UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

☒ **Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

☐ **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the Quarter Ended: June 30, 2004 **Commission File Number: 001-15891**

NRG Energy, Inc.

(Exact name of Registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	**41-1724239** (I.R.S. Employer Identification No.)
901 Marquette Avenue, Suite 2300 **Minneapolis, Minnesota** (Address of principal executive offices)	**55402** (Zip Code)

(612) 373-5300
(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

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 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 ☒ **No** ☐

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12 b-2 of the Exchange Act).

Yes ☒ **No** ☐

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15 (d) of the Securities and Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.

Yes ☒ **No** ☐

As of August 2, 2004, there were 100,006,798 shares of common stock outstanding.

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NRG ENERGY, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

(Unaudited)

	Reorganized NRG	Predecessor Company	Reorganized NRG	Predecessor Company
	Three Months Ended		Six Months Ended	
	June 30, 2004	June 30, 2003	June 30, 2004	June 30, 2003
	(In thousands, except for per share amounts)			
Operating Revenues				
Revenues from majority-owned operations	**$ 573,674**	$ 441,599	**$1,173,992**	$ 936,609
Operating Costs and Expenses				
Cost of majority-owned operations	**353,750**	381,845	**735,801**	759,432
Depreciation and amortization	**53,168**	63,768	**108,174**	122,906
General, administrative and development	**45,837**	39,147	**82,329**	87,663
Corporate relocation charges	**5,645**	—	**6,761**	—
Reorganization items	**(2,661)**	6,334	**3,589**	6,334
Restructuring and impairment charges	**1,676**	269,631	**1,676**	291,767
Total operating costs and expenses	**457,415**	760,725	**938,330**	1,268,102
Operating Income/(Loss)	**116,259**	(319,126)	**235,662**	(331,493)
Other Income (Expense)				
Minority interest in earnings of consolidated subsidiaries	**(201)**	—	**(709)**	—
Equity in earnings of unconsolidated affiliates	**46,101**	46,857	**63,814**	92,486
Write downs and gains/(losses) on sales of equity method investments	**1,205**	(132,436)	**(533)**	(149,027)
Other income, net	**8,052**	(7,953)	**11,708**	3,542
Interest expense	**(66,225)**	(92,087)	**(159,371)**	(260,761)
Total other expense	**(11,068)**	(185,619)	**(85,091)**	(313,760)
Income/(Loss) From Continuing Operations Before Income Taxes	**105,191**	(504,745)	**150,571**	(645,253)
Income Tax Expense	**36,322**	4,305	**50,602**	37,342
Income/(Loss) From Continuing Operations	**68,869**	(509,050)	**99,969**	(682,595)
Income/(Loss) on Discontinued Operations, net of Income Taxes	**14,155**	(99,351)	**13,290**	61,562
Net Income/(Loss)	**$ 83,024**	$(608,401)	**$ 113,259**	$ (621,033)
Weighted Average Number of Common Shares Outstanding — Basic	**100,080**		**100,051**	
Income From Continuing Operations per Weighted Average Common Share — Basic	**$ 0.69**		**$ 1.00**	
Income From Discontinued Operations per Weighted Average Common Share — Basic	**0.14**		**0.13**	
Net Income per Weighted Average Common Share — Basic	**$ 0.83**		**$ 1.13**	
Weighted Average Number of Common Shares Outstanding — Diluted	**100,478**		**100,214**	
Income From Continuing Operations per Weighted Average Common Share — Diluted	**$ 0.69**		**$ 1.00**	
Income From Discontinued Operations per Weighted Average Common Share — Diluted	**0.14**		**0.13**	
Net Income per Weighted Average Common Share — Diluted	**$ 0.83**		**$ 1.13**	

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS (REORGANIZED COMPANY)

(Unaudited)

	June 30, 2004	December 31, 2003
	(In thousands)	
ASSETS		
Current Assets		
Cash and cash equivalents	$ 820,876	$ 551,223
Restricted cash	151,673	116,067
Accounts receivable — trade, less allowance for doubtful accounts of $322 and $0	313,649	201,908
Xcel Energy settlement receivable	—	640,000
Current portion of notes receivable — affiliates	1,917	200
Current portion of notes receivable	123,060	65,141
Taxes receivable	14,824	—
Inventory	203,672	194,926
Derivative instruments valuation	11,670	772
Prepayments and other current assets	229,961	222,178
Current deferred income taxes	961	1,850
Current assets — discontinued operations	56,955	119,574
Total current assets	1,929,218	2,113,839
Property, Plant and Equipment		
In service	3,935,915	3,885,465
Under construction	104,794	139,171
Total property, plant and equipment	4,040,709	4,024,636
Less accumulated depreciation	(119,487)	(11,800)
Net property, plant and equipment	3,921,222	4,012,836
Other Assets		
Equity investments in affiliates	677,684	737,998
Notes receivable, less current portion — affiliates	122,539	130,152
Notes receivable, less current portion	612,118	691,444
Intangible assets, net of accumulated amortization of $34,404 and $5,212	356,068	432,361
Debt issuance costs, net of accumulated amortization of $4,992 and $454	63,038	74,337
Derivative instruments valuation	53,474	59,907
Funded letter of credit	250,000	250,000
Other assets	116,129	123,145
Non-current assets — discontinued operations	451,785	618,968
Total other assets	2,702,835	3,118,312
Total Assets	$8,553,275	$9,244,987

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS (REORGANIZED COMPANY)
(Unaudited)

	June 30, 2004	December 31, 2003
	(In thousands)	
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities		
Current portion of long-term debt and capital leases	$ 96,385	$ 801,229
Short-term debt	17,826	19,019
Accounts payable — trade	137,033	158,683
Accounts payable — affiliates	6,372	7,040
Accrued taxes	—	16,095
Accrued property, sales and other taxes	16,136	22,322
Accrued salaries, benefits and related costs	33,072	19,331
Accrued interest	20,038	8,982
Derivative instruments valuation	20,979	429
Creditor pool obligation	25,000	540,000
Other bankruptcy settlement	221,283	220,000
Other current liabilities	113,773	102,861
Current liabilities — discontinued operations	23,121	110,190
Total current liabilities	731,018	2,026,181
Other Liabilities		
Long-term debt and capital leases	3,922,417	3,327,782
Deferred income taxes	144,522	149,493
Postretirement and other benefit obligations	110,842	105,946
Derivative instruments valuation	159,567	153,503
Other long-term obligations	473,247	480,938
Non-current liabilities — discontinued operations	469,911	558,884
Total non-current liabilities	5,280,506	4,776,546
Total Liabilities	6,011,524	6,802,727
Minority Interest	5,673	5,004
Commitments and Contingencies		
Stockholders' Equity		
Serial Preferred Stock; 10,000,000 shares authorized, none issued and outstanding at June 30, 2004 and December 31, 2003	—	—
Common stock; $.01 par value; 500,000,000 shares authorized; 100,006,798 shares at June 30, 2004 and 100,000,000 shares at December 31, 2003 issued and outstanding	1,000	1,000
Additional paid-in capital	2,410,751	2,403,429
Retained earnings	124,284	11,025
Accumulated other comprehensive income	43	21,802
Total stockholders' equity	2,536,078	2,437,256
Total Liabilities and Stockholders' Equity	$8,553,275	$9,244,987

See notes to consolidated financial statements.

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NRG ENERGY, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY/(DEFICIT)

Three Months Ended June 30, 2004 and June 30, 2003
(Unaudited)

(In thousands)	Common Stock	Common Shares	Additional Paid-in Capital	Retained Earnings/ (Accumulated Deficit)	Accumulated Other Comprehensive Income/(Loss)	Total Stockholders' Equity/(Deficit)
Balances at March 31, 2003 (Predecessor Company)	$ —	—	$2,227,692	$ (2,841,565)	$ (139,004)	$ (752,877)
Net loss				(608,401)		(608,401)
Foreign currency translation adjustments and other					77,777	77,777
Deferred unrealized gain on derivatives, net					5,155	5,155
Comprehensive loss for the three months ended June 30, 2003						(525,469)
Balances at June 30, 2003 (Predecessor Company)	$ —	—	$2,227,692	$ (3,449,966)	$ (56,072)	$ (1,278,346)
Balances at March 31, 2004 (Reorganized NRG)	**$1,000**	**100,000**	**$2,406,771**	**$ 41,260**	**$ (3,176)**	**$ 2,445,855**
Net income				**83,024**		**83,024**
Foreign currency translation adjustments and other					**(33,520)**	**(33,520)**
Deferred unrealized gain on derivatives, net					**36,739**	**36,739**
Comprehensive income for the three months ended June 30, 2004						**86,243**
Equity based compensation		**7**	**3,980**			**3,980**
Balances at June 30, 2004 (Reorganized NRG)	**$1,000**	**100,007**	**$2,410,751**	**$ 124,284**	**$ 43**	**$ 2,536,078**

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY/(DEFICIT)
Six Months Ended June 30, 2004 and June 30, 2003
(Unaudited)

(In thousands)	Common Stock	Common Shares	Additional Paid-in Capital	Retained Earnings/ (Accumulated Deficit)	Accumulated Other Comprehensive Income/(Loss)	Total Stockholders' Equity/(Deficit)
Balances at December 31, 2002 (Predecessor Company)	$ —	—	$2,227,692	$ (2,828,933)	$ (94,958)	$ (696,199)
Net loss				(621,033)		(621,033)
Foreign currency translation adjustments and other					90,867	90,867
Deferred unrealized loss on derivatives, net					(51,981)	(51,981)
Comprehensive loss for the six months ended June 30, 2003						(582,147)
Balances at June 30, 2003 (Predecessor Company)	$ —	—	$2,227,692	$ (3,449,966)	$ (56,072)	$ (1,278,346)
Balances at December 31, 2003 (Reorganized NRG)	**$1,000**	**100,000**	**$2,403,429**	**$ 11,025**	**$ 21,802**	**$ 2,437,256**
Net income				**113,259**		**113,259**
Foreign currency translation adjustments and other					**(35,933)**	**(35,933)**
Deferred unrealized gain on derivatives, net					**14,174**	**14,174**
Comprehensive income for the six months ended June 30, 2004						**91,500**
Equity based compensation		**7**	**7,322**			**7,322**
Balances at June 30, 2004 (Reorganized NRG)	**$1,000**	**100,007**	**$2,410,751**	**$ 124,284**	**$ 43**	**$ 2,536,078**

See notes to consolidated financial statements.

NRG ENERGY, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

(Unaudited)

(In thousands)	Reorganized NRG Six Months Ended June 30, 2004	Predecessor Company Six Months Ended June 30, 2003
Cash Flows from Operating Activities		
Net income/(loss)	**$ 113,259**	$(621,033)
Adjustments to reconcile net income/(loss) to net cash provided (used) by operating activities		
Distributions in excess of (less than) equity in earnings of unconsolidated affiliates	**4,751**	(23,943)
Depreciation and amortization	**113,499**	145,221
Amortization of debt issuance costs	**20,060**	11,090
Amortization of debt discount	**11,795**	—
Deferred income taxes	**49,384**	36,525
Minority interest	**2,089**	466
Unrealized (gains)/losses on derivatives	**(21,458)**	17,796
Asset impairment	**1,676**	347,913
Write downs and losses on sales of equity method investments	**533**	148,841
Gain on sale of discontinued operations	**(13,012)**	(218,536)
Amortization of power contracts and emission credits	**34,517**	—
Cash provided (used) by changes in certain working capital items, net of acquisition affects		
Accounts receivable	**(111,054)**	(43,608)
Xcel Energy settlement receivable	**640,000**	—
Accrued taxes	**(29,285)**	(18,603)
Inventory	**(8,439)**	13,550
Prepayments and other current assets	**(2,065)**	(74,262)
Accounts payable	**(27,626)**	264,106
Accounts payable — affiliates	**213**	4,788
Accrued property, sales and other taxes	**(7,065)**	5,398
Accrued salaries, benefits and related costs	**20,192**	(3,769)
Accrued interest	**14,883**	126,578
Other current liabilities	**(506,368)**	(117,355)
Cash used by changes in other assets and liabilities	**16,878**	22,869
Net Cash Provided by Operating Activities	**317,357**	24,032
Cash Flows from Investing Activities		
Proceeds on sale of equity method investments	**29,693**	89,223
Proceeds on sale of discontinued operations	**59,190**	—
Investments in equity method investments and projects	**(566)**	(369)
Decrease in notes receivable, net	**15,208**	9,405
Capital expenditures	**(64,676)**	(56,605)
Increase in restricted cash and trust funds	**(37,291)**	(14,137)
Net Cash Provided by Investing Activities	**1,558**	27,517
Cash Flows from Financing Activities		
Proceeds from issuance of long-term debt, net	**490,631**	5,342
Deferred debt issuance costs	**(8,497)**	(7,474)
Principal payments on short and long-term debt	**(567,806)**	(31,390)
Net Cash Used by Financing Activities	**(85,672)**	(33,522)
Change in Cash from Discontinued Operations	**10,822**	24,062
Effect of Exchange Rate Changes on Cash and Cash Equivalents	**25,588**	(93,163)
Net Increase (Decrease) in Cash and Cash Equivalents	**269,653**	(51,074)
Cash and Cash Equivalents at Beginning of Period	**551,223**	360,860
Cash and Cash Equivalents at End of Period	**$ 820,876**	$ 309,786

See notes to consolidated financial statements.

NRG ENERGY, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

Note 1 — Organization

General

NRG Energy, Inc., or NRG Energy, the “Company”, “we”, “our”, or “us”, is a wholesale power generation company, primarily engaged in the ownership and operation of power generation facilities and the sale of energy, capacity and related products in the United States and internationally. We have a diverse portfolio of electric generation facilities in terms of geography, fuel type, and dispatch levels. We seek to maximize operating income through the efficient procurement and management of fuel supplies and maintenance services, and the sale of energy, capacity and ancillary services into attractive spot, intermediate and long-term markets.

On May 14, 2003, we and 25 of our direct and indirect wholly owned subsidiaries commenced voluntary petitions under chapter 11 of the bankruptcy code in the United States Bankruptcy Court for the Southern District of New York. On November 24, 2003, the bankruptcy court entered an order confirming a plan of reorganization, for NRG Energy and four of our subsidiaries, and the plan became effective on December 5, 2003. On November 25, 2003, the bankruptcy court entered an order confirming the plan of reorganization for 21 of our subsidiaries, and the plan became effective on December 23, 2003. As of June 30, 2004, three entities remain in bankruptcy.

As part of the NRG plan of reorganization, Xcel Energy, Inc., or Xcel Energy, relinquished its ownership interest in us and we became an independent public company upon our emergence from bankruptcy on December 5, 2003. We no longer have any material affiliation or relationship with Xcel Energy. As part of that reorganization, we eliminated approximately $5.2 billion of corporate level bank and bond debt and approximately $1.3 billion of additional claims and disputes by distributing a combination of equity and up to $1.04 billion in cash among our unsecured creditors. In addition to the debt reduction associated with the restructuring, we used a substantial portion of the proceeds of a recent note offering and borrowings under a new credit facility to retire approximately $1.7 billion of project-level debt on December 23, 2003. In January 2004, we used proceeds of an additional note offering to repay $503.5 million of the outstanding borrowings under our new credit facility.

As of June 30, 2004, we owned interests in 55 power projects in five countries having an aggregate net generation capacity of approximately 18,000 MW. Approximately 7,900 MW of our capacity consists of merchant power plants in the Northeast region of the United States. Certain of these assets are located in transmission constrained areas, including approximately 1,400 MW of “in-city” New York City generation capacity and approximately 750 MW of southwest Connecticut generation capacity. We also own approximately 2,500 MW of capacity in the South Central region of the United States, with approximately 1,700 MW of that capacity supported by long-term power purchase agreements. Our assets in the West Coast region of the United States consist of approximately 1,300 MW of capacity with the majority of such capacity owned via our 50% interest in West Coast Power LLC. Our assets in the west coast region are supported by a power purchase agreement with the California Department of Water Resources that runs through December 2004. One-year term “reliability must-run contracts” with the California Independent System Operator for approximately 600 MW in the San Diego area are expected to be renewed for 2005.

Our principal domestic generation assets consisted of a diversified mix of natural gas-, coal- and oil-fired facilities, representing approximately 48%, 26% and 26% of our total domestic generation capacity, respectively. In addition, 45% of our generating facilities have some capability to combust duel fuels. We also own interests in plants having a net generation capacity of approximately 2,100 MW in various international markets, including Australia, Europe and Brazil.

We perform our own power marketing through our energy marketing subsidiary, NRG Power Marketing, Inc., or PMI, which, is focused on maximizing the value of our North American assets by providing management services, and through the efficient procurement and management of fuel and the sale of energy and related products in the spot, intermediate and long-term markets. West Coast Power has arranged for power marketing and fuel management with affiliates of our other partner, Dynegy, Inc. We operate substantially all of our generating assets, including the West Coast Power plants.

We were incorporated as a Delaware corporation on May 29, 1992. Our headquarters and principal executive offices are located at 901 Marquette Avenue, Suite 2300, Minneapolis, Minnesota, 55402. Our telephone number is (612) 373-5300. Our Internet website is http://www.nrgenergy.com. Our recent annual reports, quarterly reports, current reports and other periodic filings are available free of charge through our Internet website.

Note 2 — Summary of Significant Accounting Policies

Basis of Presentation

As used in this Quarterly Report, Predecessor Company refers to the Company prior to its emergence from bankruptcy. Reorganized NRG refers to the Company after its emergence from bankruptcy.

Between May 14, 2003 and December 5, 2003, we operated as a debtor in possession under the supervision of the Bankruptcy Court. Our financial statements for reporting periods within that timeframe were prepared in accordance with the provisions of AICPA Statement of Position 90-7, *"Financial Reporting by Entities in Reorganization Under the Bankruptcy Code",* or SOP 90-7.

The accompanying unaudited interim consolidated financial statements have been prepared in accordance with the Securities and Exchange Commission's regulations for interim financial information and with the instructions to Form 10-Q. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements. The accounting policies we follow are set forth in Note 2 to the Company's financial statements in our Annual Report on Form 10-K for the year ended December 31, 2003. The following notes should be read in conjunction with such policies and other disclosures in the Form 10-K. Interim results are not necessarily indicative of results for a full year.

In the opinion of management, the accompanying unaudited interim consolidated financial statements contain all material adjustments (consisting of normal, recurring accruals) necessary to present fairly our consolidated financial position as of June 30, 2004, the results of our operations and stockholders' equity/(deficit) for the three and six months ended June 30, 2004 and 2003, and our cash flows for the six months ended June 30, 2004 and 2003. Certain prior-year amounts have been reclassified for comparative purposes.

In connection with our emergence from bankruptcy, we adopted Fresh Start Reporting on December 5, 2003, in accordance with the requirements of SOP 90-7. The application of SOP 90-7 resulted in the creation of a new reporting entity. Under Fresh Start, our reorganization value was allocated to our assets and liabilities on a basis substantially consistent with purchase accounting in accordance with Statement of Financial Accounting Standards, or SFAS No. 141, *"Business Combinations."*

Comparability of Financial Information

Due to the adoption of Fresh Start as of December 5, 2003, the Reorganized NRG Energy balance sheet, statement of operations and statement of cash flows have not been prepared on a consistent basis with the Predecessor Company's financial statements and are not comparable in certain respects to the financial statements prior to the application of Fresh Start. A black line has been drawn on the accompanying Consolidated Financial Statements to separate and distinguish between Reorganized NRG Energy and the Predecessor Company.

Note 3 — Discontinued Operations

SFAS No. 144, *"Accounting for the Impairment or Disposal of Long-Lived Assets"* requires that discontinued operations be valued on an asset-by-asset basis at the lower of carrying amount or fair value less costs to sell. In applying those provisions, our management considered cash flow analyses and offers related to the assets and businesses. This amount is included in income/(loss) on discontinued operations, net of income taxes in the accompanying consolidated statements of operations. In accordance with SFAS No. 144, assets held for sale will not be depreciated commencing with their classification as such.

We have classified certain business operations, and gains/(losses) recognized on sale, as discontinued operations for projects that were sold or have met the required criteria for such classification. The financial results for all of these businesses have been accounted for as discontinued operations. Accordingly, current period operating results and prior periods have been restated to report the operations as discontinued. For the three and six months ended June 30, 2004, discontinued operations included our NRG McClain LLC; Penobscot Energy Recovery Company, or PERC; Compania Boliviana De Energia Electrica S.A. Bolivian Power Company Limited, or Cobee; Hsin Yu and LSP Energy projects. For the three and six months ended June 30, 2003, discontinued operations included our NRG McClain, PERC, Cobee, Killingholme, NEO Landfill Gas, Inc., or NLGI; three NEO Corporation projects (NEO Fort Smith LLC, NEO Woodville LLC, NEO Phoenix LLC), Timber Energy Resources, Inc., or TERI; Cahua and Energia Pacasmayo, Hsin Yu and LSP Energy projects. Summarized results of operations of discontinued operations were as follows:

	Reorganized NRG Three Months Ended June 30, 2004	Predecessor Company Three Months Ended June 30, 2003	Reorganized NRG Six Months Ended June 30, 2004	Predecessor Company Six Months Ended June 30, 2003
	(In thousands)			
Operating revenues	**$ 43,257**	$ 60,590	**$ 102,080**	$ 136,377
Operating and other expenses	**40,996**	156,608	**99,702**	261,756
Pretax income/(loss) from operations of discontinued components	**2,261**	(96,018)	**2,378**	(125,379)
Income tax expense	**4**	1,267	**986**	1,787
Income/(loss) from operations of discontinued components	**2,257**	(97,285)	**1,392**	(127,166)
Disposal of discontinued components — pre-tax gain/(loss), net	**13,307**	(2,066)	**13,307**	188,728
Income tax expense	**1,409**	—	**1,409**	—
Disposal of discontinued components — gain/(loss), net	**11,898**	(2,066)	**11,898**	188,728
Income/(loss) on discontinued operations, net of income taxes	**$ 14,155**	$ (99,351)	**$ 13,290**	$ 61,562

The assets and liabilities of the discontinued operations are reported in the balance sheets as of June 30, 2004 and December 31, 2003 as discontinued operations. The major classes of assets and liabilities are presented by geographic area in the following table. As of June 30, 2004, within our Power Generation Segment, the NRG McClain and LSP Energy projects are included in the Other North America classification; all other projects have been sold as of June 30, 2004. As of December 31, 2003, within our Power Generation segment, the PERC, NRG McClain and LSP Energy projects are included in the Other North America classification and the Cobee and Hsin Yu projects are included in the Other International classification.

June 30, 2004	Power Generation Other North America
	(In thousands)
Cash	$ 1,736
Restricted cash	40,255
Receivables, net	8,181
Inventory	5,366
Prepaids and other current assets	1,417
Current assets — discontinued operations	$ 56,955
PP&E, net	$ 439,017
Other non-current assets	12,768
Non-current assets — discontinued operations	$ 451,785
Current portion of long-term debt	$ 5,448
Accounts payable — trade	2,284
Accrued liabilities	15,239
Other current liabilities	150
Current liabilities — discontinued operations	$ 23,121
Long-term debt	$ 287,279
Other non-current liabilities	182,632
Non-current liabilities — discontinued operations	$ 469,911

December 31, 2003	Power Generation Other North America	Other International	Total
		(In thousands)	
Cash	$ 4,294	$ 8,264	$ 12,558
Restricted cash	60,292	—	60,292
Receivables, net	12,675	11,272	23,947
Inventory	8,722	3,537	12,259
Prepaids and other current assets	3,732	6,786	10,518
Current assets — discontinued operations	$ 89,715	$ 29,859	$119,574
PP&E, net	$ 487,752	$ 75,251	$563,003
Non-current deferred tax asset	—	31,469	31,469
Other non-current assets	14,765	9,731	24,496
Non-current assets — discontinued operations	$ 502,517	$ 116,451	$618,968
Current portion of long-term debt	$ 6,206	$ 49,743	$ 55,949
Accounts payable — trade	3,056	23,050	26,106
Accrued liabilities	15,292	3,981	19,273
Other current liabilities	6,139	2,723	8,862
Current liabilities — discontinued operations	$ 30,693	$ 79,497	$110,190
Long-term debt	$ 313,739	$ 19,779	$333,518
Minority interest	31,879	406	32,285
Other non-current liabilities	184,970	8,111	193,081
Non-current liabilities — discontinued operations	$ 530,588	$ 28,296	$558,884

NRG McClain — On July 9, 2004, NRG McClain completed the sale of its 77% interest in the McClain Generating Station to Oklahoma Gas & Electric Company. The Oklahoma Municipal Power Authority will continue to own the remaining 23% interest in the facility. The proceeds of $160.2 million from the sale will be used to repay outstanding project debt under the secured term loan and working capital facility. A loss of $3.2 million was recognized as of June 30, 2004 based upon the final terms of the sale.

PERC — During the first quarter of 2004, we received board authorization to proceed with the sale of our interest in PERC to SET PERC Investment LLC that reached financial closing in April 2004. Upon completion of the transaction, we received net proceeds of $18.4 million, resulting in a gain of $2.0 million, net of tax.

Cobee — During the first quarter of 2004, we entered into an agreement for the sale of our interest in our Cobee project to Globeleq Holdings Limited, which reached financial closing in April 2004. Upon completion of the transaction, we received net proceeds of approximately $50.0 million, resulting in a gain of $2.8 million.

LSP Energy — In May 2004 we reached an agreement to sell our 100 percent interest in an 837-megawatt generating plant in Batesville, Mississippi to Complete Energy Partners LLC. We expect to realize cash proceeds of $26.5 million, subject to certain purchase price adjustments and transaction costs. A gain of approximately $16.0 million is expected upon completion of the sale.

Hsin Yu —During the second quarter of 2004, we entered into an agreement for the sale of our interest in our Hsin Yu project to a minority interest shareholder, Asia Pacific Energy Development Company Ltd., which reached financial closing in May 2004. Upon completion of the transaction, we received net proceeds of $1.0 million, resulting in a gain of approximately $10.3 million, resulting from our negative equity in the project. In addition, although we have no continuing involvement in the project, we retained the prospect of receiving an additional $1.0 million in additional proceeds upon final closing of Phase II of the project.

Killingholme — During third quarter 2002, we recorded an impairment charge of $477.9 million. In January 2003, we completed the sale of our interest in the Killingholme project to our lenders for a nominal value and forgiveness of outstanding debt with a carrying value of approximately $360.1 million at December 31, 2002. The sale of our interest in the Killingholme project and the release of debt obligations resulted in a gain on sale in the first quarter of 2003 of approximately $191.2 million. The gain results from the write-down of the project’s assets in the third quarter of 2002 below the carrying value of the related debt.

NLGI — During 2002, we recorded an impairment charge of $12.4 million related to subsidiaries of NLGI, an indirect wholly owned subsidiary of NRG Energy. The charge was related largely to asset impairments based on a revised project outlook. During the quarter ended March 31, 2003, we recorded impairment charges of $23.6 million related to subsidiaries of NLGI and a charge of $14.5

million to write off our 50% investment in Minnesota Methane LLC. Through April 30, 2003, NRG Energy and NLGI failed to make certain payments causing a default under NLGI's term loan agreements. In May 2003, the project lenders to the wholly owned subsidiaries of NLGI and Minnesota Methane foreclosed on our membership interest in the NLGI subsidiaries and our equity interest in Minnesota Methane. Together with a $2.2 million gain recorded upon completion of the foreclosures of the related equity investees (see Note 4), there was no material net gain or loss recognized as a result of these foreclosures.

Note 4 — Write Downs and Gains/(Losses) on Sales of Equity Method Investments

Write downs and gains/(losses) on sales of equity method investments recorded in the consolidated statement of operations include the following:

	Reorganized NRG	Predecessor Company	Reorganized NRG	Predecessor Company
	Three Months Ended June 30, 2004	Three Months Ended June 30, 2003	Six Months Ended June 30, 2004	Six Months Ended June 30, 2003
	(In thousands)			
Calpine Cogeneration	**$ 500**	$ —	**$ 735**	$ —
Loy Yang	**705**	(139,972)	**(1,268)**	(139,972)
NEO Corporation — Minnesota Methane	**—**	2,196	**—**	(12,257)
Kondapalli	**—**	1,812	**—**	519
ECKG	**—**	3,714	**—**	2,869
Other	**—**	(186)	**—**	(186)
Total write downs and gains/(losses) on sales of equity method investments	**$ 1,205**	$ (132,436)	**$ (533)**	$ (149,027)

Calpine Cogeneration — In January 2004, we executed an agreement to sell our 20% interest in Calpine Cogeneration Corporation to Calpine Power Company. The transaction closed in March 2004 and resulted in net cash proceeds of $2.5 million and a net gain of $0.2 million. During the second quarter of 2004, we received additional consideration on the sale of $0.5 million, resulting in an adjusted net gain of $0.7 million.

Loy Yang — We recorded an impairment charge of $111.4 million during 2002 and an additional impairment charge of $140.0 million during the second quarter of 2003 based on a third party market evaluation and bids received in response to marketing Loy Yang for possible sale. During the first quarter of 2004, we wrote down our investment in Loy Yang by $2.0 million due to recent estimates of the expected sales proceeds. In April 2004, we completed the sale of our 25.4% interest in Loy Yang to Great Energy Alliance Corporation, which resulted in net cash proceeds of $26.7 million and a gain of $0.7 million. This resulted in an adjusted loss of $1.3 million for the six months ended June 30, 2004.

NEO Corporation — Minnesota Methane — We recorded an impairment charge of $12.3 million during 2002 to write-down our 50% investment in Minnesota Methane. We recorded an additional impairment charge of $14.5 million during the first quarter of 2003. These charges were related to a revised project outlook and management's belief that the decline in fair value was other than temporary. In May 2003, the project lenders to the wholly owned subsidiaries of NEO Landfill Gas, Inc. and Minnesota Methane foreclosed on our membership interest in the NEO Landfill Gas, Inc. subsidiaries and our equity interest in Minnesota Methane. Upon completion of the foreclosure, we recorded a gain of $2.2 million on the related equity investments. This gain resulted from the legal release of certain obligations.

Lanco Kondapalli Power Pvt Ltd, or Kondapalli — In the fourth quarter of 2002, we wrote down our investment in Kondapalli by $12.7 million due to recent estimates of sales value, which indicated an impairment of our book value that was considered to be other than temporary. On January 30, 2003, we signed a sales agreement with the Genting Group of Malaysia to sell our 30% interest in Kondapalli and a 74% interest in Eastern Generation Services (India) Pvt Ltd. Kondapalli is based in Hyderabad, Andhra Pradesh, India, and is the owner of a 368 MW natural gas fired combined cycle gas turbine. In the first quarter of 2003, we wrote down our investment in Kondapalli by $1.3 million based on the final sales agreement. The sale closed on May 30, 2003 resulting in net cash proceeds of approximately $24 million and a gain of approximately $1.8 million, resulting in a net gain of $0.5 million. The gain resulted from incurring lower selling costs than estimated as part of the first quarter impairment.

ECKG — In September 2002, we announced that we had reached agreement to sell our 44.5% interest in the ECKG power station in connection with our Csepel power generating facilities, and our interest in Entrade, an electricity trading business, to Atel, an independent energy group headquartered in Switzerland. The transaction closed in January 2003 and resulted in cash proceeds of $65.3 million and a net gain of $2.9 million.

Note 5 — Reorganization Items and Restructuring and Impairment Charges

Reorganization items and restructuring and impairment charges included in operating expenses in the consolidated statements of operations include the following:

	Reorganized NRG	Predecessor Company	Reorganized NRG	Predecessor Company
	Three Months Ended June 30, 2004	Three Months Ended June 30, 2003	Six Months Ended June 30, 2004	Six Months Ended June 30, 2003
	(In thousands)			
Reorganization items	**$ (2,661)**	$ 6,334	**$ 3,589**	$ 6,334
Restructuring charges	**—**	46,691	**—**	68,161
Impairment charges	**1,676**	222,940	**1,676**	223,606
Total	**$ (985)**	$ 275,965	**$ 5,265**	$ 298,101

Reorganization items – We recorded a net credit of $2.7 million related to reorganization items for the three months ended June 30, 2004. These items relate primarily to the settlement of obligations recorded under Fresh Start. We incurred total reorganization items of approximately $3.6 million for the six months ended June 30, 2004. We incurred total reorganization items of approximately $6.3 million for the three and six months ended June 30, 2003, respectively. All reorganization costs have been incurred since we filed for bankruptcy in May 2003. These costs consist of bankruptcy related charges primarily related to professional fees.

Restructuring charges - We incurred total restructuring charges of approximately $46.7 million and $68.2 million for the three and six months ended June 30, 2003, respectively. These costs consist of employee separation costs and advisor fees.

Impairment charges - We reviewed the recoverability of our long-lived assets in accordance with the guidelines of SFAS No. 144. As a result of this review, we recorded $1.7 million in impairment charges for the three and six months ended June 30, 2004 and $222.9 million and $223.6 million for the three and six months ended June 30, 2003, respectively which included the following:

Project Name	Project Status	Reorganized NRG Three Months Ended June 30, 2004	Predecessor Company Three Months Ended June 30, 2003	Reorganized NRG Six Months Ended June 30, 2004	Predecessor Company Six Months Ended June 30,2003	Fair Value Basis
			(In thousands)			
New Roads Holding LLC	Non-operating asset	**$ 1,676**	$ —	**$ 1,676**	$ —	Projected cash flows
Devon Power LLC	Operating at a loss	**—**	64,198	**—**	64,198	Projected cash flows
Middletown Power LLC	Operating at a loss	**—**	157,323	**—**	157,323	Projected cash flows
Other	Terminated	**—**	1,419	**—**	2,085	
Total impairment charges		**$ 1,676**	$ 222,940	**$ 1,676**	$ 223,606	

Note 6 — Asset Retirement Obligation

Effective January 1, 2003, we adopted SFAS No. 143, *"Accounting for Asset Retirement Obligations"*. SFAS No. 143 requires an entity to recognize the fair value of a liability for an asset retirement obligation in the period in which it is incurred. Upon initial recognition of a liability for an asset retirement obligation, an entity shall capitalize an asset retirement cost by increasing the carrying amount of the related long-lived asset by the same amount as the liability. Over time, the liability is accreted to its present value, and the capitalized cost is depreciated over the useful life of the related asset. Retirement obligations associated with long-lived assets included within the scope of SFAS No. 143 are those for which a legal obligation exists under enacted laws, statutes or written or oral contracts, including obligations arising under the doctrine of promissory estoppel.

We identified certain retirement obligations within our power generation segments related to our North America projects in the South Central region, the Northeast region, Australia, and our non-generation operations. These asset retirement obligations are related primarily to the future dismantlement of equipment on leased property and environmental obligations related to ash disposal site closures. We also identified other asset retirement obligations that could not be calculated because the assets associated with the retirement obligations were determined to have an indeterminate life.

The following represents the balances of the asset retirement obligation as of December 31, 2003 and the additions and accretion of the asset retirement obligation for the six months ended June 30, 2004, which is included in other long-term obligations in the consolidated balance sheet.

Description	Beginning Balance December 31, 2003	Accretion for the Six Months Ended June 30, 2004	Ending Balance June 30, 2004
		(In thousands)	
South Central Region	$ 2,638	$ 91	$ 2,729
Northeast Region	11,750	400	12,150
Australia	9,438	526	9,964
Non-Generation	1,334	45	1,379
Alternative Energy	834	29	863
Total	$ 25,994	$ 1,091	$ 27,085

Note 7 — Inventory

Inventory, which is stated at the lower of weighted average cost or market, consisted of:

	June 30, 2004	December 31, 2003
	(In thousands)	
Fuel oil	$ 84,861	$ 75,272
Coal	58,179	59,555
Natural gas	1,200	856
Other fuels	88	75
Spare parts	54,532	54,522
Emission credits	4,478	4,478
Other	334	168
Total inventory	$203,672	$ 194,926

Note 8 — Property, Plant and Equipment

The major classes of property, plant and equipment were as follows:

	June 30, 2004	December 31, 2003
	(In thousands)	
Facilities and equipment	$3,784,274	$3,732,391
Land and improvements	133,684	134,888
Office furnishings and equipment	17,957	18,186
Construction in progress	104,794	139,171
Total property, plant and equipment	4,040,709	4,024,636
Accumulated depreciation	(119,487)	(11,800)
Net property, plant and equipment	$3,921,222	$4,012,836

Note 9 — Summarized Financial Information of Affiliates

We have a 50% interest in one company, West Coast Power, which was considered significant, as defined by applicable SEC regulations, which is accounted for as an equity method investment.

West Coast Power LLC Summarized Financial Information

For the three and six months ended June 30, 2004, we recorded equity earnings of $21.9 million and $27.9 million, respectively, for West Coast Power after adjustments for the reversal of $5.6 million and $7.6 million, respectively, of project level depreciation expense, offset by a decrease in earnings related to $30.6 million and $61.6 million, respectively, of amortization of the intangible asset for the California Department of Water Resources, or CDWR contract. As a result of pushing down the impact of Fresh Start to the project's balance sheet, we established a contract-based intangible asset with a one-year remaining life, consisting of the value of West Coast Power's CDWR energy sales contract. In accordance with SOP 90-7, the carrying value of this intangible asset was reduced by $6.9 million as a result of allocating the reduction of our tax valuation allowance to our intangible assets (see Notes 10 and 16). The following table summarizes financial information for West Coast Power, including interests owned by us and other parties for the periods shown below:

Results of Operations

	Three Months Ended		Six Months Ended	
(In millions)	**June 30, 2004**	**June 30, 2003**	**June 30, 2004**	**June 30, 2003**
Operating revenues	$ 314	$ 267	$ 598	$ 526
Operating income	$ 94	$ 77	$ 164	$ 137
Net income (pre-tax)	$ 94	$ 72	$ 164	$ 131

Financial Position

(In millions)	**June 30, 2004**	**December 31, 2003**
Current assets	$ 332	$ 257
Other assets	437	454
Total assets	$ 769	$ 711
Current liabilities	$ 69	$ 55
Other liabilities	8	8
Equity	692	648
Total liabilities and equity	$ 769	$ 711

For several years, the Federal Energy Regulatory Commission, or FERC, has been engaged in investigations regarding potential manipulation of electrical and natural gas prices, and earlier this year, Dynegy, we and the West Coast Power entities commenced extensive settlement negotiations with FERC Staff; the People of the State of California *ex rel.* Bill Lockyer, Attorney General; the California Public Utility Commission, or CPUC staff; the California Department of Water Resources acting through its Electric Power Fund, the California Electricity Oversight Board; PG&E; Southern California Edison Company; and San Diego Gas and Electric Company. The parties have now reached a definitive, comprehensive settlement, which has been filed with FERC and awaits FERC approval.

As part of the settlement agreement, West Coast Power will place into escrow for distribution to various California energy consumers a total of $22.5 million, which includes the $3 million settlement with FERC announced on January 20, 2004. In addition, West Coast Power will forego: (1) past due receivables from the California Independent System Operator, or ISO, and the California Power Exchange related to the settlement period; and (2) natural gas cost recovery claims against the settling parties related to the settlement period. In exchange, the various California settling parties will forego: (1) all claims relating to refunds or other monetary damages for sales of electricity during the settlement period; (2) claims alleging that West Coast Power received unjust or unreasonable rates for the sale of electricity during the settlement period; and (3) FERC will dismiss numerous investigations respecting market transactions. For a two year period following FERC's acceptance of the Settlement Agreement, West Coast Power will retain an independent engineering company to perform semi-annual audits of the technical and economic basis, justification and rationale for outages that occurred at its California generating plants during the previous six month period, and to have the results of such audits provided to the FERC Office of Market Oversight and Investigation without prior review by West Coast Power.

West Coast Power and NRG Energy are fully reserved for both the past due receivables and the cash settlement as of June 30, 2004. West Coast Power is also subject to other legal matters and litigation. Other litigation and investigations respecting West Coast Power are set forth in detail in Note 17.

Note 10 — Intangible Assets

Reorganized NRG

Upon the adoption of Fresh Start, we established certain intangible assets for power sales agreements and plant emission allowances. These intangible assets will be amortized over their respective lives based on a straight-line or units of production basis to resemble our realization of such assets.

Power sale agreements will be amortized as a reduction to revenue over the terms and conditions of each contract. The weighted average remaining amortization period is two years for the power sale agreements. Emission allowances will be amortized as additional fuel expense based upon the actual level of emissions from the respective plants through 2023. Aggregate amortization recognized for the three and six months ended June 30, 2004 was approximately $12.4 million and $29.2 million, respectively. The annual aggregate amortization for each of the five succeeding years is expected to approximate $20.9 million in year one, $33.0 million in year two, $26.8 million in each of years three and four, and $20.3 million in year five for both the power sale agreements and emission allowances. The expected annual amortization of these amounts is expected to change as we relieve our tax valuation allowance, as explained below.

For the six months ended June 30, 2004, we reduced our tax valuation allowance by $44.0 million (see Note 16) and recorded a corresponding reduction of $37.1 million related to our intangible assets at our wholly owned subsidiaries. The remaining $6.9 million was recorded as a reduction to our intangible asset related to our equity investments (see Note 9). In accordance with SOP 90-7, any future benefits from reducing the valuation allowance should first reduce intangible assets until exhausted, and thereafter be recorded as a direct addition to paid-in-capital. Intangible assets were also reduced by $10.0 million in connection with the recognition of certain tax credits to be claimed on our New York state franchise tax return.

Intangible assets consisted of the following:

(In thousands)	Power Sale Agreements	Emission Allowances	Total
Original balance as of December 6, 2003	$ 64,055	$373,518	$437,573
Amortization	(5,212)	—	(5,212)
Balance as of December 31, 2003	58,843	373,518	432,361
Tax valuation adjustment	(3,720)	(33,377)	(37,097)
Other adjustments	—	(10,004)	(10,004)
Amortization	(19,274)	(9,918)	(29,192)
Balance as of June 30, 2004	$ 35,849	$320,219	$356,068

Predecessor Company

We had intangible assets of $27 million at June 30, 2003, which were not amortized and consisted of goodwill. We also had intangible assets of $45.0 million at June 30, 2003, which were amortized and consisted of service contracts. Aggregate amortization expense recognized for the three and six months ended June 30, 2003 was approximately $1.0 million and $2.1 million, respectively.

Note 11 — Derivative Instruments and Hedging Activities

SFAS No. 133, "*Accounting for Derivative Instruments and Hedging Activities*", as amended, requires us to record all derivatives on the balance sheet as assets or liabilities at fair value. For derivatives designated as cash flow hedges, the effective portion of the changes in fair value of the derivatives are recorded in Accumulated Other Comprehensive Income, or OCI, and subsequently recognized in earnings when the hedged items impact income. For derivatives designated as hedges of the fair value of assets or liabilities, the changes in fair value of both the derivatives and the hedged items are recorded in current earnings. Changes in the fair value of non-hedge derivatives will be immediately recognized in earnings. Additionally, many of our commodity sales and purchase agreements that otherwise would be required to follow derivative accounting qualify as normal purchases and sales under SFAS No. 133, and are therefore exempt from fair value accounting treatment.

SFAS No. 133 applies to our long-term power sales contracts, long-term gas purchase contracts and other energy related commodities' financial instruments used to mitigate variability in earnings due to fluctuations in spot market prices, hedge fuel requirements at generation facilities and protect investments in fuel inventories. SFAS No. 133 also applies to various interest rate financial instruments used to mitigate the risks associated with movements in interest rates, foreign exchange contracts used to reduce the effect of fluctuating foreign currencies on foreign denominated investments and other transactions.

Accumulated Other Comprehensive Income (OCI)

The following table summarizes the effects of SFAS No. 133 on our OCI balance attributable to hedged derivatives for the three months ended June 30, 2004:

(Gains/(Losses) In thousands)	Energy Commodities	Interest Rate	Foreign Currency	Total
Accumulated OCI balance at March 31, 2004	$ (15,271)	$ (7,817)	$ —	$(23,088)
Unwound from OCI during period:				
— Due to unwinding of previously deferred amounts	9,408	3,272	—	12,680
Mark-to-market of hedge contracts	(3,079)	27,138	—	24,059
Accumulated OCI balance at June 30, 2004	$ (8,942)	$22,593	$ —	$ 13,651
Gains expected to unwind from OCI during next 12 months	$ 13,138	$24,750	$ —	$ 37,888

The following table summarizes the effects of SFAS No. 133 on our OCI balance attributable to hedged derivatives for the six months ended June 30, 2004:

(Gains/(Losses) In thousands)	Energy Commodities	Interest Rate	Foreign Currency	Total
Accumulated OCI balance at December 31, 2003	$ (1,953)	$ 1,600	$ (170)	$ (523)
Unwound from OCI during period:				
— Due to unwinding of previously deferred amounts	8,784	7,058	170	16,012
Mark-to-market of hedge contracts	(15,773)	13,935	—	(1,838)
Accumulated OCI balance at June 30, 2004	$ (8,942)	$22,593	$ —	$13,651
Gains expected to unwind from OCI during next 12 months	$ 13,138	$24,750	$ —	$37,888

Losses of $12.7 million and $16.0 million were reclassified from OCI to current period earnings during the three and six months ended June 30, 2004 due to the unwinding of previously deferred amounts. These amounts are recorded on the same line in the statement of operations in which the hedged items are recorded. Also during the three and six months ended June 30, 2004 we recorded gains in OCI of approximately $24.1 million and losses of $1.8 million, respectively, related to changes in the fair values of derivatives accounted for as hedges. The net balance in OCI relating to SFAS No. 133 as of June 30, 2004 was an unrecognized gain of approximately $13.7 million. We expect $37.9 million of deferred net gains on derivative instruments accumulated in OCI to be recognized in earnings during the next twelve months.

Statement of Operations

The following tables summarize the pre-tax effects of non-hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the three months ended June 30, 2004:

	Reorganized NRG			
(Gains/(Losses) In thousands)	Energy Commodities	Interest Rate	Foreign Currency	Total
Revenue from majority-owned subsidiaries	$ 6,572	$ —	$ —	$ 6,572
Equity in earnings of unconsolidated subsidiaries	10,293	—	—	10,293
Cost of operations	(1,129)	—	—	(1,129)
Total statement of operations impact before tax	$ 15,736	$ —	$ —	$15,736

The following tables summarize the pre-tax effects of non-hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the six months ended June 30, 2004:

(Gains/(Losses) In thousands)	Reorganized NRG Energy Commodities	Interest Rate	Foreign Currency	Total
Revenue from majority-owned subsidiaries	**$ 7,468**	**$ —**	**$ —**	**$ 7,468**
Equity in earnings of unconsolidated subsidiaries	**9,135**	**—**	**—**	**9,135**
Cost of operations	**(1,632)**	**—**	**—**	**(1,632)**
Interest expense	**—**	**411**	**—**	**411**
Total statement of operations impact before tax	**$ 14,971**	**$ 411**	**$ —**	**$15,382**

The following tables summarize the pre-tax effects of non-hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the three months ended June 30, 2003:

(Gains/(Losses) In thousands)	Predecessor NRG Energy Commodities	Interest Rate	Foreign Currency	Total
Revenue from majority-owned subsidiaries	$ 35,722	$ —	$ —	$ 35,722
Equity in earnings of unconsolidated subsidiaries	2,158	—	—	2,158
Cost of operations	2,623	—	—	2,623
Interest expense	—	(33,369)	—	(33,369)
Total statement of operations impact before tax	$ 40,503	$ (33,369)	$ —	$ 7,134

The following tables summarize the pre-tax effects of non-hedge derivatives and derivatives that no longer qualify as hedges on our statement of operations for the six months ended June 30, 2003:

(Gains/(Losses) In thousands)	Predecessor NRG Energy Commodities	Interest Rate	Foreign Currency	Total
Revenue from majority-owned subsidiaries	$ 33,293	$ —	$ —	$ 33,293
Equity in earnings of unconsolidated subsidiaries	3,665	(222)	—	3,443
Cost of operations	(9,155)	—	—	(9,155)
Other income	—	—	92	92
Interest expense	—	(45,608)	—	(45,608)
Total statement of operations impact before tax	$ 27,803	$ (45,830)	$ 92	$(17,935)

Energy Related Commodities

We are exposed to commodity price variability in electricity, emission allowances and natural gas, oil and coal used to meet fuel requirements. In order to manage these commodity price risks, we entered into financial instruments, which may take the form of fixed price, floating price or indexed sales or purchases, and options, such as puts, calls, basis transactions and swaps. Certain of these transactions have been designated as cash flow hedges. We have accounted for these derivatives by recording the effective portion of the cumulative gain or loss on the derivative instrument as a component of OCI in stockholders' equity. We recognize deferred gains and losses into earnings in the same period or periods during which the hedged transaction affects earnings. Such reclassifications are included on the same line of the statement of operations in which the hedged item is recorded.

No ineffectiveness was recognized on commodity cash flow hedges during the three and six months ended June 30, 2004 and 2003.

During the three and six months ended June 30, 2004, our pre-tax earnings were increased by an unrealized gain of $15.7 million and $15.0 million, respectively, associated with changes in the fair value of energy related derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

During the three and six months ended June 30, 2003, our pre-tax earnings were increased by an unrealized gain of $40.5 million and $27.8 million, respectively, associated with changes in the fair value of energy related derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

During the three and six months ended June 30, 2004, we reclassified losses of $9.4 million and $8.8 million, respectively, from OCI to current period earnings and expect to reclassify approximately $13.1 million of deferred gains to earnings during the next twelve months on energy related derivative instruments accounted for as hedges.

At June 30, 2004, we had hedge and non-hedge energy related commodities financial instruments extending through December 2005.

Interest Rates

To manage interest rate risk, we have entered into interest-rate swap agreements that fix the interest payments or the fair value of selected debt issuances. The qualifying swap agreements are accounted for as cash flow or fair value hedges. The effective portion of the cash flow hedges' cumulative gains/losses are reported as a component of OCI in stockholders' equity. These gains/losses are recognized in earnings as the hedged interest expense is incurred. The reclassification from OCI is included on the same line of the statement of operations in which the hedged item appears. The entire amount of the change in fair value hedges is recorded in the statement of operations along with the change in value of the hedged item.

No ineffectiveness was recognized on interest rate swaps that qualify as hedges during the three and six months ended June 30, 2004.

During the three and six months ended June 30, 2004, pre-tax earnings were increased by an unrealized gain of $0 million and $0.4 million, respectively, related to the change in fair value of one interest rate related derivative instrument. This instrument is a $400 million floating to fixed interest rate swap, which was not designated as an effective hedge of the expected cash flows at June 30, 2004. As of April 1, 2004, this instrument was designated as a cash flow hedge under SFAS No. 133. As a result, subsequent changes to its fair value will be deferred and recorded as part of other comprehensive income.

During the three and six months ended June 30, 2003, pre-tax earnings were decreased by an unrealized loss of $33.4 million and $45.8 million, respectively, associated with changes in the fair value of interest rate derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

During the three and six months ended June 30, 2004, we reclassified losses of $3.3 million and $7.1 million, respectively, from OCI to current period earnings and expect to reclassify approximately $24.8 million of deferred gains to earnings during the next twelve months associated with interest rate swaps accounted for as hedges.

At June 30, 2004, we had interest rate derivatives instruments extending through June 2019.

Foreign Currency Exchange Rates

To preserve the U.S. dollar value of projected foreign currency cash flows, we may hedge, or protect those cash flows if appropriate foreign hedging instruments are available.

No ineffectiveness was recognized on foreign currency cash flow hedges during the three and six months ended June 30, 2004 and 2003.

During the three and six months ended June 30, 2004, our pre-tax earnings were not affected by any gain or loss associated with foreign currency hedging instruments not accounted for as hedges in accordance with SFAS No. 133.

During the three and six months ended June 30, 2003, our pre-tax earnings were increased by unrealized gains of $0 and $92,000 associated with foreign currency hedging instruments not accounted for as hedges in accordance with SFAS No. 133.

During the three months ended June 30, 2004, no amounts were reclassified from OCI to current period earnings. During the six months ended June 30, 2004, we reclassified losses of $0.2 million from OCI to current period earnings and we do not expect to reclassify any deferred gains/losses to earnings during the next twelve months on foreign currency swaps accounted for as hedges.

Note 12 — Short Term Debt and Long Term Debt

As part of and concurrent with our emergence from bankruptcy on December 5, 2003, certain senior unsecured credit facilities were terminated and defaults related to those facilities were eliminated.

As of June 30, 2004, we have made timely scheduled payments on interest and/or principal on all of our recourse debt and were not in default under any of our related recourse debt instruments. Additionally, we are not in default of any obligations to post collateral. However, a significant amount of our subsidiaries' debt and other obligations contain terms that require they be supported with letters of credit or cash collateral.

As discussed below, our NRG McClain project debt was in default as of June 30, 2004, however, on July 9, 2004, NRG McClain executed a sale of its interest in the McClain Generating Station and subsequently used the proceeds to repay outstanding project debt under the secured term loan and working capital facility.

NRG Energy Corporate Debt

On December 5, 2003, we entered into a $10.0 million promissory note with Xcel Energy. The note accrues interest at a rate of 3% per year, payable quarterly in arrears. All principal is due at maturity on June 5, 2006.

On December 23, 2003, we and PMI entered into a Senior Secured Credit Facility for up to $1.45 billion, which is comprised of both long-term and short-term debt. Long-term debt included a $950.0 million, six and a half-year senior secured term loan and a $250.0 million letter of credit facility, funded with proceeds from the senior secured lenders. Principal and interest on the term loan is payable quarterly on March 31, June 30, September 30 and December 31 of each year. As of June 30, 2004, the interest rate on the term loan was 5.56%, based on the London Interbank Offering Rate, or LIBOR, plus a credit spread. The LIBOR portion is subject to a floor of 1.5%.

As of June 30, 2004, the $250.0 million letter of credit facility was fully funded and reflected as a funded letter of credit on the June 30, 2004 balance sheet. As of June 30, 2004, $132.3 million in letters of credit had been issued under this facility, leaving $117.7 million available for future issuances. Expenses associated with the funded letter of credit include commitment fees on the undrawn portion of the letter of credit facility, participation fees for the credit-linked deposit and other fees.

The short-term debt component of the Senior Secured Credit Facility is a four-year, $250.0 million revolving line of credit, or the Corporate Revolver. Portions of the Corporate Revolver are available as a swing-line facility and as a revolving letter of credit sub-facility. As of June 30, 2004, the Corporate Revolver was undrawn. We pay a commitment fee of 1% on any undrawn portion of the Corporate Revolver, and interest on any borrowed amounts.

On December 23, 2003, we issued $1.25 billion in 8% Second Priority Notes, due and payable on December 15, 2013. The 8% Second Priority Notes are general obligations of ours. They are secured on a second-priority basis by security interests in all of our assets, subject to the liens securing our obligations under the Senior Secured Credit Facility and any other priority lien obligations, which will be secured on a first-priority basis by the same assets that secure the 8% Second Priority Notes. The 8% Second Priority Notes will be senior in right of payment to any future subordinated indebtedness. Interest on the 8% Second Priority Notes accrues at the rate of 8.0% per annum and is payable semi-annually in arrears on June 15 and December 15, commencing June 15, 2004.

On January 28, 2004, we issued, at a premium, an additional $475.0 million in 8% Second Priority Notes under the same terms and indenture as the December 23, 2003 offering. Proceeds of the additional offering were used to prepay $503.5 million of the term loan under the Senior Secured Credit Facility, reducing the outstanding principal of the term loan from $950.0 million to $446.5 million. In January 2004 we wrote-off $15.0 million of deferred financing costs (included in interest expense) related to the term loans which were repaid. In addition, we deferred an additional $7.2 million of financing costs related to the newly issued notes.

On February 25, 2004, we amended our Senior Secured Credit Facility to remove an interest rate hedge mandate. The amendment provides us with additional flexibility in how we choose to mitigate interest-rate risk.

On March 24, 2004, we executed an interest rate swap agreement to mitigate our floating-rate interest exposure associated with our Senior Secured Credit Facility. The swap agreement became effective March 26, 2004 and terminates March 31, 2006. Under the agreement, we agree to pay quarterly a fixed interest rate on a notional amount of $400.0 million, commencing on March 31, 2004, and receive quarterly a floating-rate interest rate payment on the same notional amount. The floating rate is based upon three-month LIBOR, subject to a floor.

On March 24, 2004, we executed a second interest rate swap agreement to mitigate our fixed-rate interest exposure associated with our 8% Second Priority Notes. This swap agreement became effective March 26, 2004 and terminates December 15, 2013. The swap agreement has provisions for early termination that are linked to any prepayment of the 8% Second Priority Notes. Under the agreement, we agree to pay semi-annually in arrears, commencing June 15, 2004, a floating interest rate on a notional amount of

$400.0 million, and receive semi-annually in arrears a fixed interest rate payment on the same notional amount. The floating interest rate is based upon six-month LIBOR plus a spread. Depending on market interest rates, we or the swap counterparty may be required to post collateral on a daily basis in support of both of these swaps, to the benefit of the other party. On June 30, 2004, we had posted $17.8 million in collateral. As of August 2, 2004, we have posted $11.1 million in collateral in support of the swaps.

On April 29, 2004, we amended our Senior Secured Credit Facility to give us the flexibility to enter into joint ventures from time to time with affiliates of our 21.5% stockholder, MatlinPatterson Global Opportunities Partners, L.P. Three representatives of MatlinPatterson are members of our board of directors. We paid the lenders and agent under our senior secured credit agreement a fee equal to 12.5 basis points, or approximately $1.2 million, for the amendment.

Certain Events Related to Project Level Debt

NRG McClain LLC Project Debt

On November 28, 2001, NRG McClain entered into a credit agreement with Westdeutsche Landesbank Girozentrale, or West LB AG's, New York Branch and various other lending institutions for a $181.0 million secured term loan and an $8.0 million working capital facility. As of June 30, 2004 and December 31, 2003, the outstanding amount under this facility was $156.5 million. As of June 30, 2004, the interest rate on such outstanding borrowings was 4.625%.

On September 17, 2002, NRG McClain received notice from the agent bank that the project loan was in default as a result of our downgrades and of defaults on material obligations under the Energy Management Services Agreement. On August 19, 2003, NRG McClain signed an asset purchase agreement with Oklahoma Gas & Electric Company, or OG&E, for substantially all of the assets of McClain Generating Station and contemporaneously filed for bankruptcy pursuant to the asset purchase agreement. On July 9, 2004, NRG McClain completed the sale of its 77% interest in the McClain Generating Station to OG&E. The Oklahoma Municipal Power Authority will continue to own the remaining 23% interest in the facility. A portion of the proceeds of $160.2 million, from the sale, was used to repay outstanding project debt under the secured term loan and working capital facility. As of June 30, 2004, NRG McClain was recorded as a discontinued operation on the accompanying financial statements. NRG McClain continues to be in bankruptcy and in default, with the expectation that it will file a liquidating plan of reorganization, settle all its outstanding obligations and be subsequently dissolved.

Note 13 — Corporate Relocation Charges

On March 16, 2004, we announced plans to implement a new regional business strategy and structure. The new structure calls for a reorganized leadership team and a corporate headquarters relocation to West Windsor, New Jersey. The corporate relocation is intended to increase our effectiveness in serving our plants and employees as well as our external stakeholders such as regulators, customers and investors. The corporate headquarters staff will be streamlined as part of the relocation, as functions are shifted to the regions. The transition of our corporate headquarters has commenced and is expected to run through March 2005.

We expect to incur $26.5 million of expenses in connection with corporate relocation charges. Relocating, recruiting and other employee-related transition costs are expected to be approximately $12.8 million. These costs and cash payments are expected to be incurred through first quarter of 2005. Severance and termination benefits of $8.6 million are expected to be incurred through first quarter of 2005 with cash payments being made through fourth quarter of 2005. Building lease termination costs are expected to be $5.1 million. These costs are expected to be incurred through first quarter of 2005 with cash payments being made through fourth quarter of 2006. A summary of the significant components of the restructuring liability is as follows:

(In thousands)	Balance at December 31, 2003	Restructuring Related Charges	Cash Payments	Balance at June 30, 2004
Employee related transition costs	$ —	$ 1,670	$(1,670)	$ —
Severance and termination benefits	—	4,024	(502)	3,522
Lease termination costs	—	1,067	(18)	1,049
Total	$ —	$ 6,761	$(2,190)	$ 4,571

As of June 30, 2004, the restructuring liability was $4.6 million and is included in other current liabilities on the consolidated balance sheet. Charges related to the employee related transition costs, severance and termination benefits and lease termination costs are recorded at our corporate level within our Other segment, in the corporate relocation charges line on the consolidated statement of operations.

Note 14 — Earnings Per Share

Basic earnings per common share were computed by dividing net income by the weighted average number of common stock shares outstanding. Shares issued during the year are weighted for the portion of the year that they were outstanding. Shares of common stock granted to our officers and employees are included in the computation only after the shares become fully vested. Diluted earnings per share are computed in a manner consistent with that of basic earnings per share while giving effect to all potentially dilutive common shares that were outstanding during the period. The dilutive effect of the potential exercise of outstanding options to purchase shares of common stock is calculated using the treasury stock method. The reconciliation of basic earnings per common share to diluted earnings per common share is shown in the following table:

	Reorganized NRG	
	Three Months Ended June 30, 2004	Six Months Ended June 30, 2004
	(In thousands, except per share data)	
Basic earnings per share		
Numerator:		
Income from continuing operations	$ 68,869	$ 99,969
Income on discontinued operations, net of income taxes	14,155	13,290
Net income	$ 83,024	$ 113,259
Denominator:		
Weighted average number of common shares outstanding	100,080	100,051
Income from continuing operations per weighted average common share	$ 0.69	$ 1.00
Income from discontinued operations, net of income taxes per weighted average common share	0.14	0.13
Net income per weighted average common share — basic	$ 0.83	$ 1.13
Diluted earnings per share		
Numerator		
Income from continuing operations	$ 68,869	$ 99,969
Income on discontinued operations, net of income taxes	14,155	13,290
Net income	$ 83,024	$ 113,259
Denominator:		
Weighted average number of common shares outstanding	100,080	100,051
Incremental shares attributable to the assumed exercise of outstanding stock options (treasury stock method)	—	—
Incremental shares attributable to the issuance of nonvested restricted stock units (treasury stock method)	398	163
Total dilutive shares	100,478	100,214
Income from continuing operations per weighted average common share – diluted	$ 0.69	$ 1.00
Income from discontinued operations, net of income taxes per weighted average common share - diluted	0.14	0.13
Net income per weighted average common share - diluted	$ 0.83	$ 1.13

For the three and six months ended June 30, 2004, options totaling 770,751 and 786,751, respectively, have been excluded from the dilutive calculation as their exercise price exceeded the average market price of the common shares and therefore the effect would be anti-dilutive.

Stock options: During the period January 1, 2004 through June 30, 2004, we issued stock option grants for 307,000 shares of common stock under the Long-Term Incentive Plan at fair values between $19.90 and $22.24. These options have a three-year graded vesting schedule. Compensation expense recorded under the stock option grants for the three and six months ended June 30, 2004 was approximately $1.8 million and $3.1 million, respectively.

Restricted stock units: During the period January 1, 2004 through June 30, 2004, we issued 655,100 Restricted Stock Units, or RSUs, under the Long-Term Incentive Plan at fair values between $19.90 and $23.00 per unit. These units cliff vest in three years. Compensation expense recorded under the RSUs for the three and six months ended June 30, 2004 was approximately $1.4 million and $2.1 million, respectively. For purposes of computing earnings per share, nonvested RSUs are not considered outstanding for purposes of computing basic earnings per share; however, these units are included in the denominator for purposes of computing diluted earnings per share under the treasury stock method.

Deferred stock units: During the period January 1, 2004 through June 30, 2004, we issued 100,961 Deferred Stock Units, or DSUs, under the Long-Term Incentive Plan at fair values between $19.95 and $21.05 per unit. A DSU will entitle the grantee to receive either one share of common stock or RSU at the end of the deferral period of not less than one year. Compensation expense recorded under the DSUs for the three and six months ended June 30, 2004 was approximately $0.8 million and $2.1 million, respectively. For the purposes of computing basic earnings per share, the DSUs are considered outstanding upon grant on a weighted average basis.

Note 15 — Segment Reporting

In connection with our emergence from bankruptcy and the new management team, we determined that it was necessary to adjust our segment reporting disclosures to more closely align our disclosures with the realignment of our management team. Accordingly, we have expanded our domestic geographical disclosures and collapsed our international geographical disclosures related to our wholesale power generation segment. In addition, our other segments have been further refined. As a result of these changes, we have recast our prior period disclosures in a consistent manner.

We conduct our business within five operating segments: Wholesale Power Generation, Alternative Energy, Thermal, Energy Marketing, and Operating Services. These segments are distinct components with separate operating results and management structures in place. The Thermal, Energy Marketing and Operating Services operating segments are aggregated into one reportable segment under the heading "Other Non-Generation" as they do not meet the threshold for separate disclosure. The Wholesale Power Generation operating segment is further disclosed within six significant domestic and foreign geographic areas: Northeast, South Central, West Coast, Other North America, Australia, and Other International. The "Other" category includes operations that do not meet the definition of an operating segment and corporate charges (primarily interest expense) that have not been allocated to the operating segments. Segment information for the three and six months ended June 30, 2004 and 2003 is as follows:

	Reorganized NRG Three Months Ended June 30, 2004 Wholesale Power Generation (In thousands)				
	Northeast	South Central	West Coast	Other North America	Australia
Operating Revenues	$ 275,029	$ 102,497	$ 929	$ 29,587	$ 36,793
Corporate relocation charges	—	1	—	—	—
Reorganization items	28	(70)	—	1	—
Restructuring and impairment charges	—	1,676	—	—	—
Write downs and gains/(losses) on sales of equity method investments	—	—	—	500	705
Income/(Loss) from Continuing Operations Before Income Taxes	56,230	16,494	23,237	(868)	(8,278)
Income tax expense (benefit)	—	—	185	409	(3,370)
Income/(Loss) From Continuing Operations	56,230	16,494	23,052	(1,277)	(4,908)
Income/(Loss) on Discontinued Operations, net of Income Taxes	—	—	—	1,915	—
Net Income/(Loss)	56,230	16,494	23,052	638	(4,908)
Balance Sheet Total Assets	$2,000,169	$1,138,749	$319,937	$1,965,970	$869,228

	Reorganized NRG Three Months Ended June 30, 2004 Wholesale Power Generation (In thousands)				
	Other International	**Alternative Energy**	**Other Non-Generation**	**Other**	**Total**
Operating Revenues	**$ 39,374**	**$ 18,833**	**$ 71,778**	**$ (1,146)**	**$ 573,674**
Corporate relocation charges	**—**	**—**	**—**	**5,644**	**5,645**
Reorganization items	**(1)**	**—**	**(528)**	**(2,091)**	**(2,661)**
Restructuring and impairment charges	**—**	**—**	**—**	**—**	**1,676**
Write downs and gains/(losses) on sales of equity method investments	**—**	**—**	**—**	**—**	**1,205**
Income/(Loss) from Continuing Operations Before Income Taxes	**26,263**	**3,658**	**44,378**	**(55,923)**	**105,191**
Income tax expense (benefit)	**5,306**	**4**	**435**	**33,353**	**36,322**
Income/(Loss) From Continuing Operations	**20,957**	**3,654**	**43,943**	**(89,276)**	**68,869**
Income/(Loss) on Discontinued Operations, net of Income Taxes	**12,237**	**—**	**—**	**3**	**14,155**
Net Income/(Loss)	**33,194**	**3,654**	**43,943**	**(89,273)**	**83,024**
Balance Sheet Total Assets	**$ 807,787**	**$ 64,648**	**$552,773**	**$834,014**	**$8,553,275**

	Predecessor Company Three Months Ended June 30, 2003 Wholesale Power Generation (In thousands)				
	Northeast	**South Central**	**West Coast**	**Other North America**	**Australia**
Operating Revenues	$ 201,299	$ 92,820	$ 4,953	$ 19,667	$ 34,408
Reorganization items	566	886	—	—	—
Restructuring and impairment charges	223,724	1,249	—	41,598	6
Write downs and gains/(losses) on sales of equity method investments	—	—	—	(186)	(139,972)
Income/(Loss) from Continuing Operations Before Income Taxes	(299,805)	(1,090)	38,729	(63,680)	(146,612)
Income tax expense (benefit)	—	—	264	732	(1,780)
Income/(Loss) From Continuing Operations	(299,805)	(1,090)	38,465	(64,412)	(144,832)
Income/(Loss) on Discontinued Operations, net of Income Taxes	—	—	—	(100,480)	—
Net Income/(Loss)	(299,805)	(1,090)	38,465	(164,892)	(144,832)
Balance Sheet Total Assets	$2,461,126	$1,374,882	$466,675	$2,610,196	$ 545,208

	Predecessor Company Three Months Ended June 30, 2003 Wholesale Power Generation (In thousands)				
	Other International	Alternative Energy	Non-Generation	Other	Total
Operating Revenues	$ 39,532	$ 18,418	$ 31,992	$ (1,490)	$ 441,599
Reorganization items	—	—	—	4,882	6,334
Restructuring and impairment charges	221	—	10	2,823	269,631
Write downs and gains/(losses) on sales of equity method investments	5,526	2,196	—	—	(132,436)
Income/(Loss) from Continuing Operations Before Income Taxes	15,313	4,203	5,294	(57,097)	(504,745)
Income tax expense (benefit)	2,822	(52)	148	2,171	4,305
Income/(Loss) From Continuing Operations	12,491	4,255	5,146	(59,268)	(509,050)
Income/(Loss) on Discontinued Operations, net of Income Taxes	4,593	3,043	—	(6,507)	(99,351)
Net Income/(Loss)	17,084	7,298	5,146	(65,775)	(608,401)
Balance Sheet Total Assets	$1,459,490	$ 89,555	$345,752	$657,985	$10,010,869

	Reorganized NRG Six Months Ended June 30, 2004 Wholesale Power Generation (In thousands)				
	Northeast	South Central	West Coast	Other North America	Australia
Operating Revenues	**$605,569**	**$197,762**	**$ (2,393)**	**$ 50,422**	**$99,022**
Corporate relocation charges	—	**1**	—	—	—
Reorganization items	**349**	**653**	—	**151**	—
Restructuring and impairment charges	—	**1,676**	—	—	—
Write downs and gains/(losses) on sales of equity method investments	—	—	—	**735**	**(1,268)**
Income/(Loss) from Continuing Operations Before Income Taxes	**143,658**	**27,871**	**24,600**	**(10,770)**	**8,122**
Income tax expense (benefit)	—	—	**337**	**744**	**(106)**
Income/(Loss) From Continuing Operations	**143,658**	**27,871**	**24,263**	**(11,514)**	**8,228**
Income/(Loss) on Discontinued Operations, net of Income Taxes	—	—	—	**933**	—
Net Income/(Loss)	**143,658**	**27,871**	**24,263**	**(10,581)**	**8,228**

	Reorganized NRG Six Months Ended June 30, 2004 Wholesale Power Generation (In thousands)				
	Other International	Alternative Energy	Other Non-Generation	Other	Total
Operating Revenues	**$ 79,440**	**$ 32,485**	**$113,447**	**$ (1,762)**	**$1,173,992**
Corporate relocation charges	—	—	—	**6,760**	**6,761**
Reorganization items	—	—	**160**	**2,276**	**3,589**
Restructuring and impairment charges	—	—	—	—	**1,676**
Write downs and gains/(losses) on sales of equity method investments	—	—	—	—	**(533)**
Income/(Loss) from Continuing Operations Before Income Taxes	**40,617**	**4,203**	**53,151**	**(140,881)**	**150,571**
Income tax expense (benefit)	**9,450**	**8**	**600**	**39,569**	**50,602**
Income/(Loss) From Continuing Operations	**31,167**	**4,195**	**52,551**	**(180,450)**	**99,969**
Income/(Loss) on Discontinued Operations, net of Income Taxes	**12,357**	—	—	—	**13,290**
Net Income/(Loss)	**43,524**	**4,195**	**52,551**	**(180,450)**	**113,259**

	Predecessor Company Six Months Ended June 30, 2003 Wholesale Power Generation (In thousands)				
	Northeast	South Central	West Coast	Other North America	Australia
Operating Revenues	$ 440,864	$196,927	$ 6,373	$ 36,740	$ 82,424
Reorganization items	566	886	—	—	—
Restructuring and impairment charges	224,484	1,918	—	41,970	6
Write downs and gains/(losses) on sales of equity method investments	—	—	—	(186)	(139,972)
Income/(Loss) from Continuing Operations Before Income Taxes	(320,553)	8,857	62,728	(99,333)	(136,612)
Income tax expense (benefit)	—	—	36,444	1,623	(1,263)
Income/(Loss) From Continuing Operations	(320,553)	8,857	26,284	(100,956)	(135,349)
Income/(Loss) on Discontinued Operations, net of Income Taxes	—	—	—	(108,773)	—
Net Income/(Loss)	(320,553)	8,857	26,284	(209,729)	(135,349)

	Predecessor Company Six Months Ended June 30, 2003 Wholesale Power Generation (In thousands)				
	Other International	Alternative Energy	Non-Generation	Other	Total
Operating Revenues	$ 73,105	$ 31,792	$ 71,870	$ (3,486)	$ 936,609
Reorganization items	—	—	—	4,882	6,334
Restructuring and impairment charges	(3,352)	—	26	26,715	291,767
Write downs and gains/(losses) on sales of equity method investments	3,388	(12,257)	—	—	(149,027)
Income/(Loss) from Continuing Operations Before Income Taxes	31,497	(10,219)	12,762	(194,380)	(645,253)
Income tax expense (benefit)	5,987	(52)	820	(6,217)	37,342
Income/(Loss) From Continuing Operations	25,510	(10,167)	11,942	(188,163)	(682,595)
Income/(Loss) on Discontinued Operations, net of Income Taxes	208,951	(22,955)	—	(15,661)	61,562
Net Income/(Loss)	234,461	(33,122)	11,942	(203,824)	(621,033)

Note 16 — Income Taxes

The income tax provisions for the six months ended June 30, 2004 and June 30, 2003 have been recorded on the basis that we and our U.S. subsidiaries will file a consolidated federal income tax return for 2004 and separate federal income tax returns for the period January 1 to December 5, 2003.

Income tax expense for the three and six months ended June 30, 2004 was $36.3 million and $50.6 million, respectively, compared to a tax expense of $4.3 million and $37.3 million, respectively, for the same periods in 2003. The tax expense for the six months ended June 30, 2004 includes U.S. tax expense of $41.0 million and foreign tax expense of $9.6 million. The tax expense for the six months ended June 30, 2003 includes U.S. tax expense of $32.3 million and foreign tax expense of $5.0 million.

For U.S. income tax purposes, the tax expense in 2004 is due to a reduction in deferred tax assets without a tax benefit for the corresponding reduction in valuation allowance. Due to the uncertainty of realization of deferred tax assets related to net operating losses and other temporary differences, our U.S. net deferred tax assets at December 5, 2003 were offset by a full valuation allowance of $1.3 billion in accordance with SFAS No. 109, "*Accounting for Income Taxes*". SOP 90-7 requires that reductions in the valuation allowance as of December 5, 2003 (date of emergence) first reduce intangible assets until exhausted and thereafter be reported as a direct addition to paid-in-capital. Consequently, our effective tax rate in post bankruptcy emergence years will not benefit from reductions in the valuation allowance. For 2003, the U.S. tax expense is due to an additional valuation allowance recorded against the deferred tax assets of NRG West Coast LLC as a result of its conversion from a corporation to a disregarded entity for federal income tax purposes. Subsequent to the conversion, NRG West Coast will no longer be taxed as an entity separate from NRG Energy.

The foreign tax expense for the first six months of 2004 and 2003 is due to the earnings in foreign jurisdictions.

The effective income tax rate for the six months ended June 30, 2004 differs from the statutory federal income tax rate of 35% primarily due to lower tax rates in foreign jurisdictions and to the SOP 90-7 requirement that reductions to the valuation allowance as of December 5, 2003 (date of emergence) first reduce intangible assets until exhausted and thereafter be reported as a direct addition to paid-in-capital. The effective income tax rate for the six months ended June 30, 2003 differs from the statutory federal income tax rate of 35% primarily due to limitations on tax benefits.

As of June 30, 2004, the valuation allowance against U.S. and foreign net operating loss carryforwards was $368.8 million and the valuation allowance against other deferred tax assets was $699.3 million. As of December 31, 2003, a valuation allowance of $559.7 million was provided to account for potential limitations on utilization of U.S. and foreign net operating loss carryforwards, and a valuation allowance of $704.7 million was provided for other deferred tax assets. If unused, the U.S. net operating loss carryforward of $1.0 billion generated in 2002 and 2003 will expire by 2023. The foreign net operating loss carryforwards have no expiration date.

Note 17 — Commitments and Contingencies

Legal Issues

California Wholesale Electricity Litigation and Related Investigations

People of the State of California ex. rel. Bill Lockyer, Attorney General, v. Dynegy, Inc. et al., United States District Court, Northern District of California, Case No. C-02-O1854 VRW; United States Court of Appeals for the Ninth Circuit, Case No. 02-16619.

This action was filed in state court on March 11, 2002 against us, Dynegy, Dynegy Power Marketing, Inc., Xcel Energy, West Coast Power and four of West Coast Power's operating subsidiaries. Through our subsidiary, NRG West Coast LLC, we are a 50 percent beneficial owner with Dynegy of West Coast Power, which owns, operates, and markets the output of four California plants. Dynegy and its affiliates and subsidiaries are responsible for gas procurement and marketing and trading activities on behalf of West Coast Power. The complaint alleges that the defendants violated California Business & Professions Code § 17200 by selling ancillary services to the California Independent Service Operator, or ISO, and subsequently selling the same capacity into the spot market. The California Attorney General seeks injunctive relief as well as restitution, disgorgement and civil penalties.

On April 17, 2002, the defendants removed the case to the United States District Court in San Francisco. Thereafter, the case was transferred to Judge Vaughn Walker, who is also presiding over various other "ancillary services" cases brought by the California Attorney General against other participants in the California market, as well as other lawsuits brought by the Attorney General against these other market participants. We have tolling agreements in place with the Attorney General with respect to such other proposed claims against us.

The Attorney General filed motions to remand, which the defendants opposed in July of 2002. In an Order filed in early September 2002, Judge Walker denied the remand motions. The Attorney General appealed that decision to the United States Court of Appeal for the Ninth Circuit. The Attorney General also sought a stay of proceedings in the district court pending the appeal, and this request was also denied. In a lengthy opinion filed March 25, 2003, Judge Walker dismissed the Attorney General's action against Dynegy and us with prejudice, finding it was barred by the filed-rate doctrine and preempted by federal law. The Attorney General filed a Notice of Appeal respecting that decision, and the two appeals were consolidated. On July 6, 2004, the Ninth Circuit rejected the Attorney General's appeals and affirmed both decisions of the district court, including the dismissal of all the Attorney General's substantive claims. The Attorney General has now sought rehearing at the Ninth Circuit.

Public Utility District of Snohomish County v. Dynegy Power Marketing, Inc et al., Case No. 02-CV-1993 RHW, United States District Court, Southern District of California (part of MDL 1405).

This action was filed against us, Dynegy, Xcel Energy and several other market participants in the United States District Court in Los Angeles on July 15, 2002. The complaint alleges violations of the California Business & Professions Code § 16720 (the Cartwright Act) and Business & Professions Code § 17200. The basic claims are price fixing and restriction of supply, and other market "gaming" activities.

The action was transferred from Los Angeles to the United States District Court in San Diego and was made a part of the Multi-District Litigation proceeding described below. All defendants filed motions to dismiss and to strike in the fall of 2002. In an Order dated January 6, 2003, Judge Robert Whaley, a federal judge from Spokane sitting in the United States District Court in San Diego, pursuant to the Order of the Multi-District Litigation Panel, granted the motions to dismiss on the grounds of federal preemption and filed-rate doctrine. The plaintiffs have filed a notice of appeal, and the appeal was argued in June, 2004 and is pending.

In re: Wholesale Electricity Antitrust Litigation, MDL 1405, United States District Court, Southern District of California, pending before Judge Robert H. Whaley. The cases included in this proceeding are as follows:

Pamela R Gordon, on Behalf of Herself and All Others Similarly Situated v Reliant Energy, Inc. et al., Case No. 758487, Superior Court of the State of California, County of San Diego (filed on November 27, 2000).

Ruth Hendricks, On Behalf of Herself and All Others Similarly Situated and On Behalf of the General Public v. Dynegy Power Marketing, Inc. et al., Case No. 758565, Superior Court of the State of California, County of San Diego (filed November 29, 2000).

The People of the State of California, by and through San Francisco City Attorney Louise H. Renne v. Dynegy Power Marketing, Inc. et al., Case No. 318189, Superior Court of California, San Francisco County (filed January 18, 2001).

Pier 23 Restaurant, A California Partnership, On Behalf of Itself and All Others Similarly Situated v PG&E Energy Trading et al., Case No. 318343, Superior Court of California, San Francisco County (filed January 24, 2001).

Sweetwater Authority, et al. v. Dynegy, Inc. et al., Case No. 760743, Superior Court of California, County of San Diego (filed January 16, 2001).

Cruz M Bustamante, individually, and Barbara Matthews, individually, and on behalf of the general public and as a representative taxpayer suit, v. Dynegy Inc. et al., inclusive. Case No. BC249705, Superior Court of California, Los Angeles County (filed May 2, 2001).

All of West Coast Power's operating subsidiaries are defendants in at least one of these six coordinated cases, which were all filed in late 2000 and 2001 in various state courts throughout California. We are also a defendant in all of them. The cases allege unfair competition, market manipulation and price fixing. All the cases were removed to the appropriate United States District Courts, and were thereafter made the subject of a petition to the Multi-District Litigation Panel (Case No. MDL 1405). The cases were ultimately assigned to Judge Whaley. Judge Whaley entered an order in 2001 remanding the cases to state court, and thereafter the cases were coordinated pursuant to state court coordination proceedings before a single judge in San Diego Superior Court. Thereafter, Reliant Energy and Duke Energy filed cross-complaints naming various Canadian, Mexican and United States government entities. Some of these defendants once again removed the cases to federal court, where they were again assigned to Judge Whaley. The defendants filed motions to dismiss and to strike under the filed-rate and federal preemption theories, and the plaintiffs challenged the district court's jurisdiction and sought to have the cases remanded to state court. In December 2002, Judge Whaley issued an opinion finding that federal jurisdiction was absent in the district court, and remanding the cases to state court. Duke Energy and Reliant Energy then filed a notice of appeal with the Ninth Circuit, and also sought a stay of the remand pending appeal. The stay request was denied by Judge Whaley. On February 20, 2003, however, the Ninth Circuit stayed the remand order and accepted jurisdiction to hear the appeal of Reliant Energy and Duke Energy on the remand order, and that appeal was argued in June, 2004 and is pending. We anticipate that filed-rate/federal preemption pleading challenges will be renewed once the remand appeal is decided.

"Northern California" cases against various market participants, not including us (part of MDL 1405). These include the *Millar, Pastorino, RDJ Farms, Century Theatres, EI Super Burrito, Leo's, J&M Karsant,* and *Bronco Don* cases.

We were not named in any of these cases, but in virtually all of them, either West Coast Power or one or more of its operating subsidiaries is named as a defendant. These cases all allege violation of Business & Professions Code § 17200, and are similar to the various allegations made by the Attorney General. Dynegy is named as a defendant in all these actions, and Dynegy's outside counsel is representing both Dynegy and the West Coast Power entities in each of these cases. These cases all were removed to federal court, made part of the Multi-District Litigation, and denied remand to state court. In late August 2003, Judge Whaley granted the defendants' motions to dismiss in these various cases, which are now the subject of the plaintiffs' appeal to the Ninth Circuit Court of Appeals.

Bustamante v. McGraw-Hill Companies, Inc., et al., No. BC 235598, California Superior Court, Los Angeles County.

This putative class action lawsuit was filed on November 20, 2002. The complaint generally alleges that the defendants attempted to manipulate gas indexes by reporting false and fraudulent trades. Named defendants in the suit include numerous industry participants unrelated to us, as well as the operating subsidiaries established by West Coast Power for each of its four plants: El Segundo Power, LLC; Long Beach Generation, LLC; Cabrillo Power I LLC; and Cabrillo Power II LLC. The complaint seeks restitution and disgorgement of "ill-gotten gains," civil fines, compensatory and punitive damages, attorneys' fees and declaratory and injunctive relief. The plaintiff filed an amended complaint in 2003.

Jerry Egger, et al. v. Dynegy, Inc., et al., Case No. 809822, Superior Court of California, San Diego County (filed May 1, 2003).

This class action complaint alleges violations of California's Antitrust Law, and Business and Professions Code, as well as unlawful and unfair business practices. The named defendants include "West Coast Power, Cabrillo II, El Segundo Power, Long Beach Generation." We are not named. This case now has been removed to the United States District Court, and the defendants have moved to have this case included as Multi-District Litigation along with the above referenced cases before Judge Walker. Plaintiffs have filed a motion to remand to state court, which was heard on February 19, 2004. At the hearing, the court decided to stay the case pending a decision from the Ninth Circuit Court of Appeals in the Pastorino appeal, referenced above.

Texas-Ohio Energy, Inc., on behalf of Itself and all others similarly situated v. Dynegy, Inc. Holding Co., West Coast Power, LLC, et al., Case No. CIV.S-03-2346 DFL GGH.

This putative class action was filed on November 10, 2003, in the United States District Court for the Eastern District of California. The complaint alleges violations of the federal Sherman and Clayton Acts and California's Cartwright Act and Business and Professions Code. In addition to naming West Coast Power and "Dynegy, Inc. Holding Co.," the complaint names numerous industry participants, as well as "unnamed co-conspirators." The complaint alleges that defendants conspired to manipulate the spot price and basis differential of natural gas with respect to the California market, allegedly enabling defendants to reap exorbitant and illicit profits by gouging natural gas purchasers. Specifically, the complaint alleges that defendants and their co-conspirators employed a variety of false reporting techniques to manipulate the published natural gas price indices. The complaint seeks unspecified amounts of damages, including a trebling of plaintiff's and the putative class's actual damages. We are unable at this time to predict the outcome of this dispute or the ultimate liability, if any, of West Coast Power.

City of Tacoma, Department of Public Utilities, Light Division, v. American Electric Power Service Corporation, et al., United States District Court, Western District of Washington, Case No. C04-5325 RBL

This action was filed in early June, 2004 in Washington federal district court. The complaint names over 50 defendants, including West Coast Power's four operating subsidiaries and various Dynegy entities. The complaint also names both us and West Coast Power as "Non-Defendant Co-Conspirators." Plaintiff alleges that defendants, acting in concert with some or all of the Non-Defendant Co-Conspirators, violated the federal Sherman Act by unlawfully withholding power generation from, and/or unlawfully inflating the apparent demand for power in, markets in California and elsewhere in the western United States, thereby causing plaintiff to pay power prices substantially above what it would have otherwise paid. Plaintiff alleges defendants' unlawful activities began at least as early as May, 2000, and continued through at least the end of 2001. Plaintiff claims damages in excess of $175 million. We cannot predict the likelihood of an unfavorable outcome at this time.

County of Santa Clara v. Sempra Energy, et al., San Diego County Superior Court

This action was filed in early July, 2004 in California state court. Although we understand that the complaint names West Coast Power and various Dynegy entities among the numerous defendants, West Coast Power has not been served. The complaint apparently alleges violation of California's Cartwright Act and Business and Professions Code and unjust enrichment relating to alleged reporting of false natural gas prices and trading information to inflate retail prices for defendants' benefit. We cannot predict the likelihood of an unfavorable outcome at this time.

City and County of San Francisco; The People of the State of California; Dennis J. Herrera v Sempra Energy, et al., San Diego County Superior Court

This action was filed in early July, 2004 in California state court. The complaint names West Coast Power and various Dynegy entities among the numerous defendants. Like the above *County of Santa Clara* case, the complaint alleges violation of California's Cartwright Act and Business and Professions Code and unjust enrichment, as well as unfair competition, asserting that defendants conspired and acted in concert to manipulate retail gas prices, thereby allowing defendants to sell natural gas at prices far above competitive levels. We cannot predict the likelihood of an unfavorable outcome at this time

County of San Diego v. Sempra Energy, et al., San Diego County Superior Court

This action was filed in late July, 2004 in California state court. The complaint names West Coast Power and various Dynergy entities among the numerous defendants. Like the above *City and County of San Francisco* case, the complaint asserts that defendants conspired to manipulate retail gas prices, thereby allowing defendants to sell natural gas at grossly inflated prices. We cannot predict the likelihood of an unfavorable outcome at this time.

California Investigations

FERC — California Market Manipulation

The Federal Energy Regulatory Commission has had an ongoing "Investigation of Potential Manipulation of Electric and Natural Gas Prices," involving hundreds of parties (including our affiliate, West Coast Power) and substantial discovery. In June 2001, FERC initiated proceedings related to California's demand for $8.9 billion in refunds from power sellers who allegedly inflated wholesale prices during the energy crisis. Hearings were conducted before an administrative law judge, who issued an opinion in late 2002. The administrative law judge stated that after assessing a refund of $1.8 billion for "unjust and unreasonable" power prices between October 2, 2000 and June 20, 2001, power suppliers were owed $1.2 billion because the State was holding funds owed to suppliers.

In August 2002, the United States Circuit Court of Appeals for the Ninth Circuit granted a request by the Electricity Oversight Board, the California Public Utilities Commission and others, to seek out and introduce to FERC additional evidence of market manipulation by wholesale sellers. This decision resulted in FERC ordering an additional 100 days of discovery in the refund proceeding, and also allowing the relevant time period for potential refund liability to extend back an additional nine months, to January 1, 2000.

On December 12, 2002, FERC Administrative Law Judge Birchman issued a Certification of Proposed Findings on California Refund Liability in Docket No. EL00-95-045 et al., which determined the method for calculating the mitigated energy market clearing price during each hour of the refund period. On March 26, 2003, FERC issued an Order on Proposed Findings on Refund Liability, or "Refund Order," in Docket No. EL00-95-045, adopting, in part, and modifying, in part, the Proposed Findings issued by Judge Birchman on December 12, 2002. In the Refund Order, FERC adopted the refund methodology in the Staff Final Report on Price Manipulation in Western Markets issued contemporaneously with the Refund Order in Docket No. PA02-2-000. This refund calculation methodology made certain changes to Judge Birchman's methodology, because of FERC Staff's findings of manipulation in gas index prices. The Refund Order directed generators wanting to recover any fuel costs above the mitigated market clearing price during the refund period to submit cost information justifying such recovery within 40 days of the issuance of the Refund Order, which West Coast Power did.

Dynegy, we and the West Coast Power entities have been engaged in extensive settlement negotiations with FERC Staff; the People of the State of California *ex rel.* Bill Lockyer, Attorney General; the California Public Utility Commission, or CPUC, staff; the California Department of Water Resources acting through its Electric Power Fund, the California Electricity Oversight Board, PG&E; Southern California Edison Company; and San Diego Gas and Electric Company. The parties have now reached a definitive, comprehensive settlement, which has been filed with FERC and awaits FERC approval.

As part of the settlement agreement, West Coast Power will place into escrow for distribution to various California energy consumers a total of $22.5 million, which includes the $3 million settlement with FERC announced on Jan. 20, 2004. In addition, West Coast Power will forego: (1) Past due receivables from the California Independent System Operator, or ISO, and the California Power Exchange related to the settlement period; and (2) natural gas cost recovery claims against the settling parties related to the settlement period. In exchange, the various California settling parties will forego: (1) All claims relating to refunds or other monetary damages for sales of electricity during the settlement period; (2) claims alleging that West Coast Power received unjust or unreasonable rates for the sale of electricity during the settlement period; and (3) FERC will dismiss numerous investigations respecting market transactions. For a two year period following FERC's acceptance of the Settlement Agreement, West Coast Power will retain an independent engineering company to perform semi-annual audits of the technical and economic basis, justification and rationale for outages that occurred at its California generating plants during the previous six month period, and to have the results of such audits provided to the FERC Office of Market Oversight and Investigation without prior review by West Coast Power.

Since the inception of the disputes related to energy sales in California at the end of 2000, West Coast Power has established significant reserves on its balance sheet. As a result, we will not incur any further loss associated with this settlement. We will pay no cash from corporate funds, nor will the settlement have any direct impact on the Company's statement of operations.

Other FERC Proceedings

There are a number of additional, related proceedings in which West Coast Power entities are parties, which are either pending before FERC or on appeal from FERC to various United States Courts of Appeal. These cases involve, among other things, a FERC-established price mitigation plan determining maximum rates for wholesale power transactions in certain spot markets, and the enforceability of, and obligations under, various contracts with, among others, the California ISO and the State of California and certain of its agencies and departments.

U.S. Attorney — Houston

The U.S. Attorney indicted two fired Dynegy traders in connection with the index reporting scheme, and is reportedly investigating other Dynegy activity and employees.

U.S. Attorney — San Francisco

According to press reports, the U.S. Attorney in San Francisco assembled an “energy crisis” task force. While Dynegy received a grand jury subpoena in November 2002, the scope and targets of this investigation are unknown to us. We did not receive a subpoena.

California State Senate Select Committee

This Committee, chaired by Senator Dunn, subpoenaed records from us during the summer of 2001. We produced about 5,000 pages of documents; Dynegy produced a much larger volume of documents. The Committee has apparently concluded its activities without issuing any reports or findings.

CPUC

The CPUC continues to request data and documents in several settings. First, it is one of the parties in the FERC proceeding mentioned above. Second, inspectors have visited West Coast Power plants, usually unannounced and usually immediately following an unplanned outage. They have demanded documentation concerning the reason for the outage. Third, the CPUC has demanded documents to allow it to prepare “reports,” one of which was issued in the fall of 2002, and another of which was issued January 30, 2003. The FERC’s above-referenced March 26 Refund Order undercut the accuracy and reliability of these CPUC reports. Dynegy has made extensive productions to the CPUC of plant-related materials as well as trading data.

California Attorney General

In addition to the litigation it has undertaken described above, the California Attorney General has undertaken an investigation entitled “In the Matter of the Investigation of Possibly Unlawful, Unfair, or Anti-Competitive Behavior Affecting Electricity Prices in California.” In this connection, the Attorney General issued subpoenas to Dynegy, served interrogatories on Dynegy and us, and informally requested documents and interviews from Dynegy and Dynegy employees as well as us and our employees. We responded to the interrogatories in the summer of 2002, with the final set of responses being served on September 3, 2002. We also produced a large volume of documentation relating to the West Coast Power plants. In addition, our employees in California sat for informal interviews with representatives of the Attorney General’s office. Dynegy employees also were interviewed.

NRG Bankruptcy Cap on California Claims

On November 21, 2003, in conjunction with confirmation of the NRG plan of reorganization, we reached an agreement with the Attorney General and the State of California, generally, whereby for purposes of distributions, if any, to be made to the State of California under the NRG plan of reorganization, the liquidated amount of any and all allowed claims shall not exceed $1.35 billion in the aggregate. The agreement neither affects our right to object to these claims on any and all grounds nor admits any liability whatsoever. We further agreed to waive any objection to the liquidation of these claims in a non-bankruptcy forum having proper jurisdiction.

Although any evaluation of the likelihood of an unfavorable outcome or an estimate of the amount or range of potential loss in the above-referenced private actions and various investigations cannot be made at this time, we note that the *Gordon* complaint, discussed above, alleges that the defendants, collectively, overcharged California ratepayers during 2000 by $4.0 billion.

Electricity Consumers Resource Council v. Federal Energy Regulatory Commission, Docket No. 03-1449

On December 19, 2003 the Electricity Consumers Resource Council, or ECRC, appealed to the United States Court of Appeals for the District of Columbia Circuit a recent decision by FERC approving the implementation of a demand curve for the New York installed capacity, or ICAP, market. ECRC claims that the implementation of the ICAP demand curve violates section 205 of the

Federal Power Act because it constitutes unreasonable ratemaking. We are a party to this appeal and will contest ECRC's assertions, but at this time cannot assess what the eventual outcome will be.

Consolidated Edison Co. of New York v. Federal Energy Regulatory Commission, Docket No. 01-1503

Consolidated Edison and others petitioned the United States Court of Appeals for the District of Columbia Circuit for review of certain FERC orders in which FERC refused to order a redetermination of prices in the New York Independent System Operator, or NYISO, operating reserve markets for the period from January 29, 2000 to March 27, 2000. Petitioners alleged that the prices in the operating reserves markets were unduly elevated by approximately $65 million as a result of market power abuse and operating flaws. On November 7, 2003, the court issued a decision which found that the NYISO's method of pricing spinning reserves violated the NYISO tariff. The court also required FERC to determine whether the exclusion from the non-spinning market of a generating facility known as Blenheim-Gilboa and resources located in western New York also constituted a tariff violation and/or whether these exclusions enabled NYISO to use its Temporary Extraordinary Procedure, or TEP, authority to require refunds. On June 25, 2004, the NYISO filed a motion requesting that it be permitted to supplement the record. The motion indicated that FERC had the authority to order refunds in the case because the failure to model Blenhein-Gilboa constituted a TEP. On July 16, 2004, we filed an objection to the NYISO's motion, asserting that the failure to model was a conscious decision of the owners of that facility and that NYISO's authority under TEP did not apply. It is unclear at this time whether FERC will require refunds, much less the amount of any such refunds. If refunds are required, NRG entities which may be affected include NRG Power Marketing, Inc., Astoria Gas Turbine Power LLC and Arthur Kill Power LLC. Although non-NRG-related entities will share responsibility for payment of such refunds, under the petitioners' theory and calculations the cumulative exposure to our above-listed entities could exceed $23 million.

Connecticut Light & Power Company v. NRG Power Marketing, Inc., Docket No. 3:01-CV-2373 (AWT), pending in the United States District Court, District of Connecticut

This matter involves a claim by CL&P for recovery of amounts it claims are owing for congestion charges under the terms of a SOS contract between the parties, dated October 29, 1999. CL&P has served and filed its motion for summary judgment to which PMI filed a response on March 21, 2003. CL&P has withheld approximately $30 million from amounts owed to PMI, claiming that it has the right to offset those amounts under the contract. PMI has counterclaimed seeking to recover those amounts, arguing among other things that CL&P has no rights under the contract to offset them. By reason of the previous bankruptcy stay, the court has not ruled on the pending motion. On November 6, 2003, the parties filed a joint stipulation for relief from the automatic stay in order to allow the proceeding to go forward and PMI is about to supplement the record on the pending summary judgment motion. PMI cannot estimate at this time the likelihood of an unfavorable outcome in this matter.

The State of New York and Erin M. Crotty, as Commissioner of the New York State Department of Environmental Conservation v. Niagara Mohawk Power Corporation, NRG Energy, Inc., NRG Dunkirk Operations, Inc., Dunkirk Power, LLC, NRG Huntley Operations, Inc., Huntley Power, LLC, NRG Northeast Generating, LLC, Northeast Generation Holding, LLC, NRG Eastern, LLC and NRG Operating Services, Inc., United States District Court for the Western District of New York, Civil Action No. 02-CV-0024S

In January 2002, the New York Department of Environmental Conservation, or DEC, sued Niagara Mohawk Power Corporation, or NiMo, us and certain of our affiliates in federal court in New York. The complaint asserted that projects undertaken at our Huntley and Dunkirk plants by NiMo, the former owner of the facilities, required preconstruction permits pursuant to the Clean Air Act and that the failure to obtain these permits violated federal and state laws. In July, 2002, we filed a motion to dismiss. On March 27, 2003, the court dismissed the complaint against us as to the federal claims and without prejudice as to the state claims. On December 31, 2003, the trial court granted the state's motion to amend the complaint to again sue us and various affiliates in this same action in the federal court in New York, asserting against us violations of operating permits and deficient operating permits at the Huntley and Dunkirk plants. The parties have commenced written discovery, and the court has scheduled the trial on liability issues for March, 2006. For several months, the parties have been engaged in discussions respecting possible settlement of this matter. If the case ultimately is litigated to an unfavorable outcome that could not be addressed otherwise, we have estimated that the total investment that would be required to install pollution control devices could be as high as $300 million over a ten to twelve-year period. We also could be found responsible for payment of certain penalties and fines.

Niagara Mohawk Power Corporation v. NRG Energy, Inc., Huntley Power, LLC, and Dunkirk Power, LLC, Supreme Court, State of New York, County of Onondaga, Case No. 2001-4372

We have asserted that NiMo is obligated to indemnify us for any related compliance costs associated with resolution of the above enforcement action. NiMo has filed suit in state court in New York seeking a declaratory judgment with respect to its obligations to indemnify us under the asset sales agreement. We have pending a summary judgment motion on our entitlement to be reimbursed by NiMo for the attorneys' fees we have incurred in the enforcement action.

Huntley Power LLC

On April 30, 2003, the Huntley Station submitted a self-disclosure letter to the DEC reporting violations of applicable sulfur in fuel limits, which had occurred during 6 days in March 2003 at the chimney stack serving Huntley Units 63-66. The Huntley Station self-disclosed that the average sulfur emissions rates for those days had been 1.8 lbs/mm BTU, rather than the maximum allowance of 1.7 lbs/mm BTU. NRG Huntley Operations discontinued use of Unit 65 (the only unit utilizing the subject stack at the time) and has kept the remaining three units off line until adherence with the applicable standard is assured. On May 19, 2003, the DEC issued Huntley Power LLC a Notice of Violation. Huntley Power LLC has met with the DEC to discuss the circumstances surrounding the event and the appropriate means of resolving the matter. Huntley Power LLC does not know what relief the DEC will seek through an enforcement action. Under applicable provisions of the Environmental Conservation Law, the DEC asserts that it may impose a civil penalty up to $10,000, plus an additional penalty not to exceed $10,000 for each day that a violation continues and may enjoin continuing violations.

Niagara Mohawk Power Corporation v. Dunkirk Power LLC, NRG Dunkirk Operations, Inc., Huntley Power LLC, NRG Huntley Operations, Inc., Oswego Power LLC and NRG Oswego Operations, Inc., Supreme Court, Erie County, Index No. 1-2000-8681 — Station Service Dispute ;

On October 2, 2000, plaintiff Niagara Mohawk Power Corporation, or NiMo, commenced this action against us to recover damages plus late fees, less payments received through the date of judgment, as well as any additional amounts due and owing, for electric service provided to the Dunkirk Plant after September 18, 2000. NiMo claims that we have failed to pay retail tariff amounts for utility services commencing on or about June 11, 1999. Plaintiff has alleged breach of contract, suit on account, violation of statutory duty and unjust enrichment claims. On or about October 23, 2000, we served an answer denying liability and asserting affirmative defenses.

After proceeding through discovery, and prior to trial, the parties and the court entered into a Stipulation and Order filed August 9, 2002 consolidating this action with two other actions against our Huntley and Oswego subsidiaries, both of which cases assert the same claims and legal theories for failure to pay retail tariffs for utility services at those plants.

On October 8, 2002, a Stipulation and Order was filed in the Erie County Clerk's Office staying this action pending submission to FERC of some or all of these disputes. We cannot make an evaluation of the likelihood of an unfavorable outcome. The cumulative potential loss could amount to some $40 million.

Niagara Mohawk Power Corporation v. Huntley Power LLC, NRG Huntley Operations, Inc., NRG Dunkirk Operations, Inc., Dunkirk Power LLC, Oswego Harbor Power LLC, and NRG Oswego Operations, Inc., Case Filed November 26, 2002 in Federal Energy Regulatory Commission Docket No. EL 03-27-000

This is the companion action filed by NiMo at FERC, similarly asserting that NiMo is entitled to receive retail tariff amounts for electric service provided to the Huntley, Dunkirk and Oswego plants. On October 31, 2003, the FERC Trial Staff, a party to the proceedings, filed a reply brief in which it supported and agreed with each position taken by our facilities. In short, the staff argued that our facilities: (1) self-supply station power under the NYISO tariff (which took effect on April 1, 2003) in any month during which they produce more energy than they consume and, as such, should not be assessed a retail rate; (2) are connected only to transmission facilities and, as such, at most should only pay NiMo a FERC-approved transmission rate; and (3) should be allowed to net consumption and output even if power is injected into the grid at a different point from which it is drawn off. We are presently awaiting a ruling by FERC. At this stage of the proceedings, we cannot estimate the likelihood of success on this action. As noted above, the cumulative potential loss could amount to some $40 million.

In the Matter of Louisiana Generating, LLC, Adversary Proceeding No. 2002-1095 1-EQ on the docket of the Louisiana Division of Administrative Law

During 2000, the Louisiana Department of Environmental Quality, or DEQ, issued a Part 70 Air Permit modification to Louisiana Generating to construct and operate two 240 MW natural gas-fired turbines. The Part 70 Air Permit set emissions limits for the criteria air pollutants, including NO(x), based on the application of Best Available Control Technology, or BACT. The BACT limitation for NO(x) was based on the guarantees of the manufacturer, Siemens-Westinghouse. Louisiana Generating sought an interim emissions limit to allow Siemens-Westinghouse time to install additional control equipment. To establish the interim limit, DEQ issued a

Compliance Order and Notice of Potential Penalty, No. AE-CN-02-0022, on September 8, 2002, which is, in part, subject to the above-referenced administrative hearing. DEQ alleged that Louisiana Generating did not meet its NO(x) emissions limit on certain days, did not conduct all opacity monitoring and did not complete all record keeping and certification requirements. Louisiana Generating intends to vigorously defend certain claims and any future penalty assessment, while also seeking an amendment of its limit for NO(x). An initial status conference was held with the Administrative Law Judge and quarterly reports are being submitted to that judge to describe progress, including settlement and amendment of the limit. In late February 2004, we timely submitted to the DEQ an amended BACT analysis and amended Prevention of Significant Deterioration and Title V permit application to amend the NO(x) limit. The DEQ is presently processing the permit application. In addition, Louisiana Generating may assert breach of warranty claims against the manufacturer. With respect to the administrative action described above, at this time we are unable to predict the eventual outcome of this matter or the potential loss contingencies, if any, to which we may be subject.

United States Environmental Protection Agency Request for Information under Section 114 of the Clean Air Act

On January 27, 2004, Louisiana Generating, LLC and Big Cajun II received a request for information under Section 114 of the Clean Air Act from the United States Environmental Protection Agency, or EPA, seeking information primarily relating to physical changes made at Big Cajun II in 1994 and 1995 by the predecessor owner of that facility. Louisiana Generating, LLC and Big Cajun II have been responding to the EPA request in an appropriate manner. At the present time, we cannot predict the probable outcome in this matter.

Itiquira Energetica, S.A.

Our indirectly controlled Brazilian project company, Itiquira Energetica S.A., the owner of a 156 MW hydro project in Brazil, is currently in arbitration with the former EPC contractor for the project, Inepar Industria e Construcoes, or Inepar. The dispute was commenced by Itiquira in September of 2002 and pertains to certain matters arising under the former EPC contract. Itiquira principally asserts that Inepar breached the contract and caused damages to Itiquira by (i) failing to meet milestones for substantial completion; (ii) failing to provide adequate resources to meet such milestones; (iii) failing to pay subcontractors amounts due; and (iv) being insolvent. Itiquira's arbitration claim is for approximately U.S. $40 million. Inepar has asserted in the arbitration that Itiquira breached the contact and caused damages to Inepar by failing to recognize events of force majeure as grounds for excused delay and extensions of scope of services and material under the contract. Inepar's damage claim is for approximately U.S. $10 million. The parties submitted their respective statements of claims, counterclaims and responses, and a preliminary arbitration hearing was held on March 21, 2003. In lieu of taking expert testimony at hearing, the court of arbitration ordered an expert investigation process to cover technical and accounting issues. The final report from the expert investigation process has been delivered to the court of arbitration. Expert testimony will be presented at a hearing scheduled for mid-August, 2004, and we expect the court to issue its decision shortly after the hearing. We cannot estimate the likelihood of an unfavorable outcome in this dispute.

CFTC Trading Inquiry

On June 17, 2002, the CFTC served Xcel Energy, on behalf of its affiliates, which then included us and PMI, with a subpoena requesting certain information regarding "round trip" or "wash" trading and general trading practices in its investigation of several energy trading companies. The CFTC later focused on possible efforts by traders to submit false reports to gas index publications in an attempt to manipulate the index. In January, 2004, the CFTC and Xcel Energy's subsidiary, e prime, inc., reached a settlement in connection with this investigation, which included the payment of a $16 million fine and the entry of a cease and desist order. Other industry participants that have settled with the CFTC have paid fines of between $1.5 million and $28 million and have agreed to the terms of cease and desist orders. The CFTC requested additional related information from us and subpoenaed to appear for testimony a number of our present and former employees. We cooperated with the CFTC and submitted materials responsive to the CFTC's requests, while vigorously denying that we engaged in any improper conduct. On July 1, 2004, we learned that the CFTC had filed a civil complaint against us in Minnesota federal district court, alleging that we engaged in false reporting of natural gas trades from August, 2001 to May, 2002. The CFTC's complaint seeks only an injunction against future violations of the Commodity Exchange Act. We cannot at this time predict the outcome of this matter.

General Electric Company and Siemens Westinghouse Turbine Purchase Disputes

We and/or our affiliates have entered into several turbine purchase agreements with affiliates of General Electric Company, or GE, and Siemens Westinghouse Power Corporation, or Siemens. GE and Siemens have notified us that we are in default under certain of those contracts, terminated such contracts, and demanded that we pay the termination fees set forth in such contracts. GE's claim amounts to approximately $113 million and Siemens' approximately $45 million in cumulative termination charges. Most of these disputes fall within the NRG plan of reorganization and are subject to our disputed claims reserves, discussed below. In early July, 2004, we reached an agreement in principle with GE resolving the disputed bankruptcy claims of GE and its subsidiaries. The parties are now preparing final documentation of the settlement. We cannot estimate the likelihood of an unfavorable outcome in our disputes with Siemens.

Additional Litigation

In addition to the foregoing, we are parties to other litigation or legal proceedings, which may or may not be material. There can be no assurance that the outcome of such matters will not have a material adverse effect on our business, financial condition or results of operations.

Disputed Claims Reserve

As part of the NRG plan of reorganization, we have funded a disputed claims reserve for the satisfaction of certain general unsecured claims that were disputed claims as of the effective date of the plan. Under the terms of the plan, to the extent such claims are resolved now that we have emerged from bankruptcy, the claimants will be paid from the reserve on the same basis as if they had been paid out in the bankruptcy. That means that their allowed claims will be reduced to the same recovery percentage as other creditors would have received and will be paid in pro rata distributions of cash and common stock. We believe we have funded the disputed claims reserve at a sufficient level to settle the remaining unresolved proofs of claim we received during the bankruptcy proceedings. However, to the extent the aggregate amount of these payouts of disputed claims ultimately exceeds the amount of the funded claim reserve, we are obligated to provide additional cash and common stock to the claimants. We will continue to monitor our obligation as the disputed claims are settled. If excess funds remain in the disputed claims reserve after payment of all obligations, such amounts will be reallocated to the Creditor Pool. We have provided our common stock and cash contribution to an escrow agent to complete the distribution and settlement process. Since we have surrendered control over the common stock and cash provided to the disputed claims reserve, we recognized the issuance of the common stock as of December 6, 2003 and removed the cash amounts from our balance sheet. Similarly, we have removed the obligations relevant to the claims from our balance sheet when the common stock was issued and cash contributed.

In conjunction with confirmation of the NRG plan of reorganization, we reached an agreement with the Attorney General and the State of California that limits the potential maximum amount of its claims, if any. Under the NRG plan of reorganization, the liquidated amount of any allowed claims shall not exceed $1.35 billion in total. The agreement neither affects our right to object to these claims on any grounds nor admits any liability. We further agreed to waive any objection to the liquidation of these claims in a non-bankruptcy forum having proper jurisdiction. Although we cannot at this time make any evaluation of the likelihood of an unfavorable outcome or an estimate of the amount or range of potential loss in the private actions and various investigations, we note that the Gordon complaint, discussed above, alleges that the defendants, collectively, overcharged California ratepayers during 2000 by $4.0 billion.

Regulatory Issues

New England

Consistent with expectations, the Peaking Unit Safe Harbor, or PUSH, bidding has not yielded sufficient revenues to cover all costs for most of the Company's affected facilities. On January 16, 2004, the Company filed proposed reliability-must-run agreements, or RMR agreements, with FERC for the following facilities: Devon station units 11 – 14, Middletown station and Montville station. The RMR agreement filings requested FERC to establish cost of service rates. On March 18, 2004 FERC granted us a one day suspension of the rates, subject to refund, set the case for hearing and consolidated the case with other similar NRG cases before a settlement judge. In the March 18, 2004 order the FERC ruled that the RMR agreements would expire with the implementation of a locational installed capacity, or LICAP, market, which was expected to begin on June 1, 2004. On April 14, 2004 we filed a motion for rehearing with FERC requesting FERC to revise the termination date ruling. As of this date, FERC has not responded to the rehearing request.

Prior to the March 18, 2004 order, Devon 11 – 14, Middletown 4 and Montville had been submitting PUSH bids. As a result of the March 18, 2004 order we received more money from the sale of energy and capacity for the period January 17, 2004 through March 18, 2004 than was allowed under the March 18, 2004 order. Therefore, on June 23, 2004, we filed a report (" Report") with the FERC showing that we received approximately $4.9 million more from the sales of energy and other services than was permitted under the March 18th order. The Report further stated, however, that ISO-NE owed us a total of approximately $18.5 million under the RMR Agreement for the same period. The Report further stated that ISO-NE had, as of the date of the Report, paid us only $2.6 million, with the result that we, rather than owing any refunds to ISO-NE, were owed an additional $11.0 million for the period. The FERC has not yet acted on the Report.

On February 6, 2004, we filed updated maintenance schedules for the tracking mechanism that provides for the payment by certain NEPOOL participants of third party maintenance expense incurred by Devon 11 – 14, Middletown, Montville and Norwalk Harbor for the period beginning April 1, 2004 and ending March 31, 2005. On April 1, 2004 FERC accepted the revised schedules, subject to refund, set the case for hearing and consolidated the case with other similar NRG cases before a settlement judge. In the April 1, 2004 order the FERC ruled that the tracking mechanism would expire with the implementation of a LICAP market, which is expected to begin on June 1, 2004. On April 14, 2004 we filed a motion for rehearing with FERC requesting FERC to revise the termination date ruling. As of this date, FERC has not responded to the rehearing request.

On April 1, 2004, we filed with FERC true-up schedules for the third-party payment of our maintenance expenses for the period February 27, 2003 to December 31, 2003. On July 12, 2004 FERC accepted the true-up schedules, effective June 7, 2004, subject to refund, set them for hearing and consolidated the case with other similar cases before a settlement judge.

In addition to the facilities noted above, the following of the Company's quick-start facilities in Connecticut have submitted PUSH bids that have been approved by FERC: Cos Cob, Franklin Drive, Banford and Torrington. The existing RMR agreement between ISO-NE and the Company covering Devon station units 7 and 8 terminated on September 30, 2003. On October 2, 2003, the Company filed with FERC to extend the existing RMR agreement for the two Devon units. On December 1, 2003, FERC granted a one-day suspension of the rates, subject to refund, set the case for hearing and appointed a settlement judge. On February 25, 2004, a FERC sponsored technical conference occurred to review the costs associated with the two Devon units. In the technical conference, the costs relevant to the RMR agreements were discussed. ISO-NE has indicated in a letter dated February 27, 2004, that one of the Devon units will no longer be needed for reliability services.

Therefore, on May 28, 2004, Devon 8 was deactivated. On May 28, 2004, a revised RMR agreement was filed with FERC for Devon 7 facility to account for the costs remaining after the deactivation of Devon 8. On July 12, 2004, FERC granted us a one day suspension of the proposed rate of $10.15 per KW-month subject to refund, set the case for hearing and consolidated the case with other similar NRG cases before a settlement judge.

On March 1, 2004, ISO-NE filed a locational capacity proposal with FERC. Under the proposal, generators that are needed for reliability and have a capacity factor of 15% or less in 2003 would be eligible for a monthly capacity payment of $5.38 per KW-month. Most of the Company's generators located in Connecticut satisfy this requirement. On June 2, 2004, FERC issued an order rejecting ISO-NE's LICAP proposal. In the order, the FERC ruled that LICAP would not go into effect until January 1, 2006. Until the implementation of LICAP, the existing PUSH bidding rules and existing RMR agreements are to continue. New RMR agreements must also end when the LICAP market is implemented.

New York

In April of 2003, the NYISO implemented a demand curve in its capacity market and scarcity pricing improvements in its energy market. The New York demand curve eliminated the previous market structure's tendency to price capacity at either its cap (deficiency rate) or near zero. In a complaint filed with FERC on December 15, 2003, Consolidated Edison Company of New York, Inc. and other load-serving entities alleged that NYISO had used the wrong rate setting methodology to establish prices and rebates in the New York City markets for a portion of the summer capacity auction in 2003, and that this action resulted in overcharges to customers and overpayments to suppliers, including the Company, totaling approximately $21 million, with the Company's share being approximately $5 million. On July 13, 2004, FERC denied the complaint.

PJM

On April 2, 2003, Reliant Resources, Inc., or Reliant, filed a complaint against the Pennsylvania, Jersey, Maryland Interconnector area, or PJM, with FERC and suggested specific modifications to PJM's price mitigation rules. On June 9, 2003, FERC rejected the Reliant modifications but required PJM to file a report to address the concerns of Reliant by September 30, 2003. The PJM market monitoring unit filed its compliance filing with FERC as required, but opted to continue its present mitigation practices. The present mitigation plan permits PJM to "cost-cap" the energy bids of certain generating facilities that were constructed prior to 1996. The cost capping method is based on a facility's variable costs plus 10%. In addition, the PJM market monitoring unit filed to eliminate the exemption that units built after 1996 had from PJM's mitigation measures. On May 6, 2004, FERC rejected the proposed extension of the cost capping mechanism to generating facilities built after 1996. In the order, the FERC approved the application of cost-capping mitigation method for facilities built prior to 1996 and were cost capped less than 80% of the time the facilities operated. The FERC required that for facilities that are cost capped 80% or more of their operating hours that are mitigated, are needed for reliability and are not recovering sufficient revenue to cover their costs, that PJM must provide alternative methods of compensation. The FERC noted that such alternative compensation could consist of market design changes such as a higher bid cap or reliability must run agreements. FERC required that PJM file such a proposal by November 6, 2004. At this time it is unclear how this ruling will impact the Company. The Company continues to monitor these activities for any potential adverse impact to the Company's financial position or results of operations.

PJM – West

On December 31, 2003 and February 5, 2004, PJM filed proposed mitigation plans for the Commonwealth Edison, or Com Ed, franchise territory. Among the proposed changes was the adoption of the existing PJM energy market mitigation plan of "cost capping" and a new mitigation plan for the capacity market. PJM proposed that the proposed energy market mitigation plan would only be effective through the 2004 summer season but that the capacity mitigation plan would remain effective until April 1, 2005. Under the capacity mitigation proposal, capacity prices would be capped at $30 per MW-day except when capacity levels are less than 101% of required reserves, then the price cap would be $160 per MW-day. On March 24, 2004, FERC rejected the proposed mitigation plans. On April 23, 2004, PJM filed a rehearing request on the rejection of the capacity market mitigation proposal. In the rehearing request, PJM requested that the $30 per MW-day cap be approved and that during times of scarcity there would not be a price cap. FERC has not yet issued an order on the rehearing request.

On May 1, 2004 Commonwealth Edison Corporation became a member of PJM.

Entergy

On March 31, 2004, Entergy filed with FERC a proposal to have an independent person monitor Entergy's operation of its transmission system. FERC has not ruled on this request. Also, it is unclear at this time how this recent development will impact the Company.

Note 18 — Guarantees

In November 2002, the FASB issued FASB Interpretation, or FIN, No. 45, *"Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others."* The initial recognition and initial measurement provisions of this interpretation are applicable on a prospective basis to guarantees issued or modified after December 31, 2002, irrespective of the guarantor's fiscal year-end. The disclosure requirements are effective for financial statements of interim or annual periods ending after December 15, 2002. The interpretation addresses the disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under guarantees. The interpretation also clarifies the requirements related to the recognition of a liability by a guarantor at the inception of the guarantee for the obligations the guarantor has undertaken in issuing the guarantee.

In connection with the adoption of Fresh Start, all outstanding guarantees were considered new; accordingly we applied the provisions of FIN 45 to all of those guarantees. Each guarantee was reviewed for the requirement to recognize a liability at inception.

In the normal course of business, we may be asked to provide certain assurances to the counter-parties of our asset sales agreements, such assurances may take the form of a guarantee issued by NRG on behalf of a directly or indirectly held majority-owned subsidiary. Due to the inter-company nature of such arrangements (NRG is essentially guaranteeing its own performance) and the nature of the guarantee being provided (usually the typical representations and warrantees that are provided in any asset sales agreement), it is not our policy to recognize the value of such an obligation in our consolidated financial statements.

In connection with the adoption of Fresh Start, all outstanding guarantees were considered new; accordingly we applied the provisions of FIN 45 to all those guarantees. Each guarantee was reviewed for the requirement to recognize a liability at inception. As a result, we recorded a $15.0 million liability, which is included in other long-term liabilities.

We are directly liable for the obligations of certain of our project affiliates and other subsidiaries pursuant to guarantees relating to certain of their indebtedness, equity and operating obligations. In addition, in connection with the purchase and sale of fuel, emission credits and power generation products to and from third parties with respect to the operation of some of our generation facilities in the United States, we may be required to guarantee a portion of the obligations of certain of our subsidiaries.

As of June 30, 2004, our obligations pursuant to our guarantees of the performance, equity and indebtedness obligations of our subsidiaries were as follows (includes only quantifiable amounts):

Description	June 30, 2004
	(In thousands)
Guarantees of subsidiaries	$ 511,066
Guarantees of NRG Power Marketing, Inc. obligations	38,500
Total	$ 549,566

As of June 30, 2004, the nature and details of our guarantees were as follows:

Project or Subsidiary	Maximum Amount (June 30, 2004) (In thousands)	Nature of Guarantee	Expiration	Triggering Event
Astoria/Arthur Kill	Indeterminate	Performance Under Asset Purchase Agreement	None stated	Non-performance
Cobee	$ 12,500	Guarantee of Obligations Under the Sale and Purchase Agreement	April 27, 2008	Non-performance or non-payment
Elk River	$ 11,990	Executory Contract	Undetermined	Non-payment
Flinders	$ 6,357	Fund Superannuation (Pension) Reserve	September 8, 2012	Credit agreement default
Flinders	$ 48,951	Debt Service Reserve Guaranty	September 8, 2012	Credit agreement default
Flinders	$ 57,736	Plant Removal and Site Remediation Obligation	Undetermined	Non-performance
Flinders	$ 69,930	Guaranty of Employee Separation Benefits	None stated	Non-payment
Flinders	Indeterminate	Indemnification of Government Entity for Payment for Power and Fuel	Fourth quarter 2018	Non-payment
Flinders	$ 218,907	Guaranty of Obligation to Purchase Gas	None stated	Non-payment
Gladstone	$ 22,819	Payment of Penalties in the Event of an Extraordinary Operational Breach	None stated	Non-performance
Gladstone	Indeterminate	Performance Obligations under Credit Agreement	March 31, 2009	Non-performance
Hsin Yu	$ 1,000	Guarantee of Obligations Under the Sale and Purchase Agreement	None stated	Non-performance or non-payment
Latin Power	Indeterminate	Subscription Commitment Guaranty	None stated	Non-performance
Loy Yang	$ 25,370	Guarantee of Obligations Under the Sale and Purchase Agreement	April 7, 2011	Non-performance or non-payment
McClain	$ 1,015	Obligation to Fund Debt Service Reserve Shortfall	None stated	Non-payment
MIBRAG	$ 8,314	Guarantee of Share Purchase Agreement	None stated	Non-performance
Newport	$ 7,500	Executory Contract	Undetermined	Non-payment
Other	$ 17,933	Various	Various	Various
PMI	$ 38,500	Guarantee on behalf of NRG Power Marketing Inc. for various projects	Various	Non-performance
West Coast LLC	$ 744	Guaranty of Environmental Cleanup Costs	None stated	Non-performance
West Coast LLC	Indeterminate	Continuing Obligations Under Asset Sales Agreement and Related Contracts	None stated	Non-performance
Total	$ 549,566			

Recourse provisions for each of the guarantees above are to the extent of their respective liability. No assets are held as collateral for any of the above guarantees.

Note 19 — Benefit Plans and Other Postretirement Benefits

Reorganized NRG

Substantially all of our employees participate in defined benefit pension plans. We have initiated a new NRG Energy noncontributory, defined benefit pension plan effective January 1, 2004, with credit for service from December 5, 2003. In addition, we provide postretirement health and welfare benefits (health care and death benefits) for certain groups of our employees. Generally, these are groups that were acquired in recent years and for whom prior benefits are being continued (at least for a certain period of time or as required by union contracts). Cost sharing provisions vary by acquisition group and terms of any applicable collective bargaining agreements. We have contributed $1.0 million to the NRG pension plans during the six months ended June 30, 2004. We expect to contribute approximately $1.0 million to our postretirement medical plan in 2004.

NRG Pension and Postretirement Medical Plans

Components of Net Periodic Benefit Cost

The net annual periodic pension cost related to all of our plans, include the following components:

	Pension Benefits			
	Reorganized NRG	**Predecessor Company**	**Reorganized NRG**	**Predecessor Company**
	Three Months Ended June 30, 2004	**Three Months Ended June 30, 2003**	**Six Months Ended June 30, 2004**	**Six Months Ended June 30, 2003**
	(In thousands)			
Service cost benefits earned	**$ 2,950**	**$ —**	**$ 5,900**	**$ —**
Interest cost on benefit obligation	**738**	—	**1,476**	—
Amortization of prior service cost	—	—	—	—
Expected return on plan assets	—	—	—	—
Recognized actuarial (gain)/loss	—	—	—	—
Net periodic benefit cost	**$ 3,688**	$ —	**$ 7,376**	$ —

	Other Benefits			
	Reorganized NRG	**Predecessor Company**	**Reorganized NRG**	**Predecessor Company**
	Three Months Ended June 30, 2004	**Three Months Ended June 30, 2003**	**Six Months Ended June 30, 2004**	**Six Months Ended June 30, 2003**
	(In thousands)			
Service cost benefits earned	**$ 465**	$ 334	**$ 930**	$ 668
Interest cost on benefit obligation	**630**	525	**1,260**	1,050
Amortization of prior service cost	—	(6)	—	(12)
Expected return on plan assets	—	—	—	—
Recognized actuarial (gain)/loss	—	48	—	96
Net periodic benefit cost	**$ 1,095**	$ 901	**$ 2,190**	$ 1,802

2003 Medicare Legislation

In December 2003, the Medicare Prescription Drug, Improvement and Modernization Act of 2003, the Act, became law in the United States. The Act introduces a prescription drug benefit under Medicare as well as a federal subsidy to sponsors of retiree health care benefit plans that provide a benefit that is at least actuarially equivalent to the Medicare benefit. In accordance with FASB Staff Position FAS 106-1, "*Accounting and Disclosure Requirements Related to the Medicare Prescription Drug, Improvement and Modernization Act of 2003*", we have elected to defer recognition of the effects of the Act in any measures of the benefit obligation or cost. Specific authoritative guidance on the accounting for the federal subsidy is pending and that guidance, when issued, could require the Company to change previously reported information. Currently, we do not believe we will need to amend the postretirement benefit plans to benefit from the Act. The measurement date used to determine pension and other postretirement benefit measures for the plans is December 31.

Note 20 — Creditor Pool and Other Settlements

A principal component of our plan of reorganization is a settlement with Xcel Energy in which Xcel Energy agreed to make a contribution consisting of cash (and, under certain circumstances, its stock) in the aggregate amount of up to $640 million to be paid in three separate installments following the effective date of our plan of reorganization. The Xcel Energy settlement agreement resolves any and all claims existing between Xcel Energy and us and/or our creditors and, in exchange for the Xcel Energy contribution, Xcel Energy is receiving a complete release of claims from us and our creditors, except for a limited number of creditors who have preserved their claims as set forth in the confirmation order entered on November 24, 2003. On February 20, 2004, we received $288 million from Xcel Energy. On April 30, 2004 we received $328.5 million from Xcel Energy as part of the third settlement payment. The remainder of the third settlement payment, $23.5 million, was paid by Xcel Energy on May 28, 2004. We used the proceeds from the Xcel Energy settlement to reduce our creditor pool obligation. As of June 30, 2004 and December 31, 2003 the balance of our creditor pool obligation was $25.0 million and $540.0 million, respectively. On February 20, 2004, April 30, 2004 and May 28, 2004, we made payments of $163.0 million, $328.5 million and $23.5 million, respectively. In addition, our other bankruptcy settlement obligation as of June 30, 2004 and December 31, 2003 was $221.3 million and $220.0 million, respectively. This obligation relates to the allowed claims pending against our Audrain and Pike facilities. The net change in the balance of $1.3 million as of June 30, 2004 relates to a $2.6 million increase to the outstanding obligation offset by an increase of $1.3 million related to an agreement whereby we are entitled to reimbursement of certain costs incurred while we are maintaining these facilities in anticipation of their sale whereupon any proceeds will be turned over to the creditors.

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

Overview

NRG Energy, Inc. is a wholesale power generation company, primarily engaged in the ownership and operation of power generation facilities and the sale of energy, capacity and related products in the United States and internationally. We have a diverse portfolio of electric generation facilities in terms of geography, fuel type and dispatch levels, which help us, mitigate risk. We intend to maximize operating income through the efficient procurement and management of fuel supplies and maintenance services, and the sale of energy, capacity and ancillary services into attractive spot, intermediate and long-term markets.

Our focus will continue to be on the operating performance of our entire portfolio and, in particular, on developing the assets in our core regions into integrated businesses well-suited to serving the requirements of the load-serving entities in our core markets. Power sales, fuel procurement and risk management will remain a key strategic element of these regional businesses contributing to our overall objective to optimize the operating income generated by all of our facilities within an appropriate risk and liquidity profile. Our business will involve the reinvestment of capital in our existing assets for reasons of life extension, repowering, expansion, environmental remediation, operating efficiency, greater fuel optionality or for alternative use, among other reasons.

Our business also may involve acquisitions intended to complement the asset portfolios in our core regions.

The wholesale energy industry entered a prolonged slump in 2001, from which it is only beginning to emerge. We expect that generally weak market conditions will continue for the foreseeable future in many U.S. markets. We further expect that the merchant power industry will continue to see corporate restructuring, debt restructuring, and consolidation over the coming years.

Asset Sales. As part of our strategy, we plan to continue the selective divestment of certain assets. Since July 2002, we have sold or made arrangements to sell a number of assets and equity investments. In addition, we are continuing to market our interest in several remaining non-core assets.

Discontinued Operations. We have classified certain business operations, and gains/losses recognized on sale, as discontinued operations for projects that were sold or have met the required criteria for such classification pending final disposition. Accounting regulations require that continuing operations be reported separately in the income statement from discontinued operations, and that any gain or loss on the disposition of any such business be reported along with the operating results of such business. Assets classified as discontinued operations on our balance sheet as of June 30, 2004 include McClain and LSP Energy projects. For the three and six months ended June 30, 2004, discontinued results of operations include our McClain, PERC, Cobee, Hsin Yu and LSP Energy projects. All prior periods presented have been restated accordingly.

New Management. On October 21, 2003, we announced the appointment of David Crane as our new President and Chief Executive Officer, effective December 1, 2003. Before joining our company, Mr. Crane served as the Chief Executive Officer of London-based International Power PLC and has over 12 years of energy industry experience. On March 11, 2004 we announced the appointment of Robert Flexon as Executive Vice President and Chief Financial Officer, effective March 29, 2004. In addition, we have filled several other senior and middle management positions over the last 12 months. Our board of directors is currently comprised of Mr. Crane and ten other independent individuals, three of whom have been designated by MatlinPatterson, a significant holder of NRG common stock.

Independent Registered Public Accounting Firm; Audit Committee. PricewaterhouseCoopers LLP served as our independent auditors from 1995 through 2003. On May 3, 2004, we announced that PricewaterhouseCoopers LLP had decided not to stand for re-election as our independent auditor for the year ended December 31, 2004. On May 24, 2004, the Audit Committee of our board of directors appointed KPMG LLP as our independent registered public accounting firm going forward.

Our new board of directors appointed an audit committee consisting entirely of independent directors in January 2004. Pursuant to its charter, the committee appoints, retains, oversees, evaluates, compensates and terminates on its sole authority our independent auditors and approves all audit engagements, including the scope, fees, and terms of each engagement. The audit committee's oversight process is intended to ensure that we will continue to have high-quality, cost efficient independent auditing services.

Fresh-Start Reporting. In connection with our emergence from bankruptcy, we adopted Fresh Start Reporting on December 5, 2003, in accordance with the requirements of SOP 90-7. The application of SOP 90-7 resulted in the creation of a new reporting entity. Under Fresh Start, our reorganization value was allocated to our assets and liabilities on a basis substantially consistent with purchase accounting in accordance with SFAS No. 141. Accordingly, our assets' recorded values were adjusted to reflect their estimated fair values upon adoption of Fresh Start. Any portion of the reorganization value not attributable to specific assets is an indefinite-lived intangible asset referred to as "reorganization value in excess of value of identifiable assets" and reported as goodwill. We did not record any such amounts. As a result of adopting Fresh Start and emerging from bankruptcy, our historical financial information is not comparable to financial information for periods after our emergence from bankruptcy.

RESULTS OF OPERATIONS

Upon our emergence from bankruptcy, we adopted the Fresh Start provisions of SOP 90-7. Accordingly, the Reorganized NRG balance sheet, statement of operations and statement of cash flows have not been prepared on a consistent basis with the Predecessor Company's financial statements and are not comparable in certain respects to the financial statements prior to the application of Fresh Start, therefore, the Predecessor Company's and the Reorganized NRG's amounts are discussed separately for comparison and analysis purposes, herein.

Management's discussion of our results of operations for the three months ended June 30, 2004 and for the three months ended June 30, 2003

Net Income/(Loss)

Reorganized NRG

For the three months ended June 30, 2004, we recorded net income of $83.0 million, or $0.83 per diluted weighted average share of common stock. Our results were favorably impacted by the recent FERC-approved Settlement Agreement between us, Connecticut Light and Power, Select Energy, Inc., Duke Energy Trading and Marketing, L.L.C., Richard Blumenthal, Attorney General of the State of Connecticut, The Connecticut Department of Public Utility Control and the Connecticut Office of Consumer Counsel, whereby we received $38.4 million in settlement proceeds. The second quarter is generally a shoulder period in the energy industry with mild weather and fewer heating and/or cooling degree-days above normal. As such, our NEPOOL and Oswego facilities in the Northeast were not frequently called upon to generate power during the second quarter, as they are during severe weather.

Predecessor Company

For the three months ended June 30, 2003, we recorded a net loss of $608.4 million. Our results were unfavorably impacted by $269.6 million of impairment and restructuring charges, $132.4 million of charges related to write downs and losses on sales of our equity method investments and $6.3 million of reorganization charges related to our entering into bankruptcy in May 2003. Our results were also unfavorably impacted by continued losses resulting from our Connecticut Light and Power Standard Offer Contracts caused by an increase in market price and a decrease in generation.

Revenues from Majority-Owned Operations

Reorganized NRG

Revenues from majority-owned operations of $573.7 million for the three months ended June 30, 2004, included $339.5 million of energy revenues, $160.5 million of capacity revenues, $42.7 million of alternative energy revenues, $4.9 million of O&M fees and $26.1 million of other revenues, which include financial and physical gas sales, and non-cash contract amortization resulting from Fresh Start.

Revenues from majority-owned operations during the three months ended June 30, 2004, were driven primarily by our North American operations, particularly our Northeast power generation facilities, and to a lesser extent our South Central and Australian operations. Though mild weather limited production from our intermediate and peaking plants in the Northeast, our energy revenues were largely in line with expectations for this shoulder period. Revenues from our Australian operations were also in line with expectations. Though an unplanned outage occurred during the quarter, revenues benefited from a strengthening Australian dollar and better than expected energy prices. Our capacity revenues are largely driven by our Northeast and South Central facilities. Our Connecticut facilities continue to benefit from the cost based reliability must run, or RMR agreement, which was authorized on January 17, 2004. This agreement entitles us to approximately $7.1 million of revenues per month, and was expected to be replaced by locational installed capacity, or LICAP, in June 2004. FERC recently postponed the LICAP implementation until January 1, 2006, and as such, the existing RMR agreements will continue until that date. The rates under this agreement are not final and are subject to refund. In the South Central region, our long-term contracts generally provide for capacity payments. Our revenues during this period were adversely impacted by $8.6 million of non-cash amortization of the fair values of various executory contracts recorded on our balance sheet upon our adoption of the Fresh Start provisions of SOP 90-7 in December 2003. Our revenues were also favorably impacted by the FERC approved Settlement Agreement between us and Connecticut Light and Power and others, whereby we received $38.4 million in settlement proceeds in June 2004.

Predecessor Company

Revenues from majority-owned operations of $441.6 million for the three months ended June 30, 2003, included $174.9 million of energy revenues, $181.7 million of capacity revenues, $67.4 million of alternative energy revenues, $3.2 million of O&M fees and $14.4 million of other revenues, which include financial and physical gas sales.

Revenues from majority-owned operations during the three months ended June 30, 2003, were driven primarily by our North American operations and to a lesser degree by our international operations, primarily Australia. Our domestic Northeast and South Central power generation operations significantly contributed to our revenues due primarily to favorable market prices resulting from strong fuel and electricity prices. Our Australian operations were favorably impacted by favorable foreign exchange rates. During this period we also experienced an unfavorable impact on our revenues due to continued losses on our CL&P standard offer contract and the mark-to-market on certain of our derivatives.

Cost of Majority-Owned Operations

Reorganized NRG

Our cost of majority-owned operations related to continuing operations for the three months ended June 30, 2004 was $353.8 million. Cost of majority-owned operations consists of the cost of energy (primarily fuel costs), labor, operating and maintenance costs and non-income based taxes. Given the mild demand for electricity in the second quarter, particularly in the Northeast Region, our cost of energy declined over the first quarter. Our intermediate and peaking facilities, which are fueled by more expensive fuel oil and natural gas, were not frequently called upon to generate power over the course of the quarter. We also benefited from a $12 million property tax credit. Our cost structure was unfavorably impacted by the non-cash amortization of the value of SO_2 allowances recorded on our balance sheet resulting from Fresh Start in the amount of $3.6 million.

Predecessor Company

Our cost of majority-owned operations related to continuing operations for the three months ended June 30, 2003 was $381.8 million. Cost of majority-owned operations consists of cost of energy (primarily fuel costs), labor, operating and maintenance costs and non-income based taxes. Cost of majority-owned operations was unfavorably impacted by increased generation in the Northeast region, partially offset by a reduction in trading and hedging activity resulting from a reduction in our power marketing activities. Our international operations were unfavorably impacted due to an unfavorable movement in foreign exchange rates and continued mark-to-market of the Osborne contract at Flinders resulting from lower pool prices.

Depreciation and Amortization

Reorganized NRG

Our depreciation and amortization expense related to continuing operations for the three months ended June 30, 2004 was $53.2 million. Depreciation and amortization consists primarily of the allocation of our historical depreciable fixed asset costs over the remaining lives of such property. Upon adoption of Fresh Start we were required to revalue our fixed assets to fair value and determine new remaining lives for such assets. Our fixed assets were written down substantially upon our emergence from bankruptcy. We also determined new remaining depreciable lives, which are, on average, shorter than what we had previously used primarily due to the age and condition of our fixed assets. In completing the process of establishing newly determined depreciable fixed asset values and remaining depreciable lives, we utilized our best estimates for determining depreciation expense in certain instances. As we have completed the process, we have recognized the impact of any adjustments as changes in estimates.

Predecessor Company

Our depreciation and amortization expense related to continuing operations for the three months ended June 30, 2003 was $63.8

million. Depreciation and amortization consisted primarily of the allocation of our historical depreciable fixed asset costs over the remaining lives of such property. During this period, depreciation expense was unfavorably impacted by the shortening of the depreciable lives of certain of our domestic power generation facilities located in the Northeast region and the impact of recently completed construction projects. The depreciable lives of certain of our Northeast facilities, primarily our Connecticut facilities, were shortened to reflect economic developments in that region.

General, Administrative and Development

Reorganized NRG

Our general, administrative and development costs related to continuing operations for the three months ended June 30, 2004 were $45.8 million or 8.0% of operating revenue. These costs are primarily comprised of corporate labor, insurance, and external professional support, such as legal, financial advisors, audit fees, and board of directors' fees. General, administrative and development costs have been adversely impacted by increased legal fees associated with asset divestitures, higher accounting costs, and higher labor costs associated with an increase in corporate headquarters staff in preparation for our headquarters relocation.

Predecessor Company

Our general, administrative and development costs related to continuing operations for the three months ended June 30, 2003 were $39.1 million or 8.9% of operating revenue. General, administrative and development costs were directly impacted by our efforts to stream line the operations through work force reduction efforts, closure of certain international offices and lower legal costs charged herein. In addition, an increase to our bad debt expense was recorded during this period.

Corporate Relocation Charges

During March 2004, we announced plans to implement a new regional business strategy and structure. The new structure calls for a reorganized leadership team and a corporate headquarters relocation to West Windsor, New Jersey. The corporate relocation is intended to increase our effectiveness in serving our plants and employees as well as our external stakeholders such as regulators, customers and investors. This reorganization will streamline corporate headquarters staff as functions are shifted to the regions. The transition of the corporate headquarters has commenced and is expected to run through March 2005. During the three months ended June 30, 2004, we recorded $5.6 million for charges related to our corporate relocation activities, primarily for employee severance and termination benefits. We expect such charges to total approximately $26.5 million and to continue through March 2005 as we complete our relocation activities. These charges will be classified separately in our statement of operations, in accordance with SFAS No. 146, *"Accounting for Costs Associated with Exit or Disposal Activities"*. We currently estimate total costs associated with the corporate relocation to approximate $43 million, inclusive of the relocation charges mentioned above. All other costs and expenses relating to the corporate relocation, except for approximately $4 million of related capital expenditures, will be expensed as incurred and included in general, administrative and development expenses. Cash costs for 2004 are expected to be approximately $30 million.

Reorganization Items and Restructuring and Impairment Charges

Reorganized NRG

During the three months ended June 30, 2004, we recorded a net credit of $2.7 million related to reorganization items. These items relate primarily to the favorable settlement of obligations recorded under Fresh Start.

During the three months ended June 30, 2004, we reviewed the recoverability of our long-lived assets in accordance with the guidelines of SFAS No. 144. As a result of this review, we recorded $1.7 million of asset impairments related to the impairment to the realizable value of a turbine acquired in March 2000 from Cajun Electric.

Predecessor Company

During the three months ended June 30, 2003, we incurred total reorganization items of $6.3 million for the three months ended June 30, 2003. All reorganization costs have been incurred since we filed for bankruptcy in May 2003. These costs consist of bankruptcy related charges primarily related to professional fees.

During the three months ended June 30, 2003, we incurred total restructuring charges of $46.7 million. These costs consist of employee separation costs and advisor fees. All amounts were paid during the first half of 2003.

During the three months ended June 30, 2003, we reviewed the recoverability of our long-lived assets in accordance with the guidelines of SFAS No. 144. As a result of this review, we recorded $222.9 million of asset impairments primarily related to our Connecticut facilities, Devon and Middletown, resulting from adverse regulatory developments affecting these facilities.

Other Income (Expense)

Reorganized NRG

During the three months ended June 30, 2004, we recorded other expense of $11.1 million, which consisted primarily of $66.2 million of interest expense and $0.2 million of minority interest in earnings of consolidated subsidiaries, offset by $1.2 million of gains on sales of equity method investments, $46.1 million of equity in earnings of unconsolidated affiliates (including $21.9 million from our investment in West Coast Power LLC) and $8.0 million of other income, net.

Predecessor Company

During the three months ended June 30, 2003, we recorded other expense of $185.6 million. Other expense consisted primarily of $92.1 million of interest expense, $132.4 million of write downs and losses on sales of equity method investments and $8.0 million in other income, net, offset by $46.9 million of equity in earnings of unconsolidated affiliates (including $27.7 million from our investment in West Coast Power LLC).

Interest expense

Reorganized NRG

Interest expense for the three months ended June 30, 2004 was $66.2 million, consisting of interest expense on both our project and corporate level interest bearing debt. Also included in interest expense is the amortization of debt financing costs and the amortization expense related to debt discounts and premiums recorded as part of Fresh Start. Additionally, interest expense also includes the impact of any interest rate swaps that we have entered in order to manage our exposure to changes in interest rates.

Predecessor Company

Interest expense for the three months ended June 30, 2003 was $92.1 million, consisting of interest expense on both our project and corporate level interest bearing debt. In addition, interest expense includes the amortization of debt financing costs. Interest expense during this period was favorably impacted by our ceasing to record interest expense on debt where it was probable that such interest would not be paid, such as the NRG corporate level debt (primarily bonds) and NRG Finance Company debt (construction revolver) due to our entering into bankruptcy in May 2003. Interest expense was unfavorably impacted by an adverse mark-to-market on certain interest rate swaps that we have entered in order to manage our exposure to changes in interest rates. Due to our deteriorating financial condition, hedge accounting treatment was ceased for certain of our interest rate swaps, causing changes in fair value to be recorded as interest expense.

Write Downs and Gains/(Losses) on Sales of Equity Method Investments

As part of our periodic review of our equity method investments for impairments, we have taken gains on sales of equity method investments for the three months ended June 30, 2004 totaling $1.2 million and write-downs and losses on sales of equity method investments of $132.4 million during the three months ended June 30, 2003.

Write downs and gains/(losses) on sales of equity method investments recorded in the consolidated statement of operations include the following:

	Reorganized NRG	Predecessor Company
	Three Months Ended June 30, 2004	Three Months Ended June 30, 2003
	(In thousands)	
Calpine Cogeneration	**$ 500**	$ —
Loy Yang	**705**	(139,972)
NEO Corporation — Minnesota Methane	**—**	2,196
Kondapalli	**—**	1,812
ECKG	**—**	3,714
Other	**—**	(186)
Total write downs and gains/(losses) on sales of equity method investments	**$ 1,205**	$ (132,436)

Calpine Cogeneration — In January 2004, we executed an agreement to sell our 20% interest in Calpine Cogeneration Corporation to Calpine Power Company. The transaction closed in March 2004 and resulted in net cash proceeds of $2.5 million and a net gain of $0.2 million. During the second quarter of 2004, we received additional consideration on the sale of $0.5 million, resulting in an adjusted net gain of $0.7 million.

Loy Yang — We recorded an impairment charge of $111.4 million during 2002 and an additional impairment charge of $140.0 million during the second quarter of 2003 based on a third party market evaluation and bids received in response to marketing Loy Yang for possible sale. During the first quarter of 2004, we wrote down our investment in Loy Yang by $2.0 million due to recent estimates of the expected sales proceeds. In April 2004, we completed the sale of our 25.4% interest in Loy Yang to Great Energy Alliance Corporation, which resulted in net cash proceeds of $26.7 million and a gain of $0.7 million.

NEO Corporation — Minnesota Methane — In May 2003, the project lenders to the wholly owned subsidiaries of NEO Landfill Gas, Inc. and Minnesota Methane foreclosed on our membership interest in the NEO Landfill Gas, Inc. subsidiaries and our equity interest in Minnesota Methane. Upon completion of the foreclosure, we recorded a gain of $2.2 million on the related equity investments. This gain resulted from the legal release of certain obligations.

Kondapalli — On May 30, 2003 we sold our investment in Kondapalli resulting in net cash proceeds of approximately $24 million and a gain of approximately $1.8 million. The gain resulted from incurring lower selling costs than estimated as part of the first quarter impairment.

ECKG — In January 2003 we sold our 44.5% interest in ECKG and our interest in Entrade to Atel. In accordance with the purchase agreement, we were to receive additional consideration if Atel purchased shares held by our partner. During the second quarter of 2003, we received approximately $3.7 million of additional consideration.

Equity in Earnings of Unconsolidated Affiliates

Reorganized NRG

During the three months ended June 30, 2004, we recorded $46.1 million of equity earnings from our investments in unconsolidated affiliates. Our investment in West Coast Power comprised $21.9 million of this amount with our investment in Mibrag and Gladstone comprising $4.5 million and $3.5 million, respectively. Our investment in West Coast Power generated favorable cash results due to the pricing under the California Department of Water Resources contract. Additionally, increased ancillary service revenue, the ability to satisfy the CDWR contract with lower-than-expected purchased power, minimum load cost compensation power, and operating efficiencies favorably impacted West Coast Power's operating results. However, our equity earnings in the project as reported in our results of operations have been reduced to reflect a non-cash basis adjustment resulting from adoption of Fresh Start.

NRG's equity earnings were also favorably impacted by $10.3 million of unrealized gain related to our Enfield investment. This gain is associated with changes in the fair value of energy related derivative instruments not accounted for as hedges in accordance with SFAS No. 133.

Predecessor Company

During the three months ended June 30, 2003, we recorded $46.9 million of equity earnings from our investments in unconsolidated affiliates. $37.9 million was generated by our domestic portfolio and $9.0 million from our international portfolio. Our investment in West Coast Power continued to generate favorable earnings due primarily from the CDWR contract and contributed $27.7 million in earnings this period.

Other income, net

Reorganized NRG

During the three months ended June 30, 2004, we recorded $8.0 million of other income, net, consisting primarily of interest income earned on notes receivable and cash balances.

Predecessor Company

During the three months ended June 30, 2003, we recorded an expense of $8.0 million for other income, net. During this period other income, net consisted primarily of the unfavorable mark-to-market on our corporate level £160 million note that was cancelled in connection with our bankruptcy proceedings.

Income Tax Expense

Reorganized NRG

Income tax expense for the three months ended June 30, 2004, was $36.3 million. For U.S. income tax purposes, the tax expense in 2004 is due to a reduction in deferred tax assets without a tax benefit for the corresponding reduction in valuation allowance. Due to the uncertainty of realization of deferred tax assets related to net operating losses and other temporary differences, our U.S. net deferred tax assets at December 5, 2003 were offset by a full valuation allowance of $1.3 billion in accordance with SFAS No. 109. SOP 90-7 requires that reductions in the valuation allowance as of December 5, 2003 (date of emergence) first reduce intangible assets until exhausted and thereafter be reported as a direct addition to paid-in-capital. Consequently, our effective tax rate in post bankruptcy emergence years will not benefit from reductions in the valuation allowance. The foreign tax expense for the three months ended June 30, 2004 is due to the earnings in foreign jurisdictions.

Predecessor Company

During the three months ended June 30, 2003, we recorded income tax expense of $4.3 million. The U.S. tax expense is due to separate company income tax liabilities. The foreign tax expense for the three months ended June 30, 2003 is due to earnings in foreign jurisdictions.

Income (Loss) on Discontinued Operations, net of Income Taxes

Reorganized NRG

We classified as discontinued operations the operations and gains/losses recognized on the sale of projects that were sold or were deemed to have met the required criteria for such classification pending final disposition. During the three months ended June 30, 2004, we recorded income on discontinued operations, net of income taxes of $14.2 million. During this period, discontinued operations consisted of the results of our NRG McClain LLC, Penobscot Energy Recovery Company, or PERC, Compania Boliviana De Energia Electrica S.A. Bolivian Power Company Limited, or Cobee, Hsin Yu and LSP Energy projects. All other discontinued operations were disposed of in prior periods. The $14.2 million income on discontinued operations is comprised primarily of a gain of $11.9 million, net of $1.4 million taxes, recognized on the sale of PERC, Cobee and Hsin Yu of $2.0 million, $2.8 million and $10.3 million, respectively, offset by a loss on the sale of McClain of $3.2 million.

Predecessor Company

We classified as discontinued operations the operations and gains/losses recognized on the sale of projects that were sold or were deemed to have met the required criteria for such classification pending final disposition. During the three months ended June 30, 2003, we recorded loss on discontinued operations, net of income taxes of $99.4 million consisting of the results from our McClain, PERC, Cobee, Killingholme, NEO Landfill Gas, Inc., three NEO Corporation projects (NEO Fort Smith LLC, NEO Woodville LLC, NEO Phoenix LLC), Timber Energy Resources, Inc., Cahua and Energia Pacasmayo, Hsin Yu and LSP Energy projects. The loss on discontinued operations of $97.3 million is comprised primarily of the impairment at our McClain facilities of $100.7 million. In addition, there was a net loss on sale of discontinued operations of $2.1 million.

Management's discussion of our results of operations for the six months ended June 30, 2004 and for the six months ended June 30, 2003

Net Income/(Loss)

Reorganized NRG

For the six months ended June 30, 2004, we recorded net income of $113.3 million, or $1.13 per weighted average share of diluted common stock. Our results were favorably impacted by the cold weather in January in the Northeast region where heating degree-days were 19% above normal. The unusually severe weather drove up gas prices, which reached, for a short period of time, $70/mmbtu in the New York City market. As gas prices generally set the marginal price of electricity in the Northern markets, our NEPOOL generating fleet and our Oswego facility, which operate on oil, generated more power than expected. Additionally, our results benefited by locking in certain of our domestic coal costs. Our results were also favorably impacted by the FERC-approved Settlement Agreement between NRG and Connecticut Light and Power and others, whereby we received $38.4 million in settlement proceeds in June 2004.

Predecessor Company

For the six months ended June 30, 2003, we recorded a net loss of $621.0 million. Our results were unfavorably impacted by $291.8 million of restructuring and impairment charges, $149.0 million of charges related to write downs and losses on our equity method investments and $6.3 million of reorganization charges related to our entering into bankruptcy in May 2003. Our results were also unfavorably impacted by continued losses resulting from our Connecticut Light and Power Standard Offer Contract caused by increased market prices and a decrease in generation and increased costs related to our restructuring activities.

Revenues from Majority-Owned Operations

Reorganized NRG

Revenues from majority-owned operations of $1. 2 billion for the six months ended June 30, 2004, included $723.4 million of energy revenues, $299.1 million of capacity revenues, $88.8 million of alternative energy revenues, $10.5 million of O&M fees and $52.2 million of other revenues, which include financial and physical gas sales, and non-cash contract amortization resulting from fresh start accounting.

Revenues from majority-owned operations for the six months ended June 30, 2004, were driven primarily by our North American operations, primarily our Northeast facilities. Our domestic Northeast power generation operations significantly contributed to our energy revenues due to favorable market prices resulting from colder than normal weather and strong natural gas prices, which pushed up electricity prices in January 2004. Gas prices generally set the marginal price of electricity allowing certain of our facilities which are not gas-fired, primarily our NEPOOL facilities and our Oswego facility, to operate at better then expected capacity levels thus resulting in strong merchant revenues. Our Australian operations were favorably impacted by strong market prices driven by gas restrictions in January, record high temperatures in February and March, and favorable foreign exchange movements. Our capacity revenues are largely driven by our Northeast and South Central facilities. Our Connecticut facilities continue to benefit from the cost based reliability must run, or RMR agreement, which was authorized on January 17, 2004. The agreement entitles us to approximately $7.1 million of revenues per month, which was originally expected to be replaced by LICAP in June 2004. FERC recently postponed the LICAP implementation until January 1, 2006, and as such, the existing RMR agreements will continue until that date. The rates under this agreement are not final and are subject to refund. In the South Central region our long-term contracts generally provide for capacity payments. During this period we also experienced a favorable impact on our revenues due to the mark- to-market on certain of our derivative contracts. Our revenues during this period were adversely impacted by $25.6 million of non-cash amortization of the fair values of various executory contracts recorded on our balance sheet upon our adoption of the Fresh Start provisions of SOP 90-7 in December 2003. Our revenues were also favorably impacted by the FERC-approved Settlement Agreement between us and Connecticut Light and Power and others, whereby we received $38.4 million in settlement proceeds in June 2004.

Predecessor Company

Revenues from majority-owned operations of $936.6 million for the six months ended June 30, 2003, included $451.9 million of energy revenues, $316.2 million of capacity revenues, $106.0 million of alternative energy revenues, $7.1 million of O&M fees and $55.4 million of other revenues, which include financial and physical gas sales.

Revenues from majority-owned operations during the six months ended June 30, 2003, were driven primarily by our North American operations and to a lesser degree by our international operations, primarily Australia. Our domestic Northeast and South Central power generation operations significantly contributed to our revenues due primarily to favorable market prices resulting from strong fuel and electricity prices. Our Australian operations were favorably impacted by favorable foreign exchange rates. During this period we also experienced an unfavorable impact on our revenues due to continued losses on our CL&P standard offer contract and the mark-to-market on certain of our derivatives.

Cost of Majority-Owned Operations

Reorganized NRG

Our cost of majority-owned operations related to continuing operations for the six months ended June 30, 2004 was $735.8 million. Cost of majority-owned operations consists of the cost of energy (primarily fuel costs), labor, operating and maintenance costs and non-income based taxes. Given the strong demand for electricity in January 2004 in the Northeast region, our coal and oil plants were highly utilized. The utilization of our intermediate and peaking facilities exceeded expectations resulting in higher fuel costs as these facilities are fueled by more expensive fuel oil and natural gas. Our cost structure was also unfavorably impacted by the non-cash amortization of the value of SO_2 allowances recorded on our balance sheet resulting from Fresh Start in the amount of $9.9 million.

Predecessor Company

Our cost of majority-owned operations related to continuing operations for the six months ended June 30, 2003 was $759.4 million. Cost of majority-owned operations consists of cost of energy (primarily fuel costs), labor, operating and maintenance costs and non-income based taxes. Cost of majority-owned operations was unfavorably impacted by increased generation in the Northeast region, partially offset by a reduction in trading and hedging activity resulting from a reduction in our power marketing activities. Our international operations were unfavorably impacted due to an unfavorable movement in foreign exchange rates and continued mark-to-market of the Osborne contract at Flinders resulting from lower pool prices.

Depreciation and Amortization

Reorganized NRG

Our depreciation and amortization expense related to continuing operations for the six months ended June 30, 2004 was $108.2 million. Depreciation and amortization consists primarily of the allocation of our historical depreciable fixed asset costs over the remaining lives of such property. Upon adoption of Fresh Start we were required to revalue our fixed assets to fair value and determine new remaining lives for such assets. Our fixed assets were written down substantially upon our emergence from bankruptcy. We also determined new remaining depreciable lives, which are, on average, shorter than what we had previously used primarily due to the age and condition of our fixed assets. In completing the process of establishing newly determined depreciable fixed asset values and remaining depreciable lives, we utilized our best estimates for determining depreciation expense in certain instances. As we have completed the process, we have recognized the impact of any adjustments to those estimates.

Predecessor Company

Our depreciation and amortization expense related to continuing operations for the six months ended June 30, 2003 was $122.9 million. Depreciation and amortization consisted primarily of the allocation of our historical depreciable fixed asset costs over the remaining lives of such property. During this period, depreciation expense was unfavorably impacted by the shortening of the depreciable lives of certain of our domestic power generation facilities located in the Northeast region and the impact of recently completed construction projects. The depreciable lives of certain of our Northeast facilities, primarily our Connecticut facilities, were shortened to reflect economic developments in that region.

General, Administrative and Development

Reorganized NRG

Our general, administrative and development costs related to continuing operations for the six months ended June 30, 2004 were $82.3 million or 7.0% of operating revenue. These costs are primarily comprised of corporate labor, insurance, and external professional support, such as legal, financial advisors, audit fees, and board of directors' fees.

Predecessor Company

Our general, administrative and development costs related to continuing operations for the six months ended June 30, 2003 were $87.7 million or 9.4% of operating revenue. General, administrative and development costs were directly impacted by our efforts to stream line the operations through work force reduction efforts, closure of certain international offices and lower legal costs charged herein. In addition, an increase to our bad debt expense was recorded during this period.

Corporate Relocation Charges

During March 2004, we announced plans to implement a new regional business strategy and structure. The new structure calls for a reorganized leadership team and a corporate headquarters relocation to West Windsor, New Jersey. The corporate relocation is intended to increase our effectiveness in serving our plants and employees as well as our external stakeholders such as regulators, customers and investors. This reorganization will streamline corporate headquarters staff as functions are shifted to the regions. The transition of the corporate headquarters has commenced and is expected to run through March 2005. During the six months ended June 30, 2004, we recorded $6.8 million for charges related to our corporate relocation activities, primarily for employee severance and termination benefits. We expect such charges to total approximately $26.5 million and to continue through March 2005 as we complete our relocation activities. These charges will be classified separately in our statement of operations, in accordance with SFAS No. 146, *"Accounting for Costs Associated with Exit or Disposal Activities"*. We currently estimate total costs associated with the corporate relocation to approximate $43 million, inclusive of the relocation charges mentioned above. All other costs and expenses relating to the corporate relocation, except for approximately $4 million of related capital expenditures, will be expensed as incurred and included in general, administrative and development expenses.

We expect to recognize a curtailment gain on our defined benefit pension plan in the third quarter of this year, as a substantial number of our current headquarters staff are expected to leave the company in this period. We do not believe that the curtailment gain will be significant, given the relatively short average service period of these employees.

Reorganization Items and Restructuring and Impairment Charges

Reorganized NRG

During the six months ended June 30, 2004, we incurred total reorganization items of $3.6 million. All reorganization costs have been incurred since we filed for bankruptcy in May 2003. These costs consist of bankruptcy related charges primarily related to professional fees.

During the six months ended June 30, 2004, we reviewed the recoverability of our long-lived assets in accordance with the guidelines of SFAS No. 144. As a result of this review, we recorded $1.7 million of asset impairments related to the impairment to the realizable value of a turbine acquired in March 2000 from Cajun Electric.

Predecessor Company

During the six months ended June 30, 2003, we incurred total reorganization items of $6.3 million. All reorganization costs have been incurred since we filed for bankruptcy in May 2003. These costs consist of bankruptcy related charges primarily related to professional fees.

During the six months ended June 30, 2003, we incurred total restructuring charges of $68.2 million. These costs consist of employee separation costs and advisor fees. All amounts were paid during the first half of 2003.

During the six months ended June 30, 2003, we reviewed the recoverability of our long-lived assets in accordance with the guidelines of SFAS No. 144. As a result of this review, we recorded $223.6 million of asset impairments primarily related to our Connecticut facilities, Devon and Middletown, resulting from adverse regulatory developments affecting these facilities.

Other Income (Expense)

Reorganized NRG

During the six months ended June 30, 2004, we recorded other expense of $85.1 million. Other expense consisted primarily of $159.4 million of interest expense, $0.7 million of minority interest in earnings of consolidated subsidiaries and $0.5 million of write downs and losses on sales of equity method investments, offset by $63.8 million of equity in earnings of unconsolidated affiliates (including $27.9 million from our investment in West Coast Power LLC) and $11.7 million of other income, net.

Predecessor Company

During the six months ended June 30, 2003, we recorded other expense of $313.8 million. Other expense consisted primarily of $260.8 million of interest expense, $149.0 million of write downs and losses on sales of equity method investments, offset by $3.5 million in other income, net and $92.5 million of equity in earnings of unconsolidated affiliates (including $27.3 million from our investment in West Coast Power LLC).

Interest Expense

Reorganized NRG

Interest expense for the six months ended June 30, 2004 was $159.4 million, consisting of interest expense on both our project and corporate level interest bearing debt. Significant amounts of our corporate level debt were forgiven upon our emergence from bankruptcy and we refinanced significant amounts of our project level debt with corporate level high yield notes and term loans in December 2003. In January 2004, we refinanced certain amounts of our recently issued term loans with additional corporate level high yield notes. As a result of this financing, interest expense includes $15 million of pre-payment penalties and a $15 million write-off of deferred financing costs. Also included in interest expense is the amortization of debt financing costs related to our corporate level debt and the amortization expense related to debt discounts and premiums recorded as part of Fresh Start. Interest expense also includes the impact of any interest rate swaps that we have entered in order to manage our exposure to changes in interest rates.

Predecessor Company

Interest expense for the six months ended June 30, 2003 was $260.8 million, consisting of interest expense on both our project and corporate level interest bearing debt. In addition, interest expense includes the amortization of debt financing costs. Interest expense during this period was favorably impacted by our ceasing to record interest expense on debt where it was probable that such interest would not be paid, such as the NRG corporate level debt (primarily bonds) and the NRG Finance Company debt (construction revolver) due to our entering into bankruptcy in May 2003. Interest expense was unfavorably impacted by an adverse mark-to-market on certain interest rate swaps that we have entered in order to manage our exposure to changes in interest rates. Due to our deteriorating financial condition during such period, hedge accounting treatment was ceased for certain of our interest rate swaps, causing changes in fair value to be recorded as interest expense.

Write Downs and Gains/(Losses) on Sales of Equity Method Investments

As part of our periodic review of our equity method investments for impairments, we have taken write downs and losses on sales of equity method investments during the six months ended June 30, 2004 and six months ended June 30, 2003 of $0.5 million and $149.0 million, respectively.

Write downs and losses on sales of equity method investments recorded in the consolidated statement of operations include the following:

	Reorganized NRG	Predecessor Company
	Six Months Ended June 30, 2004	Six Months Ended June 30, 2003
	(In thousands)	
Calpine Cogeneration	**$ 735**	$ —
Loy Yang	**(1,268)**	(139,972)
NEO Corporation — Minnesota Methane	—	(12,257)
Kondapalli	—	519
ECKG	—	2,869
Other	—	(186)
Total write downs and losses on sales of equity method investments	**$ (533)**	$ (149,027)

Calpine Cogeneration — In January 2004, we executed an agreement to sell our 20% interest in Calpine Cogeneration Corporation to Calpine Power Company. The transaction closed in March 2004 and resulted in net cash proceeds of $2.5 million and a net gain of $0.2 million. During the second quarter of 2004, we received additional consideration on the sale of $0.5 million, resulting in an adjusted net gain of $0.7 million.

Loy Yang — We recorded an impairment charge of $111.4 million during 2002 and an additional impairment charge of $140.0 million during the second quarter of 2003 based on a third party market evaluation and bids received in response to marketing Loy Yang for possible sale. During the first quarter of 2004, we wrote down our investment in Loy Yang by $2.0 million due to recent estimates of the expected sales proceeds. In April 2004, we completed the sale of our 25.4% interest in Loy Yang to Great Energy Alliance Corporation, which resulted in net cash proceeds of $26.7 million and a loss of $1.3 million.

NEO Corporation — Minnesota Methane — We recorded an impairment charge of $12.3 million during 2002 to write-down our 50% investment in Minnesota Methane. We recorded an additional impairment charge of $14.5 million during the first quarter of 2003. These charges were related to a revised project outlook and management's belief that the decline in fair value was other than temporary. In May 2003, the project lenders to the wholly-owned subsidiaries of NEO Landfill Gas, Inc. and Minnesota Methane LLC foreclosed on our membership interest in the NEO Landfill Gas, Inc. subsidiaries and our equity interest in Minnesota Methane LLC. Upon completion of the foreclosure, we recorded a gain of $2.2 million on the related equity investments. This gain resulted from the release of certain obligations.

Kondapalli — In the first quarter of 2003, we wrote down our investment in Kondapalli by $1.3 million based on the final sales agreement. The sale closed on May 30, 2003 resulting in net cash proceeds of approximately $24 million and a gain of approximately $1.8 million, resulting in a net gain of $0.5 million. The gain resulted from incurring lower selling costs than estimated as part of the first quarter impairment.

ECKG — In January 2003, we sold our 44.5% interest in ECKG and our interest in Entrade to Atel. In accordance with the purchase agreement, we were to receive additional consideration if Atel purchased shares held by our partner. The transaction closed in January 2003 and resulted in cash proceeds of $65.3 million and a net gain of $2.9 million.

Equity in Earnings of Unconsolidated Affiliates

Reorganized NRG

During the six months ended June 30, 2004, we recorded $63.8 million of equity earnings from our investments in unconsolidated affiliates. Our investment in West Coast Power comprised $27.9 million of this amount with our investment in Mibrag and Gladstone comprising $10.9 million and $6.7 million, respectively. Our investment in West Coast Power generated favorable cash results due to the pricing under the California Department of Water Resources contract. However, our equity earnings in the project as reported in our results of operations have been reduced to reflect a non-cash basis adjustment resulting from adoption of Fresh Start.

Predecessor Company

During the six months ended June 30, 2003, we recorded $92.5 million of equity earnings from our investments in unconsolidated affiliates. Our investment in West Coast Power comprised $27.3 million of this amount with our investment in Mibrag and Gladstone comprising $8.0 million and $4.4 million, respectively.

Other Income, net

Reorganized NRG

During the six months ended June 30, 2004, we recorded $11.7 million of other income, net, consisting primarily of interest income earned on notes receivable and cash balances.

Predecessor Company

During the six months ended June 30, 2003, we recorded $3.5 million for other income, net. During this period other income, net consisted primarily of interest income earned on notes receivable and cash balances, offset in part by the unfavorable mark-to-market on our corporate level £160 million note that was cancelled in connection with our bankruptcy proceedings.

Income Tax Expense

Reorganized NRG

Income tax expense for the six months ended June 30, 2004, was $50.6 million. For U.S. income tax purposes, the tax expense in 2004 is due to a reduction in deferred tax assets without a tax benefit for the corresponding reduction in valuation allowance. Due to the uncertainty of realization of deferred tax assets related to net operating losses and other temporary differences, our U.S. net deferred tax assets at December 5, 2003 were offset by a full valuation allowance of $1.3 billion in accordance with SFAS No. 109. SOP 90-7 requires that reductions in the valuation allowance as of December 5, 2003 (date of emergence) first reduce intangible assets until exhausted and thereafter be reported as a direct addition to paid-in-capital. Consequently, our effective tax rate in post bankruptcy emergence years will not benefit from reductions in the valuation allowance. The foreign tax expense for the six months ended June 30, 2004 is due to earnings in foreign jurisdictions.

As of June 30, 2004, the valuation allowance against U.S. and foreign net operating loss carryforwards was $368.8 million and the valuation allowance against other deferred tax assets was $699.3 million. If unused, the U.S. net operating loss carryforward of $1.0 billion generated in 2002 and 2003 will expire by 2023. Foreign net operating loss carryforwards have no expiration date.

Predecessor Company

During the six months ended June 30, 2003, we recorded income tax expense of $37.3 million. The U.S. tax is due to separate company tax liabilities and an additional valuation allowance recorded against the deferred tax assets of NRG West Coast Power LLC as a result of its conversion to a disregarded entity for federal income tax purposes. The foreign tax expense for the six months ended June 30, 2003 is due to earnings in foreign jurisdictions. As of December 31, 2003 a valuation allowance of $559.7 million was provided to account for potential limitations on utilization of U.S. and foreign net operating loss carryforwards and a valuation allowance of $704.7 million provided for other deferred tax assets.

Income on Discontinued Operations, net of Income Taxes

Reorganized NRG

We classified as discontinued operations the operations and gains/losses recognized on the sale of projects that were sold or were deemed to have met the required criteria for such classification pending final disposition. During the six months ended June 30, 2004, we recorded income on discontinued operations, net of income taxes of $13.3 million. During this period, discontinued operations consisted of the results of our NRG McClain LLC , PERC, Cobee, Hsin Yu and LSP Energy projects. All other discontinued operations were disposed of in prior periods. The $13.3 million income on discontinued operations is comprised primarily of a gain on sale of $11.9 million, net of income taxes of $1.4 million.

Predecessor Company

We classified as discontinued operations the operations and gains/losses recognized on the sale of projects that were sold or were deemed to have met the required criteria for such classification pending final disposition. During the six months ended June 30, 2003, we recorded income on discontinued operations, net of income taxes of $61.6 million consisting of the results from our McClain, PERC, Cobee, Killingholme, NEO Landfill Gas, Inc., three NEO Corporation projects (NEO Fort Smith LLC, NEO Woodville LLC, NEO Phoenix LLC), Timber Energy Resources, Inc., Cahua and Energia Pacasmayo, Hsin Yu and LSP Energy projects. The $61.6 million income from discontinued operations is due primarily to the $191.2 million net gain recognized on the completion of the sale of our interest in Killingholme, partially offset by asset impairment charges of $100.7 million related to our McClain facilities.

Critical Accounting Policies and Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements and related disclosures in compliance with generally accepted accounting principles, or GAAP, requires the application of appropriate technical accounting rules and guidance as well as the use of estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosures of contingent assets and liabilities. The application of these policies necessarily involves judgments regarding future events, including the likelihood of success of particular projects, legal and regulatory challenges. These judgments, in and of themselves, could materially impact the financial statements and disclosures based on varying assumptions, which may be appropriate to use. In addition, the financial and operating environment also may have a significant effect, not only on the operation of the business, but on the results reported through the application of accounting measures used in preparing the financial statements and related disclosures, even if the nature of the accounting policies have not changed.

On an ongoing basis, we evaluate our estimates, utilizing historic experience, consultation with experts and other methods we consider reasonable. In any case, actual results may differ significantly from our estimates. Any effects on our business, financial position or results of operations resulting from revisions to these estimates are recorded in the period in which the facts that give rise to the revision become known.

Liquidity and Capital Resources

In connection with the consummation of the NRG plan of reorganization, on December 5, 2003 all shares of our old common stock were canceled and 100,000,000 shares of new common stock of NRG Energy were distributed pursuant to such plan to the holders of certain classes of claims. A certain number of shares of common stock were issued for distribution to holders of disputed claims as such claims are resolved or settled. In the event our disputed claims reserve is inadequate, it is possible we would have to issue additional shares of our common stock to satisfy such pre-petition claims or contribute additional cash proceeds. See Item 1 — Note 17 of the Consolidated Financial Statements of this Form 10-Q — Disputed Claims Reserve. Our authorized capital stock consists of 500,000,000 shares of NRG Energy common stock and 10,000,000 shares of Serial Preferred Stock. Further, a total of 4,000,000 shares of our common stock, representing approximately 4% of our outstanding common stock, are available for issuance under our long-term incentive plan.

In addition to our issuance of new common stock, on December 23, 2003, we completed a note offering consisting of $1.25 billion of 8% Second Priority Senior Secured Notes due 2013 and we entered into a new Senior Secured Credit Facility consisting of a $950.0 million term loan facility, a $250.0 million funded letter of credit facility and a $250.0 million revolving credit facility. In January of 2004, we completed a supplementary note offering whereby we issued an additional $475.0 million of the 8% Second Priority Notes at a premium and used the proceeds to repay a portion of the $950.0 million term loan. As of August 2, 2004, we had $1.725 billion in aggregate principal amount of 8% Second Priority Notes outstanding, $443.0 million principal amount outstanding under the term loan and $107.9 million remains available under the funded letter of credit facility. As of August 2, 2004, we had not drawn down on our revolving credit facility.

In March 2004, we entered into two interest rate hedges in support of our obligations under the 8% Second Priority Notes and the Senior Secured Credit Facility. Depending on market interest rates, we or the swap counterparty may be required to post collateral on a daily basis in support of both of these swaps, to the benefit of the other party. On June 30, 2004, we had posted $17.8 million in collateral. As of August 2, 2004, we have posted $11.1 million in collateral in support of the swaps.

In connection with the consummation of the NRG plan of reorganization, on December 5, 2003 we issued to Xcel Energy a $10.0 million non-amortizing promissory note, which will accrue interest at a rate of 3% per annum and mature 2.5 years after the effective date of the NRG plan of reorganization.

A principal component of our plan of reorganization is a settlement with Xcel Energy in which Xcel Energy agreed to make a contribution consisting of cash (and, under certain circumstances, its stock) in the aggregate amount of up to $640 million to be paid in three separate installments following the effective date of our plan of reorganization. The Xcel Energy settlement agreement resolves any and all claims existing between Xcel Energy and us and/or our creditors and, in exchange for the Xcel Energy contribution, Xcel Energy is receiving a complete release of claims from us and our creditors, except for a limited number of creditors who have preserved their claims as set forth in the order entered on November 24, 2003 confirming our plan of reorganization. On February 20, 2004, we received $288 million from Xcel Energy. On April 30, 2004 we received $328.5 million from Xcel as part of the third settlement. The remainder of the third settlement payment, $23.5 million, was paid by Xcel Energy on May 28, 2004. We used the proceeds from the Xcel Energy settlement to reduce our creditor pool obligation. On February 20, 2004, April 30, 2004 and May 28, 2004, we made payments to former creditors of $163.0 million, $328.5 million and $23.5 million, respectively.

As part of the NRG plan of reorganization, we eliminated approximately $5.2 billion of corporate level bank and bond debt and approximately $1.3 billion of additional claims and disputes through our distribution of new common stock and $1.04 billion in cash among our unsecured creditors. In addition to the debt reduction associated with the restructuring, we used the proceeds of the recent note offering and borrowings under the Senior Secured Credit Facility to retire approximately $1.7 billion of project-level debt.

Capital Expenditures

Capital expenditures were approximately $64.7 million for the six months ended June 30, 2004. We anticipate that our 2004 capital expenditures will be approximately $130 million and will relate to the operation and maintenance of our existing generating facilities.

Liquidity

As of June 30, 2004 our liquidity remains $1.4 billion and includes $1.0 billion of cash and restricted cash. Our liquidity also includes $0.3 billion of available capacity under our revolving line of credit and $0.1 billion of availability under our letter of credit facility. As of December 31, 2003 our liquidity was $1.2 billion and includes $0.7 billion of cash and restricted cash. Our liquidity also included $0.3 billion of available capacity under our revolving line of credit and $0.2 billion of availability under our letter of credit facility.

Cash Flows

	Reorganized NRG	Predecessor Company
	For the Six Months Ended June 30, 2004	For the Six Months Ended June 30, 2003
	(In thousands)	
Net cash provided by operating activities	**$ 317,357**	$ 24,032
Net cash provided by investing activities	**1,558**	27,517
Net cash used by financing activities	**(85,672)**	(33,522)

Net Cash Provided By Operating Activities

Reorganized NRG

For the six months ended June 30, 2004, cash provided by operating activities was $317.4 million. This was primarily a result of net income after non-cash charges of $317.1 million and $640 million received in connection with the Xcel Energy settlement agreement, offset by payments made in connection with our creditor pool obligation.

Predecessor Company

For the six months ended June 30, 2003, cash provided by operating activities was $24.0 million. During 2003, our financial condition deteriorated, primarily due to the overall downturn in the energy industry. As a result of deteriorating credit, we were required to prepay and provide deposits for certain operating expenses. Other factors affecting working capital included an increase in accounts receivable, primarily related to increased energy prices, offset by an increase in accrued interest, due to our not making scheduled interest payments.

Net Cash Provided By Investing Activities

Reorganized NRG

For the six months ended June 30, 2004, cash provided by investment activities was $1.6 million. This was primarily due to proceeds from the sales of equity method investments and discontinued operations offset by ongoing capital improvement projects at our South Central and Northeast facilities.

Predecessor Company

For the six months ended June 30, 2003, cash provided by investing activities was $27.5 million. This was primarily a result of cash proceeds received upon the sale of investments and reduced capital expenditures.

Net Cash Used By Financing Activities

Reorganized NRG

For the six months ended June 30, 2004, cash used by financing activities was $85.7 million. In January of 2004, we received proceeds through a supplementary note offering whereby we issued an additional $475.0 million of Second Priority Notes at a premium. We used the proceeds from this offering to repay $503.5 million of our recently issued term loan.

Predecessor Company

For the six months ended June 30, 2003, cash used by financing activities was $33.5 million, resulting primarily from principal payments on short and long-term debt.

Off Balance-Sheet Arrangements

As of June 30, 2004, we have not entered into any sale-leaseback or other financing structure that is designed to be off balance-sheet that would create liquidity, financing or incremental market risk or credit risk. However, we have numerous investments with an ownership interest percentage of 50% or less in energy and energy related entities that are accounted for under the equity method of accounting. Our pro-rata share of non-recourse debt held by unconsolidated affiliates was approximately $250.4 million and $967.7 million as of June 30, 2004 and December 31, 2003, respectively. The decline was a result of sales of our interest in Calpine Cogeneration and Loy Yang and the amortization of remaining debt. In the normal course of business we may be asked to loan funds to these entities on both a long and short-term basis. Such transactions are generally accounted for as accounts payable and receivable to/from affiliates and notes payable/receivable to/from affiliates and if appropriate, bear market-based interest rates.

Contractual Obligations and Commercial Commitments

NRG Energy has a variety of contractual obligations and other commercial commitments that represent prospective cash requirements in addition to its capital expenditure programs. The following is a summarized table of contractual obligations.

	Payments Due by Period as of June 30, 2004				
Contractual Cash Obligations	Total	Short Term	2-3 Years	4-5 Years	After 5 Years
			(In thousands)		
Long-term debt	$3,491,817	$ 34,132	$541,708	$ 85,620	$2,830,357
Capital lease obligations	526,985	62,253	122,439	60,114	282,179
Operating leases	47,522	9,224	15,524	7,840	14,934
Total contractual cash obligations	$4,066,324	$105,609	$679,671	$153,574	$3,127,470

Other Commercial Commitments	Amount of Commitment Expiration per Period as of June 30, 2004				
	Total Amounts Committed	Short Term	1-3 Years	4-5 Years	After 5 Years
			(In thousands)		
Draws on lines of credit	$ —	$ —	$ —	$ —	$ —
Issued letters of credit	154,572	154,572	—	—	—
Cash collateral calls	—	—	—	—	—
Guarantees of subsidiaries	511,066	600	20,418	12,500	477,548
Guarantees of NRG PMI obligations	38,500	10,000	5,000	—	23,500
Total commercial commitments	$ 704,138	$ 165,172	$ 25,418	$ 12,500	$ 501,048

Derivative Instruments

On March 24, 2004, we executed an interest rate swap agreement to mitigate our floating-rate interest exposure associated with our Senior Secured Credit Facility. The swap agreement became effective March 26, 2004 and terminates March 31, 2006. Under the agreement, we agree to pay quarterly a fixed interest rate on a notional amount of $400.0 million, commencing on March 31, 2004, and receive quarterly a floating-rate interest rate payment on the same notional amount. The floating rate is based upon three-month LIBOR, subject to a floor. This instrument was designated as a cash flow hedge under SFAS No. 133 as of April 1, 2004. As a result, subsequent changes to fair value were recorded as part of other comprehensive income. Changes in fair value prior to April 1, 2004 were recorded as interest expense.

On March 24, 2004, we executed a second interest rate swap agreement to mitigate our fixed-rate interest exposure associated with our 8% Second Priority Notes. This swap agreement became effective March 26, 2004 and terminates December 15, 2013. The swap agreement has provisions for early termination that are linked to any prepayment of the 8% Second Priority Notes. Under the agreement, we agree to pay semi-annually in arrears, commencing June 15, 2004, a floating interest rate on a notional amount of $400.0 million, and receive semi-annually in arrears a fixed interest rate payment on the same notional amount. The floating interest rate is based upon six-month LIBOR plus a spread. Depending on market interest rates, we or the swap counterparty may be required to post collateral on a daily basis in support of both of these swaps, to the benefit of the other party. On June 30, 2004 and August 2, 2004, we had posted $17.8 million and $11.1 million, respectively, in collateral in support of the swaps. During the three months ended June 30, 2004, this transaction was designated as a fair value hedge; therefore, changes in fair value of the hedge instrument and hedged item were recorded in interest expense.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Historically, we have used a variety of financial instruments to manage our exposure to fluctuations in foreign currency exchange rates on our international project cash flows, interest rates on our cost of borrowing and energy and energy related commodities prices.

Currency Exchange Risk

We expect to continue to be subject to currency risks associated with foreign denominated distributions from our international investments. In the normal course of business, we may receive distributions denominated in the Euro, Australian Dollar, British Pound and the Brazilian Real. We have historically engaged in a strategy of hedging foreign denominated cash flows through a program of matching currency inflows and outflows, and to the extent required, fixing the U.S. Dollar equivalent of net foreign denominated distributions with currency forward and swap agreements with highly credit worthy financial institutions. We would expect to enter into similar transactions in the future if management believes it to be appropriate.

As of June 30, 2004, neither we, nor any of our consolidating subsidiaries, had any outstanding foreign currency exchange contracts.

Interest Rate Risk

We are exposed to fluctuations in interest rates when entering into variable rate debt obligations to fund certain power projects. Exposure to interest rate fluctuations may be mitigated by entering into derivative instruments known as interest rate swaps, caps, collars and put or call options. These contracts reduce exposure to interest rate volatility and result in primarily fixed rate debt obligations when taking into account the combination of the variable rate debt and the interest rate derivative instrument. Our risk management policy allows us to reduce interest rate exposure from variable rate debt obligations.

As of June 30, 2004, we had various interest rate swap agreements with notional amounts totaling approximately $1.6 billion, including two interest rate swaps we entered into in March 2004 in support of our obligations under the 8% Second Priority Notes and our term loan under our Senior Secured Credit Facility. If all consolidating swaps had been discontinued on June 30, 2004, we would have owed the counterparties approximately $56.2 million. Based on the investment grade rating of the counterparties, we believe that our exposure to credit risk due to nonperformance by the counterparties to our hedging contracts is insignificant.

We have both long and short-term debt instruments that subject us to the risk of loss associated with movements in market interest rates. As of June 30, 2004, a 100 basis point change in the benchmark rate on our variable rate debt at our consolidated operations would impact net income by approximately $9.5 million.

At June 30, 2004, the fair value of our fixed-rate debt was $2.2 billion, compared with the carrying amount of $2.2 billion. We estimate that a 1% decrease in market interest rates would have increased the fair value of our fixed-rate debt to $2.3 billion, or an increase of $104.6 million.

Commodity Price Risk

As part of our overall portfolio, we manage the commodity price risk of our competitive supply activities and our electric generation facilities, including power sales, fuel and energy purchases and emission credits. In order to manage these risks, we may enter into fixed price contracts to hedge the variability in future cash flows from forecasted sales of electricity and purchases of fuel and energy including forward contracts, future contracts, swaps, and options.

We measure the sensitivity of our mark-to-market energy contracts to potential changes in market price using value at risk. Value at risk is a statistical model that attempts to predict risk of loss based on market price volatilities. We calculate value at risk using a variance/covariance technique that models positions using a linear approximation of their value. Our value at risk calculation includes mark-to-market and non mark-to-market energy assets and liabilities.

Historically, we have utilized an un-diversified Value at Risk, or "VAR", model to estimate a maximum potential loss in the fair value of our commodity portfolio including generation assets, load obligations and bilateral physical and financial transactions. The key assumptions for our VAR model include (1) a lognormal distribution of price returns (2) three day holding period, (3) a 95% confidence interval, and (4) market correlations of 0. The volatility estimate is based on the historical volatility for at-the-money call options. Based on these assumptions, we would expect the three-day change in fair value greater than or equal to the daily value at risk at least one day a month.

In the first quarter of 2004, we implemented a diversified VAR model to calculate the same estimate of potential loss in the fair value of our energy assets and liabilities including generation assets, load obligations and bilateral physical and financial transactions. We implemented this change to increase the quality of our risk reporting and to meet industry standards. The key assumptions for our model include (1) a lognormal distribution of price returns (2) one day holding period (3) a 95% confidence interval and (4) market implied price volatilities and historical price correlations.

Due to the inherent limitations of statistical measures such as value at risk, the relative immaturity of the competitive markets for electricity and related derivatives, and the seasonality of changes in market prices, the value at risk calculation may not capture the full extent of commodity price exposure. As a result, actual changes in the fair value of mark-to-market energy assets and liabilities could differ from the calculated value at risk, and such changes could have a material impact on our financial results.

This model encompasses the following generating regions: ENTERGY, NEPOOL, NYPP, PJM, WSCC and MAIN. The estimated maximum potential loss in fair value of our commodity portfolio, calculated using the new DVAR model is as follows:

	(In millions)
Quarter ending June 30, 2004 (Diversified)	$ 39.3
Average	40.7
High	52.8
Low	35.4
Year ending December 31, 2003 (Diversified)	37.1
Average	45.7
High	53.0
Low	37.1

We have risk management policies in place to measure and limit market and credit risk associated with our power marketing activities. An independent department within our finance organization is responsible for the enforcement of such policies. We regularly review these policies to ensure they capture changes in industry best practices and market environment.

Credit Risk

We are exposed to credit risk in our risk management activities. Credit risk relates to the risk of loss resulting from the nonperformance by a counterparty of its contractual obligations. We actively manage our counterparty credit risk. We have an established credit policy in place to minimize overall credit risk. Important elements of this policy include ongoing financial reviews of all counterparties, established credit limits, as well as monitoring, managing and mitigating credit exposure.

Item 4. Controls and Procedures

Our management has, with the participation of our principal executive and principal financial officers, conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the “Act”), as of the end of the period covered by this Form 10-Q. Based on that evaluation, management concluded that our disclosure controls and procedures were effective as of that time. Management noted, however, that as previously announced, we are moving our corporate headquarters from Minneapolis, Minnesota to West Windsor, New Jersey. Management notes that it expects substantial transition and turnover of staff, including in the accounting and finance departments, as a result of this move of our corporate headquarters.

This turnover may impact our ability to ensure that information that is required to be disclosed under the Act is accumulated and communicated to management in a manner that would allow timely decisions regarding required disclosure. We are taking steps to address these concerns. We hired Robert Flexon as our new Chief Financial Officer, effective March 29, 2004, and James Ingoldsby as our new Controller, effective May 3, 2004. In addition, we recently hired a new Director of Internal Audit and a new Chief Risk Officer. To address transition issues, we have implemented a transition plan and established a staff retention bonus program. We have dedicated and will continue to dedicate the appropriate resources to resolve any transition issues and ensure the continued functioning and effectiveness of our disclosure control and procedures environment, however, there can be no assurance that we will be successful in that regard.

Notwithstanding the foregoing and as indicated in the certification accompanying the signature page to this report, the Certifying Officers have certified that, to the best of their knowledge, the consolidated financial statements, and other financial information included in this report on Form 10-Q, fairly present in all material respects the financial conditions, results of operations and cash flows of NRG Energy as of, and for the periods presented in this report.

Except as set forth above, there have been no significant changes in our disclosure controls and procedures environment or in other factors that could significantly affect these controls subsequent to the date of the evaluation referenced above.

There have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a–15(f) and 15d–15(f) under the Exchange Act), during the fiscal quarter to which this report relates that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II — OTHER INFORMATION

Item 1. Legal Proceedings

For a discussion of material legal proceedings in which we were involved through June 30, 2004, see Note 17 "Commitments and Contingencies" to our consolidated financial statements contained in Part I, Item 1 of this Form 10-Q.

Item 3. Defaults Upon Senior Securities

We have identified the following material defaults with respect to the indebtedness of our significant subsidiaries as of June 30, 2004:

$181 million Loan Agreement dated November 30, 2001, as amended, between McClain and Westdeutsche Landesbank Girozentrale, as Administrative Agent

- Failure to fund the debt service reserve account
- Failure to comply with revenue allocation procedures under Article 3 of the Energy Management Services Agreement

On July 9, 2004, McClain completed the sale of its 77% interest in the McClain Generating Station to Oklahoma Gas & Electric. Proceeds of the sale were used to repay outstanding project debt under the secured term loan and working capital facility. McClain continues to be in bankruptcy and in default, with the expectation that it will file a liquidating plan of reorganization, settle all its outstanding obligations and be subsequently dissolved.

Item 5. Other Information

On August 4, 2004, NRG's stockholders ratified the engagement of KPMG LLP as our independent registered public accounting firm going forward.

On August 4, 2004, the Board of Directors of NRG Energy approved and adopted the NRG Code of Conduct, which is attached hereto as Exhibit 14. The Code of Conduct is also available on our website at www.nrgenergy.com, or without charge upon written request directed to the Corporate Compliance Officer, NRG Energy, Inc., 901 Marquette Avenue, Minneapolis, Minnesota 55402. The Code of Conduct applies to all of NRG Energy's directors, officers and employees. The Code of Conduct represents both the code of ethics for the principal executive officer, principal financial officer and principal accounting officer under the Securities and Exchange Commission rules and the code of business conduct and ethics under the New York Stock Exchange listing standards. We plan to disclose on our website any amendments to, or waivers from the Code of Conduct that are required to be publicly disclosed.

On August 4, 2004, the Board of Directors of NRG Energy approved and adopted a minor, technical amendment to the Amended and Restated By-Laws which clarifies the language currently set forth therein. A marked copy of the Amended and Restated By-Laws is attached hereto as Exhibit 3.2.

Item 6. Exhibits and Reports on Form 8-K

(a) Exhibits

3.2	Amended and Restated By-Laws.
14	Code of Conduct.
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

31.3 Certification of Controller pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

32 Certification of Chief Executive Officer, Chief Financial Officer and Controller pursuant to Section 906 of the Sarbanes- Oxley Act of 2002, 18 U.S.C. Section 1350.

(b) Reports on Form 8-K:

NRG Energy filed or furnished reports on Form 8-K on the following dates during the quarter ended June 30, 2004:

Form 8-K, filed on May 3, 2004, to provide information under Item 7 regarding an amendment to the credit agreement dated as of December 23, 2003.

Form 8-K, filed on May 3, 2004, to provide information under Item 4 that PricewaterhouseCoopers LLP would decline to stand for re-election as the company's independent auditors.

Form 8-K, filed on May 3, 2004, to provide information under Item 5 that we initiated a search for a new independent auditor.

Form 8-K, filed on May 7, 2004 to provide under Item 5 notice of our entering into an agreement to sell our interest in a generating plant located in Batesville, Mississippi.

Form 8-K, furnished on May 11, 2004, to provide information under Item 12 regarding our financial and operating results for the quarter ended March 31, 2004.

Form 8-K, filed on May 25, 2004, to provide information under Item 4 announcing that the Audit Committee engaged KPMG LLP as our independent registered public accounting firm.

Cautionary Statement Regarding Forward Looking Information

This quarterly report includes forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. The words "believes," "projects," "anticipates," "plans," "expects," "intends," "estimates" and similar expressions are intended to identify forward-looking statements. These forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause our actual results, performance and achievements, or industry results, to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. These factors, risks and uncertainties include, but are not limited to, the following:

- Lack of comparable financial data due to adoption of Fresh Start reporting;
- Our ability to successfully and timely close transactions to sell certain of our assets;
- Adverse rulings with respect to our RMR agreements resulting in our paying refunds in Connecticut;
- The potential impact of the planned corporate relocation on workforce requirements including the loss of institutional knowledge and inability to maintain existing processes;
- Hazards customary to the power production industry and the possibility that we may not have adequate insurance to cover losses as a result of such hazards;
- Our inability to enter into intermediate and long-term contracts to sell power and procure fuel on terms and prices acceptable to us;
- Increasing competition in wholesale power markets that may require additional liquidity for us to remain competitive;
- Risks associated with timely completion of capital improvement and re-powering projects, including supply interruptions, work stoppages, labor disputes, social unrest, weather interferences, unforeseen engineering, environmental or geological problems and unanticipated cost overruns;

- Volatility of energy and fuel prices and the possibility that we will not have sufficient working capital and collateral to post performance guarantees or margin calls to mitigate such risks or manage such volatility;
- Failure of customers and suppliers to perform under agreements, including failure to deliver procured commodities and services and failure to remit payment as required and directed, especially in instances where we are relying on single suppliers or single customers at a particular facility;
- Changes in the wholesale power market, including reduced liquidity, which may limit opportunities to capitalize on short-term price volatility;
- Large energy blackouts, such as the blackout that impacted parts of the northeastern United States and Canada during the middle of August 2003, which have the potential to reduce our revenue collection, increase our costs and engender enhanced federal and state regulatory requirements;
- Limitations on our ability to control projects in which we have less than a majority interest;
- The condition of the capital markets generally, which will be affected by interest rates, foreign currency fluctuations and general economic conditions;
- Changes in government regulation, including but not limited to the pending changes of market rules, market structures and design, rates, tariffs, environmental regulations and regulatory compliance requirements imposed by the Federal Energy Regulatory Commission, state commissions, other state regulatory agencies, the Environmental Protection Agency, the National Energy Reliability Council, transmission providers, Regional Transmission Organizations, Independent System Operators, or ISOs, or other regulatory or industry bodies;
- Price mitigation strategies employed by ISOs that result in a failure to adequately compensate our generation units for all of their costs;
- Employee workforce factors including the hiring and retention of key executives, collective bargaining agreements with union employees and work stoppages;
- Cost and other effects of legal and administrative proceedings, settlements, investigations and claims, including claims which are not discharged in the bankruptcy proceedings and claims arising after the date of our bankruptcy filing;
- The impact of the bankruptcy proceedings on our operations going forward, including the impact on our ability to negotiate favorable terms with suppliers, customers, landlords and others;
- Acts of terrorism both in the United States and internationally;
- Trade, monetary, fiscal, taxation and environmental policies of governments, agencies and similar organizations in geographic areas where we have a financial interest;
- Material developments with respect to and ultimate outcomes of legal proceedings and investigations relating to our past and present activities;
- The fact that certain of our subsidiaries remain in bankruptcy, and the potential that additional subsidiaries may file for bankruptcy in the future;
- The exposure of certain of our project subsidiaries to the exercise of rights and remedies by project lenders or shareholders as a result of our chapter 11 bankruptcy reorganization;
- Factors affecting power generation operations such as unusual weather conditions; catastrophic weather-related or other damage to facilities; unscheduled generation outages, maintenance or repairs; unanticipated changes to fossil fuel supply costs or availability due to higher demand, shortages, transportation problems or other developments; environmental incidents; or electric transmission or gas pipeline system constraints;

- Our ability to borrow additional funds and access capital markets;
- Our substantial indebtedness and the possibility that we may incur additional indebtedness going forward;
- Significant operating and financial restrictions placed on us by the indenture governing our recent note offerings and our new credit facility;
- Restrictions on the ability to pay dividends, make distributions or otherwise transfer funds to us contained in the debt and other agreements of certain of our subsidiaries and project affiliates generally; and
- Other business or investment considerations that may be disclosed from time to time in our SEC filings or in other publicly disseminated written documents.

We undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. The foregoing review of factors that could cause our actual results to differ materially from those contemplated in any forward-looking statements included in this quarterly report should not be construed as exhaustive.

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.

NRG ENERGY, INC.
(Registrant)

/s/ DAVID CRANE

David Crane,
Chief Executive Officer

/s/ ROBERT FLEXON

Robert Flexon,
Executive Vice President and CFO
(Principal Financial Officer)

/s/ JAMES INGOLDSBY

James Ingoldsby,
Vice President and Controller
(Principal Accounting Officer)

Date: August 9, 2004

Exhibit Index

Exhibits

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EXHIBIT 3.2

AMENDED AND RESTATED

BY-LAWS

OF

NRG ENERGY, INC.

A Delaware Corporation
(Adopted as of August 4, 2004)

ARTICLE I

OFFICES

Section 1. Registered Office. The registered office of NRG Energy, Inc. (the "Corporation") in the State of Delaware shall be located at 1209 Orange Street, Wilmington, DE 19801. The name of the Corporation's registered agent at such address shall be The Corporation Trust Company. The registered office and/or registered agent of the Corporation may be changed from time to time by action of the Board of Directors.

Section 2. Other Offices. The Corporation may also have offices at such other places, both within and without the State of Delaware, as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. Annual Meeting. An annual meeting of the stockholders shall be held at such date and time specified by the Board of Directors for the purpose of electing Directors and conducting such other proper business as may come before the annual meeting. At the annual meeting, stockholders shall elect Directors and transact such other business as properly may be brought before the annual meeting pursuant to Section 11 of ARTICLE II hereof.

Section 2. Special Meetings. Special meetings of the stockholders may only be called in the manner provided in the Amended and Restated Certificate of Incorporation.

Section 3. Place of Meetings. The Board of Directors may designate any place, either within or without the State of Delaware, as the place of meeting for any annual meeting or for any special meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal executive office of the Corporation. If for any reason any annual meeting shall not be held during any year, the business thereof may be transacted at any special meeting of the stockholders.

Section 4. Notice. Whenever stockholders are required or permitted to take action at a meeting, written or printed notice stating the place, date, time and, in the case of special meetings, the purpose or purposes, of such meeting, shall be given to each stockholder entitled to vote on the record date, determined in accordance with the provisions of Section 3 of ARTICLE VI. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the stockholder at his, her or its address as the same appears on the records of the Corporation. An affidavit of the secretary or an assistant secretary or of the transfer agent of the Corporation that the notice required by this Section 4 has been given shall, in the absence of fraud, be prima facie evidence of the facts stated therein. Whenever the giving of any notice to stockholders is required by applicable law, the Amended and Restated Certificate of Incorporation or these By-laws, a waiver thereof, given by the person entitled to said notice, whether before or after the event as to which such notice is required, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any waiver of notice unless so required by applicable law, the Amended and Restated Certificate of Incorporation or these By-laws.

Section 5. Stockholders List. The officer having charge of the stock ledger of the Corporation shall make, at least 10 days before every meeting of the stockholders, a complete list of the stockholders entitled to vote at such meeting arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, the stockholder's agent or attorney, at the stockholder's expense, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting, (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list shall be provided with the notice of the meeting or (ii) during ordinary business hours, at the principal place of business of the Corporation. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. Except as provided by applicable law, the stock ledger shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list of stockholders or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

Section 6. Quorum. The holders of a majority of the outstanding shares of capital stock entitled to vote at the meeting of stockholders, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders, except as otherwise provided by the Delaware General Corporation Law or by the Amended and Restated Certificate of Incorporation. If a quorum is not present, the holders of a majority of the shares present in person or represented by proxy at the meeting, and entitled to vote at the meeting, may adjourn the meeting to another time and/or place. When a specified item of business requires a vote by the holders of a class or series of shares of capital stock (if the Corporation shall then have outstanding shares of more than one class or series) voting as a class or series, the holders of a majority of the shares of such class or series shall constitute a quorum (as to such class or series) for the transaction of such item of business, except as otherwise provided by the Delaware General Corporation Law or by the Amended and Restated Certificate of Incorporation.

Section 7. Adjourned Meetings. When a meeting is adjourned to another time and place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 8. Vote Required. When a quorum is present, the affirmative vote of the majority in voting power of shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders, unless (i) by express provisions of an applicable law, the rules and regulations of any stock exchange applicable to the Corporation, or of the Amended and Restated Certificate of Incorporation a different vote is required, in which case such express provision shall govern and control the decision of such question, or (ii) the subject matter is the election of Directors, in which case ARTICLES SIX and TEN of the Amended and Restated Certificate of Incorporation shall govern and control the approval of such subject matter.

Section 9. Voting Rights. Except as otherwise provided by the Delaware General Corporation Law, the Amended and Restated Certificate of Incorporation or these By-laws, every stockholder entitled to vote at any meeting of stockholders shall at every meeting of the stockholders be entitled to one vote in person or by proxy for each share of capital stock held by such stockholder which has voting power upon the matter in question.

Section 10. Proxies. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for him or her by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally. Any proxy is suspended when the person executing the proxy is present at a meeting of stockholders and elects to vote, except that when such proxy is coupled with an interest and the fact of the interest appears on the face of the proxy, the agent named in the proxy shall have all voting and other rights referred to in the proxy, notwithstanding the presence of the person executing the proxy. At each meeting of the stockholders, and before any voting commences, all proxies filed at or before the meeting shall be submitted to and examined by the secretary or a person designated by the secretary, and no shares may be represented or voted under a proxy that has been found to be invalid or irregular.

Section 11. Business Brought Before a Meeting of the Stockholders.

(A) Annual Meetings. At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of

Directors, (ii) brought before the meeting by or at the direction of the Board of Directors or (iii) otherwise properly brought before the meeting by a stockholder who was a stockholder of record of the Corporation at the time the notice provided for in this paragraph (A) is delivered to the secretary of the Corporation and who is entitled to vote at the meeting. For business to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in writing to the secretary of the Corporation. To be timely, a stockholder's notice must be delivered to or mailed and received at the principal executive offices of the Corporation, not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Corporation). In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. A stockholder's notice to the secretary shall set forth (a) as to each person whom the stockholder proposes to nominate for election as a director (i) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Regulation 14A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and (ii) such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected; (b) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the By-laws, the language of the proposed amendment), and the reasons for conducting such business at the meeting; and (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business, (ii) the class and number of shares of the Corporation which are beneficially owned by the stockholder, (iii) any material interest of the stockholder, or the beneficial owner, if any, on whose behalf the proposal is made, in such business, (iv) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination, and (v) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (y) otherwise to solicit proxies from stockholders in support of such proposal or nomination. The foregoing notice requirements shall be deemed satisfied by a stockholder if the stockholder has notified the Corporation of his or her intention to present a proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting. The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation. Notwithstanding anything in this paragraph to the contrary, in the event that the number of directors to be elected to the Board of Directors at an annual meeting is increased and there is no public announcement by the Corporation naming the nominees for the additional directorships at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this paragraph (A) shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation. Notwithstanding anything in these By-laws to the contrary, no business shall be conducted at an annual meeting except in accordance with the procedures set forth in this section. The presiding officer of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting and in accordance with the provisions of this section; if he or she should so determine, he or she shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted.

(B) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (1) by or at the direction of the Board of Directors or (2) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this paragraph (B) is delivered to the Corporation's secretary, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by paragraph (A) of this Section 11 shall be delivered to the Corporation's secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above.

(C) General.

(1) Only such persons who are nominated in accordance with the procedures set forth in this Section 11 shall be eligible to be elected at an annual or special meeting of stockholders of the Corporation to serve as directors and only such business

shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 11. Notwithstanding the foregoing provisions of this Section 11, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(2) For purposes of this section, "public announcement" shall mean disclosure in a press release reported by Dow Jones News Service, Associated Press or a comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act.

(3) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 11.

(4) Nothing in this section shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act, or (b) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Amended and Restated Certificate of Incorporation.

Section 12. Voting Procedures and Inspectors of Election at Meetings of Stockholders. The Board of Directors, in advance of any meeting of stockholders, may, and shall if required by applicable law, appoint one or more inspectors, who may be employees of the Corporation, to act at the meeting and make a written report thereof. The Board of Directors may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting, the person presiding at the meeting may, and shall if required by applicable law, appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall (a) ascertain the number of shares outstanding and the voting power of each, (b) determine the shares represented at the meeting and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (e) certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of their duties. Unless otherwise provided by the Board of Directors, the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be determined by the person presiding at the meeting and shall be announced at the meeting. No ballot, proxies or votes, or any revocation thereof or change thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery of the State of Delaware upon application by a stockholder shall determine otherwise. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for office at an election may serve as an inspector at such election.

Section 13. Conduct of Meetings; Organization. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. The chairman of the board shall preside at all meetings of the stockholders. If the chairman of the board is not present at a meeting of the stockholders, the chief executive officer or the president (if the president is a Director and is not also the chairman of the board) shall preside at such meeting, and, if the chief executive officer or the president is not present at such meeting, a majority of the Directors present at such meeting shall elect one of their members to so preside. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the presiding officer of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the person presiding over the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. The presiding officer at any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such presiding officer should so determine, such person shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure. The secretary, or in his or her absence, one of the assistant secretaries, shall act as secretary of the meeting. In case none of the officers above designated to act as the person presiding over the meeting or as secretary of the meeting, respectively, shall be present, a person presiding over the meeting or a secretary of the meeting, as the case may be, shall be designated by the Board of Directors, and in case the Board of Directors has not so acted, in the case of the designation of a person to act as secretary of the meeting, designated by the person presiding over the meeting.

Section 14. Order of Business. The order of business at all meetings of stockholders shall be as determined by the person presiding over the meeting.

ARTICLE III

DIRECTORS

Section 1. General Powers. Except as provided in the Amended and Restated Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to such powers as are herein and in the Amended and Restated Certificate of Incorporation expressly conferred upon it, the Board of Directors shall have and may exercise all the powers of the Corporation, subject to the provisions of the laws of Delaware, the Amended and Restated Certificate of Incorporation and these By-laws.

Section 2. Number, Election and Term of Office. The number of Directors which constitute the entire Board of Directors of the Corporation shall be such number as is specified in, and the Directors shall be elected and shall hold office only in the manner provided in, the Amended and Restated Certificate of Incorporation.

Section 3. Resignation. Any Director may resign at any time upon written or electronic notice to the Corporation. Such resignation shall take effect at the time therein specified, and, unless otherwise specified in such resignation, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Vacancies. Vacancies and newly created directorships resulting from any increase in the total number of Directors may be filled only in the manner provided in the Amended and Restated Certificate of Incorporation.

Section 5. Nominations.

(a) Subject to the provisions contained in the Amended and Restated Certificate of Incorporation, only persons who are nominated in accordance with the procedures set forth in these By-laws shall be eligible to serve as Directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders (i) by or at the direction of the Board of Directors or (ii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in these By-laws, who is entitled to vote generally in the election of Directors at the meeting and who shall have complied with the notice procedures set forth in Section 11 of ARTICLE II.

(b) Subject to the Amended and Restated Certificate of Incorporation, no person shall be eligible to serve as a Director of the Corporation unless nominated in accordance with the procedures set forth in Section 11 of ARTICLE II. The person presiding over the meeting of the stockholders shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by this section, and if he or she should so determine, he or she shall so declare to the meeting and the defective nomination shall be disregarded. A stockholder seeking to nominate a person to serve as a Director must also comply with all applicable requirements of the Exchange Act, and the rules and regulations thereunder with respect to the matters set forth in this section.

Section 6. Annual Meetings. The annual meeting of the Board of Directors shall be held without other notice than these By-laws immediately after, and at the same place as, the annual meeting of stockholders.

Section 7. Other Meetings and Notice. Regular meetings, other than the annual meeting, of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by resolution of the Board of Directors. Special meetings of the Board of Directors may be called by the chief executive officer of the Corporation, the most senior executive officer of the Corporation (if there is no chief executive officer) or at least three Directors then in office, on at least 24 hours' notice to each Director, either personally, by telephone, by mail, by telecopy or by other means of electronic transmission (notice by mail shall be deemed delivered three days after deposit in the U.S. mail).

Section 8. Quorum, Required Vote and Adjournment. A majority of the total number of Directors then in office shall constitute a quorum for the transaction of business. Unless by express provision of an applicable law, the Amended and Restated Certificate of Incorporation or these By-laws a different vote is required, the vote of a majority of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting. At least 24 hours' notice of any adjourned meeting of the Board of Directors shall be given to each Director whether or not present at the time of the adjournment, if such notice shall be given by one of the means specified in Section 7 of this ARTICLE III other than by mail, or at least three days' notice if by mail. Any business may be transacted at an adjourned meeting that might have been transacted at the meeting as originally called.

Section 9. Committees. The Board of Directors may, by resolution passed by a majority of the total number of Directors then in office, designate one or more committees, each committee to consist of one or more of the Directors of the Corporation, which may consider various matters and make recommendations to the Board of Directors; provided, however, that the Board of Directors may, by resolution adopted by a majority of the total number of Directors then in office, designate one or more committees and delegate to each such committee the powers of the Board of Directors: (i) to the extent required by applicable law or the rules and regulations of the Nasdaq Stock Market or any national securities exchange on which the Corporation's securities may be listed; (ii) to consider potential litigation against any Director; or (iii) to permit application of the business judgment rule if a decision by the Board of Directors is challenged or to shift the burden of proving the unfairness of a transaction approved by the Board of Directors to a plaintiff in litigation. Except as otherwise expressly authorized in the immediately preceding sentence of this Section 9 of ARTICLE III, the Board of Directors shall not delegate any authority to any committee. The Board of Directors may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors upon request. Each committee designated by the Board of Directors shall be formed and function in compliance with applicable law and the rules and regulations of the Nasdaq Stock Market or any national securities exchange on which any securities of the Corporation are listed.

Section 10. Committee Rules. Subject to applicable law and the rules and regulations of the Nasdaq Stock Market or any national securities exchange on which any securities of the

Corporation are listed, each committee of the Board of Directors may fix its own rules of procedure and shall hold its meetings as provided by such rules, except as may otherwise be provided by a resolution of the Board of Directors designating such committee. Unless otherwise provided in such a resolution, the presence of at least a majority of the members of the committee shall be necessary to constitute a quorum. Unless otherwise provided in such a resolution, in the event that a member and that member's alternate, if alternates are designated by the Board of Directors, of such committee is or are absent or disqualified, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member.

Section 11. Communications Equipment. Members of the Board of Directors or any committee thereof may participate in and act at any meeting of such board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear and speak with each other, and participation in the meeting pursuant to this section shall constitute presence in person at the meeting.

Section 12. Waiver of Notice and Presumption of Assent. Any member of the Board of Directors or any committee thereof who is present at a meeting shall be conclusively presumed to have waived notice of such meeting except when such member attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Such member shall be conclusively presumed to have assented to any action taken unless his or her dissent shall be entered in the minutes of the meeting or unless his or her written dissent to such action shall be filed with the person acting as the secretary of the meeting before the adjournment thereof or shall be forwarded by registered mail to the secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to any member who voted in favor of such action.

Section 13. Action by Written Consent. Unless otherwise restricted by the Amended and Restated Certificate of Incorporation or these By-laws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of such board or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the board or committee.

ARTICLE IV

OFFICERS

Section 1. Number. The officers of the Corporation shall be elected by the Board of Directors and shall consist of a chairman of the board, a chief executive officer, a president, one or more vice-presidents, a secretary, a chief financial officer and such other officers and assistant officers as may be deemed necessary or desirable by the Board of Directors. Any number of offices may be held by the same person, except that neither the chief executive officer nor the president shall also hold the office of secretary. In its discretion, the Board of Directors may choose not to fill any office for any period as it may deem advisable, except that the offices of president and secretary shall be filled as expeditiously as possible.

Section 2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board of Directors at its first meeting held after each annual meeting of stockholders or as soon thereafter as convenient. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until a successor is duly elected and qualified or until his or her earlier death, resignation or removal as hereinafter provided.

Section 3. Removal. Any officer or agent elected by the Board of Directors may be removed by the Board of Directors at its discretion, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Vacancies. Any vacancy occurring in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Directors.

Section 5. Compensation. Subject to applicable law and the rules and regulations of the Nasdaq Stock Market or any national securities exchange on which any securities of the Corporation are listed, the compensation of all executive officers shall be approved by the Board of Directors, and no officer shall be prevented from receiving such compensation by virtue of his or her also being a Director of the Corporation.

Section 6. Chairman of the Board. The Board of Directors shall elect, by the affirmative vote of a majority of the total number of Directors then in office, a chairman of the board. The chairman of the board shall preside at all meetings of the stockholders and of the Board of Directors and shall have such other powers and perform such other duties as may be prescribed to him or her by the Board of Directors or provided in these By-laws. If the chairman of the board is not present at a meeting of the stockholders or the Board of Directors, the chief executive officer or the president (if the president is a Director and is not also the chairman of the board) shall preside at such meeting, and, if the chief executive officer or the president is not present at such meeting, a majority of the Directors present at such meeting shall elect one of their members to so preside.

Section 7. Chief Executive Officer. The chief executive officer shall have the powers and perform the duties incident to that position. Subject to the powers of the Board of Directors, the chief executive officer shall be in the general and active charge of the entire business and affairs of the Corporation, and shall be its chief policy making officer. The chief executive officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or provided in these By-laws. The chief executive officer is authorized to execute bonds, mortgages and other contracts requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation. Whenever the president is unable to serve, by reason of sickness, absence or otherwise, the chief executive officer shall perform all the duties and responsibilities and exercise all the powers of the president.

Section 8. The President. The president of the Corporation shall, subject to the powers of the Board of Directors and the chief executive officer, have general charge of the business, affairs and property of the Corporation, and control over its officers, agents and employees. The president shall see that all orders and resolutions of the Board of Directors are carried into effect. The president is authorized to execute bonds, mortgages and other contracts requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation. The president shall have such other powers and perform such other duties as may be prescribed by the chief executive officer, the Board of Directors or as may be provided in these By-laws.

Section 9. Vice Presidents. The vice president, or if there shall be more than one, the vice presidents in the order determined by the Board of Directors, shall, in the absence or disability of the president, act with all of the powers and be subject to all the restrictions of the president. The vice presidents shall also perform such other duties and have such other powers as the Board of Directors, the chief executive officer, the president or these By-laws may, from time to time, prescribe. The vice presidents may also be designated as executive vice presidents or senior vice presidents, as the Board of Directors may from time to time prescribe.

Section 10. The Secretary and Assistant Secretaries. The secretary shall attend all meetings of the Board of Directors, all meetings of the committees thereof and all meetings of the stockholders and record all the proceedings of the meetings in a book or books to be kept for that purpose or shall ensure that his or her designee attends each such meeting to act in such capacity. Under the chairman of the board's supervision, the secretary shall give, or cause to be given, all notices required to be given by these By-laws or by law; shall have such powers and perform such duties as the Board of Directors, the chief executive officer, the president or these By-laws may, from time to time, prescribe; and shall have custody of the corporate seal of the Corporation. The secretary, or an assistant secretary, shall have authority to affix the corporate seal to any instrument requiring it and when so affixed, it may be attested by his or her signature or by the signature of such assistant secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by his or her signature. The assistant secretary, or if there be more than one, any of the assistant secretaries, shall in the absence or disability of the secretary, perform the duties and exercise the powers of the secretary and shall perform such other duties and have such other powers as the Board of Directors, the chief executive officer, the president, or the secretary may, from time to time, prescribe.

Section 11. The Chief Financial Officer. The chief financial officer shall have the custody of the corporate funds and securities; shall keep full and accurate all books and accounts of the Corporation as shall be necessary or desirable in accordance with applicable law or generally accepted accounting principles; shall deposit all monies and other valuable effects in the name and to the credit of the Corporation as may be ordered by the chief executive officer or the Board of Directors; shall cause the funds of the Corporation to be disbursed when such disbursements have been duly authorized, taking proper vouchers for such disbursements; shall render to the Board of Directors, at its regular meeting or when the Board of Directors so requires, an account of the Corporation; and shall have such powers and perform such duties as the Board of Directors, the chief executive officer, the president or these By-laws may, from time to time, prescribe. If required by the Board of Directors, the chief financial officer shall give the Corporation a bond (which shall be rendered every six years) in such sums and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of the office of chief financial officer and for the restoration to the Corporation, in case of death, resignation, retirement or removal from office of all books, papers, vouchers, money and other property of whatever kind in the possession or under the control of the chief financial officer belonging to the Corporation.

Section 12. Other Officers, Assistant Officers and Agents. Officers, assistant officers and agents, if any, other than those whose duties are provided for in these By-laws, shall have such authority and perform such duties as may from time to time be prescribed by resolution of the Board of Directors.

Section 13. Absence or Disability of Officers. In the case of the absence or disability of any officer of the Corporation and of any person hereby authorized to act in such officer's place during such officer's absence or disability, the Board of Directors may by resolution delegate the powers and duties of such officer to any other officer or to any Director, or to any other person selected by it.

ARTICLE V

INDEMNIFICATION

Section 1. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved (including involvement as a witness) in any action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that he or she is or was a Director or officer of the Corporation or a wholly owned subsidiary of the Corporation or, while a Director or officer of the Corporation or a wholly owned subsidiary of the Corporation, is or was serving at the request of the Corporation or a wholly owned subsidiary of the Corporation as a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another corporation or of a partnership, joint venture, limited liability company, trust or other entity or enterprise, including service with respect to an employee benefit plan (an "indemnitee"), shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended, against all expense, liability and loss (including attorneys' fees, judgments, fines, excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a Director, officer, employee, partner, member, manager, trustee, fiduciary or agent and shall inure to the benefit of the indemnitee's heirs, executors and administrators; provided, however, that, except as provided in Section 2 of this ARTICLE V with respect to proceedings to enforce rights to indemnification or advance of expenses, the Corporation shall not indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee except to the extent such proceeding (or part thereof) was authorized in writing by the Board of Directors of the Corporation. The right to indemnification conferred in this Section 1 of this ARTICLE V shall be a contract right and shall include the obligation of the Corporation to pay the expenses incurred in defending any such proceeding in advance of its final disposition (an "advance of expenses"); provided, however, that an advance of expenses incurred by an indemnitee in his or her capacity as a Director or officer shall be made only upon delivery to the Corporation of an undertaking (an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Section 1 of this ARTICLE V or otherwise. For purposes of this ARTICLE V, a wholly owned subsidiary of the Corporation shall be deemed to include any subsidiary for which nominal equity interests have been issued to a persons other than the Corporation or any of its subsidiaries pursuant to the laws of such subsidiary's jurisdiction of incorporation or organization.

Section 2. Procedure for Indemnification. Any indemnification of a Director or officer of the Corporation or advance of expenses under Section 1 of this ARTICLE V shall be made promptly, and in any event within thirty days (or, in the case of an advance of expenses, twenty days), upon the written request of the Director or officer. If the Corporation denies a written request for indemnification or advance of expenses, in whole or in part, or if payment in full pursuant to such request is not made within thirty days (or, in the case of an advance of expenses, twenty days), the right to indemnification or advances as granted by this ARTICLE V shall be enforceable by the Director or officer in any court of competent jurisdiction. Such person's costs and expenses incurred in connection with successfully establishing his or her right to indemnification or advance of expenses, in whole or in part, in any such action shall also be indemnified by the Corporation.

Section 3. Insurance. The Corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was a Director, officer, employee or agent of the Corporation or a wholly owned subsidiary of the Corporation or was serving at the request of the Corporation or a wholly owned subsidiary of the Corporation as a Director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another corporation, partnership, joint venture, limited liability company, trust or other entity or enterprise against any expense, liability or loss asserted against him or her and incurred by him or her in any such capacity, whether or not the Corporation would have the power to indemnify such person against such expenses, liability or loss under the Delaware General Corporation Law.

Section 4. Amendment or Repeal. Any repeal or modification of the foregoing provisions of this ARTICLE V shall not adversely affect any right or protection hereunder of any Director or officer in respect of any act, omission or condition existing or event or circumstance occurring prior to the time of such repeal or modification.

Section 5. Non-Exclusivity of Rights. The rights to indemnification and to the advance of expenses conferred in this ARTICLE V and in the Amended and Restated Certificate of Incorporation shall not be exclusive of any other right which any person may have or hereafter acquire hereunder or under any statute, by-law, agreement, vote of stockholders or disinterested Directors or otherwise.

Section 6. Other Sources. The Corporation's obligation, if any, to indemnify or to advance expenses to any Director or officer who was or is serving at its request as a director, officer, employee or agent of an other entity shall be reduced by any amount such Director or officer may collect as indemnification or advancement of expenses from such other entity.

Section 7. Other Indemnification and Prepayment of Expenses. This ARTICLE V shall not limit the right of the Corporation, to the extent and in the manner permitted by applicable law, to indemnify and to advance expenses to persons other than Directors or officers (including employees and agents) with the same or lesser scope and effect as provided herein when and as authorized by appropriate corporate action.

Section 8. Merger or Consolidation. For purposes of this ARTICLE V, references to the "Corporation" shall include, in addition to the corporation resulting from or surviving a consolidation or merger with the Corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger with the Corporation which, if its separate existence had continued, would have had power and authority to indemnify its Directors or officers, so that any person who is or was a Director or officer of such constituent corporation or a wholly owned subsidiary of such constituent corporation or, while a Director or officer of such constituent corporation or a wholly owned subsidiary of such constituent corporation is or was serving at the request of such constituent corporation or a wholly owned subsidiary of such constituent corporation as a director, officer, employee, partner, member, manager, trustee, fiduciary or agent of another corporation or of a partnership, joint venture, limited liability company, trust or other entity or enterprise, including service with respect to an employee benefit plan, shall stand in the same position under this ARTICLE V with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

Section 9. Severability. If any provision of this ARTICLE V shall be found to be invalid or limited in application by reason of any law or regulation, it shall not affect the validity of the remaining provisions hereof.

ARTICLE VI

CERTIFICATES OF STOCK

Section 1. General. Every holder of stock in the Corporation shall be entitled to have a certificate, signed by, or in the name of the Corporation by the president or vice president and the secretary or an assistant secretary of the Corporation, certifying the number of shares owned by such holder in the Corporation. If such a certificate is countersigned by a transfer agent or a registrar, the required signatures may be facsimiles. In case any officer or officers who have signed, or whose facsimile signature or signatures have been used on, any such certificate or certificates shall cease to be such officer or officers of the Corporation whether because of death, resignation or otherwise before such certificate or certificates have been delivered by the Corporation, such certificate or certificates may nevertheless be issued and delivered as though the person or persons who signed such certificate or certificates or whose facsimile signature or signatures have been used thereon had not ceased to be such officer or officers of the

Corporation. All certificates for shares shall be consecutively numbered or otherwise identified. The name of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the books of the Corporation. Shares of stock of the Corporation shall only be transferred on the books of the Corporation by the holder of record thereof or by such holder's attorney duly authorized in writing, upon surrender to the Corporation of the certificate or certificates for such shares endorsed by the appropriate person or persons, with such evidence of the authenticity of such endorsement, transfer, authorization and other matters as the Corporation may reasonably require, and accompanied by all necessary stock transfer stamps. In that event, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate or certificates and record the transaction on its books. Each such new certificate will be registered in such name as is requested by the holder of the surrendered certificate and shall be substantially identical in form to the surrendered certificate. The Board of Directors may appoint one or more transfer agents or registrars or both in connection with the transfer of any class or series of securities of the Corporation.

Section 2. Lost Certificates. A new certificate or certificates may be issued in place of any certificate or certificates previously issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Corporation may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his or her legal representative, to give the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 3. Fixing a Record Date for Stockholder Meetings. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the next day preceding the day on which notice is first given. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 4. Fixing a Record Date for Other Purposes. In order that the Corporation may determine: (i) the stockholders entitled to receive payment of any dividend or other distribution or allotment or any rights; or (ii) the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purposes of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days nor less than 10 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 5. Registered Stockholders. Prior to the surrender to the Corporation of the certificate or certificates for a share or shares of stock with a request to record the transfer of such share or shares, the Corporation may treat the registered owner as the person entitled to receive dividends, to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner. The Corporation shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof.

Section 6. Subscriptions for Stock. Unless otherwise provided for in any subscription agreement, subscriptions for shares shall be paid in full at such time, or in such installments and at such times, as shall be determined by the Board of Directors. Any call made by the Board of Directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series. In case of default in the payment of any installment or call when such payment is due, the Corporation may proceed to collect the amount due in the same manner as any debt due the Corporation.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Dividends. Dividends upon the capital stock of the Corporation, subject to the provisions of the Amended and Restated Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, in accordance with applicable law. Dividends may be paid in cash, in property or in shares of the capital stock, subject to the provisions of the Amended and Restated Certificate of Incorporation. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or any other purpose and the Directors may modify or abolish any such reserve in the manner in which it was created.

Section 2. Checks, Drafts or Orders. All checks, drafts or other orders for the payment of money by or to the Corporation and all notes and other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation, and in such manner, as shall be determined by resolution of the Board of Directors or a duly authorized committee thereof.

Section 3. Contracts. In addition to the powers otherwise granted to officers pursuant to ARTICLE IV hereof, the Board of Directors may authorize any officer or officers, or any agent or agents, of the Corporation to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 4. Loans. The Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiaries, including any officer or employee who is a Director of the Corporation or its subsidiaries, whenever, in the judgment of the Directors, such loan, guaranty or assistance may reasonably be expected to benefit the Corporation and would not violate applicable law. The loan, guaranty or other assistance may be with or without interest, and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock of the Corporation, subject to applicable law. Nothing in this Section 4 shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

Section 5. Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 6. Corporate Seal. The Board of Directors may provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation and the words “Corporate Seal, Delaware.” The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 7. Voting Securities Owned By Corporation. Voting securities in any other company held by the Corporation shall be voted by the chief executive officer, the president or a vice president, unless the Board of Directors specifically confers authority to vote with respect thereto, which authority may be general or confined to specific instances, upon some other person or officer. Any person authorized to vote securities shall have the power to appoint proxies, with general power of substitution.

Section 8. Inspection of Books and Records. The Board of Directors shall have power from time to time to determine to what extent and at what times and places and under what conditions and regulations the accounts and books of the Corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right to inspect any account or book or document of the Corporation, except as conferred by the laws of the State of Delaware, unless and until authorized so to do by resolution of the Board of Directors or of the stockholders of the Corporation.

Section 9. Section Headings. Section headings in these By-laws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

Section 10. Inconsistent Provisions. In the event that any provision of these By-laws is or becomes inconsistent with any provision of the Amended and Restated Certificate of Incorporation, the Delaware General Corporation Law, the Exchange Act or any regulation thereunder, or any other applicable law or regulation, the provision of these By-laws shall not be given any effect to the extent of such inconsistency but shall otherwise be given full force and effect.

Section 11. Notices. Except as provided in Section 4 of ARTICLE II hereof and Section 7 of ARTICLE III hereof, all notices referred to herein shall be in writing, shall be delivered personally or by first class mail, postage prepaid, and shall be deemed to have been given when so delivered or mailed to the Corporation at its principal executive offices and to any stockholder at such holder's address as it appears in the stock records of the Corporation (unless otherwise specified in a written notice to the Corporation by such holder).

Section 12. Amended and Restated Certificate of Incorporation. Unless the context requires otherwise, references in these By-laws to the Amended and Restated Certificate of Incorporation of the Corporation (as it may be amended and restated from time to time) shall also be deemed to include any duly authorized certificate of designation relating to any series of Preferred Stock of the Corporation that may be outstanding from time to time.

ARTICLE VIII

AMENDMENTS

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to make, alter, amend, change, add to or repeal these By-laws by the affirmative vote of a majority of the total number of Directors then in office, subject to further action by stockholders. Any alteration or repeal of these By-laws by the stockholders of the Corporation shall require the affirmative vote of a majority of the combined voting power of the then outstanding shares of the Corporation entitled to vote on such alteration or repeal.

NRG ENERGY, INC.

CODE OF CONDUCT
(Revised and Approved August 4, 2004)

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NRG CODE OF CONDUCT

The NRG Code of Conduct contains a statement of the values and policies that are the foundation of the way we do business at NRG.[1] The NRG Code of Conduct has been approved by the Board of Directors, and all NRG directors, officers and employees must be familiar with the Code of Conduct and abide by it. The Code of Conduct is in addition to, and does not replace, other NRG policies.

I. PHILOSOPHY OF NRG CODE OF CONDUCT

At NRG we adhere to the highest legal and ethical standards in our relations with competitors, partners, the public, the government, the media, business colleagues, suppliers, customers and each other. Thus, in many instances the requirements and guidelines of the Code of Conduct go beyond the requirements of applicable law.

II. COMPLIANCE WITH LAWS AND REGULATIONS

The Company will conduct all of its activities in compliance with all applicable national, state and local laws, regulations and judicial decrees. At no time should directors, officers or employees take any action on behalf of the Company that they know, or reasonably should know, violates any law.

If you have the slightest question about the propriety of any proposed action on the Company's behalf, submit it to your supervisor. If you are not comfortable discussing the activity with your supervisor, contact the Legal Department or the Corporate Compliance Officer, or call the NRG Ethics Hotline (1-888-263-0463). If you know of or suspect a violation of applicable laws or regulations, the Code of Conduct, or NRG's related policies, you should immediately report that information to your supervisor or to the NRG Legal Department, Human Resources, or the NRG Ethics Hotline. The Board of Directors of the Company will be informed of any complaints regarding the conduct of senior management. NRG prohibits any retaliation against anyone who comes forward in good faith with a concern.

III. ETHICAL CONDUCT

NRG expects each director, officer and employee to go beyond literal compliance with legal requirements; each one should adhere to the spirit of the law, as well as high moral and ethical business standards. Unethical practices and activities do not serve the interests of the Company or the community, even if they do not technically violate the law.

[1] This Code of Conduct applies to NRG Energy, Inc., and all of its divisions and consolidated subsidiaries. As used in the Code of Conduct, "NRG" means all such entities.

Any waiver of the Code of Conduct for the benefit of a director or senior officer may only be made by the Board of Directors, and will be publicly disclosed to the extent required by law, regulation and applicable listing standards.

A. Your Responsibilities.

1. Know and comply with the NRG Code of Conduct and NRG policies that apply to your NRG business activities.

2. Be honest, fair and trustworthy in all NRG activities and relationships.

3. Create and support a culture that values integrity and ethical conduct.

4. Create and support an environment in which equal opportunity and freedom from harassment extend to all.

5. Comply with NRG's policies regarding conflicts of interest between work and personal affairs.

6. Report to your supervisor, the Legal Department, the Corporate Compliance Officer or the NRG Ethics Hotline any suspected violations of law, the Code of Conduct or NRG policies and cooperate in any internal investigation into possible violations.

B. Business Practices.

It is NRG's policy to deal fairly with its employees, customers, business associates, partners, suppliers, competitors and the governments of all jurisdictions in which it operates. You should not take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair-dealing practice. NRG's directors, officers and employees are not authorized to pay or receive any bribe, kickback or other similar unlawful payment to or from any public official, or government, or other individual, whether foreign or domestic, to secure any concession, contract or other favorable treatment for NRG or the individual. This prohibition extends to the payment or receipt of money or anything else of value to consultants, agents or other intermediaries when the individual has reason to believe that some part of the payment or "fee" will be used for a bribe or otherwise to influence action.

Because NRG does business outside the United States, all directors, officers and employees are required to be aware of and comply with NRG's "Approved Policy on the Foreign Corrupt Practices Act," as it may be amended from time to time. A copy of the Policy is attached as Appendix A.

In the course of their work, directors, officers and employees have access to records that involve the Company, its employees, investors, business associates, vendors and customers and other matters of a confidential nature. Individuals who have access to NRG's confidential information must protect the confidentiality of such information. Disclosure of confidential information is prohibited, except when such disclosure is specifically authorized or legally mandated.

Officers, employees and directors owe a duty to NRG to advance its legitimate interests when the opportunity to do so arises. If an officer or employee learns of a business or investment opportunity through the use of corporate property or information or his or her position at NRG, such as from a competitor or actual or potential customer, supplier or business associate of NRG, he or she may not participate in the opportunity or make the investment without the prior written approval of the Corporate Compliance Officer. Such an opportunity should be considered an opportunity for NRG in the first instance. An officer or employee may not use corporate property or information or his or her position at NRG for improper personal gain, and may not compete with NRG.

The Board of Directors has adopted a separate Corporate Opportunity Policy (as it may amended from time to time, the "Corporate Opportunity Policy") which governs the restrictions and approval requirements with respect to directors, recognizing that directors may have affiliations with entities that may compete with NRG. The Corporate Opportunity Policy applicable to directors is attached hereto as Appendix B.

When purchasing goods and services in the conduct of its business, NRG will select suppliers on the basis of ability, performance and value, irrespective of their political affiliations, positions on public policy issues or any personal connections.

C. Recording and Reporting Financial Information and Other Public Communications.

Company books and records must show all Company transactions accurately and in reasonable detail. For this reason, the Company has established accounting control procedures. The Company prohibits any attempts to create false or misleading records or to deviate from established accounting procedures. Officers and employees must not alter bills, vouchers or related NRG documents except to correct errors. Officers, employees or Company agents involved in an effort to disguise transactions, create or use unrecorded funds or evade the law will be subject to legal and disciplinary action.

NRG will provide full, fair, accurate, timely and understandable disclosures in all reports and documents that it files with, or submits to, the Securities and Exchange Commission and in other public communications made by the Company. Any individual who has any question about the propriety of any disclosure by the Company to the SEC or any other public communication should raise the issue with his or her supervisor, the NRG Legal Department, the Corporate Compliance Officer, or report the concern through the NRG Ethics Hotline (1-888-263-0463).

The Audit Committee of the Company's Board of Directors has established procedures for receiving, treating, and retaining complaints concerning questionable accounting, internal accounting controls or auditing matters. These procedures may be found on the Company's website; among other things, these procedures encourage any individual who has any concern regarding questionable accounting, internal accounting controls or auditing matters to report the concern to the Audit Committee through the NRG Ethics Hotline (1-888-263-0463).

D. Vendor Relations.

All purchasing professionals acting on behalf of NRG and/or involved with vendors shall refrain from any business or professional activities that would create a conflict between personal or vendor interests and the interests of the Company.

E. Dishonesty and Theft.

All employees, officers and directors should protect the Company's assets and ensure their efficient use. Theft, carelessness and waste have a direct impact on the Company's profitability. All Company assets should be used for legitimate purposes. No director, officer or employee shall knowingly:

- Engage in fraud or embezzlement affecting Company property, funds, securities or other assets;
- Willfully damage or destroy property or materials belonging to the Company, its employees or customers;
- Divert electric energy, natural gas, or any other product produced or owned by the Company or service provided by the Company for personal gain;
- Remove property, material or money from the Company, its employees, or its customers for personal gain;
- Receive property, materials or money belonging to the Company, its employees or its customers for personal gain;
- Use Company equipment or property for non-Company purposes or activities, except in accordance with established NRG policy;
- Access, remove, publish, destroy or alter private or confidential information existing in physical Company records or electronically stored information, except in accordance with established NRG policy;
- Remove, publish, destroy or alter physical Company records or electronically stored information affecting the Company, its employees or customers, except in accordance with established NRG policy; or
- Copy, reprint, duplicate, recreate in whole or in part, computer programs or

related systems developed or modified by NRG personnel, or acquired from outside vendors, except in accordance with established NRG policy.

Any employee who becomes aware of any acts involving embezzlement, theft, improper purchases, pilferage, commercial bribery, improper disbursements or reimbursements, wrongful reporting, improper use of electronically stored information, conflict of interest or other internal frauds must report such conduct immediately to his or her supervisor. If you are not comfortable reporting the activity to your supervisor, or your supervisor does not respond, report to the Legal Department, the Corporate Compliance Officer or the NRG Ethics Hotline (1-888-263-0463).

F. Conflicts of Interest.

We must avoid not only the reality but also the appearance of any favoritism or conflict of interest in all of our dealings in business and finance, with vendors, suppliers, partners, consultants and other companies.

A conflict of interest exists when your duty to give undivided loyalty to NRG can be prejudiced by actual or potential personal benefits being derived from another source. Officers and employees should not cause NRG or themselves to have a conflict of interest. Officers and employees are expected to avoid any investment, interest, association or relationship which interferes or might interfere with their independent exercise of judgment in the Company's best interests. It's each of our responsibilities to avoid situations where our loyalty may become divided.

Examples of potential conflicts of interest relevant to officers and employees include:

- Having a personal financial interest in a company to which you give business.
- Directing business to a supplier owned or managed by a relative or close friend.
- Having a personal financial interest in a company that makes products or does work in an area directly related to your responsibilities at NRG.
- Receiving cash, personal discounts, or anything of value from a party with whom NRG does business, such as receiving discounts on lodging for booking an event or NRG personnel at a resort or hotel.
- Using NRG equipment for personal uses or to assist in an outside business.
- Having a personal financial interest in an organization where you have to spend time during your normal NRG working hours or using NRG equipment for that organization.

• Working on NRG property or NRG time for anyone other than NRG unless instructed to do so.

Directors are expected to dedicate their best efforts to advancing the Company's interests and to make decisions regarding the Company based on the Company's best interests and independent of outside influences. Without limiting the foregoing, the Company nonetheless may find it appropriate to nominate as directors persons who have industry knowledge, experience or relationships that are of value to the Company, although they carry with them the potential to create actual or potential conflicts of interest. Directors must therefore be particularly sensitive to conflicts of interest, and must handle them in the most ethical and forthright manner.

Directors, officers and employees and members of their households shall not accept gifts, entertainment, employment of household members or other favors that could influence (or appear to influence) impartial performance of their job or duties or that could place the individual under an obligation to a party dealing, or attempting to deal, with NRG.

Disclosures of personal interest or other circumstances which might constitute conflicts of interest must be made promptly by employees to their immediate supervisor. The supervisor (with the assistance of the Human Resources and Legal Departments, if necessary) will arrange for resolution in a manner best suited to the interests of NRG with a reasonable view to the employee's needs. An employee may proceed with a transaction that is, or may be, a conflict of interest only after receiving pre-approval from Corporate Compliance Officer.

If you are an NRG manager or officer and are requested to serve as an officer or director of another corporation or business, you must obtain the approval of the Corporate Compliance Officer before accepting the position.

Disclosures of personal interest or other circumstances which might constitute conflicts of interest must be made promptly by directors to the Chairman of the Governance and Nominating Committee, with copies to the Chairman of the Board and the General Counsel. The Chairman of the Governance and Nominating Committee shall review the circumstances and arrange for resolution in a manner best suited to the interests of NRG with a reasonable view to the director's needs. Appropriate action may include recusal of the director from votes or meetings or portions thereof, the establishment of restrictions on the information that will be provided to such director, or such other action as is deemed appropriate. A director may proceed with a transaction that is, or may be, a conflict of interest only after receiving approval from the Board.

It is essential to keep in mind that, when faced with a possible conflict of interest, prompt and full disclosure is the correct and the necessary first step in resolving the issue.

G. Political Processes and Government Relations.

1. Political Participation

NRG encourages political participation by its directors, officers and employees, always recognizing that such involvement is strictly voluntary and is not to be conducted on Company time.

NRG recognizes that major corporate issues can be at stake in the political arena. The Company will exert no pressure, directly or indirectly, to influence decisions of directors, officers and employees who serve in public positions. NRG expects officeholders confronted with potential conflicts of interest to act in the public interest, guided by their consciences. Directors, officers and employees expressing their personal views on political issues or candidates shall indicate clearly that such views are their own and that they are not acting on behalf of the Company.

The Company urges its directors, officers and employees, when they participate in community affairs and political activities, to use good judgment so that their outside activities do not adversely affect NRG and to act responsibly to avoid unfavorable publicity for the Company. Individuals must not use Company property, including computer systems and NRG e-mail addresses, to participate in politics or to express their personal views on political issues.

2. Political Contributions

Each country in which NRG does business has laws regarding the use of corporate funds or resources for support of political parties or candidates. In the U.S., for example, the law restricts the Company with respect to any direct or indirect contributions or use of corporate funds or resources to any political party or candidate. Payments of corporate funds to any political party, candidate or campaign may be made only if permitted under applicable law and approved in writing in advance by the Corporate Compliance Officer.

Every director, officer and employee has the right to make all decisions regarding personal political contributions. Pressure of any kind, direct or implied, is against Company policy.

3. Government Relations

NRG is in regular contact with government and regulatory officials to keep them informed about Company operations and issues. Officers and employees who work on legislative matters must obey applicable laws covering permissible lobbying activities and disclosure requirements.

Officers and employees responsible for contacts with governmental entities must be familiar with, and abide by, all rules adopted by the various agencies or other government bodies. In addition, these individuals must comply fully with all lobbyist registration and reporting requirements, as prescribed by applicable law.

Officers and employees frequently communicate with persons who are decision makers about matters involving the Company. Decision makers include judges, administrative law judges, arbitrators and government employees who have the authority to approve permits, applications, petitions, contracts, rules or rates. In most cases, the legislative process allows communications about proposed legislation with those who are responsible for its adoption. In such cases, elected officials and other legislative officials are not considered decision makers under this rule.

When communicating on a matter pending before a decision maker, NRG officers and employees shall follow all rules relating to such communications, including rules restricting non-public or off-the-record communications. Officers and employees should contact the Legal Department if they have any questions about these rules.

When a contested matter is pending before a decision maker, or a body or agency of which the decision maker is a member, the Company will not sponsor activities of any kind for the decision maker or any employee of that body or agency. (A "contested matter" means any matter in which a person has intervened or where NRG knows that a person will oppose NRG.) At these times, NRG will not initiate social contact with such decision makers. Should directors, officers or employees find themselves in social settings with decision makers, they must not discuss any pending contested matter.

If a communication is on a matter that is not pending before the decision maker or is not a contested matter, it shall take place during normal office hours in a regular business setting.

When no contested matter is pending before a decision maker or a body or agency of which the decision maker is a member, the Company may sponsor activities for that decision maker or any employee of the group. When the activities include food, beverage, transportation or other costs, NRG representatives, upon request, will inform the decision maker or any employee of the body or agency of the individual's share of the costs so the individual can pay the appropriate share.

NRG will consider employment applications from government agency staff members on merit, providing the applicant has no involvement in a pending Company matter. No director, officer or employee will discuss future employment with any agency staff member involved in a pending Company matter.

You should direct any questions about these standards to your supervisor, the Legal Department, or the Corporate Compliance Officer.

H. Antitrust Laws.

NRG will fully comply with the applicable antitrust or competition laws in all jurisdictions in which it conducts business. Antitrust laws are complex and vary from country to country. Their premise is that the economy and public will benefit most if businesses compete vigorously, free from unreasonable restraints. Their application is heavily dependent on the particular facts about a company's products, markets and activities. Generally, antitrust laws prohibit combinations of entities from acting together for the purpose or effect of controlling prices or reducing competition.

Among the types of activities which are prohibited are:

1. Conspiracies and understandings between NRG and its competitors regarding prices, bids, customers, territories and other competitive matters. Precautions should be taken to avoid giving even the appearance of such conspiracies or understandings in industry meetings, discussions, correspondence and other communications with competitors.

2. Agreements or understandings with competitors or customers not to deal with a particular customer or supplier.

3. Distributor arrangements which unduly limit selection or pricing available to their customers or to ultimate consumers of our products and services. All resale pricing agreements, group boycotts, and product tying arrangements are prohibited.

4. Use of financial or other strengths of NRG to gain an unfair advantage in competitive businesses. Examples include: deception; intimidation; disparagement; bribery; misappropriation of trade secrets; and coercive reciprocal dealing.

Violations of antitrust laws can result in expensive lawsuits and substantial civil and criminal penalties, and in some countries carry criminal sanctions for the responsible persons. At an early stage, decisions and transactions that raise antitrust issues should be reviewed for compliance by the Legal Department.

I. Securities Transactions and Confidentiality.

The laws of the United States and many of the other countries where NRG conducts business make it unlawful for a person possessing material nonpublic information concerning an issuer of securities (such as a company whose shares are publicly traded) to purchase or sell the securities until the information is publicly available. A person who violates these laws may be subject to criminal prosecution and civil liability.

NRG directors, officers and employees are frequently the recipients of material, non-public information regarding NRG, as well as other public companies including partners, customers, suppliers and potential merger and acquisition targets. No director, officer or employee may trade in the stock or other securities of any company when her or she knows material nonpublic information about that company. No director, officer or employee may convey material nonpublic information about a company to others or suggest that anyone purchase or sell any company's securities while aware of material nonpublic information about that company. This policy applies to your immediate family, anyone living in your household, anyone acting on your behalf, or anyone on whose behalf you are acting. However, there is an exception for trades made pursuant to a pre-existing trading plan. NRG has adopted a Securities Trading and Non-Disclosure Policy, attached as Appendix C, provides more detailed information regarding NRG's trading and nondisclosure policies. Each individual is required to be aware of and comply with NRG's Securities Trading and Nondisclosure Policy (as it may amended from time to time), as well as with the related laws of every country in which the individual conducts NRG business.

J. Health and Safety.

Safety is a basic company value and must be our top priority. There is no job we do or service we perform that is so urgent that we cannot take the time to recognize hazards, and use the proper tools, equipment, and processes to do the work safely.

Officers, employees, supervisors, and managers are expected to constructively participate in NRG safety program activities, to maintain an awareness of worksite hazards, to maintain the worksite and the facility in a safe condition, to understand and strictly comply with all safety rules and safe work practices, and to perform each task safely. A fundamental rule at NRG is "if it isn't safe, don't do it". Officers and employees are expected to resolve safety concerns that are within their control, and to bring concerns not in their control up their respective management chains for resolution before proceeding with any work in question.

Our safety and health policy is to provide safe, clean, neat, orderly and healthful facilities. We will act in such a way that ensures:

- We comply with all safety and health laws as minimums, and use a best practice approach to safety and health.
- We maintain each facility and all equipment in a safe condition.
- We encourage the safety and health of our employees through the activities of a prescribed aggressive, pro-active safety program.
- Our officers, employees, supervisors, and managers have ownership, responsibility, and the ability to be pro-active in safety, to maintain a safe and healthful workplace, and to take appropriate action by their own initiative to prevent accident and injury.

If you have any questions about safe work practices or rules, ask your supervisor or contact the NRG Safety Department at (612) 580-7721.

K. Environmental Policy.

NRG is committed to conducting its worldwide operations in a manner which meets or exceeds all applicable environmental laws and regulations: (a) through diligent efforts designed to quantify and reduce the environmental impacts of its operations; (b) by promoting compliance with applicable laws and regulations and environmental protection as the responsibility of each officer and employee; and (c) by identifying and responding to regulatory trends which have the potential to significantly impact existing and planned facilities. NRG's environmental policies are set forth in detail in NRG's Corporate Environmental Policies and Procedures Manual.

L. Intellectual Property.

In addition to NRG's tangible assets, NRG personnel use a great variety of intangible "intellectual property." Generally speaking, "intellectual property" refers to proprietary information, ideas, writings, designs, artworks, processes, and the like.

Common types of intellectual property used by NRG personnel include:

- market data
- business plans and strategies
- employee data
- manufacturing processes and improvements
- computer software
- trade names and logos
- research

Intellectual property may be part of:

- business records
- employee records
- books, magazines and other publications
- procedure and training manuals
- electronic mail and information services

1. Intellectual Property of NRG

Much of the intellectual property used by NRG personnel is owned by NRG. That property is an NRG asset and personnel must take appropriate steps to protect it. NRG personnel who use or have access to confidential NRG information and trade secrets must not disclose that information or those secrets to anyone outside the Company. Confidential information and trade secrets should not be shared with others inside the Company unless the information is needed for the others to do their jobs properly. It should never be used for an employee's personal benefit or for the profit or benefit of persons outside of NRG, without the express written approval of a senior officer.

The obligation to protect NRG's intellectual property does not end when an employee leaves NRG. First, when an employee leaves NRG her or she must return to NRG all NRG correspondence, notes, reports, and other documents, whether written, electronic or otherwise, in his or her possession. Second, after the employee leaves, he or she must continue to protect NRG's confidential information and trade secrets until they either become publicly available or NRG determines that they no longer require protection.

2. Intellectual Property of Others

Some of the intellectual property used by NRG personnel is owned by others. That property may be subject to one or more of a variety of legal protections that must be respected. Those legal protections include federal laws on copyright, trademarks and patents, as well as state trade secret laws and NRG's contractual obligations.

Unless permission is clearly not required, the protected intellectual property of others must be used only with permission of the owner.

Often, the fact that the property is protected will be obvious. For example, copyrighted writings usually bear the © symbol, protected trademarks are marked with the ® symbol, and machines using patented processes will bear a patent number or a reference to patents pending. These markings, however, are not always necessary to secure legal protection. For example, original writings and other expressions subject to copyright are protected from the moment they are created. As a result, personnel who use intellectual property created by others must be careful to limit use to permitted uses only.

Employees who have a question about proper use of intellectual property should, for their own protection as well as the Company's, consult the Legal Department.

3. Computer Software

Officers and employees who use computer software should be aware that the copyright laws that protect software do not allow a software purchaser to make additional copies without the express permission of the owner, except for copying onto a single computer to permit access to one user at a time, and copying for archival purposes only.

Officers and employees are responsible for assuring that the software on their assigned computers is being properly used in accordance with the applicable license.

Unauthorized copying of software can subject an individual to civil and criminal penalties, as well as to Company sanctions.

M. Market Behavior.

NRG and its employees will comply with all applicable market rules and Federal Energy Regulatory Commission (FERC) tariffs in effect from time to time. Without limiting the foregoing, all NRG employees, including employees of NRG's subsidiary NRG Power Marketing, Inc., must comply with the Market Behavior Rules which are a part of NRG Power Marketing FERC Electric Rate Schedule No. 1, filed December 17, 2003, as they may be amended from time to time. The Market Behavior Rules are attached hereto as Appendix D.

IV. YOUR PERSONAL COMMITMENT TO NRG

A fundamental obligation of all directors, officers and employees is to perform responsibilities efficiently, courteously, openly, honestly, and with loyalty. Internal cooperation and goodwill build the foundation for external relations.

A. Drug and Alcohol Policy.

NRG's goal is to promote the health, safety and productivity of its employees, to protect the Company's integrity and to safeguard the public interest. The Company also recognizes the widespread use of drugs and alcohol in society and the need to maintain a drug-free work place.

The Company considers chemical dependency and abuse to be major health problems. NRG encourages employees and their families to work to resolve substance abuse problems. The Human Resources department can assist employees in finding programs that will provide help with substance abuse on a confidential basis. A conscientious effort to seek and use such help will not jeopardize an employee's job or career.

NRG prohibits the unauthorized distribution, possession, use, sale, disposal, and introduction or transfer of drugs, or other substances regulated by law, into or on Company property, including meal breaks and other rest periods. Regulated substances include, but are not limited to narcotics, depressants, amphetamines, hallucinogens and marijuana.

In addition, NRG prohibits:

- Unauthorized possession or consumption of alcohol on Company property.
- Consumption of alcohol immediately before, during or between scheduled periods of work or on-call duty.
- Reporting to work with the odor of alcohol on one's breath.
- Appearing to be under the influence of alcohol or any drug that impairs judgment or work performance.

Officers and employees must report to their supervisors the use of physician prescribed or over-the-counter medications that might affect performance or safety. Supervisors must take appropriate steps to preserve the confidentiality of such information.

Officers and employees must report any conviction under a drug or alcohol statute which occurs on Company premises, on Company time, or while conducting Company business off Company premises, no later than five days after conviction. NRG may be obligated to report these convictions to governmental authorities. In determining appropriate action for a conviction on a drug or alcohol offense, management will consider the individual's involvement, job assignment and work record. The Company also will weigh the effect of the individual's involvement upon the conduct of company business and the maintenance of public trust.

Officers and employees may be required to undergo drug and alcohol testing if the Company reasonably suspects that the individual has violated the policy. Refusing to submit to testing will result in disciplinary action up to and including termination of employment.

This policy applies to all officers and employees. Failure to abide by this policy may result in disciplinary action up to and including termination of employment.

B. Equal Employment Opportunity.

NRG is committed to providing equal employment opportunity to individuals, and to complying with all national, federal, state and local laws which prohibit discrimination.

NRG uses merit, qualifications and other job-related criteria as the sole bases for all employment related decisions.

NRG recruits, hires, trains, compensates, promotes and provides other conditions of employment without regard to a person's race, color, religion, national origin, sex, sexual preference, age, disability, veteran status or other characteristic protected by law.

NRG will take affirmative action to provide equal employment opportunities complying with the spirit and letter of all laws, regulations and requirements. Affirmative action should include programs and efforts to ensure that there are diverse applicant and candidate pools of people who are qualified and who have the opportunity to compete for openings. Selection of successful candidates will be based upon merit, qualifications and other job-related criteria.

C. Harassment.

NRG will endeavor to provide a work environment free of harassment of any kind based upon diverse human characteristics and cultural backgrounds. Harassment is defined as verbal or physical conduct, which has the intent or effect of unreasonably interfering with an individual's or group's work performance, or which creates an intimidating, hostile, or offensive work environment. Harassment could be based on gender, age, race, religion, affectional orientation, or national origin. These are legally protected areas in many countries. However, the company policy covers all forms of harassment, not just those covered by the laws. NRG will not tolerate inappropriate behavior, including all forms of discrimination and harassment. The Human Resources Department (assisted by the Legal Department or the Corporate Compliance Officer, where appropriate) will conduct a thorough and objective investigation to determine if an individual's behavior was inappropriate. If this behavior is verified, the individual will be subject to discipline and the possibility of termination.

D. Workplace Violence Policy.

It is the goal of NRG to provide a safe and secure working environment for its employees. NRG does not tolerate workplace violence.

Workplace violence includes, but is not limited to:

- Physically harming, or attempting to harm another or oneself, or NRG or customer property
- Threatening to harm another or oneself, or NRG or customer property
- Harassment, intimidation, coercion or stalking of another
- Shoving, pushing, grabbing and all forms of nonconsensual physical contact
- Bringing weapons into the workplace
- Acts, gestures or threats of reprisal for another's compliance with this policy
- Threats or any other statement or conduct that would cause a reasonable person to believe violence is imminent or may occur

If an officer or employee is confronted with workplace violence, the officer or employee should avoid confrontation, immediately retreat to a location of safety and report the incident. Except when necessary for self-defense, deviation from these actions may be made only with express direction of management.

If an officer or employee chooses to seek criminal prosecution of any party who threatens or causes injury to the employee in the course of his/her performing assigned work responsibilities, NRG will assist as appropriate.

Officers or employees who are the recipients or observers of workplace violence should contact their supervisor, the Legal Department, the Corporate Compliance Officer, the NRG Ethics Hotline or any member of management. In cases where immediate law enforcement assistance is needed, the officer or employee should contact law enforcement, then the Ethics Hotline, his/her supervisor or a member of management.

Reports of workplace violence will be investigated as soon as possible. Information that is reported or discovered in the investigation, as well as the resolution, will be kept as confidential as possible.

Substantiated acts of workplace violence will be met with appropriate corrective action, up to and including discharge.

Failure to report instances of workplace violence could subject an officer or employee to discipline.

Retaliation or reprisal toward any party involved in reporting an incident is prohibited and will also result in disciplinary action up to and including termination of employment.

V. WAIVERS AND VIOLATIONS OF CODE OF CONDUCT

Waivers of the Code of Conduct will only be made in exceptional circumstances. Any waiver for the benefit of an employee must be in writing from a senior officer of the Company. Any waiver of the Code of Conduct for the benefit of a director or senior officer may only be made by the Board of Directors, and will be publicly disclosed to the extent required by applicable laws, regulations and listing standards.

Individuals who violate the law, the NRG Code of Conduct or NRG policies will be subject to discipline, suspension as necessary (with or without pay) for the purpose of investigation and, subject to applicable law and agreements, possible termination of employment. Additional actions may include reassignment of work duties and limitation in future job opportunities. Violations of law may be referred to local law enforcement authorities for possible prosecution.

Failure to provide information concerning another individual's violation of law or NRG policies is also a violation of the Code of Conduct and will be subject to appropriate discipline. Information may be provided on an anonymous basis using the NRG Ethics Hotline.

VI. NO RIGHTS CREATED

The NRG Code of Conduct is a statement of policies for individual and business conduct and does not, in any way, constitute an employment contract or an assurance of continued employment. It is not intended to and does not create any rights in any director, officer, employee, client, supplier, competitor, shareholder or any other person or entity.

VII. SEEKING GUIDANCE, REPORTING AND INVESTIGATION OF SUSPECTED VIOLATIONS

This Code of Conduct cannot provide definitive answers to all questions. If you have questions regarding any of the policies discussed in this Code or if you are in doubt about the best course of action in a particular situation, you should seek guidance from your supervisor, the Corporate Compliance Officer, the Legal Department or the other resources identified in this Code of Conduct.

It is your responsibility to report suspected violations of law, the Code of Conduct or NRG policies. If you believe that an NRG director, officer, employee, contract worker, consultant, or NRG supplier or subcontractor, or any NRG organization is violating the law, the NRG Code of Conduct or NRG policy or is engaged in activities on NRG's behalf that may damage NRG's reputation, you should bring your concerns to your supervisor or to one of the following:

- NRG's Corporate Compliance Officer, Marc Wheaton (612-373-5309), marc.wheaton@nrgenergy.com
- NRG's General Counsel, Tim O'Brien (612-373-5368), tim.obrien@nrgenergy.com
- NRG's Vice President Human Resources, Denise Wilson (612-373-5497), denise.wilson@nrgenergy.com
- NRG's Controller, Jim Ingoldsby (612-373-5408), jim.ingoldsby.com
- NRG Ethics Hotline (1-888-263-0463)

Directors should report suspected violations of the law, the Code of Conduct or NRG policies to the Chairman of the Governance and Nominating Committee or the General Counsel.

All reported violations will be promptly investigated and treated confidentially to the extent reasonably possible. It is imperative that reporting persons not conduct their own preliminary investigations. Investigations of alleged violations may involve complex legal issues, and acting on your own may compromise the integrity of an investigation and adversely affect both you and NRG.

It is a violation of the law and NRG policy to retaliate against any personnel for reporting in good faith suspected violations of the NRG Code of Conduct or NRG policy. The Company will not tolerate retaliatory behavior.

APPENDIX A: Foreign Corrupt Practices Act Policy

NRG ENERGY, INC.

Approved Policy
on

The Foreign Corrupt Practices Act
and
Foreign Agents, Consultants and Joint Venture Partners

Policy

NRG Energy, Inc. ("NRG") is committed to a high standard of business ethics and integrity worldwide. NRG will be law-abiding in any country in which it operates and will not intrude into the political affairs of any country.

NRG's reputation depends not only on the actions of our employees, but also on the actions of our consultants, agents and joint venture partners. The actions of our consultants, agents and joint venture partners may bind NRG legally or expose NRG to liability to third parties. Therefore, it is NRG's policy that its foreign consultants, agents and joint venture partners must demonstrate an ability and willingness to abide by NRG's policies and ethical standards.

NRG will not cause or permit any director, officer, employee, agent or consultant to take any action which would result in violation of the laws or regulations of any country.

There will be timely and accurate accounting regarding all transactions engaged in by or on behalf of the company involving foreign officials, with particular attention to gifts, gratuities, contributions and the retention of agents and consultants as permitted under this policy.

Management will devise, maintain, document and monitor a system of internal accounting controls which will provide reasonable assurance of compliance with this policy and the requirements of the United States Foreign Corrupt Practices Act of 1977 (the "Act" or the "FCPA").

Foreign Corrupt Practices Act

The FCPA prohibits U.S. companies from making improper payments or gifts to foreign officials. Company policy requires that all directors, officers, employees, agents and consultants of NRG comply with the FCPA.

A. Definition of Foreign Official

Under the FCPA, the term “foreign official” includes elected and appointed governmental officials, candidates for public office, foreign political parties, officers and employees of government owned or controlled enterprises, and public international organizations. When in doubt, NRG employees should consult the Legal Department for advice on whether a potential recipient of a payment is a “foreign official.”

B. Prohibited Acts

The following acts are prohibited by the FCPA:

1. Authorizing, paying, promising or delivering any payment, gift or favor intended to influence any foreign official on a matter within that person’s responsibilities. For example, any payment to any foreign official for the purposes of obtaining or retaining sales of products or services to NRG, sales by NRG of NRG products or services, to win a bid or contract, or to obtain more favorable tax treatment is prohibited.

2. Any indirect payment to a third party if the payor knows that the third party may make a prohibited payment. For example, any payment to an NRG agent or consultant where the payor is aware or has firm belief that such agent or consultant may make an improper payment to a foreign official is prohibited. The NRG payor may not avoid this prohibition by deliberately ignoring or purposefully avoiding knowledge that a bribe may be paid.

3. Establishing any undisclosed or unrecorded “slush” funds or assets; making any false or artificial entries in company books or records; failing to keep books, records and accounts in reasonable detail to reflect accurately the handling of money and other assets; and failing to maintain internal accounting controls sufficient to verify that no improper payments have been made.

C. Permissible Payments

The following payments may be made:

1. Payments to a foreign official for the purpose of expediting or securing the performance of a routine governmental action. Payments for the following routine governmental actions are permissible: obtaining permits, licenses or other official documents to qualify to do business in a foreign country; processing governmental papers, such as visas and work orders; assuring police protection, mail pickup and delivery, or scheduling inspections associated with contract performance or inspections related to the transit of

goods across country; and providing phone service, power and water supply, loading and unloading cargo or protecting perishable products or commodities from deterioration. Routine governmental action does not include any decision by a foreign official to encourage, to award, to continue or to modify the terms relating to any business with any NRG entity.

2. Any payment that is lawful under the written laws and regulations of the foreign country.

3. Any reasonable expenditure directly related to the promotion, demonstration or explanation of NRG products or services or the execution or performance of a contract with a foreign government or agency, such as the travel and lodging expenses of a foreign official on a trip for such purposes.

D. Penalties

Violations of the anti-bribery provisions of the FCPA may result in criminal fines of up to $2,000,000 for corporations and $100,000 and five years imprisonment for individuals. Violations of the accounting provisions may result in fines of up to $2,500,000 for corporations and $1,000,000 and ten years imprisonment for individuals. Under alternative fine provisions, a violator may be fined up to twice the amount of the gain or loss resulting from a violation.

Payments and the FCPA

Neither NRG nor any director, officer, employee, agent or consultant of NRG will directly or indirectly make or promise illegal payments or contributions, or engage in any other illegal conduct in order to influence customers, suppliers or governmental entities, including their officials or employees, to secure or retain business, to encourage any such employees or officials to fail to perform or to perform improperly their official functions or to influence legislation, nor undertake any of the acts prohibited by the FCPA, as summarized above. Neither NRG nor any director, officer, employee, agent or consultant of NRG will submit to extortion as a condition of doing business.

Political Contributions

Even where political contributions are legal, it is NRG's policy, generally, not to make such contributions. Where it is legal and also appropriate under local custom, modest contributions may be made openly, but only to further the political process and not with the intent to influence a particular government official, candidate or party, and only on proper approval as specified in this policy. As noted below, any political contribution must be approved in advance by the Company's Chairman and Chief Executive Officer.

Gifts and Gratuities

Gifts shall not be given or received except of nominal value. Where local custom is so strong that to refuse a gift, or to not reciprocate with a gift, would be considered an insult, a gift can be received or given but only upon proper approval and documentation.

Gratuities or tips to facilitate the obtaining of services that are supposed to be performed are not favored and are to be resisted. Outside the U.S., if there is a strong local custom for such gratuities, they will be tolerated but only if made in small amounts and if properly authorized, accounted for and reported.

Agreements with Foreign Agents, Consultants and Joint Venture Partners

Due Diligence

Before entering into any agreement with a foreign consultant, agent or joint venture partner, NRG will conduct an appropriate background check. NRG will document the nature and results of the background check, and will maintain records of the background check.

The extent of the background check will vary depending on the circumstances. The responsible NRG business development personnel should determine the appropriate level of the background check on a case by case basis, in consultation with NRG's Legal Department. In conducting background checks on agents and consultants the following factors, among others, must be considered in deciding whether to approve the engagement:

1. Whether marketing conditions, local law or custom dictate the use of an agent or consultant.
2. The qualifications of the agent or consultant to render assistance or advise.
3. The reputation of the agent or consultant.
4. The reasonableness of the compensation in relation to the type and amount of services to be rendered, to the facilities and support made available by the company and to the total revenues and gross profits expected to be obtained.
5. Whether marketing expenses in the particular market, including the agent's or consultant's compensation, are reasonable in relation to total revenues and gross profit expected to be obtained.

Contracts

All contracts covered by this policy must be reviewed and approved by the Legal Department before they are signed. NRG has a strong preference for using its own documents for these contracts. The Legal Department has prepared the following standard documents for agreements with foreign consultants, agents and joint venture partners: Consulting Services Agreement, Memorandum of Understanding, Joint Venture Agreement, and Joint Bid Agreement. Copies of all contracts must be provided to and maintained by the Legal Department.

At a minimum, contracts with foreign agents, consultants and joint venture partners must have appropriate FCPA language and conflict of interest provisions. In negotiating contracts, NRG personnel should convey that the principles underlying these contractual provisions are non-negotiable.

Under no circumstances shall the services to be furnished or the payment therefor be misrecorded nor shall any such transaction be used in any way, directly or indirectly, to obtain or conceal improper services or advantages of any kind.

Who Is Covered by This Policy

This policy covers all consultants, agents and joint venture partners involved in NRG investments or projects outside the United States. For example, agreements with the following are covered by this policy: (a) any developer or consultant retained by NRG to assist in a bid for or the development of a foreign project; (b) any agent or consultant whose scope of work may include interaction with foreign government officials, including officers, directors or employees of state owned or controlled enterprises; and (c) any joint venture partner who may share in the equity ownership of a project with NRG, or who will receive a success fee at financial closing.

Approval Procedures

All written requests, reports and approvals should follow the approval procedure outlined below:

1. For political contributions, any exception to the general policy against such contributions must be approved by the Chairman and Chief Executive Officer.

2. For gifts to foreign officials having a nominal value of $100 or more, the responsible NRG officer must approve and must also determine whether a gift of such value received by an employee from a foreign official more

properly should be considered the property of the company.

3. Gratuities or tips to a foreign official to facilitate the obtaining of routine governmental services or action must be approved by and reported to the responsible NRG officer.

4. All requests for retention or use of agents and consultants outside the U.S. must be approved by the responsible NRG officer. In the case of all such agents and consultants, each such request shall contain a written memorandum approved by the responsible NRG officer containing all required information about the agent or consultant and the relationship proposed. If approval is granted, a suitable contract shall be drafted which shall contain the terms required by this policy. The responsible NRG officer shall keep the Chairman and Chief Executive Officer informed with respect to such arrangements.

Implementation Responsibilities

1. Interpretation of this policy will be by the General Counsel who will consult with the Chairman and Chief Executive Officer in making such interpretation.

2. Management of NRG, including all officers, directors, managers, accounting managers, controllers and other financial personnel having authority over disbursement of funds and all managers and business development personnel with responsibilities which include business development and marketing outside of the U.S., will be required to certify annually that they have read and understand this policy, that they have no knowledge of any violations of the policy and that they have taken appropriate steps to see that those reporting to them have read and understand the policy.

4. Every employee of NRG is expected to be candid and cooperate in relating to NRG's auditors and to the employees of NRG's independent auditor.

5. Appropriate disciplinary action up to and including dismissal will be taken against employees who violate this policy.

6. Annually, the General Counsel, the Vice President Finance and the Chief Financial Officer, the Vice President Human Resources and Administration, and the Compliance Officer will collaborate to review the status of the company's compliance with this policy statement, will cause an appropriate audit to be performed and shall report the findings to the Chairman and Chief Executive Officer.

7. The General Counsel will be responsible for keeping this policy updated to

reflect experiences and changes in laws or regulations.

APPENDIX B: Corporate Opportunity Policy

Corporate Opportunity Policy

The Board of Directors (the “Board”) of NRG Energy, Inc., a Delaware corporation (the “Company”), has adopted this policy (this “Policy”) pursuant to Section 122(17) of the Delaware General Corporate Law (“DGCL”) in order to regulate and define the conduct of certain affairs of the Company as they may involve directors of the Company and their Affiliates. Nothing in this Policy shall regulate or define the conduct of directors and their Affiliates with respect to affairs not involving a corporate opportunity.

Section 1. Definitions

As used in this Policy, the following terms shall have the following meanings:

(a) “Affiliate” of a person means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

(b) “Core Region” means each of the regions served by NYISO, NE-POOL, PJM and Cal-ISO, and the Entergy control area.

(c) “Corporate Opportunity” means any Possible Corporate Opportunity that has been designated as a “Corporate Opportunity” pursuant to Section 2(c)(i).

(d) “Possible Corporate Opportunity” means any specific business opportunity:

(i) identified as such pursuant to a resolution of the Board; provided that any opportunity being considered or pursued by a director or an Affiliate of a director at the time of the deliberation or adoption of such resolution that is otherwise an Unrestricted Opportunity will not become a Possible Corporate Opportunity as to that director; or

(ii) involving the acquisition or construction of power generation assets in a Core Region (excluding the construction by an entity in the construction business of power generation assets owned, or to be owned upon completion, by an unaffiliated third party, or if such construction is incidental to the conduct of a business unrelated to power generation); or

(iii) involving the acquisition of 25% or more of the equity or debt of an entity that owns power generation assets in a Core Region, other than any entity that owns power generation assets that are incidental to the conduct of a business unrelated to power generation; or

(iv) of which a director first becomes aware as a result of his or her capacity as a director of the Company. For the avoidance of doubt, an opportunity described in this paragraph (iv) but not described by paragraph (i), (ii), (iii), (v) or (vi) of this Section shall not be a Possible Corporate Opportunity with respect to any other director who was previously aware of such opportunity other than as a result of his or her capacity as a director of the Company; or

(v) involving the acquisition of private transmission lines within a Core Region (excluding the acquisition of power lines that are incidental to the conduct of a business unrelated to power generation or to be used by a facility owned by an Affiliate); or

(vi) involving the purchase or sale of capacity or electricity under a contract, the effect of which is to give a party de facto economic control of all or a portion of a generation facility within a Core Region for a period of one year or more (excepting the purchase or sale of capacity or electricity from a facility owned by an Affiliate).

(e) "Unrestricted Opportunity" means any corporate or business opportunity that is neither a Possible Corporate Opportunity nor a Corporate Opportunity.

Section 2. Procedures

(a) No director of the Company shall directly or indirectly take any measures to pursue a Possible Corporate Opportunity, or shall use his or her influence or direction to cause an Affiliate of the director to pursue a Possible Corporate Opportunity, except as allowed by this Policy.

(b) Any director (an "Interested Party") who wishes to pursue a Possible Corporate Opportunity other than as a director of the Company or its subsidiaries, or whose Affiliate wishes to pursue a Possible Corporate Opportunity, shall provide written notice thereof to the Chairman of the Governance and Nominating Committee of the Board, and the Chief Executive Officer of the Company. Such notice shall (x) specify the nature of the Possible Corporate Opportunity and (y) identify the Affiliate(s), if any, of the Interested Party that wish to pursue the Possible Corporate Opportunity.

(c) Upon receipt of a notice specified in Section 2(b), the Governance and Nominating Committee shall, within five business days thereafter, make a recommendation to the full Board that it adopt a resolution that (i) the Company is ready and able to pursue, and desires to pursue, the Possible Corporate Opportunity (in which event the opportunity will be deemed to be a "Corporate Opportunity"), (ii) the Company is not ready or not able or not desirous of pursuing the Possible Corporate Opportunity or (iii) the disinterested directors require more time (with a reasonable period to be specified in the resolution) to continue to review the Possible Corporate Opportunity. Upon receipt of the recommendation of the Governance and Nominating Committee, the full Board shall within five business days thereafter, vote on the recommendation of the committee. Upon making a determination pursuant to this Section 2(c), the Board shall promptly inform the Interested Party in writing thereof. Any director who is an Interested Party shall abstain from participating in the decisions of the Governance and Nominating Committee or the full Board pursuant to this section 2(c). If a director who is an Interested Party is a member of the Governance and Nominating Committee, then the Chairman of the Board shall serve as an ad hoc member of the Governance and Nominating Committee for purposes of this section 2(c).

(d) If the disinterested directors make a determination described in Section 2(c)(i) that the Company is ready and able to pursue, and desires to pursue, a Corporate Opportunity, but any Interested Party believes the Company is not using reasonable steps to diligently pursue the opportunity, the Interested Party may at any time give another notice under paragraph (b) of this Section.

(e) If the disinterested directors make a determination described in Section 2(c)(ii), or in the event that the disinterested directors fail to adopt a resolution as required by Section 2(c) within the five-business-day period specified, such Possible Corporate Opportunity shall thereafter be deemed an Unrestricted Opportunity.

Section 3. Waiver

The Company renounces, to the fullest extent permitted by Section 122(17) of the DGCL, any interest in or expectancy in, or in being offered an opportunity to participate in, any Unrestricted Opportunity.

Section 4. Review of Policy; Amendment

(a) The Governance and Nominating Committee of the Board shall review this Policy annually (or more frequently, as may be necessary or appropriate) and shall make recommendations for changes, if any, to the full Board.

(b) This Policy may be altered, amended or repealed at any time by action of the Board.

(c) Neither the alteration, amendment or repeal of this Policy nor the adoption of any provision of the Company’s Bylaws or Certificate of Incorporation inconsistent with this Policy shall eliminate or reduce the effect of this Policy in respect of any matter occurring, or any cause of action, suit or claim that, but for this Policy, would accrue or arise, prior to such alteration, amendment, repeal or adoption.

APPENDIX C: Securities Trading and Non-Disclosure Policy

Please read this Insider Trading Policy carefully and make sure you understand it. If you have any questions about it, please contact the General Counsel's office.
After you have read and understand this policy, please sign and return the certification to the Office of the General Counsel

The Need for a Policy Statement

Federal and state laws prohibit certain buying, selling, or making other transfers of securities by persons who have material information relating to those securities that is not generally known or available to the public. These laws also prohibit persons with material nonpublic information concerning an issuer of securities from disclosing this information to others who may trade in such securities.

NRG Energy, Inc. ("NRG" or the "Company") has adopted the following policy regarding trading in securities by directors, officers, employees and consultants who have material nonpublic information. For purposes of this policy, "trading" includes purchases and sales of stocks, bonds, debentures, options, puts, calls and other securities and also includes sales of stock you acquire by exercising employee stock options and other trades you make pursuant to an investment direction under an employee benefit plan.

You are responsible for ensuring that you do not violate federal or state securities laws or this policy. We designed this policy to promote compliance with applicable securities laws and to protect the Company and you from the serious liabilities and penalties that can result from violations of these laws. This policy is not intended to restrict or prohibit lawful trading activities.

If you violate the insider trading laws, you may have to pay civil fines for up to three times the profit gained or loss avoided by unlawful trading, as well as criminal fines of up to $1,000,000. You also may have to serve a jail sentence of up to 10 years. In addition, the Company could be subject to a civil fine of up to the greater of $1,000,000 and three times the profit gained or loss avoided as a result of any unlawful trading violations by you.

Both the SEC and the New York Stock Exchange are very effective at detecting and pursuing insider trading cases. The SEC has successfully prosecuted cases against employees trading through foreign accounts, trading by family members and friends, and trading involving only a small number of shares. Therefore, it is important that you understand the breadth of activities that constitute illegal insider trading.

Our Policy

1. You may not trade in the stock or other securities of any company when you know material nonpublic information about that company. This prohibition against "insider trading" applies to trading in securities of NRG, as well as to trading in the securities of other companies, such as the Company's material customers, suppliers, or firms with which the Company may be negotiating a major transaction.

2. You may not convey material nonpublic information about a company to others or suggest that anyone purchase or sell any company's securities while you are aware of material nonpublic information about that company. This practice, known as "tipping," also violates the securities laws and can result in the same civil and criminal penalties that apply if you engage in insider trading directly, even if you do not receive any money or derive any benefit from trades made by persons to whom you passed material nonpublic information. This prohibition against "tipping" applies to information about NRG and its stock, as well as to information about other companies, such as the Company's material customers, suppliers, or firms with which the Company may be negotiating a major transaction. This policy does not restrict legitimate business communications on a "need to know" basis, where you have a basis to expect that the other person will not trade while in possession of the information.

These restrictions also apply to any member of your immediate family, anyone living in your household, anyone acting on your behalf, or anyone on whose behalf you are acting, and you are responsible for compliance with these policies by those persons. The SEC and federal prosecutors may presume that trading by family members (including children away at school) is based on information you supplied and treat any such transactions as if you had traded yourself. There is no exception for small transactions or transactions that may seem necessary or justifiable for independent reasons, such as the need to raise money for an emergency expenditure.

Definition of Material Nonpublic Information

Material Information

Information is material if there is a substantial likelihood that a reasonable investor would consider it important in deciding whether to buy, hold or sell a security. Remember that even if the information is not material to NRG, it may nevertheless be material to another company, and our policies therefore apply to your trading in other companies' stock. Any information that you could expect to affect the price of the security is material. Common examples of information that may be material include:

- Earnings information, including revenue results, contracting activity or other revenue projections.
  - News about a major contract award or cancellation of an existing contract.

- Financial projections, forecasts or budgets.
- Mergers, joint ventures, acquisitions, dispositions, tender offers, acquisition or sale of a business segment or unit, or other significant changes in assets.
- New products or discoveries or significant developments regarding customers or suppliers.
- Changes in senior management or other major personnel changes.
- Changes in dividend policy, declaration of a stock split or the offering of additional securities.
- Financial liquidity problems.
- Changes in pricing or discount policies.
- Significant legal exposure due to actual, pending or threatened litigation.
- Changes in the Company's auditors or a notification from its auditors that the Company may no longer rely on the auditors' audit report.
- Major events regarding the Company's securities.

Both positive and negative information can be material. Federal and state investigators will scrutinize a questionable trade after the fact with the benefit of hindsight, so it is advisable to err on the side of caution. If you have questions regarding specific information, please contact the General Counsel's office.

Nonpublic Information

Nonpublic information is information that is not generally known or available to the public. We consider information to be available to the public only when:

- it has been released to the public through appropriate channels, e.g., by means of a press release or a widely disseminated statement from a senior officer, and
- enough time has elapsed to permit the investment market to absorb and evaluate the information.

As a general rule, you should consider information to be nonpublic until 24 hours after public disclosure.

Unauthorized Disclosure

All employees, executive officers and directors must maintain the confidentiality of NRG information for competitive, security and other business reasons, as well as to comply with securities laws. All information you learn about the Company or its business plans is potentially material nonpublic information that you should treat as confidential and proprietary to the Company. You may not disclose it to others, such as family members, other relatives, or business or social acquaintances.

Also, legal rules govern the timing and nature of our disclosure of material information to outsiders or the public. Violation of these rules could result in substantial liability for you, the Company and its management. For this reason, we permit only specifically designated representatives of the Company to discuss the Company with the news media, securities analysts and investors and only in accordance with the Company's Investor Communications Policy. If you receive inquiries of this nature you should refer them to our Communications Group.

In the event you make, or believe you may have made, an unauthorized disclosure, you must immediately provide complete information regarding such disclosure to the Communications Group and the Office of the General Counsel, who shall determine the appropriate response to such disclosure.

When and How You Can Trade Company Stock

Following are procedures that all employees may follow to reduce the likelihood that they will be viewed as engaged in insider trading or tipping. Executive officers and members of the Company's Board of Directors are required to comply with these procedures at all times.

Blackout Periods

The Company has imposed quarterly blackout periods during which executive officers, directors and certain other employees may not effect any transactions in NRG stock. This includes broker orders placed before the beginning of the blackout period but not fully confirmed.

The quarterly blackouts start two weeks before the end of the calendar quarter and end on the close of business of the next business day following release of the quarterly or annual earnings. Directors, executive officers and other affected personnel will be notified each quarter of the exact dates of that quarter's blackout periods.

From time to time the Company may impose additional blackout periods. In such events, the General Counsel's office will notify directors, executive officers and other affected personnel of restrictions on transactions involving the purchase or sale of the Company's securities and on not disclosing to others the fact that a blackout period has been imposed.

Additionally, the Sarbanes-Oxley Act of 2002 requires the Company to absolutely prohibit all purchases, sales or transfers of Company stock by directors and executive officers during a pension fund blackout period. A pension fund blackout period exists whenever 50% or more of the plan participants are unable to conduct transactions in their accounts for more than three consecutive days. These blackout periods typically occur when there is a change in the retirement plan's trustee, record keeper or investment manager. Notice of any such blackout period will be provided.

Prearranged Trading Plans

An SEC rule, Rule 10b5-1(c), provides a defense from insider trading liability if trades occur pursuant to a pre-arranged "trading plan" that meets specified conditions. Directors and executive officers considering establishing a Rule 10b5-1(c) trading plan must obtain preclearance from the Office of the General Counsel at the time the trading plan is established.

Trading Preclearance

The Company requires its executive officers and directors, as well as other people who have been notified by the General Counsel's office that they are subject to the Company's preclearance policy, to contact the General Counsel's office in advance of effecting any purchase, sale or other trading of Company stock and to obtain prior approval of the transaction. To the extent this preclearance policy applies to any individual, it also applies to members of the individual's immediate family, anyone living in the individual's household, anyone acting on behalf of the individual or anyone on whose behalf the individual is acting.

The preclearance policy does not apply to a stock option exercise if the option is to be exercised and no shares are to be sold, but it does apply to sales of stock issued upon the exercise of stock options, including same-day sales and cashless exercises.

Any transaction that receives approval under the preclearance policy must be confirmed within two business days after the approval is obtained, but regardless may not be executed if you acquire material nonpublic information during that time. If a transaction is not confirmed within the two business day period, the transaction must be approved again before it is executed.

If a proposed transaction is not approved under the preclearance policy, you should refrain from initiating any transaction in Company stock, and you should not inform anyone of the restriction.

Contacts

For assistance with any of the matters discussed in this memorandum, please contact the General Counsel's office.

APPENDIX D: Market Behavior Rules

As a condition of market-based rate authority, NRG Power Marketing Inc. (hereafter, Seller) will comply with the following Market Behavior Rules:

1. Unit Operation: Seller will operate and schedule generating facilities, undertake maintenance, declare outages, and commit or otherwise bid supply in a manner that complies with the Commission-approved rules and regulations of the applicable power market. Compliance with this Market Behavior Rule 1 does not require Seller to bid or supply electric energy or other electricity products unless such requirement is a part of a separate Commission-approved tariff or requirement applicable to Seller.

2. Market Manipulation: Actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electricity products are prohibited. Actions or transactions undertaken by Seller that are explicitly contemplated in Commission-approved rules and regulations of an applicable power market (such as virtual supply or load bidding) or taken at the direction of an ISO or RTO are not in violation of this Market Behavior rule. Prohibited actions and transactions include, but are not limited to:

   a. pre-arranged offsetting trades of the same product among the same parties, which involve no economic risk and no net change in beneficial ownership (sometimes called "wash trades");

   b. transactions predicated on submitting false information to transmission providers or other entities responsible for operation of the transmission grid (such as inaccurate load or generation data; or scheduling non-firm service or products sold as firm), unless Seller exercised due diligence to prevent such occurrences;

   c. transactions in which an entity first creates artificial congestion and then purports to relieve such artificial congestion (unless Seller exercised due diligence to prevent such an occurrence); and

   d. collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products.

3. Communications: Seller will provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, or

Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercised due diligence to prevent such occurrences.

4. Reporting: To the extent Seller engages in reporting of transactions to publishers of electricity or natural gas price indices, Seller shall provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the Policy Statement issued by the Commission in Docket No. PL03-3 and any clarifications thereto. Seller shall notify the Commission within 15 days of the effective date of this tariff provision of whether it engages in such reporting of its transaction and update the Commission within 15 days of any subsequent change to its transaction reporting status. In addition, Seller shall adhere to such other standards and requirements for price reporting as the Commission may order.

5. Record Retention: Seller shall retain, for a period of three years, all data and information upon which it billed the prices it charged for the electric energy or electric energy products it sold pursuant to this tariff or the prices it reported for use in price indices.

6. Related Tariffs: Seller shall not violate or collude with another party in actions that violate Seller's market-based rate code of conduct or Order No. 889 standards of conduct, as they may be revised from time to time.

Any violation of these Market Behavior Rules will constitute a tariff violation. Seller will be subject to disgorgement of unjust profits associated with the tariff violation, from the date on which the tariff violation occurred. Seller may also be subject to suspension or revocation of its authority to sell at market-based rates or other appropriate non-monetary remedies.

CERTIFICATION AND STATEMENT OF COMMITMENT

I hereby certify that I have read the NRG Code of Conduct, including all of its Appendices, and fully understand them and the Company's expectations as set forth therein, and agree to comply therewith.

Signature

Printed Name

Date

EXHIBIT 31.1

CERTIFICATION

I, David Crane, certify that:

1. I have reviewed this quarterly report on Form 10-Q of NRG Energy, Inc.;

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 officers 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)) 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) Omitted pursuant to SEC Release 33-8238;

(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 officers 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.

/s/ DAVID CRANE

David Crane
Chief Executive Officer
(Principal Executive Officer)

Date: August 9, 2004

EXHIBIT 31.2

CERTIFICATION

I, Robert Flexon, certify that:

1. I have reviewed this quarterly report on Form 10-Q of NRG Energy, Inc.;

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 officers 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)) 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) Omitted pursuant to SEC Release 33-8238;

(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 officers 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.

/s/ ROBERT FLEXON

Robert Flexon
Chief Financial Officer
(Principal Financial Officer)

Date: August 9, 2004

EXHIBIT 31.3

CERTIFICATION

I, James Ingoldsby, certify that:

1. I have reviewed this quarterly report on Form 10-Q of NRG Energy, Inc.;

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 officers 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)) 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) Omitted pursuant to SEC Release 33-8238;

(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 officers 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.

/s/ JAMES INGOLDSBY

James Ingoldsby
Vice President and Controller
(Principal Accounting Officer)

Date: August 9, 2004

EXHIBIT 32

CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of NRG Energy, Inc. (the Company) on Form 10-Q for the quarter ended June 30, 2004, as filed with the Securities and Exchange Commission on the date hereof (Form 10-Q), each of the undersigned officers of the Company certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to such officer's knowledge:

(1) The Form 10-Q fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates and for the periods expressed in the Form 10-Q.

Date: August 9, 2004

/s/ DAVID CRANE
David Crane,
Chief Executive Officer
(Principal Executive Officer)

/s/ ROBERT FLEXON
Robert Flexon,
Chief Financial Officer
(Principal Financial Officer)

/s/ JAMES INGOLDSBY
James Ingoldsby,
Vice President and Controller
(Principal Accounting Officer)

The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

A signed original of this written statement required by Section 906, 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 NRG Energy, Inc. and will be retained by NRG Energy, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.