii) 2.00% over the rate of interest publicly announced by PNC Bank, NA from time to time in Pittsburgh, Pennsylvania as its "base" or "prime" rate, payable on each Interest Payment Date as aforesaid (or, at the option of the registered holder hereof, on demand).

Payments of principal of, interest on and any Make-Whole Amount with respect to this Note are to be made in lawful money of the United States of America at the principal office of PNC Bank, NA in New York, New York or at such other place as the Company shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreement referred to below.

This Note is one of a series of Senior Notes (herein called the **"Notes"**) issued pursuant to the Private Shelf Agreement, dated as of October 8, 2015 (as from time to time amended, the **"Note Purchase Agreement"**), between the Company, Prudential Investment Management, Inc. and each Prudential Affiliate, which becomes party thereto and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, to have (i) agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreement and (ii) made

the representations set forth in Section 6.1 and 6.2 of the Note Purchase Agreement. Unless otherwise indicated, capitalized terms used in this Note shall have the respective meanings ascribed to such terms in the Note Purchase Agreement.

This Note is a registered Note and, as provided in the Note Purchase Agreement, upon surrender of this Note for registration of transfer accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder's attorney duly authorized in writing, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Company may treat the Person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

[The Company will make required prepayments of principal on the dates and in the amounts specified in the Note Purchase Agreement.] [This Note is [also] subject to optional prepayment, in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement, but not otherwise.]

If an Event of Default occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price (including any applicable Make-Whole Amount) and with the effect provided in the Note Purchase Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the Company and the holder of this Note shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would permit the application of the laws of a jurisdiction other than such State.

CHESAPEAKE UTILITIES CORPORATION

By _____
Its _____

FORM OF REQUEST FOR PURCHASE

REQUEST FOR PURCHASE

CHESAPEAKE UTILITIES CORPORATION

Reference is made to the Private Shelf Agreement (as amended from time to time, the **"Agreement"**), dated as of October 8, 2015, between Chesapeake Utilities Corporation, a Delaware corporation (the **"Company"**), on the one hand, and Prudential Investment Management, Inc. (**"Prudential"**) and each Prudential Affiliate which becomes party thereto, on the other hand. Capitalized terms used and not otherwise defined herein shall have the respective meanings specified in the Agreement.

Pursuant to Section 2(d) of the Agreement, the Company hereby makes the following Request for Purchase:

1. Aggregate principal amount of

   the Notes covered hereby
   (the **"Notes"**) ..... $_____[1]

2. Individual specifications of the Notes:

Principal Amount	Final Maturity Date	Principal Prepayment Dates and Amounts	Interest Payment Period
			[___] in arrears

3. Use of proceeds of the Notes:

4. Proposed day for the closing of the purchase and sale of the Notes:

5. The purchase price of the Notes is to be transferred to:

Name and Address and ABA Routing Number of Bank	Number of Account

[1] Minimum principal amount of $5,000,000.

6. The Company certifies that the following are the only orders of a State Commission or other Governmental Authority necessary or required for the Company to incur the indebtedness to be evidenced by the Notes:

_____

_____

7. The Company certifies that (a) the representations and warranties contained in Section 5 of the Agreement are true on and as of the date of this Request for Purchase and (b) from the date of the Agreement to the date of this Request for Purchase assuming that Sections 9 and 10 of the Agreement were applicable from the date of the Agreement, no Event of Default or Default exists as of the date hereof.

8. The Issuance Fee to be paid pursuant to the Agreement will be paid by the Company on the closing date.

[9. Attached as Annex I hereto are updated Schedules, pursuant to Section 4.1 of the Agreement. – if necessary]

Dated:

CHESAPEAKE UTILITIES CORPORATION

By _____
Authorized Officer

FORM OF CONFIRMATION OF ACCEPTANCE

CONFIRMATION OF ACCEPTANCE

Reference is made to the Private Shelf Agreement (as amended from time to time, the **"Agreement"**), dated as of October 8, 2015 between Chesapeake Utilities Corporation, a Delaware corporation (the **"Company"**), on the one hand, and Prudential Investment Management, Inc. (**"Prudential"**) and each Prudential Affiliate which becomes party thereto, on the other hand. All terms used herein that are defined in the Agreement have the respective meanings specified in the Agreement.

Prudential or the Prudential Affiliate which is named below as a Purchaser of Notes hereby confirms the representations as to such Notes set forth in Section 6 of the Agreement, and agrees to be bound by the provisions of the Agreement applicable to the Purchasers and holders of the Notes.

Pursuant to Section 2(f) of the Agreement, an Acceptance with respect to the following Accepted Notes is hereby confirmed:

I. Accepted Notes: Aggregate principal amount $_____

(A)
(a) Name of Purchaser:
(b) Principal amount:
(c) Final maturity date:
(d) Principal prepayment dates and amounts:
(e) Interest rate:
(f) Interest payment period: [_____] in arrears
(g) Payment and notice instructions: As set forth on attached Purchaser Schedule

(B)
(a) Name of Purchaser:
(b) Principal amount:
(c) Final maturity date:
(d) Principal prepayment dates and amounts:
(e) Interest rate:
(f) Interest payment period: [_____] in arrears
(g) Payment and notice instructions: As set forth on attached Purchaser Schedule

[(C), (D) same information as above.]

II. Closing Day:

III. Issuance Fee:

SCHEDULE 2(f)
(to Private Shelf Agreement)

CHESAPEAKE UTILITIES CORPORATION

By: _____
Name: _____
Title: _____
Dated: _____

[PRUDENTIAL INVESTMENT MANAGEMENT, INC.]

By _____
Vice President

[PRUDENTIAL AFFILIATE]

By _____
Vice President

[ATTACH PURCHASER SCHEDULES]

FORM OF OPINION OF SPECIAL COUNSEL
FOR THE COMPANY

[BAKER & HOSTETLER LLP]

[Date of Closing]
[Purchasers]
Ladies and Gentlemen:

We have acted as special counsel for Chesapeake Utilities Corporation, a Delaware corporation (the **"Company"**), in connection with the Private Shelf Agreement, dated as of October 8, 2015, between the Company and each of you (the **"Note Agreement"**), pursuant to which the Company has issued on the date hereof its [__.__]% Senior Notes, Series [_] due [_____ __, 20__] in the aggregate principal amount of $[_____] (the **"Notes"**). Unless otherwise defined herein, capitalized terms used herein have the respective meanings specified in the Note Agreement. This letter is being delivered to each of you pursuant to Section 4.4(a) of the Note Agreement and with the understanding that each of you is purchasing the Notes in reliance on the opinions expressed herein.

In rendering the opinions set forth herein, we have reviewed (i) the Note Agreement, (ii) the Notes and (iii) such corporate records, certificates and other documents, and such questions of law, as we have deemed necessary or appropriate for the purposes of this opinion.

We have assumed that all signatures are genuine (other than, in the case of the Note Agreement and the Notes, those of the Company), that all documents submitted to us as originals are authentic and that all copies of documents submitted to us conform to the originals. We also have assumed:

(i) as to factual matters, the accuracy of the warranties and representations contained in the Note Agreement, including the representations of the Purchasers in Section 6.1 of the Note Agreement and in the certificates delivered by officers of the Company pursuant to Section 4.3 of the Note Agreement;

(ii) that any authorization, consent, approval, exemption or other action by, or notice to or filing with, any court, administrative or governmental body that is required for the execution and delivery of the Note Agreement and the Notes or the consummation of the transactions contemplated thereby in accordance with the terms thereof (other than to the extent addressed in paragraph 6 below) has been duly obtained or made or shall be timely and duly obtained or made;

(iii) that, other than to the extent addressed in paragraph 7 below, the execution and delivery of the Note Agreement and the Notes, the offering, issuance and sale of the Notes and the consummation by the Company of the transactions contemplated in the Note Agreement and the Notes in accordance with the terms thereof do not violate or

contravene any statute, law, rule or regulation or any judgment, order, decree or permit issued by any court, arbitrator or governmental or regulatory authority; and

(iv) that the Note Agreement is a binding and enforceable agreement of each party thereto other than the Company.

We have made no investigation for the purpose of verifying these assumptions.

Where statements in this opinion, if any, are qualified by the expression "known to us," such statements refer to the actual knowledge, but not constructive or imputed knowledge, of the attorneys in our firm who have given substantive attention to the transaction that is the subject of this opinion, without any representation or implication that any inquiry has been made with respect to such statements.

Based on the foregoing, and subject to the qualifications and assumptions set forth herein, we are of the opinion that, insofar as the law of the State of New York, the Delaware General Corporation Law (the **"DGCL"**) and the Federal law of the United States of America are concerned:

1. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware.

2. The Company has the corporate power and authority to execute, deliver and perform its obligations under the Note Agreement and the Notes.

3. The Note Agreement and the Notes have been duly authorized by all requisite corporate action and duly executed and delivered by authorized officers of the Company and constitute the valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium, and other similar laws of general applicability relating to or affecting creditors' rights and to general equity principles.

4. It is not necessary in connection with the offer, issuance, sale and delivery of the Notes to the Purchasers under the circumstances contemplated by the Note Agreement to register the Notes under the Securities Act of 1933, as amended, or to qualify an indenture in respect of the Notes under the Trust Indenture Act of 1939, as amended.

5. Neither the issuance and the sale of the Notes by the Company nor the use of the proceeds thereof as described in the Note Agreement violates Regulation X of the Board of Governors of the Federal Reserve System or will cause any Purchaser to violate Regulation T or U of the Board of Governors of the Federal Reserve System to the extent it may be subject thereto.

6. No consent, approval, authorization or other action by or filing with any governmental agency or instrumentality of the State of New York or the United States of America or under the DGCL is required on the part of the Company for the execution and delivery of the Note Agreement and the Notes or for the consummation by the Company

of the transactions contemplated thereby, or the performance of its obligations thereunder, in accordance with the terms thereof.

7. The execution and delivery of the Note Agreement and the Notes, the offering, issuance and sale of the Notes and the consummation by the Company of the transactions contemplated thereby, and the performance of its obligations thereunder, in accordance with the terms thereof (i) do not violate the DGCL, any New York or Federal statute, law, rule or regulation to which the Company is subject, or the usury laws of the State of New York or (ii) do not conflict with, breach the terms, conditions or provisions of, or constitute a default under, violate, or result in the creation of any Lien upon any of the properties or assets of the Company pursuant to (A) the Amended and Restated Certificate of Incorporation or Amended and Restated Bylaws of the Company or (B) any of the instruments or agreements listed on Schedule 5.15 of the Note Agreement.

The foregoing opinion is subject to the following qualifications:

(a) We express no opinion as to:

(i) waivers of the rights to object to venue or other rights or benefits bestowed by operation of law;

(ii) provisions for liquidated damages and penalties, penalty interest and interest on interest, it being understood that the provisions of Sections 8.2 and 12 of the Note Agreement are not excluded under this clause (ii);

(iii) provisions purporting to require a prevailing party in a dispute to pay attorneys' fees and expenses, or other costs, to a non-prevailing party;

(iv) provisions purporting to supersede equitable principles, including provisions requiring amendments and waivers to be in writing;

(v) provisions purporting to make a party's determination conclusive; or

(vi) exclusive jurisdiction or venue provisions.

(b) We express no opinion with regard to (i) any state securities or Blue Sky laws, (ii) any commodities, insurance or tax laws or (iii) the Employee Retirement Income Security Act of 1974, or any comparable state laws.

(c) Except as addressed in paragraphs 5 and 7(i), we express no opinion as to any legal requirements or restrictions applicable to the Purchasers.

(d) Our opinions in paragraphs 6 and 7(i) above are limited to laws and regulations normally applicable to transactions of the type contemplated by the Note Agreement and do not extend to laws or regulations relating to, or to licenses, permits, approvals and filings necessary for, the conduct of the business of the Company or any of

its subsidiaries, including, without limitation, any environmental or public utilities laws or regulations.

We do not express any opinion herein on any laws other than the laws of the State of New York, the DGCL and the Federal law of the United States.

This letter is given solely for your benefit as a Purchaser of Notes and for the benefit of any other person or entity to whom you may transfer any of the Notes. It may not be relied upon by any other person or entity and, except with respect to regulatory authorities exercising jurisdiction over any of you (which shall be deemed to include the National Association of Insurance Commissioners), this opinion may not be disclosed to any other person or entity without our written consent.

Very truly yours

FORM OF OPINION OF DELAWARE COUNSEL
FOR THE PURCHASERS

[PARKOWSKI, GUERKE & SWAYZE, P.A.]

[Date of Closing]
[Purchasers]
Ladies and Gentlemen:

We have acted as special Delaware counsel for Chesapeake Utilities Corporation (the **"Company"**) in connection with the Private Shelf Agreement, dated as of October 8, 2015, between the Company and each of you (the **"Note Agreement"**), pursuant to which the Company has issued today [__.__]% Senior Notes, Series [_] due [_____ __, 20__] of the Company in the aggregate principal amount of $[_____] (the **"Notes"**). All terms used herein that are defined in the Note Agreement have the respective meanings specified in the Note Agreement. This letter is being delivered to each of you in satisfaction of the condition set forth in Section 4.4(b) of the Note Agreement and with the understanding that each of you is purchasing the Notes in reliance on the opinions expressed herein.

In this connection, we have examined such certificates of public officials, certificates of officers of the Company and copies certified to our satisfaction of corporate documents and records of the Company and of other papers, and have made such other investigations, as we have deemed relevant and necessary as a basis for our opinion hereinafter set forth. We have relied upon such certificates of public officials and of officers of the Company with respect to the accuracy of material factual matters contained therein which were not independently established. With respect to the opinions expressed in paragraph 3 below, we have also relied upon the representations made by each of you in Sections 6.1 and 6.2 of the Note Agreement.

Based on the foregoing, it is our opinion that:

a. The Company has the corporate power and authority to carry on the business as now being conducted.

b. The execution and delivery of the Note Agreement and the Notes, the offering, issuance and sale of the Notes and fulfillment of and compliance with the respective provisions of the Note Agreement and the Notes will not require any authorization, consent, approval, exemption or other action by or notice to or filing with any Delaware court, Delaware administrative or Delaware governmental body (other than the State of Delaware Public Service Commission (the **"Commission"**) and routine filings after the date hereof with the SEC and/or State Blue Sky authorities) pursuant to, any Delaware applicable law (including any securities or Blue Sky law), statute, rule or regulation of the State of Delaware. The Commission has duly entered Order No. _____, dated _____ __, 20__, in PSC Docket No. _____. Said order is final and in full force and effect, no appeal, review or contest thereof is pending. It is our opinion that no further action by the Commission is a requirement to execution and delivery of

the Note Agreement or the Notes or the offering, issuance or sale of the Notes or the fulfillment of compliance with the requisite provisions of the Note Agreement and the Notes.

Our opinions may not be relied upon by any person or entity other than each of you, transferees of each of you and Schiff Hardin LLP, your special counsel, in connection with the matters referred to herein.

Our opinions are limited to the laws of the State of Delaware.

Sincerely yours,

[PARKOWSKI, GUERKE & SWAYZE, P.A.]

BY:_____
[William A. Denman, Esq.]

FORM OF OPINION OF MARYLAND COUNSEL
FOR THE COMPANY

[VENABLE LLP]

[Date of Closing]
[Purchasers]
Ladies and Gentlemen:

We have acted as special Maryland regulatory counsel for Chesapeake Utilities Corporation (the **"Company"**) in connection with the Private Shelf Agreement, dated as of October 8, 2015, between the Company and each of you (the **"Note Agreement"**), pursuant to which the Company has issued today [__.__]% Senior Notes, Series [_] due [_____ __, 20__] of the Company in the aggregate principal amount of $[_____] (the **"Notes"**). All terms used herein that are defined in the Note Agreement have the respective meanings specified in the Note Agreement. This letter is being delivered to each of you with the understanding that each of you is purchasing the Notes in reliance on the opinions expressed herein.

In rendering the opinions set forth herein, we have reviewed (i) a certificate executed by an officer of the Company, dated as of the date hereof (the **"Officer's Certificate"**), and (ii) such corporate records and other documents, and such questions of law, as we have deemed necessary or appropriate for purposes of this opinion. We assumed that all signatures are genuine, that all documents submitted to us as originals are authentic and that all copies of documents submitted to us conform to the originals. As to any facts material to this opinion which we did not independently establish or verify, we have relied solely upon the Officer's Certificate (attached hereto as Exhibit A).

Based on the foregoing and assuming approval of the subject transaction by the Delaware Public Service Commission in PSC Docket No. _____, it is our opinion that:

Maryland law requires the Company to provide prior written notice to the Public Service Commission of Maryland prior to the issuance and sale of the Notes. The Company filed its written notice (Commission Mail Log reference number [_____]) and the Public Service Commission of Maryland noted the transaction through a letter order dated [_____ __, 20_]. The fulfillment of and compliance with the respective provisions of the Note Agreement and the Notes do not require any further authorization, consent, approval, exemption or other action by or further notice to or filing with any Maryland state administrative or governmental body, including, without limitation, the Public Service Commission of Maryland, pursuant to any applicable law (including any securities or Blue Sky law), statute, rule, regulation or other requirement of the State of Maryland.

Our opinion may not be relied upon by any person or entity other than each of you, transferees of each of you and Schiff Hardin LLP your special counsel in connection with the matters referred to herein, and neither this opinion nor this opinion letter may be circulated, quoted, or relied upon by any other person for any other purpose without our prior written

consent (except to regulatory authorities having jurisdiction over you, including the National Association of Insurance Commissioners).

Very truly yours,

[Brian M. Quinn]

FORM OF OPINION OF FLORIDA COUNSEL
FOR THE COMPANY

[GUNSTER, YOAKLEY & STEWARD, P.A.]

[Date of Closing]
[Purchasers]
Ladies and Gentlemen:

We have acted as special Florida counsel for Chesapeake Utilities Corporation (the **"Company"**) in connection with the Private Shelf Agreement, dated as of October 8, 2015, between the Company and each of you (the **"Note Agreement"**), pursuant to which the Company has issued today [__.__]% Senior Notes due [_____ __, 20__], of the Company, which in the aggregate are in the principal amount of $[_____] (the **"Notes"**). All terms used herein that are defined in the Note Agreement have the respective meanings specified in the Note Agreement. This letter is being delivered to each of you in satisfaction of the condition set forth in Section 4.4(d) of the Note Agreement and with the understanding that each of you is purchasing the Notes in reliance on the opinions expressed herein.

In this connection, we have examined such certificates of public officials, certificates of officers of the Company and copies certified to our satisfaction of corporate documents and records of the Company and of other papers, and have made such other investigations, as we have deemed relevant and necessary as a basis for our opinion hereinafter set forth. We have relied upon such certificates of public officials and of officers of the Company with respect to the accuracy of material factual matters contained therein which were not independently established.

Based on the foregoing, it is our opinion that:

a. The Company is qualified to do business and is in good standing under the laws of the State of Florida.

b. The execution and delivery of the Note Agreement and the Notes, the issuance and sale of the Notes and fulfillment of and compliance with the respective provisions of the Note Agreement and the Notes will not require any authorization, consent, approval, exemption or other action by or notice to or filing with any court, administrative or governmental body (other than the Public Service Commission of the State of Florida) pursuant to any applicable law, statute, rule or regulation of the State of Florida. The Public Service Commission of the State of Florida has duly entered Order No. _____, dated _____ __, 20__, in Docket No. _____, [refer also to any subsequent annual orders – each of] which order is final and in full force and effect, no appeal, review or contest thereof is pending and the time for appeal or to seek review or reconsideration thereof has expired and no further action by the Public Service Commission of the State of Florida is a requirement to execution and delivery of the Note Agreement or the Notes or the issuance or sale of the Notes or the fulfillment of compliance with the requisite provisions of the Note Agreement and the Notes.

Our opinion may not be relied upon by any person or entity other than each of you, transferees of each of you and Schiff Hardin LLP your special counsel in connection with the matters referred to herein.

Our opinion is limited to the laws of the State of Florida.

Sincerely,

By:_____
[Beth Keating, Esquire

GUNSTER, YOAKLEY & STEWARD, P.A.
850.521.1706 (office direct)]

FORM OF OPINION OF SPECIAL COUNSEL TO THE PURCHASERS

The closing opinion of Schiff Hardin LLP, special counsel to the Purchasers, called for by Section 4.4(e) of the Agreement, shall be dated the date of such Closing and addressed to the Purchasers, shall be satisfactory in form and substance to the Purchasers and shall be to the effect that:

1. The Company is a corporation validly existing and in good standing under the laws of the State of Delaware.

2. The Agreement and the Notes being delivered on the date hereof constitute the legal, valid and binding contracts of the Company, enforceable against the Company in accordance with its terms.

3. The issuance, sale and delivery of the Notes being delivered on the date hereof under the circumstances contemplated by this Agreement do not, under existing law, require the registration of such Notes under the Securities Act or the qualification of an indenture under the Trust Indenture Act of 1939, as amended.

The opinion of Schiff Hardin LLP shall also state that the opinions of Baker & Hostetler LLP, Parkowski, Guerke and Swayze, Venable LLP and Gunster, Yoakley & Steward, P.A. are satisfactory in scope and form to Schiff Hardin LLP and that, in their opinion, the Purchasers are justified in relying thereon.

In rendering the opinion set forth in paragraph 1 above, Schiff Hardin LLP may rely, as to matters referred to in paragraph 1, solely upon an examination of Amended and Restated Articles of Incorporation certified by, and a certificate of good standing of the Company from, the Secretary of State of the State of Delaware. The opinion of Schiff Hardin LLP is limited to the laws of the State of New York and the federal laws of the United States.

With respect to matters of fact upon which such opinion is based, Schiff Hardin LLP may rely on appropriate certificates of public officials and officers of the Company and upon representations of the Company and the Purchasers delivered in connection with the issuance and sale of the Notes.

DISCLOSURE MATERIALS

None, other than the Company's public filings with the SEC.

SCHEDULE 5.3
(to Private Shelf Agreement)

SUBSIDIARIES OF THE COMPANY AND OWNERSHIP OF SUBSIDIARY STOCK

Name	Jurisdiction of Organization	Owner	Ownership Percentage
Eastern Shore Natural Gas Company	Delaware	Chesapeake Utilities Corporation	100%
Sharp Energy, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Sharpgas, Inc.	Delaware	Sharp Energy, Inc.	100%
Xeron, Inc.	Mississippi	Chesapeake Utilities Corporation	100%
Peninsula Energy Services Company, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Peninsula Pipeline Company, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Florida Public Utilities Company	Florida	Chesapeake Utilities Corporation	100%
Flo-Gas Corporation	Florida	Florida Public Utilities Company	100%
Chesapeake Service Company	Delaware	Chesapeake Utilities Corporation	100%
Skipjack, Inc.	Delaware	Chesapeake Service Company	100%
Chesapeake Investment Company	Delaware	Chesapeake Service Company	100%
Eastern Shore Real Estate, Inc.	Delaware	Chesapeake Service Company	100%
Chesapeake OnSight Services, LLC	Delaware	Chesapeake Utilities Corporation	100%
Sandpiper Energy, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Eight Flags Energy, LLC	Delaware	Chesapeake OnSight Services, LLC	100%
Austin Cox Home Services, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Grove Energy, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Aspire Energy of Ohio, LLC	Delaware	Chesapeake Utilities Corporation	100%
Sharp Water, Inc. *(Inactive)*	Delaware	Chesapeake Utilities Corporation	100%
aQuality Company, Inc. *(Inactive)*	Delaware	Chesapeake Utilities Corporation	100%

SCHEDULE 5.4
(to Private Shelf Agreement)

EXISTING INDEBTEDNESS

1. Note Purchase Agreement, dated September 5, 2013, regarding $20,000,000 3.73% Series A, Senior Unsecured Notes, due December 16, 2028 and $50,000,000 3.88% Series B, Senior Unsecured Notes, due May 15, 2029

2. Note Agreement, dated June 29, 2010, as amended by First Amendment June 20, 2011, regarding $29,000,000 5.68% Series A, Senior Unsecured Notes, due June 30, 2026 and $7,000,000 6.43% Series B, Senior Unsecured Notes, due May 2, 2028

3. Note Agreement, dated October 31, 2008, as amended, regarding $30,000,000 5.93% Senior Unsecured Notes, due October 31, 2023

4. Note Agreement, dated October 18, 2005, as amended, regarding $20,000,000 5.50% Senior Unsecured Notes, due October 12, 2020

5. Note Agreement, dated October 31, 2002, as amended, regarding $30,000,000 6.64% Senior Unsecured Notes, due October 31, 2017

6. Indenture of Mortgage and Deed of Trust, dated September 1, 1942, between Florida Public Utilities Company and the trustee, for the First Mortgage Bonds, all supplemental indentures thereto and the First Colony Bond Purchase Agreement.

7. Letter Agreement, dated September 26, 2003, between Chesapeake Utilities Corporation and PNC Bank, National Association, as amended

8. Loan Agreement, dated September 12, 2002, between Chesapeake Utilities Corporation and Bank of America, N.A., as amended.

9. Revolving Credit Agreement dated December 29, 2014, between Chesapeake Utilities Corporation and Citizens Bank, National Association.

10. Capacity, Supply and Operating Agreement and Capital Lease Obligation, dated May 21, 2013, between Sandpiper Energy, Inc. and Eastern Gas and Water Investment Company, LLC due May 1, 2019.

11. Consulting Agreement, dated February 5, 2013, between Flo-Gas Corporation and Glades Gas Co., Inc. due February 15, 2018.

12. Credit Agreement, dated October 8, 2015 (as amended, restated, extended, supplemented or otherwise modified from time to time), by and among Chesapeake Utilities Corporation, a Delaware corporation, the lenders party thereto, and PNC Bank, National Association, as administrative agent, swing loan lender and issuing lender.

SCHEDULE 5.15
(to Private Shelf Agreement)

EXISTING LIENS

The FPU Indebtedness is secured by the Indenture of Mortgage and Deed of Trust. dated as of September 1, 1942, as amended, supplemented and modified, by the Company, in favor of U.S. Bank National Association (successor to the original trustees), as trustee.

Capacity, Supply and Operating Agreement and Capital Lease Obligation, dated May 21, 2013, between Sandpiper Energy, Inc. and Eastern Gas and Water Investment Company, LLC due May 1, 2019.

SCHEDULE 10.4(e)
(to Private Shelf Agreement)

LINE OF BUSINESS

Chesapeake Utilities Corporation is a diversified energy company engaged in natural gas distribution, transmission and marketing, electricity distribution, propane distribution and wholesale marketing, and other related services

Recent developments:

The Company's acquisition of Gatherco, Inc. by merger into the Company's wholly-owned subsidiary, Aspire Energy of Ohio, LLC, added natural gas gathering services, liquids processing and natural gas supply to local distributors to its line of business.

The Company is developing a natural gas combined heat and power plant to be operated on Amelia Island, Florida by its wholly-owned subsidiary, Eight Flags Energy, LLC.

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SCHEDULE 10.6
(to Private Shelf Agreement)

Published CUSIP Number: 16530HAA5
Revolving Credit CUSIP Number:

16530HAB3

$150,000,000 REVOLVING CREDIT FACILITY

CREDIT AGREEMENT

by and among

CHESAPEAKE UTILITIES CORPORATION

and

THE LENDERS PARTY HERETO

and

PNC BANK, NATIONAL ASSOCIATION,
as Administrative Agent, Swing Loan Lender and Issuing Lender

PNC CAPITAL MARKETS LLC and MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
as Joint Lead Arrangers and Joint Bookrunners

and

BANK OF AMERICA, N.A.,

as Syndication Agent

Dated as of October 8, 2015

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LIST OF SCHEDULES AND EXHIBITS

SCHEDULES

EXHIBITS

CREDIT AGREEMENT

THIS CREDIT AGREEMENT (as hereafter amended, the "**Agreement**") is dated as of October 8, 2015 and is made by and among CHESAPEAKE UTILITIES CORPORATION, a Delaware corporation (the "**Borrower**"), the LENDERS (as hereinafter defined), and PNC BANK, NATIONAL ASSOCIATION, in its capacity as administrative agent for the Lenders under this Agreement (hereinafter referred to in such capacity as the "**Administrative Agent**"), Swing Loan Lender and Issuing Lender.

The Borrower has requested the Lenders to provide a revolving credit facility to the Borrower in an aggregate principal amount not to exceed $150,000,000, including therein a Swing Loan subfacility and a Letter of Credit subfacility. In consideration of their mutual covenants and agreements hereinafter set forth and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

ARTICLE 1
CERTAIN DEFINITIONS

1.1 Certain Definitions. In addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the following meanings, respectively, unless the context hereof clearly requires otherwise:

Acquisition shall mean any transaction, or any series of related transactions, consummated on or after the date of this Agreement, by which the Borrower or any of its Subsidiaries (a) acquires any ongoing business or all or substantially all of the assets of any firm, corporation or limited liability company, or division thereof, whether through purchase of assets, merger or otherwise or (b) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage or voting power) of the outstanding ownership interests of a partnership or limited liability company.

Additional Commitment Lender shall have the meaning specified in Section 2.12(d) [(Additional Commitment Lenders].

Administrative Agent shall mean PNC Bank, National Association, and its successors and assigns, in its capacity as administrative agent hereunder.

Administrative Agent's Fee shall have the meaning specified in Section 2.3(a) [Fees].

Administrative Agent's Letter shall have the meaning specified in Section 2.3(a) [Fees].

Administrative Questionnaire shall mean an administrative questionnaire in a form supplied by the Administrative Agent.

Affiliate shall mean, with respect to a specified Person, another Person that directly or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

Alternate Source shall have the meaning specified in the definition of LIBOR Rate.

Anniversary Date shall have the meaning specified in Section 2.12(a) [Requests for Extension].

Anti-Terrorism Laws shall mean any Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such Laws, all as amended, supplemented or replaced from time to time.

Applicable Margin shall mean the corresponding percentages per annum as set forth below based on the Total Indebtedness to Total Capitalization Ratio:

				Revolving Credit Loans	
Pricing Level	**Total Indebtedness to Total Capitalization Ratio**	**Commitment Fee**	**Letter of Credit Fee**	**LIBOR +**	**Base Rate +**
I	Equal to or less than 35.0%	0.075%	0.875%	0.875%	0.000%
II	Greater than 35.0% but equal to or less than 50.0%	0.100%	1.000%	1.000%	0.000%
III	Greater than 50.0% but equal to or less than 60.0%	0.125%	1.125%	1.125%	0.125%
IV	Greater than 60.0%	0.175%	1.250%	1.250%	0.250%

The Applicable Margin shall be determined and adjusted quarterly on the date on which the Borrower is required to provide a Compliance Certificate pursuant to Section 8.12(a) [Certificates; Notices; Additional Information] for the most recently ended fiscal quarter of the Borrower (each such date, a "**Calculation Date**"); provided that (a) the Applicable Margin shall be based on Pricing Level II until the Calculation Date related to the Compliance Certificate delivered for the fiscal quarter ended September 30, 2015, and, thereafter the Pricing Level shall be determined by reference to the Total Indebtedness to Total Capitalization Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding the applicable Calculation Date, and (b) if the Borrower fails to provide any Compliance Certificate when due as required by Section 8.12(a) [Certificates; Notices; Additional Information], the Applicable Margin from the date on which

such Compliance Certificate was required to have been delivered shall be based on Pricing Level IV until such time as such Compliance Certificate is delivered, at which time the Pricing Level shall be determined by reference to the Total Indebtedness to Total Capitalization Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding such Calculation Date. The applicable Pricing Level shall be effective from one Calculation Date until the next Calculation Date, except as provided in the preceding sentence. Any adjustment in the Pricing Level shall be applicable to all extensions of credit then existing or subsequently made or issued.

Notwithstanding the foregoing, in the event that any financial statement or Compliance Certificate delivered pursuant to Section 8.11(a) or (b) [Reporting Requirements] or Section 8.12(a) [Certificates; Notices; Additional Information] is shown to be inaccurate (regardless of whether (i) this Agreement is in effect, (ii) any Commitments are in effect, or (iii) any Loan or Letter of Credit Obligation is outstanding when such inaccuracy is discovered or such financial statement or Compliance Certificate was delivered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an "**Applicable Period**") than the Applicable Margin applied for such Applicable Period, then (A) the Borrower shall immediately deliver to the Administrative Agent a corrected Compliance Certificate for such Applicable Period, (B) the Applicable Margin for such Applicable Period shall be determined as if the Total Indebtedness to Total Capitalization Ratio in the corrected Compliance Certificate were applicable for such Applicable Period, and (C) the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent (for the benefit of the applicable Lenders) the accrued additional interest and fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with Section 5.4 [Administrative Agent's Clawback]. Nothing in this paragraph shall limit the rights of the Administrative Agent and Lenders with respect to Section 5.1 [Payments] or Section 10.2 [Consequences of Event of Default] nor any of their other rights under this Agreement or any other Loan Document. The Borrower's obligations under this paragraph shall survive the termination of the Commitments and the repayment of all other Obligations hereunder.

Approved Fund shall mean any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

Arrangers shall, collectively, mean PNC Capital Markets LLC and MLPFS.

Assignment and Assumption shall mean an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 12.9 [Successors and Assigns]), and accepted by the Administrative Agent, in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

Authorized Officer shall mean the Chief Executive Officer, President, Chief Financial Officer, Treasurer or Assistant Treasurer of the Borrower, or such other individuals, designated by written notice to the Administrative Agent from the Borrower, authorized to execute notices, reports and other documents on behalf of the Borrower required hereunder. The Borrower may amend such list of individuals from time to time by giving written notice of such amendment to the Administrative Agent.

BAML Fee shall have the meaning specified in Section 2.3(b) [Fees].

BAML Letter shall have the meaning specified in Section 2.3(b) [Fees].

Base Rate shall mean, for any day, a fluctuating per annum rate of interest equal to the highest of (i) the Federal Funds Open Rate, plus 0.5%, (ii) the Prime Rate, and (iii) the Daily LIBOR Rate, plus 1.00%). Any change in the Base Rate (or any component thereof) shall take effect at the opening of business on the day such change occurs.

Base Rate Option shall mean the option of the Borrower to have Loans bear interest at the rate and under the terms set forth in Section 4.1(a)(i) [Revolving Credit Base Rate Options] or Section 4.1(b) [Swing Loan Interest Rate], as applicable.

Borrower shall have the meaning specified in the introductory paragraph.

Borrowing Date shall mean, with respect to any Loan, the date of the making, renewal or conversion thereof, which shall be a Business Day.

Borrowing Tranche shall mean specified portions of Revolving Credit Loans outstanding as follows: (i) any Revolving Credit Loans to which a LIBOR Rate Option applies which become subject to the same Interest Rate Option under the same Revolving Credit Loan Request by the Borrower and which have the same Interest Period shall constitute one Borrowing Tranche, and (ii) all Revolving Credit Loans to which a Base Rate Option applies shall constitute one Borrowing Tranche.

Business Day shall mean any day other than a Saturday or Sunday or a legal holiday on which commercial banks are authorized or required to be closed, or are in fact closed, for business in Pittsburgh, Pennsylvania (or, if otherwise, the Lending Office of the Administrative Agent) and if the applicable Business Day relates to any Loan to which the LIBOR Rate Option applies, such day must also be a day on which dealings are carried on in the London interbank market.

Cash Collateralize shall mean to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the Issuing Lender or the Lenders, as collateral for Letter of Credit Obligations or obligations of Lenders to fund participations in respect of Letter of Credit Obligations, cash or deposit account balances or, if the Administrative Agent and each applicable Issuing Lender shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to the Administrative Agent and each applicable Issuing Lender. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

Cash Equivalents shall, collectively, mean such items described in clauses (i), (ii), (iii) and (iv) of the definition of Permitted Investments.

Cash Management Agreements shall have the meaning specified in Section 2.6(f) [Swing Loans Under Cash Management Agreements].

Cash Management Bank shall mean any Person that, at the time it enters into an Other Lender Provided Financial Service Product, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Other Lender Provided Financial Service Product.

CFTC shall mean the Commodity Futures Trading Commission.

Change in Law shall mean the occurrence, after the date of this Agreement, of any of the following: (i) the adoption or taking effect of any Law, (ii) any change in any Law or in the administration, interpretation, implementation or application thereof by any Official Body or (iii) the making or issuance of any request, rule, guideline or directive (whether or not having the force of Law) by any Official Body; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of Law) and (y) all requests, rules, regulations, guidelines, interpretations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities (whether or not having the force of Law), in each case pursuant to Basel III, shall in each case be deemed to be a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

Change of Control shall mean (a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")), shall become, or obtain rights (whether by means or warrants, options or otherwise) to become, the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of more than 35% of the Equity Interests of the Borrower; or (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were neither (i) nominated by the board of directors of the Borrower nor (ii) appointed by directors so nominated.

CIP Regulations shall have the meaning specified in Section 11.12 [No Reliance on Administrative Agent's Customer Identification Program].

Closing Date shall mean October 8, 2015.

Code shall mean the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

Commitment shall mean, as to any Lender, its Revolving Credit Commitment, and Commitments shall mean the aggregate of the Revolving Credit Commitments of all of the Lenders. The term "Commitment" in reference to PNC only may also refer to its Swing Loan Commitment as the context may require, but does not refer to the aggregate of its Revolving Credit Commitment and its Swing Loan Commitment.

Commitment Fee shall have the meaning specified in Section 2.3 [Commitment Fees].

Commodity Hedge shall mean commodity swaps, commodity options, forward commodity contracts and any other similar transactions entered into by the Borrower in the ordinary course of its business (only for hedging (rather than speculative) purposes) in order to provide protection to, or minimize the impact upon, the Borrower of increasing prices of commodities.

Commodity Hedge Bank shall mean any Person that, at the time it enters into a Lender Provided Commodity Hedge, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Lender Provided Commodity Hedge.

Commodity Hedge Liabilities shall have the meaning assigned in the definition of Lender Provided Commodity Hedge.

Compliance Certificate shall have the meaning specified in Section 8.12(a) [Certificate of the Borrower].

Connection Income Taxes shall mean Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

Consolidated Net Worth shall mean as of any date, the sum of the amounts that would be shown on a consolidated balance sheet of the Borrower and its Subsidiaries at such date for (a) capital stock, (b) capital surplus and (c) the other components of stockholders' equity.

Consolidated Subsidiary shall mean with respect to any Person at any date any Subsidiary of such Person or other entity the accounts of which would be consolidated with those of such Person in its consolidated financial statements if such statements were prepared as of such date in accordance with GAAP.

Consolidated Total Assets shall mean as of any date the aggregate amount at which the assets of the Borrower and its Subsidiaries would be shown on a consolidated balance sheet at such date.

Control shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "**Controlling**" and "**Controlled**" have meanings correlative thereto.

Covered Entity shall mean (a) the Borrower and each of Borrower's Subsidiaries and (b) each Person that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the direct or indirect (x) ownership of, or power to vote, 25% or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

Current Indebtedness shall mean with respect to any Person, all Indebtedness for borrowed money and all Indebtedness secured by any Lien existing on property owned by that

Person (whether or not such Indebtedness have been assumed) which, in either case, is payable on demand or within one year from their creation, plus the aggregate amount of Guaranties by that Person of all such Indebtedness of other Persons, except: (a) any Indebtedness which is renewable or extendible at the option of the debtor to a date more than one year from the date of creation thereof; (b) any Indebtedness which, although payable within one year, constitutes principal payments on Indebtedness expressed to mature more than one year from the date of its creation and (c) Revolving Credit Loans and Guaranties of Revolving Credit Loans.

Daily LIBOR Rate shall mean, for any day, the rate per annum determined by the Administrative Agent by dividing (x) the Published Rate by (y) a number equal to 1.00 minus the LIBOR Reserve Percentage on such day. Notwithstanding the foregoing, if the Daily LIBOR Rate as determined above would be less than zero (0.00), such rate shall be deemed to be zero (0.00) percent for purposes of this Agreement.

Debtor Relief Laws shall mean the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

Defaulting Lender shall mean, subject to Section 2.10(b) [Defaulting Lender Cure], any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Issuing Lender, the Swing Loan Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Loans) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent, the Issuing Lender or the Swing Loan Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by an Official Body so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction

of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Official Body) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.10(b) [Defaulting Lender Cure]) upon delivery of written notice of such determination to the Borrower, the Issuing Lender, the Swing Loan Lender and each Lender.

Disqualified Institution shall mean the Persons identified by the Borrower in writing to the Administrative Agent prior to the Closing Date, and, upon reasonable notice to the Administrative Agent, those Persons that are competitors of the Borrower and its Subsidiaries (or reasonably known, on the basis of their name, Affiliates of any such competitors (other than any such Affiliate that is a bona fide fixed income fund)) that are specified in writing from time to time by the Borrower on or after the Closing Date to the Administrative Agent.

Dollar, Dollars, U.S. Dollars and the symbol $ shall mean lawful money of the United States of America.

Drawing Date shall have the meaning specified in Section 2.9(c) [Disbursements, Reimbursement].

Effective Date shall mean the date indicated in a document or agreement to be the date on which such document or agreement becomes effective, or, if there is no such indication, the date of execution of such document or agreement.

Eligible Assignee shall mean any Person that meets the requirements to be an assignee under Section 12.9 [Successors and Assigns](b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 12.9 [Successors and Assigns] (b)(iii)).

Environmental Laws means any and all federal, state, local, and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions having the force of law relating to pollution and the protection of the environment or the release of any Hazardous Materials into the environment.

Environmental Liability shall mean any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower or any of its Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

Equity Interests shall mean, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other

rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

ERISA shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

ERISA Event shall mean (a) with respect to a Pension Plan, a reportable event under Section 4043 of ERISA as to which event (after taking into account notice waivers provided for in the regulations) there is a duty to give notice to the PBGC; (b) a withdrawal by Borrower or any member of the ERISA Group from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by Borrower or any member of the ERISA Group from a Multiemployer Plan, notification that a Multiemployer Plan is in reorganization, or occurrence of an event described in Section 4041A(a) of ERISA that results in the termination of a Multiemployer Plan; (d) the filing of a notice of intent to terminate a Pension Plan in a distress termination, the treatment of a Pension Plan amendment as a termination under Section 4041(e) of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (f) the determination that any Pension Plan or Multiemployer Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430.431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; or (g) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Borrower or any member of the ERISA Group.

ERISA Group shall mean, at any time, the Borrower and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under Section 414 of the Code or Section 4001(b)(1) of ERISA.

Event of Default shall mean any of the events described in Section 10.1 [Events of Default] and referred to therein as an "Event of Default."

Excluded Taxes shall mean any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (a) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (b) that are Other Connection Taxes, (ii) in the case of a Lender, U.S. federal withholding Taxes imposed on

amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (a) such Lender acquires such interest in such Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 5.6(b) [Replacement of a Lender]) or (b) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 5.9(g) [Status of Lenders], amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (iii) Taxes attributable to such Recipient's failure to comply with Section 5.9(g) [Status of Lenders], and (iv) any U.S. federal withholding Taxes imposed under FATCA (except to the extent imposed due to the failure of the Borrower to provide documentation or information to the IRS).

Existing Expiration Date shall have the meaning specified in Section 2.12(a) [Requests for Extension].

Expiration Date shall mean, with respect to the Revolving Credit Commitments, October 8, 2020.

Facility shall mean the revolving loan facility provided pursuant to Article 2.

Facility Termination Date shall mean the date as of which all of the following shall have occurred: (a) the aggregate Commitments have terminated, (b) all Obligations have been paid in full (other than (i) contingent indemnification obligations that are not yet due and (ii) obligations and liabilities under any Lender Provided Interest Rate Hedge, Lender Provided Commodity Hedge and any Other Lender Provided Financial Service Product (other than any such obligations for which written notice has been received by the Administrative Agent that either (x) amounts are currently due and payable under any such Lender Provided Interest Rate Hedge, Lender Provided Commodity Hedge or Other Lender Provided Financial Service Product, as applicable, or (y) no arrangements reasonably satisfactory to the applicable Cash Management Bank, Commodity Hedge Bank or Interest Rate Hedge Bank, as applicable, have been made)), and (c) all Letters of Credit have terminated or expired (other than Letters of Credit as to which other arrangements with respect thereto reasonably satisfactory to the Administrative Agent (to the extent the Administrative Agent is a party to such arrangements) and the Issuing Lender, including the provision of Cash Collateral, shall have been made).

FATCA shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

Federal Funds Effective Rate shall mean for any day the rate per annum (based on a year of 360 days and actual days elapsed and rounded upward to the nearest 1/100 of 1%) announced by the Federal Reserve Bank of New York (or any successor) on such day as being the weighted average of the rates on overnight federal funds transactions arranged by federal funds brokers on the previous trading day, as computed and announced by such Federal Reserve Bank (or any successor) in substantially the same manner as such Federal Reserve Bank computes and

announces the weighted average it refers to as the "Federal Funds Effective Rate" as of the date of this Agreement; provided that if such Federal Reserve Bank (or its successor) does not announce such rate on any day, the "Federal Funds Effective Rate" for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

Federal Funds Open Rate shall mean for any day the rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption "OPEN" (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by the Administrative Agent (for purposes of this definition, an "**Open Rate Alternate Source**") (or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Open Rate Alternate Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Open Rate Alternate Source, a comparable replacement rate determined by the Administrative Agent at such time (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Business Day, the Federal Funds Open Rate for such day shall be the "open" rate on the immediately preceding Business Day. If and when the Federal Funds Open Rate changes, the rate of interest with respect to any advance to which the Federal Funds Open Rate applies will change automatically without notice to the Borrower, effective on the date of any such change.

Foreign Lender shall mean a Lender that is not a U.S. Person.

FPU Indebtedness means Florida Public Utilities Company's 9.08% First Mortgage Bonds due June 1, 2022, which FPU Indebtedness is described on Schedule 9.1.

Fronting Exposure shall mean, at any time there is a Defaulting Lender, (a) with respect to the Issuing Lender, such Defaulting Lender's Ratable Share of the outstanding Letter of Credit Obligations with respect to Letters of Credit issued by such Issuing Lender other than Letter of Credit Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to any Swing Loan Lender, such Defaulting Lender's Ratable Share of outstanding Swing Loans made by such Swing Loan Lender other than Swing Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders.

Fund shall mean any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of its activities.

Funded Indebtedness shall mean with respect to any Person, without duplication: (a) its Indebtedness for borrowed money, other than Current Indebtedness; (b) its Indebtedness secured by any Lien existing on property owned by the Person (whether or not such Indebtedness have been assumed); (c) the aggregate amount of Guaranties of Indebtedness by the Person, other than Guaranties which constitute Current Indebtedness; (d) its Indebtedness under capitalized leases; (e) reimbursement obligations (contingent or otherwise) under any letter of credit agreement and (f) Indebtedness under any Interest Rate Hedges; provided that the amount of such

Indebtedness under any such Interest Rate Hedges on any date shall be deemed to be the Hedge Termination Value thereof as of such date.

Funded Indebtedness to Total Adjusted Capitalization Ratio shall mean the ratio of (a) the aggregate principal amount of all outstanding secured and unsecured Funded Indebtedness of the Borrower plus secured and unsecured Funded Indebtedness of Subsidiaries (excluding Indebtedness owed by a Subsidiary to the Borrower or a Wholly-Owned Subsidiary) to (b) Total Adjusted Capitalization.

GAAP shall mean U.S. generally accepted accounting principles as are in effect from time to time, subject to the provisions of Section 1.3 [Accounting Principles; Changes in GAAP], and applied on a consistent basis both as to classification of items and amounts.

Guaranty of any Person shall mean any obligation of such Person guaranteeing or in effect guaranteeing any liability or obligation of any other Person in any manner, whether directly or indirectly, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

Hazardous Materials shall mean any and all pollutants, toxic or hazardous substances or other materials that have been determined by an Official Body to pose a hazard to human health and safety, or are regulated as a pollutant, contaminant, petroleum product, coal combustion residual, manufactured gas plant residual, toxic substance, hazardous substance, hazardous material or hazardous waste including, but not limited to, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum products, lead based paint, radon gas, or similar restricted or prohibited substances.

Hedge Termination Value shall mean, in respect of any one or more Interest Rate Hedges, after taking into account the effect of any legally enforceable netting agreement relating to such Interest Rate Hedges, (a) for any date on or after the date such Interest Rate Hedges have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Interest Rate Hedges, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Interest Rate Hedges (which may include a Interest Rate Hedge Bank).

ICC shall have the meaning specified in Section 12.12(a) [Governing Law].

Increasing Lender shall have the meaning assigned to that term in Section 2.11(a) [Increasing Lenders and New Lenders].

Indebtedness shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (i) borrowed money, (ii) amounts raised under or liabilities in respect of any note purchase or acceptance credit facility, (iii) reimbursement obligations (contingent or otherwise) under any letter of credit agreement, (iv) obligations under any Commodity Hedges, Interest Rate Hedges, currency swap

agreements or other similar agreements, (v) any other transaction (including forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but not including trade payables and accrued expenses incurred in the ordinary course of business), or (vi) any Guaranty of Indebtedness for borrowed money.

Indemnified Taxes shall mean (i) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document, and (ii) to the extent not otherwise described in the preceding clause (i), Other Taxes.

Indemnitee shall have the meaning specified in Section 12.3(b) [Indemnification by the Borrower].

Information shall mean all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the Issuing Lender on a non-confidential basis prior to disclosure by the Borrower or any of its Subsidiaries, provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date of this Agreement, such information is clearly identified at the time of delivery as confidential.

Insolvency Proceeding shall mean, with respect to any Person, (a) a case, action or proceeding with respect to such Person (i) before any court or any other Official Body under any bankruptcy, insolvency, reorganization or other similar Law now or hereafter in effect, or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, conservator (or similar official) of the Borrower or otherwise relating to the liquidation, dissolution, winding-up or relief of such Person, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of such Person's creditors generally or any substantial portion of its creditors; undertaken under any Law.

Interest Period shall mean the period of time selected by the Borrower in connection with (and to apply to) any election permitted hereunder by the Borrower to have Revolving Credit Loans bear interest under the LIBOR Rate Option. Subject to the last sentence of this definition, such period shall be one, two, three or six Months. Such Interest Period shall commence on the effective date of such Interest Rate Option, which shall be (i) the Borrowing Date if the Borrower is requesting new Loans, or (ii) the date of renewal of or conversion to the LIBOR Rate Option if the Borrower is renewing or converting to the LIBOR Rate Option applicable to outstanding Loans. Notwithstanding the second sentence hereof: (A) any Interest Period which would otherwise end on a date which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, and (B) the Borrower shall not select, convert to or renew an Interest Period for any portion of the Loans that would end after the Expiration Date.

Interest Rate Hedge shall mean an interest rate exchange, collar, cap, swap, floor, adjustable strike cap, adjustable strike corridor, cross-currency swap or similar agreements entered

into by the Borrower in the ordinary course of its business (only for hedging (rather than speculative) purposes) in order to provide protection to, or minimize the impact upon, the Borrower of increasing floating rates of interest applicable to Indebtedness.

Interest Rate Hedge Bank shall mean any Person that, at the time it enters into a Lender Provided Interest Rate Hedge, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Lender Provided Interest Rate Hedge.

Interest Rate Hedge Liabilities shall have the meaning assigned in the definition of Lender Provided Interest Rate Hedge.

Interest Rate Option shall mean any LIBOR Rate Option or Base Rate Option or, solely with respect to Swing Loans, the Daily LIBOR Rate.

Investment shall have the meaning specified in Section 9.3 [Loans and Investments].

IRS shall mean the United States Internal Revenue Service.

ISP98 shall have the meaning specified in Section 12.12(a) [Governing Law].

Issuing Lender shall mean PNC, in its individual capacity as issuer of Letters of Credit hereunder.

Law shall mean any law(s) (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, issued guidance, release, ruling, order, executive order, injunction, writ, decree, bond, judgment, authorization or approval, lien or award of or any settlement arrangement, by agreement, consent or otherwise, with any Official Body, foreign or domestic.

Lender Provided Commodity Hedge shall mean a Commodity Hedge that is provided by a Commodity Hedge Bank to the Borrower or any Subsidiary the Borrower and with respect to which such Commodity Hedge Bank confirms to the Administrative Agent in writing prior to the execution thereof that it: (a) is documented in a Master Agreement or another reasonable and customary manner and (b) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the Commodity Hedge Bank providing any Lender Provided Commodity Hedge (the "**Commodity Hedge Liabilities**") by the Borrower shall, for purposes of this Agreement and all other Loan Documents be "Obligations" of the Borrower and otherwise treated as Obligations for purposes of the other Loan Documents.

Lender Provided Interest Rate Hedge shall mean an Interest Rate Hedge which is entered into between the Borrower and any Interest Rate Hedge Bank and with respect to which such Interest Rate Hedge Bank (or the Lender affiliated with such Interest Rate Hedge Bank) confirms to Administrative Agent in writing prior to the execution thereof that it: (a) is documented in a Master Agreement or another reasonable and customary manner and (b) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the Interest Rate Hedge Bank providing any Lender Provided Interest Rate Hedge (the "**Interest Rate Hedge Liabilities**") by

the Borrower shall, for purposes of this Agreement and all other Loan Documents be "Obligations" of the Borrower and otherwise treated as Obligations for purposes of the other Loan Documents.

Lenders shall mean the financial institutions named on Schedule 1.1(B) and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a Lender. Unless the context requires otherwise, the term "Lenders" includes the Swing Loan Lender.

Lending Office shall mean, as to the Administrative Agent, the Issuing Lender or any Lender, the office or offices of such Person described as such in such Lender's Administrative Questionnaire, or such other office or offices as such Person may from time to time notify the Borrower and the Administrative Agent.

Letter of Credit shall have the meaning specified in Section 2.9(a) [Issuance of Letters of Credit].

Letter of Credit Borrowing shall have the meaning specified in Section 2.9(c) [Disbursements, Reimbursement].

Letter of Credit Fee shall have the meaning specified in Section 2.9(b) [Letter of Credit Fees].

Letter of Credit Obligation shall mean, as of any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit on such date (if any Letter of Credit shall increase in amount automatically in the future, such aggregate amount available to be drawn shall currently give effect to any such future increase) plus the aggregate Reimbursement Obligations and Letter of Credit Borrowings on such date.

Letter of Credit Sublimit shall have the meaning specified in Section 2.9(a) [Issuance of Letters of Credit].

LIBOR Rate shall mean, with respect to the Loans comprising any Borrowing Tranche to which the LIBOR Rate Option applies for any Interest Period, the interest rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (i) the rate which appears on the Bloomberg Page BBAM1 (or on such other substitute Bloomberg page that displays rates at which US dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by the Administrative Agent as an authorized information vendor for the purpose of displaying rates at which US dollar deposits are offered by leading banks in the London interbank deposit market (an "**Alternate Source**"), at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period as the London interbank offered rate for U.S. Dollars for an amount comparable to such Borrowing Tranche and having a borrowing date and a maturity comparable to such Interest Period (or if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAM1 (or any substitute page) or any Alternate Source, a comparable replacement rate determined by the Administrative Agent at such time (which determination shall be conclusive absent manifest error)), by (ii) a number equal to 1.00 minus the LIBOR Reserve Percentage. Notwithstanding the

foregoing, if the LIBOR Rate as determined under any method above would be less than zero (0.00), such rate shall be deemed to be zero (0.00) for purposes of this Agreement.

The LIBOR Rate shall be adjusted with respect to any Loan to which the LIBOR Rate Option applies that is outstanding on the effective date of any change in the LIBOR Reserve Percentage as of such effective date. The Administrative Agent shall give prompt notice to the Borrower of the LIBOR Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

LIBOR Rate Option shall mean the option of the Borrower to have Loans bear interest at the rate and under the terms set forth in Section 4.1(a)(ii) [Revolving Credit LIBOR Rate Option].

LIBOR Reserve Percentage shall mean as of any day the maximum percentage in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "**Eurocurrency Liabilities**").

Lien shall mean any mortgage, deed of trust, pledge, lien, security interest, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing).

Loan Documents shall mean this Agreement, the Administrative Agent's Letter, the BAML Letter, the Notes and any other instruments, certificates or documents delivered in connection herewith or therewith.

Loans shall mean collectively and Loan shall mean separately all Revolving Credit Loans and Swing Loans or any Revolving Credit Loan or Swing Loan.

Master Agreement shall mean any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, any North American Energy Standard Board Master Agreement, or any other master agreement, including any related schedules and such obligations or liabilities thereunder.

Material Adverse Change shall mean any set of circumstances or events which (a) has any material adverse effect whatsoever upon the validity or enforceability of this Agreement or any other Loan Document, (b) is material and adverse to the business, properties, assets, financial condition or results of operations of the Borrower and its Subsidiaries, taken as a whole, (c) impairs materially the ability of the Borrower to duly and punctually pay or perform any of the Obligations, or (d) impairs materially the ability of the Administrative Agent or any of the Lenders, to the extent permitted, to enforce their legal remedies pursuant to this Agreement or any other Loan Document.

Minimum Collateral Amount shall mean, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 102% of the Fronting Exposure of the Issuing Lender with respect to Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the Administrative Agent and the Issuing Lender in their sole discretion.

MLPFS shall mean Merrill Lynch, Pierce, Fenner & Smith Incorporated and its successor and assigns.

Month, with respect to an Interest Period under the LIBOR Rate Option, shall mean the interval between the days in consecutive calendar months numerically corresponding to the first day of such Interest Period. If any LIBOR Rate Interest Period begins on a day of a calendar month for which there is no numerically corresponding day in the month in which such Interest Period is to end, the final month of such Interest Period shall be deemed to end on the last Business Day of such final month.

Multiemployer Plan shall mean any employee pension benefit plan which is a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA and to which the Borrower or any member of the ERISA Group is then making or accruing an obligation to make contributions or, within the preceding five plan years, has made or had an obligation to make such contributions, or to which the Borrower or any member of the ERISA Group has any liability (contingent or otherwise).

New Lender shall have the meaning assigned to that term in Section 2.11(a) [Increasing Lenders and New Lenders].

Non-Consenting Lender shall mean any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all or all affected Lenders in accordance with the terms of Section 12.1 [Modifications, Amendments or Waivers] and (ii) has been approved by the Required Lenders.

Non-Defaulting Lender shall mean, at any time, each Lender that is not a Defaulting Lender at such time.

Non-Extending Lender shall have the meaning specified in Section 2.12(b) [Lender Elections to Extend].

Non-Recourse Debt shall mean Indebtedness that is nonrecourse to the Borrower or any Subsidiary or any asset of the Borrower or any Subsidiary.

Notes shall mean collectively, and Note shall mean separately, the promissory notes in the form of Exhibit C evidencing the Revolving Credit Loans and in the form of Exhibit D evidencing the Swing Loan.

Notice Date shall have the meaning specified in Section 2.12(b) [Lender Elections to Extend].

Obligation shall mean any obligation or liability of the Borrower, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, under or in connection with (i) this Agreement, the Notes, the Letters of Credit, the Administrative Agent's Letter or any other Loan Document whether to the Administrative Agent, any of the Lenders or their Affiliates or other persons provided for under such Loan Documents, (ii) any Lender Provided Interest Rate Hedge, (iii) any Lender Provided Commodity Hedge and (iv) any Other Lender Provided Financial Service Product.

Official Body shall mean the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

Order shall have the meaning specified in Section 2.9(i) [Liability for Acts and Omissions].

Other Connection Taxes shall mean, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient (or an agent or affiliate thereof) and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

Other Lender Provided Financial Service Product shall mean agreements or other arrangements entered into between the Borrower and any Cash Management Bank that provides any of the following products or services to the Borrower or any of its Subsidiaries: (a) credit cards, (b) credit card processing services, (c) debit cards, (d) purchase cards, (e) ACH transactions, or (f) cash management, including controlled disbursement, accounts or services. The liabilities owing to the Cash Management Bank providing any Other Lender Provided Financial Service Products to the Borrower shall, for purposes of this Agreement and all other Loan Documents be "Obligations" of the Borrower and otherwise treated as Obligations for purposes of the other Loan Documents.

Other Taxes shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.6(b) [Replacement of a Lender]).

Participant shall have the meaning specified in Section 12.9(d) [Participations].

Participant Register shall have the meaning specified in Section 12.9(d) [Participations].

Participation Advance shall have the meaning specified in Section 2.9(c) [Disbursements, Reimbursement].

Payment Date shall mean the first day of each calendar quarter after the Closing Date and on the Expiration Date, the applicable Specified Maturity Date or upon acceleration of the Notes.

PBGC shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA or any successor.

Pension Plan shall mean at any time an "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA) (including a "multiple employer plan" as described in Sections 4063 and 4064 of ERISA, but not a Multiemployer Plan) which is covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 or Section 430 of the Code and either (i) is sponsored, maintained or contributed to by any member of the ERISA Group for employees of any member of the ERISA Group, (ii) has at any time within the preceding five years been sponsored, maintained or contributed to by any entity which was at such time a member of the ERISA Group for employees of any entity which was at such time a member of the ERISA Group, or in the case of a "multiple employer" or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years or (iii) or to which the Borrower or any member of the ERISA Group may have any liability (contingent or otherwise).

Permitted Acquisition shall mean an Acquisition (the Person or division, line of business or other business unit of the Person to be acquired in such Acquisition shall be referred to herein as the "**Target**"), in each case that is a type of business (or assets used in a type of business) permitted to be engaged in by the Borrower and its Subsidiaries pursuant to the terms of this Agreement, in each case so long as:

(a) no Potential Default or Event of Default shall then exist or would exist after giving effect thereto;

(b) the Administrative Agent shall have received not less than five (5) Business Days prior to the consummation of any Permitted Acquisition (or such later date as permitted by the Administrative Agent in its sole discretion), a Permitted Acquisition Certificate, executed by an Authorized Officer of the Borrower certifying that such Permitted Acquisition complies with the requirements of this Agreement and attaching (i) the final forms of the acquisition and purchase documents and (ii) evidence to the reasonable satisfaction of the Administrative Agent that, after giving effect to the Acquisition on a pro forma basis (with such Acquisition deemed to have occurred as of the first day of the applicable period of measurement), the Funded Indebtedness to Total Adjusted Capitalization Ratio of the Borrower shall be in pro forma compliance with the then applicable level set forth in Section 9.8 [Maximum Funded Indebtedness to Total Adjusted Capitalization Ratio];

(c) (i) the Borrower is the surviving corporation after such Acquisition if it is the constituent party thereto acquiring such Target, and (ii) if a Subsidiary is a party to such Acquisition, the surviving Person after such Acquisition shall be a direct or indirect Wholly-Owned Subsidiary; and

(d) such Acquisition shall not be a "hostile" Acquisition and shall have been approved by the board of directors (or equivalent) and/or shareholders (or equivalent) of the Borrower and the Target, in each case, to the extent required by applicable Law or such Person's organizational documents.

Permitted Acquisition Certificate shall mean a certificate substantially the form of Exhibit B or any other form approved by the Administrative Agent.

Permitted Investments shall mean:

(i) direct obligations of the United States of America or any agency or instrumentality thereof or obligations backed by the full faith and credit of the United States of America maturing in twelve (12) months or less from the date of acquisition;

(ii) commercial paper maturing in 180 days or less rated not lower than A-1, by Standard & Poor's or P-1 by Moody's Investors Service, Inc. on the date of acquisition;

(iii) demand deposits, time deposits or certificates of deposit maturing within one year in commercial banks whose obligations are rated A-1, A or the equivalent or better by Standard & Poor's on the date of acquisition;

(iv) money market or mutual funds whose investments are limited to those types of investments described in clauses (i)-(iii) above; and

(v) investments made under the Cash Management Agreements or under cash management agreements with any other Lenders.

Permitted Liens shall mean:

(i) Liens for taxes, assessments, or similar charges, incurred in the ordinary course of business and which are not yet due and payable;

(ii) Pledges or deposits made in the ordinary course of business to secure payment of workmen's compensation, or to participate in any fund in connection with workmen's compensation, unemployment insurance, old-age pensions or other social security programs;

(iii) Liens of mechanics, materialmen, warehousemen, carriers, suppliers or other like Liens, securing obligations incurred in the ordinary course of business that are not yet due and payable and Liens of landlords securing obligations to pay lease payments that are not yet due and payable or in default;

(iv) Good-faith pledges or deposits made in the ordinary course of business to secure performance of letters of credit, bids, tenders, contracts (other than for the repayment of borrowed money or for Interest Rate Hedges or Commodity Hedges) or leases, not in excess of the aggregate amount due thereunder or to secure statutory obligations, or surety, appeal, indemnity, performance or other similar bonds required in the ordinary course of business;

(v) Encumbrances consisting of zoning restrictions, easements or other restrictions on the use of real property, none of which materially impairs the use of such property or the value thereof, and none of which is violated in any material respect by existing or proposed structures or land use;

(vi) Lien existing on property of a Person immediately prior to its being consolidated with or merged into the Borrower or a Subsidiary or its becoming a Subsidiary, or any Lien existing on any property acquired by the Borrower or a Subsidiary at the time such property is so acquired (whether or not the Indebtedness secured thereby shall have assumed), provided that (i) any Indebtedness secured by such Liens is then permitted by Section 9.1(c) [Indebtedness], (ii) no such Lien shall have been created in contemplation of such consolidation or merger or such Person's becoming a Subsidiary or such acquisition of property and (iii) no such Lien shall extend to or cover any property not originally subject thereto, other than improvements to the property originally subject thereto;

(vii) Any Lien existing on the date of this Agreement and described on Schedule 1.1(P), and any renewal, extension or refunding of any such Lien, provided that the principal amount secured thereby is not hereafter increased, and no additional assets become subject to such Lien;

(viii) Liens securing Indebtedness relating to purchase money security interests, capitalized leases and first mortgage bonds permitted in Section 9.1(c)(i) [Indebtedness]; provided that (i) any such Indebtedness secured by such Liens is then permitted by Section 9.1(c)(i) [Indebtedness] and (ii) no such Lien shall extend to or cover any property not originally subject thereto, other than improvements to the property originally subject thereto;

(ix) Liens on cash and Cash Equivalents in an aggregate amount not to exceed $15,000,000 at any time to secure Indebtedness arising under Commodity Hedges which Liens are granted pursuant to a Master Agreement or pursuant to the rules of a designated contract market; provided that any such Indebtedness secured by such Liens is then permitted by Section 9.1(c) [Indebtedness];

(x) Liens on property of a Subsidiary, provided that they secure only Indebtedness owing to the Borrower or a Wholly-Owned Subsidiary that is permitted under Section 9.1 [Indebtedness];

(xi) Non-exclusive licenses, leases or subleases granted to other Persons in the ordinary course of business and not interfering in any material respect with the business of the Borrower and its Subsidiaries;

(xii) customary bankers' Liens and rights of setoff arising, in each case, by operation of law and incurred on deposits made in the ordinary course of business;

(xiii) The following, (A) if the validity or amount thereof is being contested in good faith by appropriate and lawful proceedings diligently conducted so long as levy and execution thereon have been stayed and continue to be stayed or (B) if a final judgment is entered and such judgment is discharged within thirty (30) days of entry, and in either case they do not, in the aggregate, materially impair the ability of the Borrower to perform its Obligations hereunder or under the other Loan Documents:

(1) claims or Liens for taxes, assessments or charges due and payable and subject to interest or penalty; provided that the Borrower maintains such reserves or other appropriate provisions as shall be required by GAAP and pays all such taxes, assessments or charges forthwith upon the commencement of proceedings to foreclose any such Lien;

(2) claims, Liens or encumbrances upon, and defects of title to, real or personal property, including any attachment of personal or real property or other legal process prior to adjudication of a dispute on the merits;

(3) claims or Liens of mechanics, materialmen, warehousemen, carriers, or other statutory nonconsensual Liens; or

(4) Liens resulting from final judgments or orders described in Section 10.1(f) [Final Judgments or Orders]; and

(xiv) Other Liens not otherwise permitted pursuant to clauses (i) through (x) above securing Indebtedness permitted in Section 9.1(c)(i) [Indebtedness]; provided that (i) any such Indebtedness secured by such Liens is then permitted by Section 9.1(c)(i) [Indebtedness] and (ii) no such Lien shall extend to or cover any property not originally subject thereto, other than improvements to the property originally subject thereto.

Person shall mean any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Official Body or other entity.

Plan shall mean any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Plan), maintained for employees of the Borrower or any member of the ERISA Group or any such Plan to which the Borrower or any member of the ERISA Group is required to contribute on behalf of any of its employees.

Platform shall mean Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system.

PNC shall mean PNC Bank, National Association, its successors and assigns.

Potential Default shall mean any event or condition which with notice or passage of time, or both, would constitute an Event of Default.

Prime Rate shall mean the interest rate per annum announced from time to time by the Administrative Agent at its Principal Office as its then prime rate, which rate may not be the lowest or most favorable rate then being charged commercial borrowers or others by the

Administrative Agent. Any change in the Prime Rate shall take effect at the opening of business on the day such change is announced.

Principal Office shall mean the main banking office of the Administrative Agent in Pittsburgh, Pennsylvania.

Published Rate shall mean the rate of interest published each Business Day in The Wall Street Journal "Money Rates" listing under the caption "London Interbank Offered Rates" for a one month period: provided that if no such rate is published therein for any reason, then the Published Rate shall be the rate at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market for a one month period either (i) as published in another publication selected by the Administrative Agent or (ii) in an Alternate Source (or if there shall at any time, for any reason, no longer exist any such reference or any Alternate Source, a comparable replacement rate determined by the Administrative Agent at such time (which determination shall be conclusive absent manifest error)).

Ratable Share shall mean with respect to a Lender's obligation to make Revolving Credit Loans, participate in Letters of Credit and other Letter of Credit Obligations, participate in Swing Loans, and receive payments, interest, and fees related thereto and all other matters as to a particular Lender, the percentage obtained by dividing (i) such Lender's Revolving Credit Commitment, by (ii) the sum of the aggregate amount of the Revolving Credit Commitments of all Lenders; provided however that if the Revolving Credit Commitments have terminated or expired, the computation in this clause shall be determined based upon the Revolving Credit Commitments most recently in effect, giving effect to any assignments, and not on the current amount of the Revolving Credit Commitments and provided further in the case of Section 2.10 [Defaulting Lenders] when a Defaulting Lender shall exist, "Ratable Share" shall mean the percentage of the aggregate Revolving Credit Commitments (disregarding any Defaulting Lender's Revolving Credit Commitment) represented by such Lender's Revolving Credit Commitment.

Recipient shall mean (i) the Administrative Agent, (ii) any Lender and (iii) the Issuing Lender, as applicable.

Reimbursement Obligation shall have the meaning specified in Section 2.9(c) [Disbursements, Reimbursement].

Related Parties shall mean, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

Reportable Compliance Event shall mean that any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint or similar charging instrument, arraigned, or custodially detained in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations is in actual or probable violation of any Anti-Terrorism Law.

Required Lenders shall mean Lenders (other than any Defaulting Lender) having more than 50% of the sum of the aggregate amount of the Revolving Credit Commitments of the Lenders (excluding any Defaulting Lender) or, after the termination of the Revolving Credit Commitments, the outstanding Revolving Credit Loans and Ratable Share of Letter of Credit Obligations of the Lenders (excluding any Defaulting Lender). The amount of any participation in any Swing Line Loan and required but unreimbursed amounts in respect of Letters of Credit that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swing Line Lender or Issuing Lender, as the case may be, in making such determination.

Required Share shall have the meaning assigned to such term in Section 5.11 [Settlement Date Procedures].

Revolving Credit Commitment shall mean, as to any Lender at any time, the amount initially set forth opposite its name on Schedule 1.1(B) in the column labeled "Amount of Commitment for Revolving Credit Loans," as such Commitment is thereafter assigned or modified and Revolving Credit Commitments shall mean the aggregate Revolving Credit Commitments of all of the Lenders.

Revolving Credit Loan Request shall have the meaning specified in Section 2.5 [Revolving Credit Loan Requests; Swing Loan Requests].

Revolving Credit Loans shall mean collectively and Revolving Credit Loan shall mean separately all Revolving Credit Loans or any Revolving Credit Loan made by the Lenders or one of the Lenders to the Borrower pursuant to Section 2.1 [Revolving Credit Commitments] or Section 2.9(c) [Disbursements, Reimbursement].

Revolving Facility Usage shall mean at any time the sum of the outstanding Revolving Credit Loans, the outstanding Swing Loans, and the Letter of Credit Obligations.

Sanctioned Country shall mean a country subject to a sanctions program maintained under any Anti-Terrorism Law.

Sanctioned Person shall mean any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions) or sanctions, under any Anti-Terrorism Law.

SEC shall mean the Securities and Exchange Commission.

Secured Parties shall mean, collectively, the Administrative Agent, the Lenders, the Issuing Lender, Commodity Hedge Banks, Interest Rate Hedge Banks, Lenders or Affiliates thereof that are owed Interest Rate Hedge Liabilities, Commodity Hedge Liabilities or obligations under Other Lender Provided Financial Service Products, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 11.5, and the other Persons to whom the Obligations are owing.

Settlement Date shall mean the Business Day on which the Administrative Agent elects to effect settlement pursuant Section 5.11 [Settlement Date Procedures].

Solvent shall mean, with respect to any Person on any date of determination, taking into account any right of reimbursement, contribution or similar right available to such Person from other Persons, that on such date (i) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (ii) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (iii) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (iv) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (v) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

Specified Maturity Date shall have the meaning specified in Section 2.5(a) [Revolving Credit Loan Requests; Conversions and Renewals].

Standard & Poor's shall mean Standard & Poor's Ratings Services and any successor thereto.

Statements shall have the meaning specified in Section 6.6(a). [Historical Statements].

Subsidiary of any Person at any time shall mean any corporation, trust, partnership, limited liability company or other business entity (i) of which more than 50% of the outstanding voting securities or other interests normally entitled to vote for the election of one or more directors or trustees (regardless of any contingency which does or may suspend or dilute the voting rights) is at such time owned directly or indirectly by such Person or one or more of such Person's Subsidiaries, or (ii) which is controlled or capable of being controlled by such Person or one or more of such Person's Subsidiaries.

Subsidiary Equity Interests shall have the meaning specified in Section 6.1(b) [Subsidiaries and Owners; Investment Companies].

Swing Loan Commitment shall mean PNC's commitment to make Swing Loans to the Borrower pursuant to Section 2.1(b) [Swing Loan Commitment] hereof in an aggregate principal amount up to $15,000,000.

Swing Loan Lender shall mean PNC, in its capacity as a lender of Swing Loans.

Swing Loan Note shall mean the Swing Loan Note of the Borrower in the form of Exhibit D evidencing the Swing Loans, together with all amendments, extensions, renewals, replacements, refinancings or refundings thereof in whole or in part.

Swing Loan Request shall mean a request for Swing Loans made in accordance with Section 2.5(b) [Swing Loan Requests] hereof.

Swing Loans shall mean collectively and Swing Loan shall mean separately all Swing Loans or any Swing Loan made by PNC to the Borrower pursuant to Section 2.1(b) [Swing Loan Commitment] hereof.

Taxes shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Official Body, including any interest, additions to tax or penalties applicable thereto.

Total Adjusted Capitalization means at any date, the aggregate amount at that date, as determined on a consolidated basis, of the Funded Indebtedness of the Borrower and its Subsidiaries, plus Consolidated Net Worth.

Total Capitalization means at any date, the aggregate amount at that date, as determined on a consolidated basis, of the Funded Indebtedness of the Borrower and its Subsidiaries, plus (without duplication) Current Indebtedness of the Borrower and its Subsidiaries plus Consolidated Net Worth.

Total Indebtedness to Total Capitalization Ratio shall mean, as of any date of determination, the ratio of (a) Funded Indebtedness of the Borrower and its Subsidiaries plus (without duplication) Current Indebtedness of the Borrower and its Subsidiaries on such date to (b) Total Capitalization on such date.

UCP shall have the meaning specified in Section 12.12(a) [Governing Law].

USA Patriot Act shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

U.S. Person shall mean any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

U.S. Tax Compliance Certificate shall have the meaning specified in Section 5.9(g)(ii)(B)(III) [Status of Lenders].

Wholly-Owned Subsidiary shall mean any Subsidiary whose financial results are consolidated with the financial results of the Borrower, and all of the Equity Interests of which (except director's qualifying shares) are owned by the Borrower and/or one or more Wholly-Owned Subsidiaries of the Borrower.

Withholding Agent shall mean the Borrower and the Administrative Agent.

1.2 Construction. Unless the context of this Agreement otherwise clearly requires, the following rules of construction shall apply to this Agreement and each of the other Loan Documents: (i) references to the plural include the singular, the plural, the part and the whole and the words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation"; (ii) the word "will" shall be construed to have the same meaning and effect as the word "shall"; (iii) the words "hereof," "herein," "hereunder," "hereto" and similar terms in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document as a whole; (iv) article, section, subsection, clause, schedule and exhibit references are to this Agreement or other Loan Document, as the case may be, unless otherwise specified; (v) reference to any Person includes such Person's successors and assigns; (vi) reference to any agreement, including this Agreement and any other Loan Document together with the schedules and exhibits hereto or thereto, document or instrument means such agreement, document or instrument as amended, modified, replaced, substituted for, superseded or restated (subject to any restrictions on such amendments, supplements or modifications set forth herein); (vii) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including"; (viii) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time (ix) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights; (x) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms; (xi) section headings herein and in each other Loan Document are included for convenience and shall not affect the interpretation of this Agreement or such Loan Document, and (xii) unless otherwise specified, all references herein to times of day shall constitute references to Eastern Time.

1.3 Accounting Principles; Changes in GAAP. Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters and all financial statements to be delivered pursuant to this Agreement shall be made and prepared in accordance with GAAP (including principles of consolidation where appropriate), and all accounting or financial terms shall have the meanings ascribed to such terms by GAAP; provided, however, that all accounting terms used in Article 9 [Negative Covenants] (and all defined terms used in the definition of any accounting term used in Article 9 [Negative Covenants]) shall have the meaning given to such terms (and defined terms) under GAAP as in effect on the Closing Date applied on a basis consistent with those used in preparing Statements referred to in Section 6.6(a) [Historical Statements]. Notwithstanding the foregoing, if the Borrower notifies the Administrative Agent in writing that the Borrower wishes to amend any financial covenant in Article 9 [Negative Covenants]of this Agreement, any related definition and/or the definition of the term Total Indebtedness to Total Capitalization Ratio for purposes of interest, Letter of Credit Fee and Commitment Fee determinations to eliminate the effect of any change in GAAP occurring after the Closing Date on the operation of such financial covenants and/or interest, Letter of Credit Fee or Commitment Fee determinations (or if the Administrative Agent notifies the Borrower in writing that the Required Lenders wish to amend any financial covenant in Article 9 [Negative Covenants], any related definition and/or the definition of the term Total Indebtedness to Total Capitalization Ratio for purposes of interest, Letter of Credit Fee and Commitment Fee determinations to eliminate the effect of any such change in GAAP), then the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratios or

requirements to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, the Borrower's compliance with such covenants and/or the definition of the term Total Indebtedness to Total Capitalization Ratio for purposes of interest, Letter of Credit Fee and Commitment Fee determinations shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenants or definitions are amended in a manner satisfactory to the Borrower and the Required Lenders, and the Borrower shall provide to the Administrative Agent, when they deliver their financial statements pursuant to Sections 8.11(b) [Quarterly Financial Statements] and 8.11(a) [Annual Financial Statements] of this Agreement, such reconciliation statements as shall be reasonably requested by the Administrative Agent.

ARTICLE 2
REVOLVING CREDIT AND SWING LOAN FACILITIES

2.1 Revolving Credit Commitments.

(a) Revolving Credit Loans. Subject to the terms and conditions hereof and relying upon the representations and warranties herein set forth, each Lender severally agrees to make Revolving Credit Loans to the Borrower at any time or from time to time on or after the Closing Date to the Expiration Date; provided that after giving effect to each such Loan (i) the aggregate amount of Revolving Credit Loans from such Lender shall not exceed such Lender's Revolving Credit Commitment minus such Lender's Ratable Share of the outstanding Swing Loans and Letter of Credit Obligations and (ii) the Revolving Facility Usage shall not exceed the Revolving Credit Commitments. Within such limits of time and amount and subject to the other provisions of this Agreement, the Borrower may borrow, repay and reborrow pursuant to this Section 2.1.

(b) Swing Loan Commitment. Subject to the terms and conditions hereof and relying upon the representations and warranties herein set forth and the agreements of the other Lenders set forth in Section 2.6 [Making Revolving Credit Loans and Swing Loans; Presumptions by the Administrative Agent; Repayment of Revolving Credit Loans; Borrowings to Repay Swing Loans] with respect to Swing Loans, and in order to facilitate loans and repayments between Settlement Dates, PNC may, at its option, cancelable at any time for any reason whatsoever, make swing loans (the "**Swing Loans**") to the Borrower at any time or from time to time after the Closing Date to, but not including, the Expiration Date, in an aggregate principal amount up to but not in excess of $15,000,000, provided that after giving effect to such Swing Loan (i) the aggregate amount of any Lender's Revolving Credit Loans plus such Lender's Ratable Share of the outstanding Swing Loans and Letter of Credit Obligations shall not exceed such Lender's Revolving Credit Commitment and (ii) the Revolving Facility Usage shall not exceed the aggregate Revolving Credit Commitments of the Lenders. Within such limits of time and amount and subject to the other provisions of this Agreement, the Borrower may borrow, repay and reborrow pursuant to this Section 2.1(b).

2.2 Nature of Lenders' Obligations with Respect to Revolving Credit Loans. Each Lender shall be obligated to fund each request for Revolving Credit Loans pursuant to Section 2.5 [Revolving Credit Loan Requests; Swing Loan Requests] in accordance with its Ratable Share.

The aggregate of each Lender's Revolving Credit Loans outstanding hereunder to the Borrower at any time shall never exceed its Revolving Credit Commitment minus its Ratable Share of the outstanding Swing Loans and Letter of Credit Obligations. The obligations of each Lender hereunder are several. The failure of any Lender to perform its obligations hereunder shall not affect the Obligations of the Borrower to any other party nor shall any other party be liable for the failure of such Lender to perform its obligations hereunder. The Lenders shall have no obligation to make Revolving Credit Loans hereunder on or after the Expiration Date.

2.3 Fees.

(a) Accruing at all times from the Closing Date until the Expiration Date (and without regard to whether the conditions to making Revolving Credit Loans are then met), the Borrower agrees to pay to the Administrative Agent for the account of each Lender according to its Ratable Share, a nonrefundable commitment fee (the "**Commitment Fee**") equal to the Applicable Margin for Commitment Fee (computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed) multiplied by the average daily difference between the amount of (i) the Revolving Credit Commitments minus (ii) the Revolving Facility Usage (provided however, that solely in connection with determining the share of each Lender in the Commitment Fee, the Revolving Facility Usage with respect to the portion of the Commitment Fee allocated to PNC shall include the full amount of the outstanding Swing Loans, and with respect to the portion of the Commitment Fee allocated by the Administrative Agent to all of the Lenders other than PNC, such portion of the Commitment Fee shall be calculated (according to each such Lender's Ratable Share) as if the Revolving Facility Usage excludes the outstanding Swing Loans); provided that no Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such Commitment Fee that otherwise would have been required to have been paid to that Defaulting Lender). Subject to the proviso in the directly preceding sentence, all Commitment Fees shall be payable in arrears on each Payment Date.

(b) The Borrower shall pay to (a) the Administrative Agent a nonrefundable fee (the "**Administrative Agent's Fee**") under the terms of a letter (the "**Administrative Agent's Letter**") between the Borrower, PNC Capital Markets LLC and Administrative Agent, as amended from time to time and (b) MLPFS a nonrefundable fee (the "**BAML Fee**") under the terms of a letter (the "**BAML Letter**") among the Borrower, MLPFS and Bank of America, N.A., as amended from time to time.

2.4 Termination or Reduction of Revolving Credit Commitments. The Borrower shall have the right, upon not less than three (3) Business Days' notice to the Administrative Agent, to terminate the Revolving Credit Commitments or, from time to time, to reduce the aggregate amount of the Revolving Credit Commitments (ratably among the Lenders in proportion to their Ratable Shares); provided that no such termination or reduction of Revolving Credit Commitments shall be permitted if, after giving effect thereto and to any prepayments of the Revolving Credit Loans made on the effective date thereof, the Revolving Facility Usage would exceed the aggregate Revolving Credit Commitments of the Lenders. Any such reduction shall be in an amount equal to $5,000,000, or a whole multiple thereof, and shall reduce permanently the Revolving Credit Commitments then in effect. Any such reduction or termination shall be accompanied by prepayment of the Notes, together with outstanding Commitment Fees, and the

full amount of interest accrued on the principal sum to be prepaid (and all amounts referred to in Section 5.10 [Indemnity] hereof) to the extent necessary to cause the aggregate Revolving Facility Usage after giving effect to such prepayments to be equal to or less than the Revolving Credit Commitments as so reduced or terminated. Any notice to reduce the Revolving Credit Commitments under this Section 2.4 shall be irrevocable.

2.5 Revolving Credit Loan Requests; Conversions and Renewals; Swing Loan Requests.

(a) Revolving Credit Loan Requests; Conversions and Renewals. Except as otherwise provided herein, the Borrower may from time to time prior to the Expiration Date request the Lenders to make Revolving Credit Loans, or renew or convert the Interest Rate Option applicable to existing Revolving Credit Loans pursuant to Section 4.2 [Interest Periods], by delivering to the Administrative Agent, not later than 10:00 a.m., (i) three (3) Business Days prior to the proposed Borrowing Date with respect to the making of Revolving Credit Loans to which the LIBOR Rate Option applies or the conversion to or the renewal of the LIBOR Rate Option for any Revolving Credit Loans; and (ii) the same Business Day of the proposed Borrowing Date with respect to the making of a Revolving Credit Loan to which the Base Rate Option applies or the last day of the preceding Interest Period with respect to the conversion to the Base Rate Option for any Revolving Credit Loan, of a duly completed request therefor substantially in the form of Exhibit E or a request by telephone immediately confirmed in writing by letter, facsimile or telex in such form (each, a "**Revolving Credit Loan Request**"), it being understood that the Administrative Agent may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation. Each Revolving Credit Loan Request shall be irrevocable and shall specify (A) the aggregate amount of the proposed Loans comprising each Borrowing Tranche, (B) if applicable, the Interest Period, which amounts shall be in (x) integral multiples of $100,000 and not less than $1,000,000 for each Borrowing Tranche under the LIBOR Rate Option, and (y) integral multiples of $100,000 and not less than $500,000 for each Borrowing Tranche under the Base Rate Option and (C) if the Borrower so chooses, a term, expressed as a number of days (which shall in no event end later than the Expiration Date), beyond which such Borrowing Tranche may not be outstanding (the last day of such term the "**Specified Maturity Date**").

(b) Swing Loan Requests. Except as otherwise provided herein, the Borrower may from time to time prior to the Expiration Date request the Swing Loan Lender to make Swing Loans by delivery to the Swing Loan Lender not later than 12:00 noon on the proposed Borrowing Date of a duly completed request therefor substantially in the form of Exhibit N hereto or a request by telephone immediately confirmed in writing by letter, facsimile or telex (each, a "**Swing Loan Request**"), it being understood that the Administrative Agent may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation. Each Swing Loan Request shall be irrevocable and shall specify the proposed Borrowing Date and the principal amount of such Swing Loan, which shall be not less than $100,000.

2.6 Making Revolving Credit Loans and Swing Loans; Presumptions by the Administrative Agent; Repayment of Revolving Credit Loans; Borrowings to Repay Swing Loans.

(a) Making Revolving Credit Loans. The Administrative Agent shall, promptly after receipt by it of a Revolving Credit Loan Request pursuant to Section 2.5 [Revolving Credit Loan Requests; Swing Loan Requests], notify the applicable Lenders of its receipt of such Revolving Credit Loan Request specifying the information provided by the Borrower and the apportionment among the Lenders of the requested Revolving Credit Loans as determined by the Administrative Agent in accordance with Section 2.2 [Nature of Lenders' Obligations with Respect to Revolving Credit Loans]. Each Lender shall remit its apportioned share (as provided to it by the Administrative Agent) of the principal amount of each Revolving Credit Loan to the Administrative Agent such that the Administrative Agent is able to, and the Administrative Agent shall, to the extent the Lenders have made funds available to it for such purpose and subject to Section 7.2 [Each Loan or Letter of Credit], fund such Revolving Credit Loans to the Borrower in U.S. Dollars and immediately available funds at the Principal Office prior to 2:00 p.m., on the applicable Borrowing Date.

(b) Repayment of Swing Loans. The Borrower shall repay the principal amount of each Swing Loan no later than on the earlier of (i) the Expiration Date and (ii) the tenth (10^{th}) Business Day after the date such Swing Loan was advanced by the Swing Loan Lender. A Swing Loan may not be repaid with the proceeds from another Swing Loan.

(c) Making Swing Loans. So long as PNC elects to make Swing Loans, Swing Loan Lender shall, after receipt by it of a Swing Loan Request pursuant to Section 2.5(b), [Swing Loan Requests] fund such Swing Loan to the Borrower in U.S. Dollars and immediately available funds at the Principal Office prior to 4:00 p.m. on the Borrowing Date. Immediately upon the making of a Swing Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Loan Lender a risk participation in such Swing Loan in an amount equal to the product of such Lender's Ratable Share times the amount of such Swing Loan.

(d) Repayment of Revolving Credit Loans. The Borrower shall repay the principal amount of each Revolving Credit Loan no later than on the earlier of (i) the Expiration Date and (ii) the applicable Specified Maturity Date, if any, specified pursuant to clause (C) of the last sentence of Section 2.5(a) [Revolving Credit Loan Requests; Conversions and Renewals] in the Revolving Credit Loan Request related to such Revolving Credit Loan.

(e) Borrowings to Repay Swing Loans.

(i) PNC may, at its option, exercisable at any time for any reason whatsoever, demand repayment of any or all of the outstanding Swing Loans, and each Lender shall make a Revolving Credit Loan in an amount equal to such Lender's Ratable Share of the aggregate principal amount of the outstanding Swing Loans with respect to which repayment is demanded, plus, if PNC so requests, accrued interest thereon, provided that no Lender shall be obligated in any event to make Revolving Credit Loans in excess of its Revolving Credit Commitment minus its Ratable Share of Letter of Credit Obligations and minus its Ratable Share of any Swing Loans not so being repaid. Revolving Credit Loans made pursuant to the preceding sentence shall bear interest at the Base Rate Option and shall be deemed to have been properly requested in accordance with Section 2.5(a) [Revolving Credit Loan Requests] without regard to any of the requirements

of that provision. PNC shall provide notice to the Lenders (which may be telephonic or written notice by letter, facsimile or telex) that such Revolving Credit Loans are to be made under this Section 2.6(e) and of the apportionment among the Lenders, and the Lenders shall be unconditionally obligated to fund such Revolving Credit Loans (whether or not the conditions specified in Section 2.5(a) [Revolving Credit Loan Requests] or in Section 7.2 [Each Loan or Letter of Credit] are then satisfied) by the time PNC so requests, which shall not be earlier than 3:00 p.m. on the next succeeding Business Day following the date the Lenders receive such notice from PNC.

(ii) With respect to any Swing Loan that is not refinanced into Revolving Credit Loans in whole or in part as contemplated by Section 2.6(e)(i), because of the Borrower's failure to satisfy the conditions set forth in Section 7.2 [Each Loan or Letter of Credit] other than any notice requirements, or for any other reason, each Lender shall fund its risk participation in the applicable Swing Loan. Each Lender's payment to the Swing Loan Lender pursuant to this Section 2.6(e)(ii) shall be deemed to be a payment in respect of its risk participation in such Swing Loan from such Lender in satisfaction of its risk participation obligation under Section 2.6(c) [Making Swing Loans].

(iii) If any Lender fails to make available to the Administrative Agent for the account of PNC (as the Swing Loan Lender) any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.6(e) by the time specified in Section 2.6(e)(i), the Swing Loan Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Loan Lender at a rate per annum equal to the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Swing Loan Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan or funded participation, as applicable, with respect to such prepayment. A certificate of the Swing Loan Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (ii) shall be conclusive absent manifest error.

(f) Swing Loans Under Cash Management Agreements. In addition to making Swing Loans pursuant to the foregoing provisions of Section 2.6(c) [Making Swing Loans], without the requirement for a specific request from the Borrower pursuant to Section 2.5(b) [Swing Loan Requests], PNC as the Swing Loan Lender may make Swing Loans to the Borrower in accordance with the provisions of the agreements between the Borrower and such Swing Loan Lender relating to the Borrower's deposit, sweep and other accounts at such Swing Loan Lender and related arrangements and agreements regarding the management and investment of the Borrower's cash assets as in effect from time to time (the **"Cash Management Agreements"**) to the extent of the daily aggregate net negative balance in the Borrower's accounts which are subject to the provisions of the Cash Management Agreements. Swing Loans made pursuant to this Section 2.6(f) in accordance with the provisions of the Cash Management Agreements shall (i) be subject to the limitations as to aggregate amount set forth in Section 2.1(b) [Swing Loan

Commitment], (ii) not be subject to the limitations as to individual amount set forth in Section 2.5(b) [Swing Loan Requests], (iii) be payable by the Borrower, both as to principal and interest, at the rates and times set forth in the Cash Management Agreements (but in no event later than the Expiration Date), (iv) not be made at any time after such Swing Loan Lender has received written notice of the occurrence of an Event of Default and so long as such shall continue to exist, or, unless consented to by the Required Lenders, a Potential Default and so long as such shall continue to exist, (v) if not repaid by the Borrower in accordance with the provisions of the Cash Management Agreements, be subject to each Lender's obligation pursuant to Section 2.6(e) [Borrowings to Repay Swing Loans], and (vi) except as provided in the foregoing subsections (i) through (v), be subject to all of the terms and conditions of this Section 2.

2.7 Notes. The Obligation of the Borrower to repay the aggregate unpaid principal amount of the Revolving Credit Loans and Swing Loans made to it by each Lender, together with interest thereon, shall be evidenced, at the request of such Lender, by a Revolving Credit Note and the Swing Loan Note each dated the Closing Date payable to the order of such Lender in a face amount equal to the Revolving Credit Commitment or Swing Loan Commitment, as applicable, of such Lender.

2.8 Reserved.

2.9 Letter of Credit Subfacility.

(a) Issuance of Letters of Credit. The Borrower may at any time prior to the Expiration Date request the issuance of a standby letter of credit (each a "**Letter of Credit**") for its own account or the account of any Subsidiary (in which case the Borrower and such Subsidiary shall be co-applicants with respect to such Letter of Credit), or the amendment or extension of an existing Letter of Credit, by delivering or transmitting electronically to the Issuing Lender (with a copy to the Administrative Agent) a completed application for letter of credit, or request for such amendment or extension, as applicable, in such form as the Issuing Lender may specify from time to time by no later than 10:00 a.m. at least five (5) Business Days, or such shorter period as may be agreed to by the Issuing Lender, in advance of the proposed date of issuance. The Borrower shall authorize and direct the Issuing Lender to name the Borrower or any Subsidiary as the "Applicant" or "Account Party" of each Letter of Credit. Promptly after receipt of any letter of credit application, the Issuing Lender shall confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit application and if not, the Issuing Lender will provide the Administrative Agent with a copy thereof.

(i) Unless the Issuing Lender has received notice from any Lender, the Administrative Agent or the Borrower, at least one day prior to the requested date of issuance, amendment or extension of the applicable Letter of Credit, that one or more applicable conditions in Section 7 [Conditions of Lending and Issuance of Letters of Credit] is not satisfied, then, subject to the terms and conditions hereof and in reliance on the agreements of the other Lenders set forth in this Section 2.9, the Issuing Lender or any of the Issuing Lender's Affiliates will issue the proposed Letter of Credit or agree to such amendment or extension, provided that each Letter of Credit shall (A) have a maximum maturity of twelve (12) months from the date of issuance, and (B) in no event expire later than the Expiration Date and provided further that in no event shall (i) the Letter of Credit Obligations exceed, at any one time, $15,000,000 (the "**Letter of Credit**

Sublimit") or (ii) the Revolving Facility Usage exceed, at any one time, the Revolving Credit Commitments. Each request by the Borrower for the issuance, amendment or extension of a Letter of Credit shall be deemed to be a representation by the Borrower that it shall be in compliance with the preceding sentence and with Section 7 [Conditions of Lending and Issuance of Letters of Credit] after giving effect to the requested issuance, amendment or extension of such Letter of Credit. Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to the beneficiary thereof, the applicable Issuing Lender will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(ii) Notwithstanding Section 2.9(a)(i), the Issuing Lender shall not be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Official Body or arbitrator shall by its terms purport to enjoin or restrain the Issuing Lender from issuing the Letter of Credit, or any Law applicable to the Issuing Lender or any request or directive (whether or not having the force of law) from any Official Body with jurisdiction over the Issuing Lender shall prohibit, or request that the Issuing Lender refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon the Issuing Lender with respect to the Letter of Credit any restriction, reserve or capital requirement (for which the Issuing Lender is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the Issuing Lender any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the Issuing Lender in good faith deems material to it, (ii) the issuance of the Letter of Credit would violate one or more policies of the Issuing Lender applicable to letters of credit generally or (iii) any Lender is at that time a Defaulting Lender, unless the Issuing Lender has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the Issuing Lender (in its sole discretion) with the Borrower or such Lender to eliminate the Issuer Lender's actual or potential Fronting Exposure (after giving effect to Section 2.10(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other Issuer Lender Obligations as to which the Issuing Lender has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(b) Letter of Credit Fees. The Borrower shall pay (i) to the Administrative Agent for the ratable account of the Lenders a fee (the "**Letter of Credit Fee**") equal to the Applicable Margin for Letters of Credit times the daily amount available to be drawn under each Letter of Credit, and (ii) to the Issuing Lender for its own account a fronting fee equal to 0.125% per annum on the daily amount available to be drawn under each Letter of Credit. All Letter of Credit Fees and fronting fees shall be computed on the basis of a year of 360 days and actual days elapsed and shall be payable quarterly in arrears on each Payment Date following issuance of each Letter of Credit. The Borrower shall also pay to the Issuing Lender for the Issuing Lender's sole account the Issuing Lender's then in effect customary fees and administrative expenses payable with respect to the Letters of Credit as the Issuing Lender may generally charge or incur from time to time in connection with the issuance, maintenance, amendment (if any), assignment or transfer (if any), negotiation, and administration of Letters of Credit.

(c) Disbursements, Reimbursement. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Issuing Lender a participation in such Letter of Credit and each drawing thereunder in an amount equal to such Lender's Ratable Share of the maximum amount available to be drawn under such Letter of Credit and the amount of such drawing, respectively.

(i) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, the Issuing Lender will promptly notify the Borrower and the Administrative Agent thereof. Provided that it shall have received such notice, the Borrower shall reimburse (such obligation to reimburse the Issuing Lender shall sometimes be referred to as a "**Reimbursement Obligation**") the Issuing Lender prior to 12:00 noon on each date that an amount is paid by the Issuing Lender under any Letter of Credit (each such date, a "**Drawing Date**") by paying to the Administrative Agent for the account of the Issuing Lender an amount equal to the amount so paid by the Issuing Lender. In the event the Borrower fails to reimburse the Issuing Lender (through the Administrative Agent) for the full amount of any drawing under any Letter of Credit by 12:00 noon on the Drawing Date, the Administrative Agent will promptly notify each Lender thereof, and the Borrower shall be deemed to have requested that Revolving Credit Loans be made by the Lenders under the Base Rate Option to be disbursed on the Drawing Date under such Letter of Credit, subject to the amount of the unutilized portion of the Revolving Credit Commitment and subject to the conditions set forth in Section 7.2 [Each Loan or Letter of Credit] other than any notice requirements. Any notice given by the Administrative Agent or Issuing Lender pursuant to this Section 2.9(c)(i) may be oral if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.9(c)(i) make available to the Administrative Agent for the account of the Issuing Lender an amount in immediately available funds equal to its Ratable Share of the amount of the drawing, whereupon the participating Lenders shall (subject to Section 2.9(c) [Disbursements; Reimbursement]) each be deemed to have made a Revolving Credit Loan under the Base Rate Option to the Borrower in that amount. If any Lender so notified fails to make available to the Administrative Agent for the account of the Issuing Lender the amount of such Lender's Ratable Share of such amount by no later than 2:00 p.m. on the Drawing Date, then interest shall accrue on such Lender's obligation to make such payment, from the Drawing Date to the date on which such Lender makes such payment (i) at a rate per annum equal to the Federal Funds Effective Rate during the first three (3) days following the Drawing Date and (ii) at a rate per annum equal to the rate applicable to Revolving Credit Loans under the Base Rate Option on and after the fourth day following the Drawing Date. The Administrative Agent and the Issuing Lender will promptly give notice (as described in Section 2.9(c)(i) above) of the occurrence of the Drawing Date, but failure of the Administrative Agent or the Issuing Lender to give any such notice on the Drawing Date or in sufficient time to enable any Lender to effect such payment on such date shall not relieve such Lender from its obligation under this Section 2.9(c)(ii).

(iii) With respect to any unreimbursed drawing that is not converted into Revolving Credit Loans under the Base Rate Option to the Borrower in whole or in part as contemplated by Section 2.9(c)(i), because of the Borrower's failure to satisfy the conditions set forth in Section 7.2 [Each Loan or Letter of Credit] other than any notice requirements, or for any other reason, the Borrower shall be deemed to have incurred from the Issuing Lender a borrowing (each a "**Letter of Credit Borrowing**") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to the Revolving Credit Loans under the Base Rate Option. Each Lender's payment to the Administrative Agent for the account of the Issuing Lender pursuant to Section 2.9(c) [Disbursements, Reimbursement] shall be deemed to be a payment in respect of its

participation in such Letter of Credit Borrowing (each a "**Participation Advance**") from such Lender in satisfaction of its participation obligation under this Section 2.9(c).

(d) Repayment of Participation Advances.

(i) Upon (and only upon) receipt by the Administrative Agent for the account of the Issuing Lender of immediately available funds from the Borrower (i) in reimbursement of any payment made by the Issuing Lender under the Letter of Credit with respect to which any Lender has made a Participation Advance to the Administrative Agent, or (ii) in payment of interest on such a payment made by the Issuing Lender under such a Letter of Credit, the Administrative Agent on behalf of the Issuing Lender will pay to each Lender, in the same funds as those received by the Administrative Agent, the amount of such Lender's Ratable Share of such funds, except the Administrative Agent shall retain for the account of the Issuing Lender the amount of the Ratable Share of such funds of any Lender that did not make a Participation Advance in respect of such payment by the Issuing Lender.

(ii) If the Administrative Agent is required at any time to return to the Borrower, or to a trustee, receiver, liquidator, custodian, or any official in any Insolvency Proceeding, any portion of any payment made by the Borrower to the Administrative Agent for the account of the Issuing Lender pursuant to this Section in reimbursement of a payment made under any Letter of Credit or interest or fees thereon, each Lender shall, on demand of the Administrative Agent, forthwith return to the Administrative Agent for the account of the Issuing Lender the amount of its Ratable Share of any amounts so returned by the Administrative Agent plus interest thereon from the date such demand is made to the date such amounts are returned by such Lender to the Administrative Agent, at a rate per annum equal to the Federal Funds Effective Rate in effect from time to time.

(e) Documentation. The Borrower agrees to be bound by the terms of the Issuing Lender's application and agreement for letters of credit and the Issuing Lender's written regulations and customary practices relating to letters of credit, though such interpretation may be different from the Borrower's own. In the event of a conflict between such application or agreement and this Agreement, this Agreement shall govern. It is understood and agreed that, except in the case of gross negligence or willful misconduct, the Issuing Lender shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following the Borrower's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

(f) Determinations to Honor Drawing Requests. In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, the Issuing Lender shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit.

(g) Nature of Participation and Reimbursement Obligations. Each Lender's obligation in accordance with this Agreement to make the Revolving Credit Loans or Participation Advances, as contemplated by Section 2.9(c) [Disbursements, Reimbursement], as a result of a drawing under a Letter of Credit, and the Obligations of the Borrower to reimburse the Issuing

Lender upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.9 under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the Issuing Lender or any of its Affiliates, the Borrower or any other Person for any reason whatsoever, or which the Borrower may have against the Issuing Lender or any of its Affiliates, any Lender or any other Person for any reason whatsoever;

(ii) the failure of the Borrower or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions set forth in Sections 2.1 [Revolving Credit Commitments], 2.5 [Revolving Credit Loan Requests; Swing Loan Requests], 2.6 [Making Revolving Credit Loans and Swing Loans; Etc.] or 7.2 [Each Loan or Letter of Credit] or as otherwise set forth in this Agreement for the making of a Revolving Credit Loan, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of the Lenders to make Participation Advances under Section 2.9(c) [Disbursements, Reimbursement];

(iii) any lack of validity or enforceability of any Letter of Credit;

(iv) any claim of breach of warranty that might be made by the Borrower or any Lender against any beneficiary of a Letter of Credit, or the existence of any claim, set-off, recoupment, counterclaim, crossclaim, defense or other right which the Borrower or any Lender may have at any time against a beneficiary, successor beneficiary any transferee or assignee of any Letter of Credit or the proceeds thereof (or any Persons for whom any such transferee may be acting), the Issuing Lender or its Affiliates or any Lender or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between the Borrower or Subsidiaries of the Borrower and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of (or any defect in or forgery of any signature or endorsement on) or the form of or lack of validity, sufficiency, accuracy, enforceability or genuineness of any draft, demand, instrument, certificate or other document presented under or in connection with any Letter of Credit, or any fraud or alleged fraud in connection with any Letter of Credit, or the transport of any property or provision of services relating to a Letter of Credit, in each case even if the Issuing Lender or any of its Affiliates has been notified thereof;

(vi) payment by the Issuing Lender or any of its Affiliates under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit;

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by the Issuing Lender or any of its Affiliates to issue any Letter of Credit in the form requested by the Borrower, unless the Issuing Lender has received written notice from the Borrower of such failure within three Business Days after the Issuing Lender shall have furnished the Borrower and the Administrative Agent a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of the Borrower or Subsidiaries of the Borrower;

(x) any breach of this Agreement or any other Loan Document by any party thereto;

(xi) the occurrence or continuance of an Insolvency Proceeding with respect to the Borrower;

(xii) the fact that an Event of Default or a Potential Default shall have occurred and be continuing;

(xiii) the fact that the Expiration Date shall have passed or this Agreement or the Commitments hereunder shall have been terminated; and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

(h) Indemnity. The Borrower hereby agrees to protect, indemnify, pay and save harmless the Issuing Lender and any of its Affiliates that has issued a Letter of Credit from and against any and all claims, demands, liabilities, damages, taxes, penalties, interest, judgments, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which the Issuing Lender or any of its Affiliates may incur or be subject to as a consequence, direct or indirect, of the issuance of any Letter of Credit, other than as a result of the gross negligence or willful misconduct of the Issuing Lender as determined by a final non-appealable judgment of a court of competent jurisdiction.

(i) Liability for Acts and Omissions. As between the Borrower and the Issuing Lender, or the Issuing Lender's Affiliates, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, the Issuing Lender shall not be responsible for any of the following, including any losses or damages to the Borrower or other Person or property relating therefrom: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if the Issuing Lender or its Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such

Letter of Credit or any other claim of the Borrower against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Issuing Lender or its Affiliates, as applicable, including any act or omission of any Official Body, and none of the above shall affect or impair, or prevent the vesting of, any of the Issuing Lender's or its Affiliates rights or powers hereunder. Nothing in the preceding sentence shall relieve the Issuing Lender from liability for the Issuing Lender's gross negligence or willful misconduct in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall the Issuing Lender or its Affiliates be liable to the Borrower for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

Without limiting the generality of the foregoing, the Issuing Lender and each of its Affiliates (i) may rely on any oral or other communication believed in good faith by the Issuing Lender or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit, (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by the Issuing Lender or its Affiliate; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on the Issuing Lender or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a carrier or any similar document (each an "**Order**") and honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by the Issuing Lender or its Affiliates under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not put the Issuing Lender or its Affiliates under any resulting liability to the Borrower or any Lender.

(j) Issuing Lender Reporting Requirements. Each Issuing Lender shall, on the first Business Day of each month, provide to Administrative Agent and Borrower a schedule of

the Letters of Credit issued by it, in form and substance satisfactory to Administrative Agent, showing the date of issuance of each Letter of Credit, the account party, the original face amount (if any), and the expiration date of any Letter of Credit outstanding at any time during the preceding month, and any other information relating to such Letter of Credit that the Administrative Agent may request.

2.10 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 10 [Default] or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.2(b) [Set-Off] shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Lender or Swing Loan Lender hereunder; third, to Cash Collateralize the Issuing Lender's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 5.12 [Cash Collateral]; fourth, as the Borrower may request (so long as no Potential Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 5.12 [Cash Collateral]; sixth, to the payment of any amounts owing to the Lenders, the Issuing Lender or Swing Loan Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lender or Swing Loan Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Potential Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or Letter of Credit Borrowing in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 7.2 [Each Loan or Letter of Credit] were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Letter of Credit Borrowings owed to, all Non-Defaulting Lenders on a pro

rata basis prior to being applied to the payment of any Loans of, or Letter of Credit Borrowing owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Obligations and Swing Loans are held by the Lenders pro rata in accordance with the Commitments under the Facility without giving effect to Section 2.10(a)(iv) [Reallocation of Participations to Reduce Fronting Exposure]. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.10(a)(i) [Defaulting Lender Waterfall] shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Ratable Share of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 5.12 [Cash Collateral].

(C) With respect to any Commitment Fee or Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Obligations or Swing Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Lender and Swing Loan Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Lender's or Swing Loan Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letter of Credit Obligations and Swing Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Ratable Shares (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Facility Usage of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swing Loans. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, prepay Swing Loans in an amount equal to the Swing Loan Lender's Fronting Exposure and (y) second, Cash

Collateralize the Issuing Lender's Fronting Exposure in accordance with the procedures set forth in Section 5.12 [Cash Collateral].

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, Swing Loan Lender and Issuing Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Loans to be held pro rata by the Lenders in accordance with the Commitments under the Facility (without giving effect to Section 2.10 (a)(iv) [Reallocation of Participations to Reduce Fronting Exposure], whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Swing Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swing Loan Lender shall not be required to fund any Swing Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swing Loan and (ii) no Issuing Lender shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

2.11 Increase in Revolving Credit Commitments.

(a) Increasing Lenders and New Lenders. The Borrower may, at any time, request that (1) the current Lenders increase their Revolving Credit Commitments (any current Lender which elects to increase its Revolving Credit Commitment shall be referred to as an "Increasing Lender") or (2) one or more new lenders (each a "New Lender") join this Agreement and provide a Revolving Credit Commitment hereunder, subject to the following terms and conditions:

(i) No Obligation to Increase. No current Lender shall be obligated to increase its Revolving Credit Commitment and any increase in the Revolving Credit Commitment by any current Lender shall be in the sole discretion of such current Lender;

(ii) Defaults. There shall exist no Events of Default or Potential Default on the effective date of such increase and after giving effect to such increase;

(iii) Aggregate Revolving Credit Commitments. After giving effect to such increase, the total Revolving Credit Commitments shall not exceed $200,000,000;

(iv) Minimum Revolving Credit Commitments. After giving effect to such increase, the amount of the Revolving Credit Commitments provided by each of the New Lenders and each of the Increasing Lenders shall be at least $15,000,000, unless such amount is greater than the then remaining increase available under Section 2.11(a)(iii);

(v) Resolutions; Opinion. The Borrower shall deliver to the Administrative Agent on or before the effective date of such increase the following documents in a form reasonably acceptable to the Administrative Agent: (1) certifications of their corporate secretaries with attached resolutions certifying that the increase in the Revolving Credit Commitment has been approved by the Borrower, and (2) an opinion of counsel addressed to the Administrative Agent and the Lenders addressing the authorization and execution of the Loan Documents by, and enforceability of the Loan Documents against, the Borrower;

(vi) Notes. The Borrower shall execute and deliver (1) to each Increasing Lender to whom a Note was previously issued a replacement revolving credit Note reflecting the new amount of such Increasing Lender's Revolving Credit Commitment after giving effect to the increase (and the prior Note, if any, issued to such Increasing Lender shall be deemed to be terminated) and (2) to each New Lender requesting a Note a revolving credit Note reflecting the amount of such New Lender's Revolving Credit Commitment;

(vii) Approval of New Lenders. Any New Lender shall be subject to the approval of the Administrative Agent, the Issuing Lender and the Swing Loan Lender, not to be unreasonably withheld or delayed;

(viii) Increasing Lenders. Each Increasing Lender shall confirm its agreement to increase its Revolving Credit Commitment pursuant to an acknowledgement in a form acceptable to the Administrative Agent, signed by it and the Borrower and delivered to the Administrative Agent at least five (5) days before the effective date of such increase; and

(ix) New Lenders--Joinder. Each New Lender shall execute a lender joinder in substantially the form of Exhibit G pursuant to which such New Lender shall join and become a party to this Agreement and the other Loan Documents with a Revolving Credit Commitment in the amount set forth in such lender joinder.

(b) Treatment of Outstanding Loans and Letters of Credit.

(i) Borrowing of New Loans. Each of the Lenders shall participate in any new Loans made on or after such date in accordance with their respective Ratable Shares after giving effect to the increase in Revolving Credit Commitments contemplated by this Section 2.11.

(ii) Outstanding Letters of Credit and Loans. On the effective date of such increase, each Increasing Lender and each New Lender (x) will be deemed to have purchased a participation in each then outstanding Letter of Credit equal to its Ratable Share of such Letter of Credit and the participation of each other Lender in such Letter of Credit shall be adjusted accordingly and (y) will acquire, (and will pay to the Administrative Agent, for the account of each Lender, in immediately available funds, an amount equal to) its Ratable Share of all outstanding Participation Advances.

2.12 Extension of Expiration Date.

(a) Requests for Extension. The Borrower may extend the Expiration Date then in effect hereunder (the "Existing Expiration Date") for up to two (2) additional one-year periods, by written notice to the Administrative Agent (who shall promptly notify the Lenders) not earlier

than 45 days and not later than 30 days prior to any anniversary of the Closing Date (each such anniversary, the "Anniversary Date"), by requesting that each Lender extend such Lender's Expiration Date for an additional 364 days from the Existing Commitment Termination Date.

(b) Lender Elections to Extend. Each Lender, acting in its sole and individual discretion, shall, by written notice to the Administrative Agent given not earlier than 30 days prior to the applicable Anniversary Date and not later than the date (the "Notice Date") that is 20 days prior to the applicable Anniversary Date, advise the Administrative Agent whether or not such Lender agrees to such extension (and each Lender that determines not to so extend its Expiration Date (a "Non-Extending Lender") shall notify the Administrative Agent in writing of such fact promptly after such determination (but in any event no later than the Notice Date) and any Lender that does not so advise the Administrative Agent on or before the Notice Date shall be deemed to be a Non-Extending Lender. The election of any Lender to agree to such extension shall not obligate any other Lender to so agree.

(c) Notification by Administrative Agent. The Administrative Agent shall notify the Borrower in writing of each Lender's determination under this Section 2.12 no later than the date 15 days prior to the applicable Anniversary Date (or, if such date is not a Business Day, on the next Business Day).

(d) Additional Commitment Lenders. The Borrower shall have the right on or before the Existing Expiration Date to replace each Non-Extending Lender with, and add as "Lenders" under this Agreement in place thereof, one or more Eligible Assignees, which may be a then existing Lender (each, an "Additional Commitment Lender") with the approval of the Administrative Agent, Swing Loan Lender and the Issuing Lender (which approvals shall not be unreasonably withheld), each of which Additional Commitment Lenders shall have entered into an agreement in form and substance satisfactory to the Borrower and the Administrative Agent pursuant to which such Additional Commitment Lender shall, effective as of the Existing Expiration Date, undertake a Revolving Credit Commitment (and, if any such Additional Commitment Lender is already a Lender, its Revolving Credit Commitment shall be in addition to such Lender's Revolving Credit Commitment hereunder on such date).

(e) Minimum Extension Requirement. If (and only if) the total of the Revolving Credit Commitments of the Lenders that have agreed so to extend their Expiration Date and the additional Revolving Credit Commitments of the Additional Commitment Lenders shall be more than 50% of the aggregate amount of the Revolving Credit Commitments in effect immediately prior to the Existing Expiration Date, then, effective as of the Existing Expiration Date, the Expiration Date of each Extending Lender and of each Additional Commitment Lender shall be extended to the date falling 364 days after the Existing Expiration Date (except that, if such date is not a Business Day, such Expiration Date as so extended shall be the preceding Business Day) and each Additional Commitment Lender shall thereupon become a "Lender" for all purposes of this Agreement.

(f) Conditions to Effectiveness of Extensions. Notwithstanding the foregoing, the extension of the Expiration Date pursuant to this Section shall not be effective with respect to any Lender unless:

(i) as of the date of such extension of the Expiration Date and after giving effect thereto, the representations and warranties of the Borrower shall be true and correct in all material respects (unless qualified by materiality or reference to the absence of a Material Adverse Change, in which event shall be true and correct), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this Section, the representations and warranties contained in Section 6.6 [Financial Statements] shall be deemed to refer to the most recent statements furnished pursuant to Section 8.11 [Reporting Requirements];

(ii) no Event of Default or Potential Default shall have occurred and be continuing on the date of such extension of the Expiration Date and after giving effect thereto; and

(iii) on or before the Expiration Date of each Non-Extending Lender, (x) the Borrower shall have paid in full the principal of and interest on all of the Loans made by such Non-Extending Lender to the Borrower hereunder and (y) the Borrower shall have paid in full all other Obligations owing to such Lender hereunder and under the other Loan Documents (it being understood that after giving effect to this clause (iii) with respect to any Non-Extending Lender, such Non-Extending Lender's Commitment shall be deemed terminated on the Existing Expiration Date and such Non-Extending Lender shall no longer be a "Lender" hereunder).

ARTICLE 3
RESERVED

ARTICLE 4
INTEREST RATES

4.1 Interest Rate Options. The Borrower shall pay interest in respect of the outstanding unpaid principal amount of the Loans as selected by it from the Base Rate Option, the LIBOR Rate Option or the Daily LIBOR Rate set forth below applicable to the Revolving Credit Loans or the Swing Loans, respectively, it being understood that, subject to the provisions of this Agreement, the Borrower may select different Interest Rate Options and different Interest Periods to apply simultaneously to the Revolving Credit Loans comprising different Borrowing Tranches and may convert to or renew one or more Interest Rate Options with respect to all or any portion of the Revolving Credit Loans comprising any Borrowing Tranche; provided that there shall not be at any one time outstanding more than six (6) Borrowing Tranches of Revolving Credit Loans; provided further that if an Event of Default or Potential Default exists and is continuing, the Borrower may not request, convert to, or renew the LIBOR Rate Option for any Revolving Credit Loans and the Required Lenders may demand that all existing Borrowing Tranches bearing interest under the LIBOR Rate Option shall be converted immediately to the Base Rate Option, subject to the obligation of the Borrower to pay any indemnity under Section 5.10 [Indemnity] in connection with such conversion. If at any time the designated rate applicable to any Loan made by any Lender exceeds such Lender's highest lawful rate, the rate of interest on such Lender's Loan shall be limited to such Lender's highest lawful rate.

(a) Revolving Credit Interest Rate Options. The Borrower shall have the right to select from the following Interest Rate Options applicable to the Revolving Credit Loans:

(i) Revolving Credit Base Rate Option: A fluctuating rate per annum (computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed) equal to the Base Rate plus the Applicable Margin, such interest rate to change automatically from time to time effective as of the effective date of each change in the Base Rate; or

(ii) Revolving Credit LIBOR Rate Option: A rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to the LIBOR Rate as determined for each applicable Interest Period plus the Applicable Margin.

(b) Swing Loan Interest Rate. Borrower shall have the right to select the Base Rate Option applicable to Revolving Credit Loans or the Daily LIBOR Rate to apply to the Swing Loans.

(c) Rate Quotations. The Borrower may call the Administrative Agent on or before the date on which a Revolving Credit Loan Request is to be delivered to receive an indication of the rates then in effect, but it is acknowledged that such projection shall not be binding on the Administrative Agent or the Lenders nor affect the rate of interest which thereafter is actually in effect when the election is made.

4.2 Interest Periods. At any time when the Borrower shall select, convert to or renew a LIBOR Rate Option, the Borrower shall notify the Administrative Agent thereof at least three (3) Business Days prior to the effective date of such LIBOR Rate Option by delivering a Revolving Credit Loan Request. The notice shall specify an Interest Period during which such Interest Rate Option shall apply. Notwithstanding the preceding sentence, the following provisions shall apply to any selection of, renewal of, or conversion to a LIBOR Rate Option:

(a) Amount of Borrowing Tranche. Each Borrowing Tranche of Loans under the LIBOR Rate Option shall be in integral multiples of, and not less than, the respective amounts set forth in Section 2.5(a) [Revolving Credit Loan Requests]; and

(b) Renewals. In the case of the renewal of a LIBOR Rate Option at the end of an Interest Period, the first day of the new Interest Period shall be the last day of the preceding Interest Period, without duplication in payment of interest for such day.

4.3 Interest After Default. To the extent permitted by Law, upon the occurrence of an Event of Default as described in Section 10.1(a) [Payments Under Loan Documents] or Section 10.1(k) [Insolvency Proceedings, Solvency; Attachment] and at the discretion of the Administrative Agent or upon written demand by the Required Lenders to the Administrative Agent with respect to the occurrence of any other Event of Default and until such time such Event of Default shall have been cured or waived:

(a) Letter of Credit Fees. The Letter of Credit Fees pursuant to Section 2.9(b) [Letter of Credit Fees] shall be increased by 2.0% per annum;

(b) Interest Rate. Each Loan shall bear the rate of interest applicable to Revolving Credit Loans under the Base Rate Option plus 2.0% per annum;

(c) Other Obligations. Each other Obligation hereunder if not paid when due shall bear interest at a rate per annum equal to the sum of the rate of interest applicable to Revolving Credit Loans under the Base Rate Option plus an additional 2.0% per annum from the time such Obligation becomes due and payable until the time such Obligation is paid in full; and

(d) Acknowledgment. The Borrower acknowledges that the increase in rates referred to in this Section 4.3 reflects, among other things, the fact that such Loans or other amounts have become a substantially greater risk given their default status and that the Lenders are entitled to additional compensation for such risk; and all such interest shall be payable by Borrower upon demand by Administrative Agent.

4.4 LIBOR Rate Unascertainable; Illegality; Increased Costs; Deposits Not Available.

(a) Unascertainable. If on any date on which a LIBOR Rate would otherwise be determined, the Administrative Agent shall have determined that:

(i) adequate and reasonable means do not exist for ascertaining such LIBOR Rate, or

(ii) a contingency has occurred which materially and adversely affects the London interbank eurodollar market relating to the LIBOR Rate,

then the Administrative Agent shall have the rights specified in Section 4.4(c) [Administrative Agent's and Lender's Rights].

(b) Illegality; Increased Costs; Deposits Not Available. If at any time any Lender shall have determined that:

(i) the making, maintenance or funding of any Loan to which a LIBOR Rate Option applies has been made impracticable or unlawful by compliance by such Lender in good faith with any Law or any interpretation or application thereof by any Official Body or with any request or directive of any such Official Body (whether or not having the force of Law), or

(ii) such LIBOR Rate Option will not adequately and fairly reflect the cost to such Lender of the establishment or maintenance of any such Loan, or

(iii) after making all reasonable efforts, deposits of the relevant amount in Dollars for the relevant Interest Period for a Loan, or to banks generally, to which a LIBOR Rate Option applies, respectively, are not available to such Lender with respect to such Loan, or to banks generally, in the interbank eurodollar market,

then the Administrative Agent shall have the rights specified in Section 4.4(c) [Administrative Agent's and Lender's Rights].

(c) Administrative Agent's and Lender's Rights. In the case of any event specified in Section 4.4(a) [Unascertainable] above, the Administrative Agent shall promptly so notify the Lenders and the Borrower thereof, and in the case of an event specified in Section 4.4(b) [Illegality; Increased Costs; Deposits Not Available] above, such Lender shall promptly so notify

the Administrative Agent and endorse a certificate to such notice as to the specific circumstances of such notice, and the Administrative Agent shall promptly send copies of such notice and certificate to the other Lenders and the Borrower. Upon such date as shall be specified in such notice (which shall not be earlier than the date such notice is given), the obligation of (A) the Lenders, in the case of such notice given by the Administrative Agent, or (B) such Lender, in the case of such notice given by such Lender, to allow the Borrower to select, convert to or renew a LIBOR Rate Option shall be suspended until the Administrative Agent shall have later notified the Borrower, or such Lender shall have later notified the Administrative Agent, of the Administrative Agent's or such Lender's, as the case may be, determination that the circumstances giving rise to such previous determination no longer exist. If at any time the Administrative Agent makes a determination under Section 4.4(a) [Unascertainable] and the Borrower has previously notified the Administrative Agent of its selection of, conversion to or renewal of a LIBOR Rate Option and such Interest Rate Option has not yet gone into effect, such notification shall be deemed to provide for selection of, conversion to or renewal of the Base Rate Option otherwise available with respect to such Loans. If any Lender notifies the Administrative Agent of a determination under Section 4.4(b) [Illegality; Increased Costs; Deposits Not Available], the Borrower shall, subject to the Borrower's indemnification Obligations under Section 5.10 [Indemnity], as to any Loan of the Lender to which a LIBOR Rate Option applies, on the date specified in such notice either convert such Loan to the Base Rate Option otherwise available with respect to such Loan or prepay such Loan in accordance with Section 5.6 [Voluntary Prepayments]. Absent due notice from the Borrower of conversion or prepayment, such Loan shall automatically be converted to the Base Rate Option otherwise available with respect to such Loan upon such specified date.

4.5 Selection of Interest Rate Options. If the Borrower fails to select a new Interest Period to apply to any Borrowing Tranche of Loans under the LIBOR Rate Option at the expiration of an existing Interest Period applicable to such Borrowing Tranche in accordance with the provisions of Section 4.2 [Interest Periods], the Borrower shall be deemed to have converted such Borrowing Tranche to the Base Rate Option, as applicable to Revolving Credit Loans, commencing upon the last day of the existing Interest Period. If the Borrower provides any Revolving Credit Loan Request related to a Loan at the LIBOR Rate Option but fails to identify an Interest Period therefor, such Revolving Credit Loan Request shall be deemed to request an Interest Period of one month. Any Revolving Credit Loan Request that fails to select an Interest Rate Option shall be deemed to be a request for the Base Rate Option.

ARTICLE 5
PAYMENTS; TAXES; YIELD MAINTENANCE

5.1 Payments. All payments and prepayments to be made in respect of principal, interest, Commitment Fees, Letter of Credit Fees, Administrative Agent's Fee or other fees or amounts due from the Borrower hereunder shall be payable prior to 11:00 a.m. on the date when due without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Borrower, and without set-off, counterclaim or other deduction of any nature, and an action therefor shall immediately accrue. Such payments shall be made to the Administrative Agent at the Principal Office for the account of the Swing Loan Lender with respect to the Swing Loans and for the ratable accounts of the Lenders with respect to the Revolving Credit Loans in U.S. Dollars and in immediately available funds, and the Administrative Agent shall promptly distribute such amounts to the Lenders in immediately available funds; provided that in the event

payments are received by 11:00 a.m. by the Administrative Agent with respect to the Loans and such payments are not distributed to the Lenders on the same day received by the Administrative Agent, the Administrative Agent shall pay the Lenders interest at the Federal Funds Effective Rate with respect to the amount of such payments for each day held by the Administrative Agent and not distributed to the Lenders. The Administrative Agent's and each Lender's statement of account, ledger or other relevant record shall, in the absence of manifest error, be conclusive as the statement of the amount of principal of and interest on the Loans and other amounts owing under this Agreement.

5.2 Pro Rata Treatment of Lenders. Each borrowing of Revolving Credit Loans shall be allocated to each Lender according to its Ratable Share, and each selection of, conversion to or renewal of any Interest Rate Option and each payment or prepayment by the Borrower with respect to principal, interest, Commitment Fees and Letter of Credit Fees (but excluding the Administrative Agent's Fee and the Issuing Lender's fronting fee) shall (except as otherwise may be provided with respect to a Defaulting Lender and except as provided in Sections 4.4(c) [Administrative Agent's and Lender's Rights] in the case of an event specified in Section 4.4 [LIBOR Rate Unascertainable; Etc.], 5.6(b) [Replacement of a Lender] or 5.8 [Increased Costs]) be payable ratably among the Lenders entitled to such payment in accordance with the amount of principal, interest, Commitment Fees and Letter of Credit Fees, as set forth in this Agreement. Notwithstanding any of the foregoing, each borrowing or payment or prepayment by the Borrower of principal, interest, fees or other amounts from the Borrower with respect to Swing Loans shall be made by or to the Swing Loan Lender according to Section 2.6(e) [Borrowings to Repay Swing Loans].

5.3 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff, counterclaim or banker's lien, by receipt of voluntary payment, by realization upon security, or by any other non-pro rata source, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than the pro-rata share of the amount such Lender is entitled thereto, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, together with interest or other amounts, if any, required by Law (including court order) to be paid by the Lender or the holder making such purchase; and

(ii) the provisions of this Section 5.3 shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of the Loan Documents or (y) any payment obtained by a Lender as consideration for the assignment

of or sale of a participation in any of its Loans or Participation Advances to any assignee or participant.

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

5.4 Administrative Agent's Clawback.

(a) Reserved.

(b) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Lender, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

5.5 Interest Payment Dates. Interest on Loans to which the Base Rate Option applies shall be due and payable in arrears on each Payment Date and the Expiration Date or the applicable Specified Maturity Date. Interest on Loans to which the LIBOR Rate Option applies shall be due and payable on the last day of each Interest Period for those Loans and, if such Interest Period is longer than three (3) Months, also on the 90th day of such Interest Period and the Expiration Date or the applicable Specified Maturity Date. Interest on the principal amount of each Loan or other monetary Obligation shall be due and payable on demand after such principal amount or other monetary Obligation becomes due and payable (whether on the stated Expiration Date, the applicable Specified Maturity Date or upon acceleration or otherwise).

5.6 Voluntary Prepayments.

(a) Right to Prepay. The Borrower shall have the right at its option from time to time to prepay the Loans in whole or part without premium or penalty (except as provided in Section 5.6(b) [Replacement of a Lender] below, in Section 5.8 [Increased Costs] and Section 5.10 [Indemnity]). Whenever the Borrower desires to prepay any part of the Loans, it shall provide a prepayment notice to the Administrative Agent by 1:00 p.m. at least one (1) Business Day prior to the date of prepayment of the Revolving Credit Loans or no later than 1:00 p.m. on the date of prepayment of Swing Loans, setting forth the following information:

(i) the date, which shall be a Business Day, on which the proposed prepayment is to be made;

(ii) a statement indicating the application of the prepayment between the Revolving Credit Loans and Swing Loans;

(iii) a statement indicating the application of the prepayment between Loans to which the Base Rate Option applies and Loans to which the LIBOR Rate Option applies; and

(iv) the total principal amount of such prepayment, which shall not be less than the lesser of (i) the Revolving Facility Usage or (ii) $100,000 for any Swing Loan or $5,000,000 for any Revolving Credit Loan.

All prepayment notices shall be irrevocable. The principal amount of the Loans for which a prepayment notice is given, together with interest on such principal amount, shall be due and payable on the date specified in such prepayment notice as the date on which the proposed prepayment is to be made. Except as provided in Section 4.4(c) [Administrative Agent's and Lender's Rights], if the Borrower prepays a Loan but fails to specify the applicable Borrowing Tranche which the Borrower is prepaying, the prepayment shall be applied first to Loans to which the Base Rate Option applies, then to Loans to which the LIBOR Rate Option applies. Any prepayment hereunder shall be subject to the Borrower's Obligation to indemnify the Lenders under Section 5.10 [Indemnity].

(b) Replacement of a Lender. If any Lender requests compensation under Section 5.8 [Increased Costs], or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Official Body for the account of any Lender pursuant to Section 5.9 [Taxes] and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 5.6(c), or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 12.9 [Successors and Assigns]), all of its interests, rights (other than its existing rights to payments pursuant to Section 5.8 [Increased Cost] or Section 5.9 [Taxes]) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

(i) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 12.9 [Successors and Assigns];

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letter of Credit Borrowings, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 5.10 [Indemnity]) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 5.8 [Increased Costs] or payments required to be made pursuant to Section 5.9 [Taxes], such assignment will result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with applicable Law; and

(v) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

(c) Designation of a Different Lending Office. If any Lender requests compensation under Section 5.8 [Increased Costs], or the Borrower is or will be required to pay any Indemnified Taxes or additional amounts to any Lender or any Official Body for the account of any Lender pursuant to Section 5.9 [Taxes], then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 5.8 [Increased Costs] or Section 5.9 [Taxes], as the case may be, in the future, and (ii) would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

5.7 Reserved.

5.8 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the LIBOR Rate) or the Issuing Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (ii) through (iv) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender, the Issuing Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or maintaining any Loan or of maintaining its obligation to make any such Loan, or to increase the cost to such Lender, the Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, the Issuing Lender or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, the Issuing Lender or other Recipient, the Borrower will pay to such Lender, the Issuing Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the Issuing Lender determines that any Change in Law affecting such Lender or the Issuing Lender or any Lending Office of such Lender or such Lender's or the Issuing Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Lender's capital or on the capital of such Lender's or the Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swing Loans held by, such Lender, or the Letters of Credit issued by the Issuing Lender, to a level below that which such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Lender's policies and the policies of such Lender's or the Issuing Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or the Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement; Repayment of Outstanding Loans; Borrowing of New Loans. A certificate of a Lender or the Issuing Lender setting forth the amount or amounts necessary to compensate such Lender or the Issuing Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Lender, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or the Issuing Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or the Issuing Lender pursuant to this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or the Issuing Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Survival. Each party's obligations under this Section 5.8 [Increased Costs] shall survive the resignation of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations.

5.9 Taxes.

(a) Issuing Lender. For purposes of this Section 5.9, the term "Lender" includes the Issuing Lender and the term "applicable Law" includes FATCA.

(b) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Official Body in accordance with applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 5.9 [Taxes]) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Borrower. The Borrower shall timely pay to the relevant Official Body in accordance with applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Indemnification by the Borrower. The Borrower shall indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.9 [Taxes]) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Official Body. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.9(d) [Participations] relating to the maintenance of a Participant Register, and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Official Body. A certificate as to the amount of such payment

or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 5.9(e) [Indemnification by the Lenders].

(f) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to an Official Body pursuant to this Section 5.9 [Taxes], the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Official Body evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(g) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.9(g)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(I) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect

to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN-E (or W-8BEN if applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or W-8BEN if applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) executed originals of IRS Form W-8ECI;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "**U.S. Tax Compliance Certificate**") and (y) executed originals of IRS Form W-8BEN-E (or W-8BEN if applicable); or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN if applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times

reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "**FATCA**" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(h) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.9 [Taxes] (including by the payment of additional amounts pursuant to this Section 5.9 [Taxes]), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.9 [Taxes] with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Official Body with respect to such refund). Such indemnifying party, upon the request of such indemnified party incurred in connection with obtaining such refund, shall repay to such indemnified party the amount paid over pursuant to this Section 5.9(h) [Treatment of Certain Refunds] (plus any penalties, interest or other charges imposed by the relevant Official Body) in the event that such indemnified party is required to repay such refund to such Official Body. Notwithstanding anything to the contrary in this Section 5.9(h) [Treatment of Certain Refunds]), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 5.9(h) [Treatment of Certain Refunds] the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) Survival. Each party's obligations under this Section 5.9 [Taxes] shall survive the resignation of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations.

5.10 Indemnity. In addition to the compensation or payments required by Section 5.8 [Increased Costs] or Section 5.9 [Taxes], the Borrower shall indemnify each Lender against all liabilities, losses or expenses (including loss of anticipated profits, any foreign exchange losses and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan, from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract) which such Lender sustains or incurs as a consequence of any:

(i) payment, prepayment, conversion or renewal of any Loan to which a LIBOR Rate Option applies on a day other than the last day of the corresponding Interest Period (whether or not such payment or prepayment is mandatory, voluntary or automatic and whether or not such payment or prepayment is then due); or

(ii) attempt by the Borrower to revoke (expressly, by later inconsistent notices or otherwise) in whole or part any Revolving Credit Loan Requests under Section 2.5 [Revolving Credit Loan Requests; Swing Loan Requests] or Section 4.2 [Interest Periods] or notice relating to prepayments under Section 5.6 [Voluntary Prepayments] or failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Loan under the Base Rate Option on the date or in the amount notified by the Borrower, or

(iii) any assignment of a Loan under the LIBOR Rate Option on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 5.6(b) [Replacement of a Lender].

If any Lender sustains or incurs any such loss or expense, it shall from time to time notify the Borrower of the amount determined in good faith by such Lender (which determination may include such assumptions, allocations of costs and expenses and averaging or attribution methods as such Lender shall deem reasonable) to be necessary to indemnify such Lender for such loss or expense. Such notice shall set forth in reasonable detail the basis for such determination. Such amount shall be due and payable by the Borrower to such Lender ten (10) Business Days after such notice is given.

Each party's obligations under this Section 5.10 [Indemnity] shall survive the resignation of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations.

5.11 Settlement Date Procedures. In order to minimize the transfer of funds between the Lenders and the Administrative Agent, the Borrower may borrow, repay and reborrow Swing Loans and the Swing Loan Lender may make Swing Loans as provided in Section 2.1(b) [Swing Loan Commitment] hereof during the period between Settlement Dates. The Administrative Agent shall notify each Lender of its Ratable Share of the total of the Revolving Credit Loans and the Swing Loans (each a "**Required Share**"). On such Settlement Date, each Lender shall pay to the Administrative Agent the amount equal to the difference between its Required Share and its Revolving Credit Loans, and the Administrative Agent shall pay to each Lender its Ratable Share of all payments made by the Borrower to the Administrative Agent with respect to the Revolving Credit Loans. The Administrative Agent shall also effect settlement in accordance with the foregoing sentence on the proposed Borrowing Dates for Revolving Credit Loans and may at its option effect settlement on any other Business Day. These settlement procedures are established solely as a matter of administrative convenience, and nothing contained in this Section 5.11 shall relieve the Lenders of their obligations to fund Revolving Credit Loans on dates other than a Settlement Date pursuant to Section 2.1(b) [Swing Loan Commitment]. The Administrative Agent may at any time at its option for any reason whatsoever require each Lender to pay immediately

to the Administrative Agent such Lender's Ratable Share of the outstanding Revolving Credit Loans and each Lender may at any time require the Administrative Agent to pay immediately to such Lender its Ratable Share of all payments made by the Borrower to the Administrative Agent with respect to the Revolving Credit Loans.

5.12 Cash Collateral. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of the Administrative Agent or the Issuing Lender (with a copy to the Administrative Agent) the Borrower shall Cash Collateralize the Issuing Lender's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.10(a)(iv) [Reallocation of Participations to Reduce Fronting Exposure] and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(a) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Lender, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of Letter of Credit Obligations, to be applied pursuant to clause (b) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the Issuing Lender as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(b) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 5.12 [Cash Collateral] or Section 2.10 [Defaulting Lender] in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letter of Credit Obligations (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(c) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce the Issuing Lender's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 5.12 [Cash Collateral] following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and the Issuing Lender that there exists excess Cash Collateral; provided that, subject to Section 2.10 [Defaulting Lenders] the Person providing Cash Collateral and the Issuing Lender may agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to Section 5.12(a) [Grant of Security Interest] above.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

Representations and Warranties. The Borrower represents and warrants to the Administrative Agent and each of the Lenders as follows:

6.1 Organization and Qualification; Power and Authority; Compliance With Laws; Title to Properties; Event of Default. The Borrower and each of its Subsidiary (i) is a corporation, partnership or limited liability company duly organized or formed, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has all necessary lawful power and authority, and all necessary licenses, approvals and authorizations to own or lease its properties and to engage in the business it presently conducts or currently proposes to conduct, except, in the cases of owning or leasing its properties and engaging in the business it presently conducts or currently proposes to conduct, where the absence of such licenses, approvals or authorizations, either individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Change, (iii) is duly licensed or qualified and in good standing in each jurisdiction where the property owned or leased by it or the nature of the business transacted by it or both makes such licensing or qualification necessary and the absence of such licensing or qualification would reasonably be expected to result in a Material Adverse Change, (iv) has full power and authority to enter into, execute, deliver and carry out this Agreement and the other Loan Documents to which it is a party, to incur the Indebtedness contemplated by the Loan Documents and to perform its Obligations, and all such actions have been duly authorized by all necessary action and proceedings on its part, (v) is in compliance in all material respects with all applicable Laws (other than Environmental Laws which are specifically addressed in Section 6.14 [Environmental Matters]) in all jurisdictions in which the Borrower or Subsidiary of the Borrower is presently or will be doing business except where (a) the failure to do so, either individually or in the aggregate, would not reasonably be expected to constitute a Material Adverse Change and (b) any non-compliance is being contested in good faith by appropriate proceedings diligently conducted, and (vi) has good and marketable title to or valid leasehold interest in all properties, assets and other rights which it purports to own or lease or which are reflected as owned or leased on its books and records, free and clear of all Liens and encumbrances except Permitted Liens, except where the failure to do so, either individually or in the aggregate, would not reasonably be expected to constitute a Material Adverse Change. No Event of Default or Potential Default has occurred and is continuing or would result from the performance by the Borrower of its Obligations.

6.2 Borrower; Subsidiaries and Owners; Investment Companies. As of the Closing Date, Schedule 6.2 states (i) the name of each of the Borrower's Subsidiaries, its jurisdiction of organization and the amount, percentage and type of Equity Interests in such Subsidiary (the "**Subsidiary Equity Interests**"), (ii) the name of each holder of Subsidiary Equity Interest in each Subsidiary and the amount thereof and (iii) any options, warrants or other rights outstanding to purchase any such Equity Interests referred to in clause (i) or (ii). The Borrower and each Subsidiary of the Borrower has good and marketable title to all of the Subsidiary Equity Interests it then purports to own, free and clear in each case of any Lien and all such Subsidiary Equity Interests have been duly authorized and validly issued, and are fully paid and nonassessable. Neither the Borrower nor any Subsidiaries of the Borrower is an "investment company" registered or required to be registered under the Investment Company Act of 1940 or under the "control" of

an "investment company" as such terms are defined in the Investment Company Act of 1940 and shall not become such an "investment company" or under such "control."

6.3 Validity and Binding Effect. Each of this Agreement and each other Loan Document has been (or when delivered will have been), (i) duly authorized, validly executed and delivered by the Borrower, and (ii) constitutes, or will constitute, legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with its terms.

6.4 No Conflict; Material Agreements; Consents. Neither the execution and delivery of this Agreement or the other Loan Documents by the Borrower nor the consummation of the transactions herein or therein contemplated or compliance with the terms and provisions hereof or thereof by the Borrower will conflict with, constitute a default under or result in any breach of (i) the terms and conditions of the certificate of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents of the Borrower or (ii) any Law or any material agreement or instrument or order, writ, judgment, injunction or decree to which the Borrower or any of its Subsidiaries is a party or by which it or any of its Subsidiaries is bound or to which it is subject or by which it is affected, or result in the creation or enforcement of any Lien whatsoever upon any property (now or hereafter acquired) of the Borrower or any of its Subsidiaries (other than Liens granted under the Loan Documents). There is no default under such material agreement (referred to above) and neither the Borrower nor any of its Subsidiaries is bound by any contractual obligation, or subject to any restriction in any organization document, or any requirement of Law which would reasonably be likely to result in a Material Adverse Change. No consent, approval, exemption, order or authorization of, or a registration or filing with, or notice to, any Official Body or any other Person is required by any Law or any agreement in connection with the execution, delivery and performance by, or enforcement against, the Borrower of this Agreement and the other Loan Documents except such as has been obtained or issued and which remains in full force and effect; provided that any increase of the Commitments in accordance with Section 2.11 [Increase in Revolving Credit Commitments] or the extension of the Expiration Date in accordance with Section 2.12 [Extension of Expiration Date] may require appropriate governmental or third party authorization thereof prior to the effectiveness of such increase or such extension, as the case may be.

6.5 Litigation. There are no actions, suits, claims, proceedings or investigations pending or, to the knowledge of the Borrower, threatened against the Borrower or any Subsidiary of the Borrower or any of their properties at law or in equity before any Official Body which (i) individually or in the aggregate would reasonably be expected to result in any Material Adverse Change or (ii) state to affect, impact or restate this Agreement or any of the other Loan Documents or the transactions contemplated hereby or thereby. Neither the Borrower nor any Subsidiaries of the Borrower is in violation of any order, writ, injunction or any decree of any Official Body which would reasonably be expected to result in any Material Adverse Change.

6.6 Financial Statements.

(a) Historical Statements. The Borrower has delivered to the Administrative Agent copies of its audited consolidated year-end balance sheet, statement of income or operations, shareholders' equity and cash flows, for and as of the end of the fiscal year ended December 31,

2014. In addition, the Borrower has delivered to the Administrative Agent copies of its unaudited consolidated interim balance sheet, statement of income or operations, shareholders' equity and cash flows, for the fiscal year to date and as of the end of the fiscal quarter ended June 30, 2015 (all such annual and interim statements being collectively referred to as the "**Statements**"). The Statements (i) are correct and complete in all material respects, (ii) fairly present in all material respects the consolidated financial condition of the Borrower and its Subsidiaries as of the respective dates thereof and the results of operations for the fiscal periods then ended in accordance with GAAP consistently applied throughout the period covered thereby, subject (in the case of the interim statements) to normal year end audit adjustments utilized on a consistent basis and the absence of footnotes and (iii) have been prepared in accordance with GAAP consistently applied throughout the period covered thereby, subject (in the case of the interim statements) to normal year-end audit adjustments utilized on a consistent basis and the absence of footnotes.

(b) Accuracy of Financial Statements. Neither the Borrower nor any Subsidiary of the Borrower has any indebtedness, liabilities, contingent or otherwise, or forward or long-term commitments that are required to be disclosed in accordance with GAAP that are not disclosed in the Statements or in the notes thereto or on Schedule 6.6(b), attached hereto and incorporated herein by reference, and except as disclosed therein there are no unrealized losses from any commitments of the Borrower or any Subsidiary of the Borrower which would reasonably be expected to cause a Material Adverse Change. Since December 31, 2014, no Material Adverse Change has occurred.

6.7 Margin Stock. Neither the Borrower nor any Subsidiaries of the Borrower engages or intends to engage principally, or as one of its important activities, in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U, T or X as promulgated by the Board of Governors of the Federal Reserve System). No part of the proceeds of any Loan has been or will be used, immediately, incidentally or ultimately, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or which is inconsistent with the provisions of the regulations of the Board of Governors of the Federal Reserve System. Neither the Borrower nor any Subsidiaries of the Borrower holds or intends to hold margin stock in such amounts that more than 25% of the reasonable value of the assets of the Borrower or Subsidiary of the Borrower are or will be represented by margin stock.

6.8 Full Disclosure. Neither this Agreement nor any other Loan Document, nor any certificate, report, statement, agreement or other documents or other information (written or oral) furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection herewith or therewith or the transactions contemplated hereby or thereby, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they were made, not misleading; provided that in connection with any financial projections, the Borrower represents and warrants that such projections were prepared in good faith based upon assumptions believed by it to be reasonable at the time when made. There is no fact known to the Borrower which materially adversely affects the business, property, assets, financial condition, results of operations or prospects of the Borrower and its Subsidiaries, taken as a whole, which has not been set forth in this Agreement or in the certificates, statements, agreements or other documents furnished in

writing to the Administrative Agent and the Lenders prior to or at the date hereof in connection with the transactions contemplated hereby.

6.9 Taxes. All federal, state, local and other tax returns required to have been filed with respect to the Borrower and each Subsidiary of the Borrower have been filed, and payment or adequate provision has been made for the payment of all taxes, fees, assessments and other governmental charges which have or may become due pursuant to said returns or otherwise levied or imposed upon them, their properties, income or assets which are due and payable, except to the extent that such taxes, fees, assessments and other charges are being contested in good faith by appropriate proceedings diligently conducted and for which such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made.

6.10 Patents, Trademarks, Copyrights, Licenses, Etc. The Borrower and each Subsidiary of the Borrower owns or possesses all the patents, trademarks, service marks, trade names, copyrights, licenses, registrations, franchises, permits and rights necessary to own and operate its properties and to carry on its business as presently conducted and planned to be conducted by the Borrower or such Subsidiary, without known possible, alleged or actual conflict with the rights of others, except where the failure to do so, either individually or in the aggregate, would not reasonably be expected to constitute a Material Adverse Change.

6.11 Reserved.

6.12 Insurance. The properties of the Borrower and each of its Subsidiaries are insured pursuant to policies and other bonds which are valid and in full force and effect and which provide adequate coverage from reputable and financially sound insurers which are not Affiliates of the Borrower (except to the extent customarily self-insured or such Affiliates are otherwise acceptable to the Administrative Agent) in amounts sufficient to insure the assets and risks of the Borrower and each Subsidiary in accordance with prudent business practice in the industry of the Borrower and its Subsidiaries in the locations where the Borrower or the applicable Subsidiary conducts business.

6.13 ERISA Compliance.

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received from the IRS a favorable determination or opinion letter, which has not by its terms expired or, in the case of a determination letter, is from the most recent available cycle for which such letters were issuable for such Plan, that such Plan is so qualified, or such Plan is entitled to rely on an IRS advisory or opinion letter with respect to an IRS-approved master and prototype or volume submitter plan, or a timely application for such a determination or opinion letter is currently being processed by the IRS with respect thereto; and, to the best knowledge of Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification. Borrower and each member of the ERISA Group have made all required contributions to each Pension Plan subject to Sections 412 or 430 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Sections 412 or 430 of the Code has been made with respect to any Pension Plan.

(b) There are no pending or, to the best knowledge of Borrower, threatened claims, actions or lawsuits, or action by any Official Body, with respect to any Plan that could reasonably be expected to have a Material Adverse Change. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Change.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) the Borrower and each ERISA Affiliate has met all applicable requirements under the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) as set forth in Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA with respect to each Pension Plan, and no waiver has been applied for or obtained; (iii) neither Borrower nor any member of the ERISA Group has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither Borrower nor any member of the ERISA Group has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 of ERISA, with respect to a Multiemployer Plan; (v) neither Borrower nor any member of the ERISA Group has received notice pursuant to Section 4242(a)(1)(B) of ERISA that a Multiemployer Plan is in reorganization and that additional contributions are due to the Multiemployer Plan pursuant to Section 4243 of ERISA; (vi) neither Borrower nor any member of the ERISA Group has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA; and (vii) no Pension Plan or Multiemployer Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan or Multiemployer Plan.

6.14 Environmental Matters.

(a) Neither the Borrower nor any Subsidiary has actual knowledge of any claim or has received any notice of any claim and no proceeding has been instituted asserting any claim against the Borrower or any of its Subsidiaries or any of their respective real properties or other assets now or formerly owned, leased or operated by any of them, alleging any damage to the environment or violation of any Environmental Laws, except, in each case, such as would not reasonably be expected to result in a Material Adverse Change.

(b) Neither the Borrower nor any Subsidiary has actual knowledge of any facts which would reasonably be expected to give rise to any claim, public or private, of violation of Environmental Laws or damage to the environment emanating from, occurring on or in any way related to real properties now or formerly owned, leased or operated by any of them or to other assets or their use, except, in each case, such as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

(c) Neither the Borrower nor any Subsidiary has stored any Hazardous Materials on real properties now or formerly owned, leased or operated by any of them in a manner which is contrary to any Environmental Law that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

(d) Neither the Borrower nor any Subsidiary has disposed of any Hazardous Materials in a manner which is contrary to any Environmental Law that would, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

(e) All buildings on all real properties now owned, leased or operated by the Borrower or any Subsidiary are in compliance with applicable Environmental Laws, except where failure to comply could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Change.

6.15 Solvency. On the Closing Date and after giving effect to the initial Loans hereunder, the Borrower is Solvent.

6.16 Anti-Terrorism Laws. No Covered Entity is a Sanctioned Person, and (ii) no Covered Entity, either in its own right or through any third party, (a) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law, (b) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (c) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

ARTICLE 7
CONDITIONS OF LENDING AND ISSUANCE OF LETTERS OF CREDIT

The obligation of each Lender to make Loans and of the Issuing Lender to issue Letters of Credit hereunder is subject to the performance by the Borrower of its Obligations to be performed hereunder at or prior to the making of any such Loans or issuance of such Letters of Credit and to the satisfaction of the following further conditions:

7.1 Initial Loans and Letters of Credit.

(a) Deliveries. On the Closing Date, the Administrative Agent shall have received each of the following in form and substance satisfactory to the Administrative Agent and each of which (unless otherwise specified) shall be original copies or telecopies promptly followed by original copies:

(i) A certificate of the Borrower signed by an Authorized Officer, dated the Closing Date stating that (v) the Borrower is in compliance with each of the covenants and conditions hereunder, (w) no Material Adverse Change has occurred since the date of the last audited financial statements of the Borrower delivered to the Administrative Agent, (x) the conditions stated in both Section 7.1 and 7.2 have been satisfied, (y) there has been no material adverse change from any certificate, report, statement, agreement or other document or other written information previously supplied to the Administrative Agent and the Arrangers furnished by or on behalf of the Borrower in connection with the transactions contemplated by this Agreement or the other Loan Documents and (z) all material consents, licenses and approvals required for the delivery and performance by the Borrower of any Loan Document and the enforceability of any Loan Document against the Borrower is in full force and effect and none other is so required or necessary; provided that any increase of the Commitments in accordance with Section 2.11 [Increase in Revolving Credit Commitments] or the extension of the Expiration

Date in accordance with Section 2.12 [Extension of Expiration Date] may require appropriate governmental or third party authorization thereof prior to the effectiveness of such increase or such extension, as the case may be;

(ii) A certificate dated the Closing Date and signed by the Secretary or an Assistant Secretary of the Borrower, certifying as appropriate as to: (a) all action taken by the Borrower to validly authorize, duly execute and deliver this Agreement and the other Loan Documents and attaching copies of such resolution or other corporate or organizational action; (b) the names, authority and capacity of the Authorized Officers authorized to sign the Loan Documents and their true signatures; and (c) copies of its organizational documents as in effect on the Closing Date certified as of a sufficiently recent date prior to the Closing Date by the appropriate state official where such documents are filed in a state office together with certificates from the appropriate state officials as to due organization and the continued valid existence, good standing and qualification to engage in its business of the Borrower in the state of its organization and in each state where conduct of business or ownership or lease of properties or assets requires such qualification, except to the extent that the failure to be so qualified could not reasonably be expected to result in a Material Adverse Change;

(iii) This Agreement and each of the other Loan Documents signed by an Authorized Officer in a sufficient number of counterparts for delivery to each Lender and the Administrative Agent;

(iv) A written opinion of counsel for the Borrower, dated the Closing Date addressed to the Administrative Agent and each Lender and in form and substance satisfactory to the Administrative Agent;

(v) Evidence that adequate insurance required to be maintained under this Agreement is in full force and effect, with additional insured endorsement attached thereto in form and substance satisfactory to the Administrative Agent and its counsel naming the Administrative Agent and the Secured Parties as additional insureds;

(vi) A duly completed Compliance Certificate as of the last day of the fiscal quarter of Borrower most recently ended prior to the Closing Date calculating the Funded Indebtedness to Total Adjusted Capitalization Ratio and the Total Indebtedness to Total Capitalization Ratio on a pro form basis after giving effect to the transactions contemplated hereby and the initial Loans borrowed on the Closing Date, signed by an Authorized Officer of Borrower;

(vii) A Lien search in acceptable scope and with acceptable results; and

(viii) Such other documents in connection with such transactions as the Administrative Agent or its counsel may reasonably request.

(b) Payment of Fees. The Borrower shall have paid all fees and expenses payable on or before the Closing Date as required by this Agreement, the Administrative Agent's Letter, the BAML Letter or any other Loan Document.

(c) Material Adverse Change. There has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Change.

Without limiting the generality of the provisions of the last paragraph of Section 11.3 [Exculpatory Provisions], for purposes of determining compliance with the conditions specified in this Section 7.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

7.2 Each Loan or Letter of Credit. At the time of making any Loans or issuing, extending or increasing any Letters of Credit and after giving effect thereof: (i) the representations and warranties of the Borrower shall then be true and correct in all material respects (unless qualified by materiality or reference to the absence of a Material Adverse Change, in which event they shall be true and correct), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date, and except that for purposes of this Section 7.2, the representations and warranties contained in Section 6.6 [Financial Statements] shall be deemed to refer to the most recent statements furnished pursuant to Section 8.11 [Reporting Requirements], (ii) no Event of Default or Potential Default shall have occurred and be continuing or would result from such Loan or Letter of Credit or the application of the proceeds thereof, (iii) the making of the Loans or issuance, extension or increase of such Letter of Credit shall not contravene any Law applicable to the Borrower or Subsidiary of the Borrower or any of the Lenders, and (iv) the Borrower shall have delivered to the Administrative Agent a duly executed and completed Revolving Credit Loan Request, Swing Loan Request or to the Issuing Lender an application for a Letter of Credit, as the case may be. Each Revolving Credit Loan Request, Swing Loan Request and Letter of Credit application shall be deemed to be a representation that the conditions set forth in Sections 7.1 and 7.2 have been satisfied on or prior to the date thereof.

ARTICLE 8
AFFIRMATIVE COVENANTS

The Borrower hereby covenants and agrees that until the Facility Termination Date, it will, and will cause each of its Subsidiaries to, comply at all times with the following covenants:

8.1 Preservation of Existence, Etc. The Borrower shall, and shall cause each of its Subsidiaries to, (i) maintain its legal existence as a corporation, limited partnership or limited liability company, as applicable, and its license or qualification and good standing in each jurisdiction in which its ownership or lease of property or the nature of its business makes such license or qualification necessary, except as otherwise expressly permitted in Section 9.5 [Liquidations, Mergers, Etc.] (ii) maintain all licenses, consents, permits, franchises, rights and qualifications necessary for the standard operation of its business, except where the maintenance thereof could not reasonably be expected to result in a Material Adverse Change, and (iii) maintain and preserve all intellectual properties, including without limitation trademarks, trade names, patents, copyrights and other marks, registered and necessary for the standard operation of its

business except where the maintenance thereof could not reasonably be expected to result in a Material Adverse Change.

8.2 Payment of Liabilities, Including Taxes, Etc. The Borrower shall, and shall cause each of its Subsidiaries to, duly pay and discharge (i) all liabilities to which it is subject or which are asserted against it, promptly as and when the same shall become due and payable, including all taxes, assessments and governmental charges upon it or any of its properties, assets, income or profits, prior to the date on which penalties attach thereto, except to the extent that such liabilities, including taxes, assessments or charges, are being contested in good faith and by appropriate and lawful proceedings diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made and (ii) all lawful and valid claims which, if unpaid, would result in the attachment of a Lien on its property as a matter of law or contract, other than Liens permitted under clause (xiii) of the definition of "Permitted Lien".

8.3 Maintenance of Insurance. The Borrower shall, and shall cause each of its Subsidiaries to, insure its properties and assets against loss or damage by fire and such other insurable hazards and against other risks as such assets are commonly insured in such amounts as similar properties and assets are insured by prudent companies in similar circumstances carrying on similar businesses, and with reputable and financially sound insurers which are not Affiliates of the Borrower, (except to the extent customarily self-insured or such Affiliates are otherwise acceptable to the Administrative Agent).

8.4 Maintenance of Properties and Leases. The Borrower shall, and shall cause each of its Subsidiaries to, maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the general practice of other businesses of similar character and size, all of those properties useful or necessary to its business, and from time to time, the Borrower will make or cause to be made all necessary and appropriate repairs, renewals or replacements thereof, except where the failure to do so would not reasonably be expected to result in a Material Adverse Change.

8.5 Inspection Rights. The Borrower shall, and shall cause each of its Subsidiaries to, permit any of the officers or authorized employees or representatives of the Administrative Agent or any of the Lenders to visit and inspect any of its properties and to examine and make excerpts from its books and records and discuss its business affairs, finances and accounts with its officers, directors and independent accountants, all in such detail and at such times and as often as any of the Lenders may reasonably request, provided that each Lender shall provide the Borrower and the Administrative Agent with reasonable notice prior to any visit or inspection. In the event any Lender desires to conduct an audit of the Borrower, such Lender shall make a reasonable effort to conduct such audit contemporaneously with any audit to be performed by the Administrative Agent and further provided that any such visit and inspection shall be limited to once per year except when an Event of Default has occurred and is continuing.

8.6 Keeping of Records and Books of Account. The Borrower shall, and shall cause each Subsidiary of the Borrower to, maintain and keep books of record and account which enable the Borrower and its Subsidiaries to issue financial statements in accordance with GAAP consistently applied and as otherwise required by applicable Laws of any Official Body having

jurisdiction over the Borrower or any Subsidiary of the Borrower, and in which full, true and correct entries shall be made in all material respects of all financial transactions.

8.7 Compliance with Laws; Use of Proceeds. The Borrower shall, and shall cause each of its Subsidiaries to, comply in all material respects with all applicable Laws, including all Environmental Laws, in all respects; except (i) where such compliance with any law is being contested in good faith by appropriately proceedings diligently conducted, and (ii) that it shall not be deemed to be a violation of this Section 8.7 if any failure to comply with any Law would not result in fines, penalties, remediation costs, other similar liabilities or injunctive relief which in the aggregate would constitute a Material Adverse Change. The Borrower will use the Letters of Credit and the proceeds of the Loans only to fund ongoing working capital, capital expenditures and other general corporate purposes and as permitted by applicable Law.

8.8 Further Assurances. The Borrower shall do such acts and things as the Administrative Agent in its sole discretion may deem necessary or advisable from time to time in order to preserve, perfect and protect the Administrative Agent's and other Secured Parties' rights granted hereunder and under the other Loan Documents and to exercise and enforce its rights and remedies hereunder and thereunder.

8.9 Anti-Terrorism Laws; International Trade Law Compliance. (a) No Covered Entity will become a Sanctioned Person, (b) no Covered Entity, either in its own right or through any third party, will (A) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (C) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (D) use the Loans to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law, (c) the funds used to repay the Obligations will not be derived from any unlawful activity, (d) each Covered Entity shall comply with all Anti-Terrorism Laws, and (e) the Borrower shall promptly notify the Administrative Agent in writing upon the occurrence of a Reportable Compliance Event.

8.10 Reserved.

8.11 Reporting Requirements. The Borrower will furnish or cause to be furnished to the Administrative Agent and each of the Lenders:

(a) Quarterly Financial Statements. As soon as available but in any event no later than the filing date required by the SEC (without giving effect to any permitted extension thereof), financial statements of the Borrower (commencing with the financial statements for the fiscal quarter ended September 30, 2015), consisting of (i) a consolidated balance sheet as of the end of such fiscal quarter, (ii) related consolidated statements of income, stockholders' equity for the fiscal quarter then ended and the fiscal year through that date and (iii) related consolidated statements of cash flows for the fiscal year through that date, in each case, all in reasonable detail and certified (subject to normal year-end audit adjustments) by the Chief Executive Officer, President or Chief Financial Officer of the Borrower as having been prepared in accordance with GAAP (subject only to normal year-end audit adjustments and the absence of notes), consistently

applied, and setting forth in comparative form the respective financial statements for the corresponding date and period in the previous fiscal year (all of which may be provided by means of delivery of the applicable SEC Form 10-Q, which will be deemed delivered upon filing thereof).

(b) Annual Financial Statements. As soon as available but in any event no later than the filing date required by the SEC (without giving effect to any permitted extension thereof), financial statements of the Borrower consisting of a consolidated balance sheet as of the end of such fiscal year, and related consolidated statements of income, stockholders' equity and cash flows for the fiscal year then ended, all in reasonable detail and prepared in accordance with GAAP consistently applied and setting forth in comparative form the financial statements as of the end of and for the preceding fiscal year, and audited and reported on by independent certified public accountants of nationally recognized standing reasonably satisfactory to the Administrative Agent (all of which may be provided by means of delivery of the applicable SEC Form 10-K, which will be deemed delivered upon filing thereof). The opinion or report of accountants shall be prepared in accordance with reasonably acceptable auditing standards and shall be free of any qualification (other than any consistency qualification that may result from a change in the method used to prepare the financial statements as to which such accountants concur), including without limitation as to the scope of such audit or status as a "going concern" of the Borrower or any Subsidiary.

8.12 Certificates; Notices; Additional Information.

(a) Certificate of the Borrower. Concurrently with the financial statements of the Borrower furnished to the Administrative Agent and to the Lenders pursuant to Sections 8.11(a) [Quarterly Financial Statements] and 8.11(b) [Annual Financial Statements], a certificate (each a "**Compliance Certificate**") of the Borrower signed by the Chief Executive Officer, President or Chief Financial Officer of the Borrower, in the form of Exhibit I.

(b) Default. Promptly after any officer of the Borrower has learned of the occurrence of an Event of Default or Potential Default, a certificate signed by an Authorized Officer setting forth the details of such Event of Default or Potential Default and the action which the Borrower proposes to take with respect thereto.

(c) Litigation. Promptly after the commencement thereof, notice of all actions, suits, proceedings or investigations before or by any Official Body or any other Person against the Borrower or Subsidiary of the Borrower which involve a claim or series of claims in excess of $15,000,000 or which if adversely determined would constitute a Material Adverse Change.

(d) ERISA Event. Immediately upon the occurrence of any ERISA Event, notice in writing setting forth the details thereof and the action which the Borrower proposes to take with respect thereto.

(e) SEC Filings and other Material Reports. Promptly upon their becoming available to the Borrower, public SEC filings and other material reports, including 8-K, registration statements, proxies, prospectuses, financial statements and other shareholder communications, filed by the Borrower with the SEC excluding any Form 3, Form 4 or Form 5 (all of which may be provided by means of delivery of the applicable SEC Form or filing, and which will be deemed delivered upon (i) the posting of such information on the Borrower's website with written notice

of such posting to the Administrative Agent or (ii) the making of such information available on any Platform).

(f) Other Information. Such other reports and information as the Administrative Agent or the Required Lenders may from time to time reasonably request.

ARTICLE 9
NEGATIVE COVENANTS

The Borrower hereby covenants and agrees that until the Facility Termination Date, it will not, and will not permit any of its Subsidiaries to:

9.1 Indebtedness. At any time create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Existing Indebtedness as set forth on Schedule 9.1 (including any amendments, extensions, refinancings or renewals thereof; provided that before and immediately after any such amendment, extension, refinancing or renewal of such Indebtedness (i) the Borrower is in pro forma compliance with Section 9.8 [Maximum Funded Indebtedness to Total Adjusted Capitalization Ratio], (ii) no Event of Default or Potential Default shall have occurred and be continuing or would result therefrom and (iii) the aggregate principal committed amount of unsecured Current Indebtedness shall not at any time exceed $200,000,000);

(c) (i) Secured Indebtedness incurred with respect to purchase money security interests, capitalized leases, Commodity Hedges (secured only by the Liens described in clause (ix) of the definition of "Permitted Liens") and first mortgage bonds (other than such bonds relating to the FPU Indebtedness as set forth in Schedule 9.1), such Indebtedness secured by the Liens described in clause (vi) of the definition of "Permitted Liens" and any other secured Indebtedness of the Borrower and its Subsidiaries described in clause (x) of the definition of "Permitted Liens" and (ii) unsecured Current Indebtedness and Funded Indebtedness of the Borrower's Subsidiaries; provided that the sum of the aggregate amount of clause (i) plus the aggregate amount of clause (ii) shall not exceed at any time 20% of Total Adjusted Capitalization;

(d) Indebtedness of a Subsidiary to another Subsidiary or to the Borrower;

(e) Any (i) Lender Provided Interest Rate Hedge or Lender Provided Commodity Hedge, (ii) other Commodity Hedges or (iii) Indebtedness under any Other Lender Provided Financial Services Product; and

(f) Other unsecured Indebtedness (other than any such Indebtedness incurred with respect to any currency swap agreement or other similar agreement); provided that before and immediately after the incurrence of such Indebtedness (i) the Borrower is in pro forma compliance with Section 9.8 [Maximum Funded Indebtedness to Total Adjusted Capitalization Ratio] and (ii) no Event of Default or Potential Default shall have occurred and be continuing or would result therefrom.

9.2 Liens; Lien Covenants. At any time create, incur, assume or suffer to exist any Lien on any of its property or assets, tangible or intangible, now owned or hereafter acquired, or agree or become liable to do so, except Permitted Liens.

9.3 Loans and Investments. At any time make or suffer to remain outstanding any loan or advance to, or purchase, acquire or own any stock, bonds, notes or securities of, or any partnership interest (whether general or limited) or limited liability company interest in, or any other investment or interest in, or make any capital contribution to, any other Person, or agree, become or remain liable to do any of the foregoing (each, an "**Investment**"), except:

(a) trade credit extended on usual and customary terms in the ordinary course of business;

(b) advances to employees to meet expenses incurred by such employees in the ordinary course of business;

(c) Permitted Investments;

(d) Investments in Subsidiaries;

(e) to the extent not constituting Permitted Acquisitions, Investments in Persons principally engaged in a field of enterprise engaged in by the Borrower and its Subsidiaries on the date hereof and any other field of enterprise substantially related, ancillary or complementary thereto, not exceeding $150,000,000 in the aggregate outstanding at any time; and

(f) Permitted Acquisitions.

9.4 Line of Business. The Borrower will not, and will not permit any Subsidiary to, engage in any business if, as a result, the general nature of the business in which the Borrower and its Subsidiaries, taken as a whole, would then be engaged, would be substantially changed from the general nature of the business in which the Borrower and its Subsidiaries, taken as a whole, are engaged on the date of this Agreement.

9.5 Liquidations, Mergers, Consolidations, Acquisitions. Dissolve, liquidate or wind-up its affairs, or become a party to any merger or consolidation, or acquire by purchase, lease or otherwise all or substantially all of the assets or Equity Interests of any other Person except in the case of acquisitions, Permitted Acquisitions.

9.6 Dispositions of Assets or Subsidiaries. Sell, convey, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, tangible or intangible (including sale, assignment, discount or other disposition of accounts, contract rights, chattel paper, equipment or general intangibles with or without recourse or of Equity Interests of a Subsidiary), except:

(a) transactions involving the sale of inventory in the ordinary course of business;

(b) any sale, transfer or lease of assets in the ordinary course of business which are no longer necessary or required in the conduct of the Borrower's or its Subsidiary's business;

(c) any sale, transfer or lease of assets by any Subsidiary of the Borrower to the Borrower or to another Subsidiary of the Borrower;

(d) any sale, transfer or lease of assets in the ordinary course of business which are replaced by substitute assets acquired or leased; or

(e) any sale, transfer or lease of assets where the amount of such assets (valued at net book value), together with all other assets of the Borrower and Subsidiaries previously disposed of as permitted by this clause (e) during the fiscal year in which the disposition occurs does not exceed 10% of Consolidated Total Assets as of the end of the fiscal year then most recently ended; provided that assets, as so valued, may be sold in excess of 10% of Consolidated Total Assets in any fiscal year if either (i) within one year of such sale, the proceeds from the sale of such assets are used, or committed by the Borrower's Board of Directors to be used, to acquire other assets of at least equivalent value and earning power or (ii) with the written consent of the Required Lenders, the proceeds from sale of such assets are used immediately upon receipt to prepay senior Funded Indebtedness of the Borrower; and

(f) any sale, transfer or lease of assets, other than those specifically excepted pursuant to clauses (a) through (e) above, which is approved by the Required Lenders.

9.7 Affiliate Transactions. Enter into or carry out any transaction with any Affiliate of the Borrower other than a Subsidiary of the Borrower (including purchasing property or services from or selling property or services to any Affiliate of the Borrower other than a Subsidiary of the Borrower) unless such transaction is not otherwise prohibited by this Agreement, is entered into in the ordinary course of business upon fair and reasonable arm's-length terms and conditions which are fully disclosed to the Administrative Agent and is in accordance with all applicable Law; provided that the foregoing restriction shall not apply to the payment or grant of reasonable compensation, benefits and indemnities to any director or officer of the Borrower or any Subsidiary and shall not restrict transactions with any Affiliate of the Borrower that have been approved by or are entered into pursuant to any orders or decisions of any Official Body having jurisdiction over the Borrower or any of its Subsidiaries.

9.8 Maximum Funded Indebtedness to Total Adjusted Capitalization Ratio. Will not, as of the last day of each fiscal quarter of the Borrower, permit the Funded Indebtedness to Total Adjusted Capitalization Ratio to exceed 0.65:1.00.

9.9 Limitation on Negative Pledges and Restrictive Agreements. Enter into, or permit to exist, any contractual obligation (except for this Agreement and the other Loan Documents) that (a) encumbers or restricts the ability of any such Person to (i) perform its obligations hereunder or under any other Loan Document; (ii) make dividends or distribution to the Borrower, (iii) pay any Indebtedness or other obligation owed to the Borrower, (iv) make loans or advances to the Borrower, (v) create any Lien upon any of their properties or assets, whether now owned or hereafter acquired (except, in the case of this clause (a)(v) only, (1) for any document or instrument governing any purchase money Liens or capital lease obligations otherwise permitted hereby (in

which case, any prohibition or limitation shall only be effective against the assets financed thereby), (2) customary provisions restricting assignment of any licensing agreement (in which the Borrower or its Subsidiaries are the licensee) with respect to a contract entered into with the Borrower or its Subsidiaries in the ordinary course of business, (3) customary provisions restricting subletting, sublicensing or assignment of any intellectual property license or any lease governing any leasehold interests of the Borrower and its Subsidiaries and (4) for any document or instrument governing any Indebtedness permitted by Section 9.1(b) (but solely with respect to such Indebtedness described in items 1 through 7, 9 and 12 on Schedule 9.1)) or (vi) Guaranty the Obligations or (b) requires the grant of any Lien (other than a Permitted Lien or as may be required pursuant to any document or instrument governing the Indebtedness described in items 1 and 12 on Schedule 9.1 or any other document or instrument pursuant to which Borrower may issue senior notes ranking pari passu thereto solely to the extent such Indebtedness evidenced by such senior notes is permitted under Section 9.1[Indebtedness]) on property for any obligation if a Lien on such property is given as security for the Obligations.

ARTICLE 10
DEFAULT

10.1 Events of Default. An Event of Default shall mean the occurrence or existence of any one or more of the following events or conditions (whatever the reason therefor and whether voluntary, involuntary or effected by operation of Law):

(a) Payments Under Loan Documents. The Borrower shall fail to pay (i) when and as required to be paid herein, any principal of any Loan, Reimbursement Obligation or Letter of Credit Obligation or (ii) within three (3) Business Days when and as required to be paid herein, any interest on any Loan, Reimbursement Obligation or Letter of Credit Obligation or any fee or other amount owing hereunder or under the other Loan Documents; or

(b) Breach of Warranty. Any representation or warranty made at any time by the Borrower in any Loan Document, or in any certificate, other instrument or statement furnished pursuant to the provisions hereof or thereof, shall prove to have been false or misleading in any material respect (or in the case of any representation or warranty qualified by materiality or reference to the absence of a Material Adverse Change, in which event shall prove to have been false or misleading in any respect) as of the time it was made, deemed made or furnished; or

(c) Breach of Certain Covenants. The Borrower shall default in the observance or performance of any covenant contained in Section 8.5 [Inspection Rights], Section 8.9 [Anti-Terrorism Laws; International Trade Law Compliance] or Article 9 [Negative Covenants]; or

(d) Breach of Other Covenants. The Borrower shall default in the observance or performance of any other covenant, condition or provision hereof or of any other Loan Document and such default shall continue unremedied for a period of thirty (30) days; or

(e) Defaults in Other Agreements or Indebtedness. A breach, default or event of default shall occur at any time under the terms of any other agreement involving borrowed money or the extension of credit or any other Indebtedness under which the Borrower or Subsidiary of the Borrower may be obligated as a borrower or guarantor in excess of $20,000,000 in the

aggregate, and such breach, default or event of default either (i) consists of the failure to pay (beyond any period of grace permitted with respect thereto, whether waived or not) any such Indebtedness when due (whether at stated maturity, by acceleration or otherwise) or (ii) causes, or permits the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such guarantee to become payable or cash collateral in respect thereof to be demanded; or

(f) Final Judgments or Orders. Any final judgments or orders for the payment of money in excess of $20,000,000 in the aggregate shall be entered against the Borrower by a court having jurisdiction in the premises, and with respect to which either (i) enforcement proceedings are commenced by any creditor upon such judgment or order, or (ii) there is a period of 30 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, is not in effect; or

(g) Loan Document Unenforceable. Any of the Loan Documents shall cease to be legal, valid and binding agreements enforceable against the party executing the same or such party's successors and assigns (as permitted under the Loan Documents) in accordance with the respective terms thereof or shall in any way be terminated (except in accordance with its terms) or become or be declared ineffective or inoperative or shall in any way be challenged or contested or cease to give or provide the respective rights, titles, interests, remedies, powers or privileges intended to be created thereby; or

(h) Uninsured Losses; Proceedings Against Assets. There shall occur any material uninsured damage to or loss, theft or destruction of any of property of the Borrower in excess of $20,000,000 or assets of the Borrower in excess of $20,000,000 are attached, seized, levied upon or subjected to a writ or distress warrant; or such come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors and the same is not cured within thirty (30) days thereafter; or

(i) Events Relating to Pension Plans and Multiemployer Plans. An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of Borrower or any member of the ERISA Group under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of $20,000,000, or Borrower or any member of the ERISA Group fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan, where the aggregate amount of unamortized withdrawal liability is in excess of $20,000,000; or

(j) Change of Control. A Change of Control shall occur; or

(k) Insolvency Proceedings; Solvency; Attachment. Either (i) an Insolvency Proceeding shall have been instituted against the Borrower or Subsidiary of the Borrower and such Insolvency Proceeding shall remain undismissed or unstayed and in effect for a period of thirty (30) consecutive days or such court shall enter a decree or order granting any of the relief sought

in such Insolvency Proceeding, (ii) the Borrower or Subsidiary of the Borrower institutes, or takes any action in furtherance of, an Insolvency Proceeding, (iii) the Borrower or any Subsidiary of the Borrower ceases to be Solvent or admits in writing its inability to pay its debts as they mature or (iv) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of the Borrower or any Subsidiary of the Borrower and is not released, vacated or fully bonded within thirty (30) days after its issue or levy.

10.2 Consequences of Event of Default.

(a) Events of Default Other Than Bankruptcy, Insolvency or Reorganization Proceedings. If any Event of Default specified under Section 10.1 shall occur and be continuing, the Lenders and the Administrative Agent shall be under no further obligation to make Loans and the Issuing Lender shall be under no obligation to issue Letters of Credit and the Administrative Agent may, and upon the request of the Required Lenders shall, take any or all of the following actions:

(i) declare the commitment of each Lender to make Loans and any obligation of the Issuing Lender to issue, amend or extend Letters of Credit to be terminated, whereupon such commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(iii) require the Borrower to, and the Borrower shall thereupon, deposit in a non-interest-bearing account with the Administrative Agent, as Cash Collateral for its Obligations under the Loan Documents, an amount equal to the Minimum Collateral Amount for all outstanding Letters of Credit, and the Borrower hereby pledges to the Administrative Agent and the Lenders, and grants to the Administrative Agent and the Lenders a security interest in, all such Cash Collateral as security for such Obligations; and

(iv) exercise on behalf of itself, the Lenders and the Issuing Lender all rights and remedies available to it, the Lenders and the Issuing Lender under the Loan Documents;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of the Issuing Lender to issue, amend or extend any Letter of Credit shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to provide Cash Collateral as set forth in clause (iii) above shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

(b) Set-off. If an Event of Default shall have occurred and be continuing, each Lender, the Issuing Lender, and each of their respective Affiliates and any participant of such Lender or Affiliate which has agreed in writing to be bound by the provisions of Section 5.3

[Sharing of Payments by Lenders], after obtaining the prior written consent of the Administrative Agent, is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the Issuing Lender or any such Affiliate or participant to or for the credit or the account of the Borrower against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to such Lender, the Issuing Lender, Affiliate or participant, irrespective of whether or not such Lender, Issuing Lender, Affiliate or participant shall have made any demand under this Agreement or any other Loan Document and although such Obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Lender or the Issuing Lender different from the branch or office holding such deposit or obligated on such Indebtedness. The rights of each Lender, the Issuing Lender and their respective Affiliates and participants under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the Issuing Lender or their respective Affiliates and participants may have. Each Lender and the Issuing Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application; and

(c) Enforcement of Rights and Remedies. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with this Section 10.2 for the benefit of all the Lenders and the Issuing Lender and the other Secured Parties; provided that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) the Issuing Lender or the Swing Loan Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as the Issuing Lender or Swing Loan Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.2(b) (subject to the terms of Section 5.3 [Sharing of Payments by Lenders]), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Insolvency Proceeding; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to this Section 10.2(c), and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 5.3 [Sharing of Payments by Lenders]), any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

10.3 Application of Proceeds. From and after the date on which the Administrative Agent has taken any action pursuant to Section 10.2 (or after the Loans have automatically become immediately due and payable and the Letter of Credit Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 10.2(a)) and until the Facility Termination Date, any and all proceeds received on account of the Obligations shall (subject to Sections 2.10 and 10.2(a)(iii)) be applied as follows:

(a) First, to payment of that portion of the Obligations constituting fees (other than Letter of Credit Fees), indemnities, expenses and other amounts, including attorney fees, payable to the Administrative Agent in its capacity as such, the Issuing Lender in its capacity as such and the Swing Loan Lender in its capacity as such, ratably among the Administrative Agent, the Issuing Lender and Swing Loan Lender in proportion to the respective amounts described in this clause First payable to them;

(b) Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders under the Loan Documents, including attorney fees, ratably among the Lenders in proportion to the respective amounts described in this clause Second payable to them;

(c) Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans and Reimbursement Obligations, ratably among the Lenders and the Issuing Lender in proportion to the respective amounts described in this clause Third payable to them;

(d) Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, Reimbursement Obligations and payment obligations then owing under Lender Provided Interest Rate Hedges, Lender Provided Commodity Hedges and Other Lender Provided Financial Service Products, ratably among the Lenders, the Issuing Lender, the applicable Cash Management Banks, the applicable Commodity Hedge Banks and the applicable Interest Rate Hedge Banks, in proportion to the respective amounts described in this clause Fourth held by them;

(e) Fifth, to the Administrative Agent for the account of the Issuing Lender, to Cash Collateralize any undrawn amounts under outstanding Letters of Credit (to the extent not otherwise cash collateralized pursuant to this Agreement); and

(f) Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as cash collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

In addition, notwithstanding the foregoing, Obligations arising under Lender Provided Interest Rate Hedges, Lender Provided Commodity Hedges and Other Lender Provided Financial Service Products shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may reasonably request, from the applicable Cash Management Bank, Commodity Hedge Bank or Interest Rate Hedge Bank, as the case may be. Each Cash Management Bank, Commodity Hedge Bank or Interest Rate Hedge Bank not a party to the Credit Agreement that has given the notice contemplated by the preceding sentence shall, by such notice,

be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article 11 hereof for itself and its Affiliates as if a "Lender" party hereto.

ARTICLE 11
THE ADMINISTRATIVE AGENT

11.1 Appointment and Authority. Each of the Lenders and the Issuing Lender hereby irrevocably appoints PNC Bank, National Association to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Lender, and the Borrower shall not have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

11.2 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for, and generally engage in any kind of business with, the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

11.3 Exculpatory Provisions. (a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Potential Default or Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any

Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 12.1 [Modifications; Amendments and Waivers] and 10.2[Consequences of Event of Default]), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Potential Default or Event of Default unless and until notice describing such Potential Default or Event of Default is given to the Administrative Agent in writing by the Borrower, a Lender or an Issuing Lender.

(c) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Potential Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article 7 [Conditions of Lending and Issuance of Letters of Credit] or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

(d) Reserved.

11.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or Issuing Lender unless the Administrative Agent shall have received notice to the

contrary from such Lender or the Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

11.5 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Facility as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

11.6 Resignation of Administrative Agent. (a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lender and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower (so long as no Potential Default or Event of Default has occurred and is continuing), to appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "**Resignation Effective Date**"), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Lender, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "**Removal Effective Date**"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Lender under any of the Loan Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and

(ii) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and Issuing Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 12.3 [Expense; Indemnity; Damage Waiver] shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

11.7 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the Issuing Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and Issuing Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

11.8 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunners, Arrangers or Syndication Agent listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Lender hereunder.

11.9 Administrative Agent's Fee. The Borrower shall pay to the Administrative Agent a nonrefundable fee (the "**Administrative Agent's Fee**") under the terms of a letter (the "**Administrative Agent's Letter**") between the Borrower and Administrative Agent, as amended from time to time.

11.10 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law, the Administrative Agent (irrespective of whether the principal of any Loan or Letter of Credit Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Lender and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lender and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Lender and the Administrative Agent under Sections 2.9(b) [Letter of Credit Fees] and 12.3 [Expenses; Indemnity; Damage Waiver]) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lender, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Section 12.3 [Expenses; Indemnity; Damage Waiver].

11.11 Reserved.

11.12 No Reliance on Administrative Agent's Customer Identification Program. Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on the Administrative Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA Patriot Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "**CIP Regulations**"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with the Borrower, its Affiliates or its agents, the Loan Documents or the transactions hereunder or contemplated hereby: (i) any identity verification procedures, (ii) any recordkeeping, (iii) comparisons with government lists, (iv) customer notices or (v) other procedures required under the CIP Regulations or such other Laws.

11.13 Lender Provided Interest Rate Hedges, Lender Provided Commodity Hedges and Other Lender Provided Financial Service Products. Except as otherwise expressly set forth herein, no Cash Management Bank, Commodity Hedge Bank or Interest Rate Hedge Bank that obtains the benefits of Section 10.3 [Application of Proceeds] by virtue of the provisions hereof or of any Loan Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article 11 to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Lender Provided Interest Rate Hedges, Lender Provided Commodity Hedges and/or Other Lender Provided Financial Service Products unless the Administrative Agent

has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank, Commodity Hedge Bank or Interest Rate Hedge Bank, as the case may be.

ARTICLE 12
MISCELLANEOUS

12.1 Modifications, Amendments or Waivers. With the written consent of the Required Lenders, the Administrative Agent, acting on behalf of all the Lenders, and the Borrower, may from time to time enter into written agreements amending or changing any provision of this Agreement or any other Loan Document or the rights of the Lenders or the Borrower hereunder or thereunder, or may grant written waivers or consents hereunder or thereunder. Any such agreement, waiver or consent made with such written consent shall be effective to bind all the Lenders and the Borrower; provided, that no such agreement, waiver or consent may be made which will:

(a) Increase of Commitment. Increase the amount of the Revolving Credit Commitment of any Lender hereunder without the consent of such Lender;

(b) Extension of Payment; Reduction of Principal, Interest or Fees; Modification of Terms of Payment. Whether or not any Loans are outstanding, subject to Section 2.12, extend the Expiration Date or the time for payment of principal or interest of any Loan, the Commitment Fee or any other fee payable to any Lender, or reduce the principal amount of or the rate of interest borne by any Loan (other than as a result of waiving the applicability of any post-default increase in interest rates) or reduce the Commitment Fee or any other fee payable to any Lender, without the consent of each Lender directly affected thereby; or

(c) Miscellaneous. Amend Section 5.2 [Pro Rata Treatment of Lenders], Section 11.4 [Exculpatory Provisions] or Section 5.3 [Sharing of Payments by Lenders] or this Section 12.1, alter any provision regarding the pro rata treatment of the Lenders or requiring all Lenders to authorize the taking of any action or reduce any percentage specified in the definition of Required Lenders, in each case without the consent of all of the Lenders;

provided that (i) no agreement, waiver or consent which would modify the interests, rights or obligations of the Administrative Agent, the Issuing Lender, or the Swing Loan Lender may be made without the written consent of the Administrative Agent, the Issuing Lender or the Swing Loan Lender, as applicable and (ii) the Administrative Agent's Letter and the BAML Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, and provided, further that, if in connection with any proposed waiver, amendment or modification referred to in Sections 12.1(a) through (c) above, there is a Non-Consenting Lender, then the Borrower shall have the right to replace any such Non-Consenting Lender with one or more replacement Lenders pursuant to Section 5.6(b) [Replacement of a Lender]. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment

of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

12.2 No Implied Waivers; Cumulative Remedies. No course of dealing and no delay or failure of the Administrative Agent or any Lender in exercising any right, power, remedy or privilege under this Agreement or any other Loan Document shall affect any other or future exercise thereof or operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any further exercise thereof or of any other right, power, remedy or privilege. The enumeration of the rights and remedies of the Administrative Agent and the Lenders set forth in this Agreement is not intended to be exhaustive and the exercise by the Administrative Agent and the Lenders of any right or remedy shall not preclude the exercise of any other rights or remedies, all of which shall be cumulative, and shall be in addition to any other right or remedy given hereunder or under the other Loan Documents or that may now or hereafter exist at law or in equity or by suit or otherwise. No reasonable delay or failure to take action on the part of the Administrative Agent or any Lender in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege or shall be construed to be a waiver of any Event of Default.

12.3 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay (i) all out-of-pocket expenses incurred by the Administrative Agent, the Arrangers and their respective Affiliates (including the reasonable fees, charges and disbursements of counsel for the Administrative Agent), and shall pay all fees and time charges and disbursements for attorneys who may be employees of the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all out-of-pocket expenses incurred by the Issuing Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (iii) all out-of-pocket expenses incurred by the Administrative Agent, any Lender or the Issuing Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the Issuing Lender), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any Lender or the Issuing Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, and (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit, and (iv) all reasonable out-of-pocket expenses of the Administrative Agent's regular employees and agents engaged periodically to perform audits of the Borrower's books, records and business properties.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), the Arrangers, each Lender and the Issuing

Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from (and shall reimburse each Indemnitee as the same are incurred), any and all losses, claims, damages, liabilities, penalties and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower but excluding other Indemnitees and its Related Parties) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower has obtained a final and non-appealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 12.3(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under paragraph (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the Issuing Lender, the Swing Loan Lender or any Related Party of any of the foregoing, without relieving the Borrower from its obligation to do so, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), such Issuing Lender, such Swing Loan Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's Ratable Share at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent),the Issuing Lender or the Swing Loan Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), the Issuing Lender or the Swing Loan Lender in connection with such capacity. The obligations of the Lenders under this paragraph (b) are subject to the provisions of Section 2.2 [Nature of Lenders' Obligations with Respect to Revolving Credit Loans].

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in Section 12.3(a) [Costs and Expenses] shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent such liability or damages are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee.

(e) Payments. All amounts due under this Section shall be payable not later than ten (10) days after demand therefor.

(f) Survival. Each party's obligations under this Section shall survive the termination of the Loan Documents and the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations.

12.4 Reserved.

12.5 Holidays. Whenever payment of a Loan to be made or taken hereunder shall be due on a day which is not a Business Day such payment shall be due on the next Business Day (except as provided in Section 4.2 [Interest Periods]) and such extension of time shall be included in computing interest and fees, except that the Loans shall be due on the Business Day preceding the Expiration Date if the Expiration Date is not a Business Day. Whenever any payment or action to be made or taken hereunder (other than payment of the Loans) shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day, and such extension of time shall not be included in computing interest or fees, if any, in connection with such payment or action.

12.6 Notices; Effectiveness; Electronic Communication

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 12.6(b) [Electronic Communications]), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier (i) if to a Lender, to it at its address set forth in its administrative questionnaire, or (ii) if to any other Person, to it at its address set forth on Schedule 1.1(B).

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the

recipient). Notices delivered through electronic communications to the extent provided in 12.6(b) [Electronic Communications], shall be effective as provided in such Section.

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuing Lender hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender or the Issuing Lender if such Lender or the Issuing Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, etc. Any party hereto may change its address, e-mail address or telecopier number for notices and other communications hereunder by notice to the other parties hereto.

12.7 Severability. The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction. Without limiting the foregoing provisions of this Section, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the Issuing Lender or the Swing Loan Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

12.8 Duration; Survival. All representations and warranties of the Borrower contained herein or made in connection herewith shall survive the execution and delivery of this Agreement and the completion of the transactions hereunder, and shall continue in full force and effect until the Facility Termination Date. All covenants and agreements of the Borrower contained herein relating to the payment of principal, interest, premiums, additional compensation or expenses and indemnification, including those set forth in the Notes, Section 5.1 [Payments] and Section 12.3 [Expenses; Indemnity; Damage Waiver], shall survive the Facility Termination Date. All other covenants and agreements of the Borrower shall continue in full force and effect from and after the Closing Date and until the Facility Termination Date.

12.9 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void except as expressly set forth herein). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section, Indemnitees and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or contemporaneous assignments to related Approved Funds (determined after giving effect to such assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in clause (i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption Agreement with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption Agreement, as of such "Trade Date") shall not be less than $5,000,000, in the case of any assignment in respect of the Revolving Credit Commitment of the assigning Lender, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(C) the consent of the Issuing Lender and Swing Loan Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment of the Facility.

(iv) Assignment and Assumption Agreement. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption Agreement, together with a processing and recordation fee of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute a Defaulting Lender or a Subsidiary thereof or (C) any Disqualified Institution (to the extent that such institution has been disclosed on a list that has been made available to all Lenders).

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person).

(vii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Lender, the Swing Loan Lender and each other Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and

participations in Letters of Credit and Swing Loans in accordance with its Ratable Share. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(viii) Effectiveness; Release. Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section 12.9, from and after the effective date specified in each Assignment and Assumption Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption Agreement, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption Agreement covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 4.4 [LIBOR Rate Unascertainable; Etc.], 5.8 [Increased Costs], 5.9 [Taxes], 5.10 [Indemnity] and 12.3 [Expenses, Indemnity; Damage Waiver] with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person, the Borrower or any of the Borrower's Affiliates or Subsidiaries or any Disqualified Institution (to the extent that such institution has been disclosed on a list that has been made available to all Lenders)) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Administrative Agent, the Issuing Lender and Lenders shall continue to deal solely and directly with such Lender

in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 12.3 [Expenses; Indemnity; Damage Waiver] with respect to any payments made by such Lender to its Participant(s).

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree (other than as is already provided for herein) to any amendment, modification or waiver with respect to Sections 12.1(a) [Increase of Commitment] or 12.1(b) [Extension of Payment, Etc.] that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 4.4 [Libor Rate Unascertainable, Etc.], 5.8 [Increased Costs], 5.9 [Taxes] and 5.10 [Indemnity] (subject to the requirements and limitations therein, including the requirements under Section 5.9(g) [Status of Lenders] (it being understood that the documentation required under Section 5.9(g) [Status of Lenders] shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Section 5.6(b) [Replacement of a Lender] and Section 5.6(c) [Designation of a Different Lending Office] as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 5.8 [Increased Costs] or 5.9 [Taxes], with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 5.6(b) [Replacement of a Lender] and Section 5.6(c) [Designation of Different Lending Office] with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.2(b) [Set-off] as though it were a Lender; provided that such Participant agrees to be subject to Section 5.3 [Sharing of Payments by Lenders] as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges; Successors and Assigns Generally. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement

to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) Reserved.

(g) Reserved.

(h) Reserved.

(i) Cashless Settlement. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent and such Lender.

12.10 Confidentiality.

(a) General. Each of the Administrative Agent, the Lenders and the Issuing Lender agree to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners); (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (d) to any other party hereto; (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement, or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder; (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the Facility or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Facility; (h) with the consent of the Borrower; or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section, or (y) becomes available to the Administrative Agent, any Lender, any Issuing Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents

and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.

For purposes of this Section, "**Information**" means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries; provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

(b) Sharing Information With Affiliates of the Lenders. The Borrower acknowledges that from time to time financial advisory, investment banking and other services may be offered or provided to the Borrower or one or more of its Affiliates (in connection with this Agreement or otherwise) by any Lender or by one or more Subsidiaries or Affiliates of such Lender and the Borrower hereby authorizes each Lender to share any information delivered to such Lender by the Borrower and its Subsidiaries pursuant to this Agreement to any such Subsidiary or Affiliate subject to the provisions of Section 12.10(a) [General].

12.11 Counterparts; Integration; Effectiveness.

(a) Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof and thereof including any prior confidentiality agreements and commitments. Except as provided in Article 7 [Conditions Of Lending And Issuance Of Letters Of Credit], this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or e-mail shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

12.12 Choice of Law Submission to Jurisdiction; Waiver of Venue; Service of Process; Waiver of Jury Trail.

(a) Governing Law. This Agreement and the other Loan Documents and any claims, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Agreement or any other Loan Document (except, as to any other Loan Document, as expressly set forth therein) and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the law of the State of New York. Each standby Letter of Credit issued under this Agreement shall be subject, as applicable, to the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce (the "**ICC**") at the time of issuance ("**UCP**") or the rules of the International Standby Practices (ICC Publication Number 590) ("**ISP98**"), as determined by the Issuing Lender, and each trade Letter of Credit shall be subject to UCP, and in each case to the extent not inconsistent therewith, the Laws of the State of New York without regard to its conflict of laws principles.

The Borrower irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, any Lender, the Issuing Lender, or any Related Party of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Lender or any Issuing Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

(b) Waiver of Venue. The Borrower irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 12.6 [Notices; Effectiveness; Electronic Communication]. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

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

12.13 USA Patriot Act Notice. Each Lender that is subject to the USA Patriot Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Borrower and its Subsidiaries, which information includes the name and address the Borrower and its Subsidiaries and other information that will allow such Lender or Administrative Agent, as applicable, to identify the Borrower and its Subsidiaries in accordance with the USA Patriot Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

12.14 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees that: (a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers, and the Lenders are arm's-length commercial transactions between the Borrower, on the one hand, and the Administrative Agent, the Arrangers and the Lenders, on the other hand, (ii) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) each of the Administrative Agent, each Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other Person and (ii) neither the Administrative Agent, the Arrangers nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Administrative Agent, the Arrangers and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, the Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent

permitted by Law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent, the Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto, by their officers thereunto duly authorized, have executed this Agreement as of the day and year first above written.

ATTEST:

BORROWER

CHESAPEAKE UTILITIES CORPORATION

By:_____

Name:_____

Title:_____

PNC BANK, NATIONAL ASSOCIATION,
individually and as Administrative Agent

By:_____
Name: Nicholas Stanek
Title: Vice President

BANK OF AMERICA, N.A.

By:_____

Name:_____

Title:_____

CITIZENS BANK NA

By:_____

Name:_____

Title:_____

ROYAL BANK OF CANADA

By:_____

Name:_____

Title:_____

WELLS FARGO BANK, NATIONAL ASSOCIATION

By:_____

Name:_____

Title:_____

SCHEDULE 1.1(B)

COMMITMENTS OF LENDERS AND ADDRESSES FOR NOTICES

Part 1 - Commitments of Lenders and Addresses for Notices to Lenders

Lender	Amount of Commitment for Revolving Credit Loans	Ratable Share
Name: PNC Bank, National Association Address: 500 First Avenue Pittsburgh, PA 15219 Attention of: Agency Services Loan Administration Telecopy 412-762-8672	$37,500,000	25.000000000%
Name: Bank of America, N.A. Address: 421 Fayetteville St. 17th Floor, Raleigh, NC 27601 Attention: Keith T. Erazmus Telephone: 919-829-6888 Telecopy: 415-228-6607	$37,500,000	25.000000000%
Name: Citizens Bank NA Address: 919 N Market Street, 8th Floor, Wilmington, DE 19801 Attention: Edward S Winslow Telephone: 302-425-7364 Telecopy: 302-655-5379	$25,000,000	16.6666666667%
Name: Royal Bank of Canada Address: 200 Vesey Street, New York, NY 10281 Attention: Rahul Shah Telephone: (212) 858-6053	$25,000,000	16.6666666667%
Name: Wells Fargo Bank, National Association Address: 301 S. College St., 11th Floor, Charlotte NC 28202, MAC D1053-115 Attention: Allison Newman Telephone: 704-410-0856	$25,000,000	16.6666666667%
Total	$150,000,000	100.000000000%

SCHEDULE 1.1(B)

COMMITMENTS OF LENDERS AND ADDRESSES FOR NOTICES

Part 2 - Addresses for Notices to Borrower:

ADMINISTRATIVE AGENT

Name: PNC Bank, National Association
Address: 500 First Avenue
Pittsburgh, PA 15219
Attention of: Agency Services Loan Administration
Telecopy 412-762-8672

With a Copy To:

Agency Services, PNC Bank, National Association
Mail Stop: P7-PFSC-04-I
Address: 500 First Avenue
Pittsburgh, PA 15219
Attention: Agency Services
Telephone: 412 762 6442
Telecopy: 412 762 8672

BORROWER:

Name: Chesapeake Utilities Corporation
Address: 909 Silver Lake Boulevard
Dover, Delaware 19904
Attention: Beth W. Cooper, Senior Vice President & Chief Financial Officer
Chesapeake Utilities Corporation
Telephone: 302-734-6022
Telecopy: 302-734-6750

SCHEDULE 1.1(P)

PERMITTED LIENS

1. The FPU Indebtedness is secured by the Indenture of Mortgage and Deed of Trust, dated as of September 1, 1942, as amended, supplemented and modified, by the Borrower, in favor of U.S. Bank National Association (successor to the original trustees), as trustee.

2. Capacity, Supply and Operating Agreement and Capital Lease Obligation, dated May 21, 2013, between Sandpiper Energy, Inc. and Eastern Gas and Water Investment Company, LLC due May 1, 2019.

SCHEDULE 6.2

SUBSIDIARIES

Name	Jurisdiction of Organization	Owner	Ownership Percentage
Eastern Shore Natural Gas Company	Delaware	Chesapeake Utilities Corporation	100%
Sharp Energy, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Sharpgas, Inc.	Delaware	Sharp Energy, Inc.	100%
Xeron, Inc.	Mississippi	Chesapeake Utilities Corporation	100%
Peninsula Energy Services Company, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Peninsula Pipeline Company, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Florida Public Utilities Company	Florida	Chesapeake Utilities Corporation	100%
Flo-Gas Corporation	Florida	Florida Public Utilities Company	100%
Chesapeake Service Company	Delaware	Chesapeake Utilities Corporation	100%
Skipjack, Inc.	Delaware	Chesapeake Service Company	100%
Chesapeake Investment Company	Delaware	Chesapeake Service Company	100%
Eastern Shore Real Estate, Inc.	Delaware	Chesapeake Service Company	100%
Chesapeake OnSight Services, LLC	Delaware	Chesapeake Utilities Corporation	100%
Sandpiper Energy, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Eight Flags Energy, LLC	Delaware	Chesapeake OnSight Services, LLC	100%
Austin Cox Home Services, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Grove Energy, Inc.	Delaware	Chesapeake Utilities Corporation	100%
Aspire Energy of Ohio, LLC	Delaware	Chesapeake Utilities Corporation	100%
Sharp Water, Inc. (Inactive)	Delaware	Chesapeake Utilities Corporation	100%
aQuality Company, Inc. (Inactive)	Delaware	Chesapeake Utilities Corporation	100%

SCHEDULE 6.6(B)

INDEBTEDNESS AND LIABILITIES

None.

SCHEDULE 9.1

PERMITTED INDEBTEDNESS

1. Note Purchase Agreement, dated September 5, 2013, regarding $20,000,000 3.73% Series A, Senior Unsecured Notes, due December 16, 2028 and $50,000,000 3.88% Series B, Senior Unsecured Notes, due May 15, 2029

2. Note Agreement, dated June 29, 2010, as amended by First Amendment June 20, 2011, regarding $29,000,000 5.68% Series A, Senior Unsecured Notes, due June 30, 2026 and $7,000,000 6.43% Series B, Senior Unsecured Notes, due May 2, 2028

3. Note Agreement, dated October 31, 2008, as amended, regarding $30,000,000 5.93% Senior Unsecured Notes, due October 31, 2023

4. Note Agreement, dated October 18, 2005, as amended, regarding $20,000,000 5.50% Senior Unsecured Notes, due October 12, 2020

5. Note Agreement, dated October 31, 2002, as amended, regarding $30,000,000 6.64% Senior Unsecured Notes, due October 31, 2017

6. Indenture of Mortgage and Deed of Trust, dated September 1, 1942, between Florida Public Utilities Company and the trustee, for the First Mortgage Bonds, all supplemental indentures thereto and the First Colony Bond Purchase Agreement.

7. Letter Agreement, dated September 26, 2003, between Chesapeake Utilities Corporation and PNC Bank, National Association, as amended

8. Loan Agreement, dated September 12, 2002, between Chesapeake Utilities Corporation and Bank of America, N.A., as amended.

9. Revolving Credit Agreement dated December 29, 2014, between Chesapeake Utilities Corporation and Citizens Bank, National Association.

10. Capacity, Supply and Operating Agreement and Capital Lease Obligation, dated May 21, 2013, between Sandpiper Energy, Inc. and Eastern Gas and Water Investment Company, LLC due May 1, 2019.

11. Consulting Agreement, dated February 5, 2013, between Flo-Gas Corporation and Glades Gas Co., Inc. due February 15, 2018.

12. Private Shelf Agreement, dated October 8, 2015, between Chesapeake Utilities Corporation and Prudential Investment Management, Inc. and the other purchasers that may become a party thereto from time to time.

PERFORMANCE STOCK AWARD AGREEMENT

pursuant to the

CHESAPEAKE UTILITIES CORPORATION
2013 STOCK AND INCENTIVE COMPENSATION PLAN

On March 6, 2015, (the "Grant Date"), Chesapeake Utilities Corporation, a Delaware corporation (the "Company"), has granted to _____(the "Grantee"), who resides at _____a Performance Stock Award on the terms and subject to the conditions of this Performance Stock Award Agreement.

Recitals

WHEREAS , the Chesapeake Utilities Corporation 2013 Stock and Incentive Compensation Plan (the "Plan") has been duly adopted by action of the Company's Board of Directors (the "Board") on March 6, 2013 and approved by the Shareholders of the Company at a meeting held on May 2, 2013; and

WHEREAS , the Chief Executive Officer of the Company, pursuant to the delegation of authority to him to grant awards under the Plan by the Compensation Committee of the Board of Directors of the Company (the "Committee"), has determined that it is in the best interests of the Company to grant the Performance Stock Award described herein pursuant to the Plan; and

WHEREAS, the shares of the Common Stock of the Company ("Shares") that are subject to this Agreement , when added to the other shares of Common Stock that are subject to awards granted under the Plan, do not exceed the total number of shares of Common Stock with respect to which awards are authorized to be granted under the Plan or the total number of shares of Common Stock that may be granted to an individual in a single calendar year.

Agreement

It is hereby covenanted and agreed by and between the Company and the Grantee as follows:

Section 1. Performance Stock Award and Performance Period

The Company hereby grants to the Grantee a Performance Stock Award as of the Grant Date. As more fully described herein, the Grantee may earn up to _____ Shares upon the Company's achievement of the performance criteria set forth in Section 2 (the "Performance Shares") over the performance period from January 1, 2015 to December 31, 2017 (the "Performance Period"). This Award has been granted pursuant to the Plan; capitalized terms used in this agreement which are not specifically defined herein shall have the meanings ascribed to such terms in the Plan.

Section 2. Performance Criteria and Terms of Stock Award

(a) The Committee selected and established in writing performance criteria for the Performance Period, which, if met, may entitle the Grantee to some or all of the Performance

Shares under this Award. If this Award is intended by the Committee to comply with the exception from Code Section 162(m) for qualified performance-based compensation for Grantees who are "Covered Employees" as defined in Code Section 162(m), the performance criteria established shall be based on one or more Qualifying Performance Criteria selected by the Committee in writing within 90 days following the first day of the Performance Period (or, if earlier, before 25% of that period has elapsed) , and at a time when the outcome relative to the attainment of the performance criteria is not substantially certain. As soon as practicable after the Company's independent auditors have certified the Company's financial statements for each fiscal year of the Company in the Performance Period, the Committee shall determine for purposes of this Agreement the Company's (1) total shareholder return, defined as the cumulative total return to shareholders ("Shareholder Value"), (2) growth in long-term earnings, defined as the growth in total capital expenditures as a percentage of total capitalization ("Growth") and (3) earnings performance, defined as average return on equity ("RoE"), in accordance with procedures established by the Committee. The Shareholder Value, Growth and RoE (each a "Performance Metric" and collectively, the "Performance Metrics") shall be determined by the Committee in accordance with the terms of the Plan and this Agreement based on financial results reported to shareholders in the Company's annual reports and may be subject to adjustment by the Committee for extraordinary events during the Performance Period, as applicable. Both the Shareholder Value and the Growth Performance Metrics will be compared to the performance of the following companies: AGL Resources, Inc., Atmos Energy Corp., Delta Natural Gas Company, Inc., Laclede Group, Inc., New Jersey Resources Corp., Northwest Natural Gas Company, Piedmont Natural Gas Company, Inc., RGC Resources, Inc., South Jersey Industries, Inc. and WGL Holdings, Inc. (collectively referred to as the "Peer Group") for the Performance Period and Awards will be determined according to the schedule in subsection (b) below. For Shareholder Value, the calculation of total shareholder return will utilize the average closing stock price from November 1 through December 31 immediately preceding the beginning and at the end of the performance period. For the average RoE Performance Metric, the Company's performance will be compared to pre-determined RoE thresholds established by the Committee. At the end of the Performance Period, the Committee shall certify in writing the extent to which the Performance Goals were met during the Performance Period for Awards for Covered Employees. If the Performance Goals for the Performance Period are met, Covered Employees shall be entitled to the Award, subject to the Committee's exercise of discretion to reduce any Award to a Covered Employee based on business objectives established for that Covered Employee or other factors as determined by the Committee in its sole discretion. The Committee may also, in its sole discretion, reduce the percentage of the target award earned to reflect the partial performance period during which the Grantee was employed by the Company. The Committee shall promptly notify the Grantee of its determination .

(b) The Grantee may earn 50 percent or more of the target award of _____Performance Shares (the "Target Award") up to a maximum number of Performance Shares set forth in Section 1 above (the "Maximum Award") based upon achievement of threshold and target levels of performance against the Performance Metrics established for the Performance Period. The Committee shall confirm the level of Award attained for the Performance Period after the Company's independent auditors have certified the Company's financial statements for each fiscal year of the Company in the Performance Period.

(c) Once established, the performance criteria identified above normally shall not be changed during the Performance Period. However, if any of the companies in the Peer Group cease to be publically traded, they will automatically be deleted from the Peer Group. In

addition, if the Committee determines that external changes or other unanticipated business conditions have materially affected the fairness of the goals, or that a change in the business, operations, corporate structure or capital structure of the Company, or the manner in which it conducts its business, or acquisitions or divestitures of subsidiaries or business units, or other events or circumstances materially affect the performance criteria or render the performance criteria unsuitable, then the Committee may approve appropriate adjustments to the performance criteria (either up or down) during the Performance Period. Notwithstanding the foregoing, no changes shall be made to an Award intended to satisfy the requirements of Code Section 162(m) if such changes would affect the qualification of the Award as performance based compensation within the meaning of Code Section 162(m).

(d) Performance Shares that are earned by the Grantee pursuant to this Section 2 shall be issued promptly, without payment of consideration by the Grantee, within 2 *Yi* months of the end of the Performance Period. The Grantee shall have the right to vote the Performance Shares and to receive the dividends distributable with respect to such Shares on and after, but not before, the date on which the Grantee is recorded on the Company's ledger as holder of record of the Performance Shares (the "Issue Date"). If , however, the Grantee receives Shares as part of any dividend or other distribution with respect to the Performance Shares, such Shares shall be treated as if they are Performance Shares, and such Shares shall be subject to all of the terms and conditions imposed by this Section 2. Notwithstanding the foregoing , the Grantee shall be entitled to receive an amount in cash, equivalent to the dividends that would have been paid on the awarded Performance Shares from the Grant Date to the Issue Date for those Performance Shares actually earned by the Grantee during the applicable Performance Period. Such dividend equivalents shall be payable at the time such Performance Shares are issued.

(e) The Performance Shares will not be registered for resale under the Securities Act of 1933 or the laws of any state except when and to the extent determined by the Board pursuant to a resolution. Until a registration statement is filed and becomes effective, however, transfer of the Performance Shares shall require the availability of an exemption from such registration, and prior to the issuance of new certificates, the Company shall be entitled to take such measures as it deems appropriate (including but not limited to obtaining from the Grantee an investment representation letter and/or further legending the new certificates) to ensure that the Performance Shares are not transferred in the absence of such exemption.

(f) In the event of a Change in Control, as defined in the Plan, during the Performance Period, the Grantee shall earn the Target Award of Performance Shares set forth in this Section 2, as if all performance criteria were satisfied, without any pro ration based on the proportion of the Performance Period that has expired as of the date of such Change in Control.

(g) If, during the Performance Period, the Grantee has a Termination of Employment, Performance Shares shall be deemed earned or forfeited as follows:

(1) Upon voluntary Termination of Employment by the Grantee or termination by the Company for failure of job performance or other just cause as determined by the Committee, all unearned Performance Shares shall be forfeited immediately; and

(2) If the Grantee has a Termination of Employment by reason of death or Disability or Retirement (as such terms are defined in the Plan), the number of Performance Shares that would otherwise have been earned at the end of the Performance Period shall be reduced by pro rating such Performance Shares based on the proportion of the Performance Period during which the Grantee was employed by the

Company, unless the Committee determines that the Performance Shares shall not be so reduced.

(h) The Grantee shall be solely responsible for any federal, state and local taxes of any kind imposed in connection with the vesting or delivery of the Performance Shares. Prior to the transfer of any Performance Shares to the Grantee, the Grantee shall remit to the Company an amount sufficient to satisfy any federal, state, local and other withholding tax requirements. The Grantee may elect to have all or part of any withholding tax obligation satisfied by having the Company withhold Shares otherwise deliverable to the Grantee as Performance Shares, unless the Committee determines otherwise by resolution. If the Grantee fails to make such payments or election, the Company and its subsidiaries shall, to the extent permitted by law, have the right to deduct from any payments of any kind otherwise due to the Grantee any taxes required by law to be withheld with respect to the Performance Shares. In the case of any amounts withheld for taxes pursuant to this provision in the form of Shares, the amount withheld shall not exceed the minimum required by applicable law and regulations.

(i) Notwithstanding any other provision of this Agreement, if any payment or distribution (a "Payment") by the Company or any other person or entity to or for the benefit of the Grantee is determined to be an "excess parachute payment" (within the meaning of Code Section 280G(b)(1) or any successor provision of similar effect), whether paid or payable or distributed or distributable pursuant to this Agreement or otherwise, then the Grantee's benefits under this Agreement may, unless the Grantee elects otherwise pursuant to his employment agreement, be reduced by the amount necessary so that the Grantee's total "parachute payment" as defined in Code Section 280G(b)(2)(A) under this and all other agreements will be $1.00 less than the amount that would be a "parachute payment". The payment of any "excess parachute payment" pursuant to this paragraph shall also comply with the terms of the Grantee's employment agreement , if any.

Section 3. Additional Conditions to I ssuance of Shares

Each transfer of Performance Shares shall be subject to the condition that if at any time the Committee shall determine, in its sole discretion, that it is necessary or desirable as a condition of, or in connection with, the transfer of Performance Shares (i) to satisfy withholding tax or other withholding liabilities, (ii) to effect the listing, registration or qualification on any securities exchange or under any state or federal law of any Shares deliverable in connection with such exercise, or (iii) to obtain the consent or approval of any regulatory body, then in any such event such transfer shall not be effective unless such withholding, listing, registration, qualification, consent or approval shall have been effected or obtained free of any conditions not acceptable to the Company.

Section 4. Adjustment of Shares

(a) If the Company shall become involved in a merger, consolidation or other reorganization, whether or not the Company is the surviving corporation, any right to earn Performance Shares shall be deemed a right to earn or to elect to receive the consideration into which the Shares represented by the Performance Shares would have been converted under the terms of the merger, consolidation or other reorganization . If the Company is not the surviving corporation , the surviving corporation (the "Successor") shall succeed to the rights and obligations of the Company under this Agreement.

(b) If any subdivision or combination of Shares or any stock dividend, capital reorganization or recapitalization occurs after the adoption of the Plan, the Committee shall make such proportionate adjustments as are appropriate to the number of Performance Shares to be earned in order to prevent the dilution or enlargement of the rights of the Grantee.

Section 5. No Right to Employment

Nothing contained in this Agreement shall be deemed by implication or otherwise to confer upon the Grantee any right to continued employment by the Company or any affiliate of the Company or to limit the right of the Company to terminate the Grantee's employment for any reason or for no reason.

Section 6. Notice

Any notice to be given hereunder by the Grantee shall be sent by mail addressed to Chesapeake Utilities Corporation, 909 Silver Lake Boulevard, Dover, Delaware 19904, for the attention of the Committee, c/o the Corporate Secretary , and any notice by the Company to the Grantee shall be sent by mail addressed to the Grantee at the address of the Grantee shown on the first page hereof. Either party may, by notice given to the other in accordance with the provisions of this Section, change the address to which subsequent notices shall be sent.

Section 7. Beneficiary Designation

Grantee may designate a beneficiary to receive any Performance Shares to which Grantee is entitled which vest as a result of Grantee's death. Grantee acknowledges that the Company may exercise all rights under this Agreement and the Plan against Grantee and Grantee's estate, heirs, lineal descendants and personal representatives and shall not be limited to exercising its rights against Grantee's beneficiary.

Section 8. Assumpti on of Risk

It is expressly understood and agreed that the Grantee assumes all risks incident to any change hereafter in the applicable laws or regulations or incident to any change in the market value of the Performance Shares.

Section 9. Terms of Plan

This Agreement is entered into pursuant to the Plan (a summary of which has been delivered to the Grantee). This Agreement is subject to all of the terms and provisions of the Plan, which are incorporated into this Agreement by reference, and the actions taken by the Committee pursuant to the Plan. In the event of a conflict between this Agreement and the Plan, the provisions of the Plan shall govern. All determinations by the Committee shall be in its sole discretion and shall be binding on the Company and the Grantee.

Section 10. Governing Law; Amendment

This Agreement shall be governed by, and shall be construed and administered in accordance with, the laws of the State of Delaware (without regard to its choice of law rules) and the requirements of any applicable federal law. This Agreement may be modified or amended only by a writing signed by the parties hereto.

Section 11. Action by the Committee

The parties agree that the interpretation of this Agreement shall rest exclusively and completely within the sole discretion of the Committee. The parties agree to be bound by the decisions of the Committee with regard to the interpretation of this Agreement and with regard to any and all matters set forth in this Agreement. The Committee may delegate its functions under this Agreement to an officer of the Company designated by the Committee (hereinafter the "Designee") . In fulfilling its responsibilities hereunder, the Committee or its Designee may rely upon documents, written statements of the parties or such other material as the Committee or its Designee deems appropriate. The parties agree that there is no right to be heard or to appear before the Committee or its Designee and that any decision of the Committee or its Designee relating to this Agreement shall be final and binding unless such decision is arbitrary and capricious.

Section 12. Terms of Agreement

This Agreement shall remain in full force and effect and shall be binding on the parties hereto for so long as any Performance Shares issued to the Grantee under this Agreement continue to be held by the Grantee.

IN WITNESS WHEREOF , the Company has caused this Agreement to be executed in its corporate name, and the Grantee has executed the same in evidence of the Grantee's acceptance hereof, upon the terms and conditions herein set forth, as of the day and year first above written.

CHESAPEAKE UTILITIES CORPORATION

By:_____

Its:_____

Grantee:

_____

EXHIBIT 31.1

CERTIFICATE PURSUANT TO RULE 13A-14(A)
UNDER THE SECURITIES EXCHANGE ACT OF 1934

I, Michael P. McMasters, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the quarter ended September 30, 2015 of Chesapeake Utilities Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a–15(e) and 15d–15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a–15(f) and 15d–15(f)) for the registrant and have:

   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2015

/S/ MICHAEL P. MCMASTERS

Michael P. McMasters
President and Chief Executive Officer

EXHIBIT 31.2

CERTIFICATE PURSUANT TO RULE 13A-14(A)
UNDER THE SECURITIES EXCHANGE ACT OF 1934

I, Beth W. Cooper, certify that:

1. I have reviewed this quarterly report on Form 10-Q for the quarter ended September 30, 2015 of Chesapeake Utilities Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a–15(e) and 15d–15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a–15(f) and 15d–15(f)) for the registrant and have:

   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 5, 2015

/S/ BETH W. COOPER

Beth W. Cooper
Senior Vice President and Chief Financial Officer

EXHIBIT 32.1

Certificate of Chief Executive Officer

of

Chesapeake Utilities Corporation

(pursuant to 18 U.S.C. Section 1350)

I, Michael P. McMasters, President and Chief Executive Officer of Chesapeake Utilities Corporation, certify that, to the best of my knowledge, the Quarterly Report on Form 10-Q of Chesapeake Utilities Corporation ("Chesapeake") for the period ended September 30, 2015, filed with the Securities and Exchange Commission on the date hereof (i) fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and (ii) the information contained therein fairly presents, in all material respects, the financial condition and results of operations of Chesapeake.

/S/ MICHAEL P. MCMASTERS

Michael P. McMasters

November 5, 2015

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Chesapeake Utilities Corporation and will be retained by Chesapeake Utilities Corporation and furnished to the Securities and Exchange Commission or its staff upon request.

EXHIBIT 32.2

Certificate of Chief Financial Officer

of

Chesapeake Utilities Corporation

(pursuant to 18 U.S.C. Section 1350)

I, Beth W. Cooper, Senior Vice President and Chief Financial Officer of Chesapeake Utilities Corporation, certify that, to the best of my knowledge, the Quarterly Report on Form 10-Q of Chesapeake Utilities Corporation ("Chesapeake") for the period ended September 30, 2015, filed with the Securities and Exchange Commission on the date hereof (i) fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and (ii) the information contained therein fairly presents, in all material respects, the financial condition and results of operations of Chesapeake.

/S/ BETH W. COOPER

Beth W. Cooper

November 5, 2015

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Chesapeake Utilities Corporation and will be retained by Chesapeake Utilities Corporation and furnished to the Securities and Exchange Commission or its staff upon request.