
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

FOR THE QUARTERLY PERIOD ENDED DECEMBER 31, 2007

OR

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

FOR THE TRANSITION PERIOD FROM TO

Commission file number 1-8359

NEW JERSEY RESOURCES CORPORATION

(Exact name of registrant as specified in its charter)

New Jersey

(State or other jurisdiction of
incorporation or organization)

1415 Wyckoff Road, Wall, New Jersey 07719

(Address of principal
executive offices)

22-2376465

(I.R.S. Employer
Identification Number)

732-938-1480

(Registrant's telephone number,
including area code)

Securities registered pursuant to Section 12 (b) of the Act:

Common Stock - \$2.50 Par Value

(Title of each class)

New York Stock Exchange

(Name of each exchange on which registered)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes: ☒ No: ☐

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

Large accelerated filer: ☒ Accelerated filer: ☐ Non-accelerated filer: ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act)

Yes: ☐ No: ☒

The number of shares outstanding of \$2.50 par value Common Stock as of February 5, 2008 was 27,890,722.

New Jersey Resources Corporation

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INFORMATION CONCERNING FORWARD-LOOKING STATEMENTS

Certain statements contained in this report, including, without limitation, statements as to management expectations and beliefs presented in Part I, Item 2. “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” Part I, Item 3. “Quantitative and Qualitative Disclosures about Market Risk,” Part II, Item I. “Legal Proceedings” and in the notes to the financial statements are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements can also be identified by the use of forward-looking terminology such as “may,” “intend,” “expect,” “believe” or “continue” or comparable terminology and are made based upon management’s expectations and beliefs concerning future developments and their potential effect upon New Jersey Resources Corporation (NJR or the Company). There can be no assurance that future developments will be in accordance with management’s expectations or that the effect of future developments on the Company will be those anticipated by management.

The Company cautions readers that the assumptions that form the basis for forward-looking statements regarding customer growth, customer usage, financial condition, results of operations, cash flows, capital requirements, market risk and other matters for fiscal 2008 and thereafter include many factors that are beyond the Company’s ability to control or estimate precisely, such as estimates of future market conditions, the behavior of other market participants and changes in the debt and equity capital markets. The factors that could cause actual results to differ materially from NJR’s expectations include, but are not limited to, those discussed in Risk Factors in Item 1A, as well as the following:

- weather and economic conditions;
- demographic changes in the New Jersey Natural Gas (NJNG) service territory;
- the rate of NJNG customer growth;
- volatility of natural gas commodity prices and its impact on customer usage, NJR Energy Services’ (NJRES) operations and on the Company’s risk management efforts;
- changes in rating agency requirements and/or credit ratings and their effect on availability and cost of capital to the Company;
- commercial and wholesale credit risks, including creditworthiness of customers and counterparties;
- the ability to obtain governmental approvals and/or financing for the construction, development and operation of certain non-regulated energy investments;
- risks associated with the management of the Company’s joint ventures and partnerships;
- the impact of governmental regulation (including the regulation of rates);
- fluctuations in energy-related commodity prices;
- conversion activity and other marketing efforts;
- actual energy usage of NJNG’s customers;
- the pace of deregulation of retail gas markets;
- access to adequate supplies of natural gas;
- the regulatory and pricing policies of federal and state regulatory agencies;
- the ultimate outcome of pending regulatory proceedings, in particular, the base rate case filing;
- changes due to legislation at the federal and state level;
- the availability of an adequate number of appropriate counterparties in the wholesale energy trading market;
- sufficient liquidity in the wholesale energy trading market and continued access to the capital markets;
- the disallowance of recovery of environmental-related expenditures and other regulatory changes;
- environmental-related and other litigation and other uncertainties;
- the effects and impacts of inflation on NJR and its subsidiaries operations;
- change in accounting pronouncements issued by the appropriate standard setting bodies; and
- terrorist attacks or threatened attacks on energy facilities or unrelated energy companies.

While the Company periodically reassesses material trends and uncertainties affecting the Company’s results of operations and financial condition in connection with its preparation of management’s discussion and analysis of results of operations and financial condition contained in its Quarterly and Annual Reports, the Company does not, by including this statement, assume any obligation to review or revise any particular forward-looking statement referenced herein in light of future events.

New Jersey Resources Corporation

Part I

ITEM 1. FINANCIAL STATEMENTS

CONDENSED CONSOLIDATED STATEMENTS OF INCOME (Unaudited)

<i>(Thousands, except per share data)</i>	Three Months Ended December 31,	
	2007	2006
		As Restated (See Note 1)
OPERATING REVENUES	\$811,138	\$ 737,401
OPERATING EXPENSES		
Gas purchases	684,694	621,935
Operation and maintenance	32,179	28,316
Regulatory rider expenses	12,165	9,466
Depreciation and amortization	9,403	8,902
Energy and other taxes	18,160	13,952
Total operating expenses	756,601	682,571
OPERATING INCOME	54,537	54,830
Other income	1,528	1,296
Interest charges, net	7,810	7,875
INCOME BEFORE INCOME TAXES AND EQUITY IN EARNINGS OF AFFILIATES	48,255	48,251
Income tax provision	18,494	19,234
Equity in earnings of affiliates, net of tax	424	417
NET INCOME	\$ 30,185	\$29,434
EARNINGS PER COMMON SHARE		
BASIC	\$1.09	\$1.06
DILUTED	\$1.08	\$1.05
DIVIDENDS PER COMMON SHARE	\$0.40	\$0.38
WEIGHTED AVERAGE SHARES OUTSTANDING		
BASIC	27,785	27,713
DILUTED	27,952	27,904
PRO-FORMA EARNINGS PER COMMON SHARE (See Note 5)		
BASIC	\$0.72	\$0.71
DILUTED	\$0.72	\$0.70

See Notes to Condensed Unaudited Consolidated Financial Statements

New Jersey Resources Corporation

Part I

ITEM 1. FINANCIAL STATEMENTS (Continued)

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)

	Three Months Ended December 31,	
(Thousands)	2007	2006
	As Restated (See Note 1)	
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income	\$ 30,185	\$ 29,434
Adjustments to reconcile net income to cash flows from operating activities:		
Unrealized loss (gain) on derivative instruments, net of tax	3,080	(2,069)
Depreciation and amortization	9,478	8,977
Allowance for funds used during construction	(373)	—
Deferred income taxes	8,549	2,842
Manufactured gas plant remediation costs	(4,041)	(4,235)
Equity in earnings from investments, net of distributions	1,512	(417)
Cost of removal – asset retirement obligations	(177)	(257)
Contributions to employee benefit plans	(150)	(150)
Changes in:		
Components of working capital	(57,844)	(14,579)
Other noncurrent assets	2,423	1,635
Other noncurrent liabilities	833	(8,824)
Cash flows (used in) from operating activities	\$ (6,525)	\$ 12,357
CASH FLOWS FROM FINANCING ACTIVITIES		
Proceeds from issuance of common stock	4,192	4,976
Tax benefit from stock options exercised	547	769
Proceeds from sale-leaseback transaction	7,485	5,482
Payments of long-term debt	(937)	(775)
Purchases of treasury stock	(10,071)	—
Payments of common stock dividends	(10,633)	(10,056)
Net proceeds from short-term debt	32,547	4,900
Cash flows from financing activities	\$ 23,130	\$ 5,296
CASH FLOWS FROM INVESTING ACTIVITIES		
Expenditures for		
Utility plant	(13,526)	(12,463)
Real estate properties and other	(168)	(569)
Cost of removal	(1,208)	(1,283)
Investments in equity investees	(2,998)	—
Proceeds from asset sales	—	1,792
Cash flows used in investing activities	(17,900)	(12,523)
Change in cash and temporary investments	(1,295)	5,130
Cash and temporary investments at beginning of period	5,140	4,991
Cash and temporary investments at end of period	\$ 3,845	\$ 10,121
CHANGES IN COMPONENTS OF WORKING CAPITAL		
Receivables	\$ (194,958)	\$ (146,039)
Inventories	33,940	23,569
Underrecovered gas costs	(18,883)	(28,758)
Gas purchases payable	96,217	124,439
Prepaid and accrued taxes, net	31,043	19,154
Accounts payable and other	(1,017)	(3,654)
Restricted broker margin accounts	(881)	5,875
Customers' credit balances and deposits	7,299	(10,029)
Other current assets	(10,604)	864
Total	\$ (57,844)	\$ (14,579)
SUPPLEMENTAL DISCLOSURES OF CASH FLOWS INFORMATION		
Cash paid for		
Interest (net of amounts capitalized)	\$ 6,434	\$ 7,599
Income taxes	\$ 2,661	\$ 8,000

See Notes to Condensed Unaudited Consolidated Financial Statements

New Jersey Resources Corporation

Part I

ITEM 1. FINANCIAL STATEMENTS (Continued)

CONDENSED CONSOLIDATED BALANCE SHEETS (Unaudited)

ASSETS

<i>(Thousands)</i>	December 31, 2007	September 30, 2007
PROPERTY, PLANT AND EQUIPMENT		
Utility plant, at cost	\$ 1,313,739	\$ 1,299,445
Real estate properties and other, at cost	28,859	28,793
	1,342,598	1,328,238
Accumulated depreciation and amortization	(363,891)	(357,367)
Property, plant and equipment, net	978,707	970,871
CURRENT ASSETS		
Cash and temporary investments	3,845	5,140
Customer accounts receivable		
Billed	270,323	132,444
Unbilled	66,177	8,895
Allowance for doubtful accounts	(3,369)	(3,166)
Regulatory assets	29,245	24,634
Gas in storage, at average cost	404,825	439,168
Materials and supplies, at average cost	5,436	5,033
Prepaid state taxes	9,229	28,034
Derivatives, at fair value	127,699	138,986
Broker margin account	8,590	12,345
Other	15,122	8,353
Total current assets	937,122	799,866
NONCURRENT ASSETS		
Investments in equity investees	89,902	86,743
Regulatory assets	305,832	312,369
Derivatives, at fair value	39,213	44,306
Restricted cash	4,200	4,200
Other	12,779	12,390
Total noncurrent assets	451,926	460,008
Total assets	\$ 2,367,755	\$ 2,230,745

See Notes to Condensed Unaudited Consolidated Financial Statements

New Jersey Resources Corporation

Part I

ITEM 1. FINANCIAL STATEMENTS (Continued)

CONDENSED CONSOLIDATED BALANCE SHEETS (Unaudited)

CAPITALIZATION AND LIABILITIES

<i>(Thousands)</i>	December 31, 2007	September 30, 2007
CAPITALIZATION		
Common stock equity	\$ 668,969	\$ 644,797
Long-term debt	359,165	383,184
Total capitalization	1,028,134	1,027,981
CURRENT LIABILITIES		
Current maturities of long-term debt	34,905	4,338
Short-term debt	289,026	256,479
Gas purchases payable	314,553	218,336
Accounts payable and other	55,341	64,386
Dividends payable	11,101	10,633
Deferred and accrued taxes	24,064	9,031
Regulatory liabilities	—	9,583
New Jersey clean energy program	10,945	8,832
Derivatives, at fair value	62,120	79,243
Broker margin account	1,917	15,143
Customers' credit balances and deposits	34,561	27,262
Total current liabilities	838,533	703,266
NONCURRENT LIABILITIES		
Deferred income taxes	216,553	216,258
Deferred investment tax credits	7,434	7,513
Deferred revenue	9,631	9,806
Derivatives, at fair value	40,474	38,085
Manufactured gas plant remediation	105,340	105,340
Postemployment benefit liability	27,170	25,743
Regulatory liabilities	61,012	61,270
New Jersey clean energy and conservation incentive programs	1,227	3,992
Asset retirement obligation	24,068	23,895
Other	8,179	7,596
Total noncurrent liabilities	501,088	499,498
Total capitalization and liabilities	\$ 2,367,755	\$ 2,230,745

See Notes to Condensed Unaudited Consolidated Financial Statements

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS

1. GENERAL

The condensed consolidated financial statements have been prepared without audit, as of December 31, 2007 and for three months ended December 31, 2007 and 2006, pursuant to the rules and regulations of the Securities and Exchange Commission (SEC). The September 30, 2007 balance sheet data is derived from the audited financial statements of New Jersey Resources Corporation (NJR or the Company). These condensed consolidated financial statements should be read in conjunction with the financial statements and the notes thereto included in NJR's 2007 Annual Report on Form 10-K.

The condensed consolidated financial statements include the accounts of NJR and its subsidiaries, New Jersey Natural Gas (NJNG), NJR Energy Services (NJRES), NJR Retail Holdings (Retail Holdings), NJR Energy Investment (NJREI) and NJR Service Company (NJR Service). Intercompany transactions and accounts have been eliminated. Retail Holdings' two principal subsidiaries are NJR Home Services (NJRHS) and Commercial Realty & Resources (CR&R). NJREI's primary subsidiaries are NJR Energy and NJR Steckman Ridge Storage Company. NJR Energy invests primarily in energy-related ventures through its subsidiary, NJNR Pipeline (Pipeline), which holds the Company's 5.53 percent ownership interest in Iroquois Gas and Transmission System, L.P. (Iroquois). NJR Steckman Ridge Storage Company holds the Company's 50 percent combined interest in Steckman Ridge GP, LLC and Steckman Ridge, LP (collectively, Steckman Ridge), a natural gas storage facility that was acquired and is being developed with a partner in western Pennsylvania.

In the opinion of management, the information furnished reflects all adjustments necessary for a fair presentation of the results of the interim periods. Because of the seasonal nature of NJR's utility and wholesale energy services operations, in addition to other factors, the financial results for the interim periods presented are not indicative of the results that are to be expected for the fiscal year ending September 30, 2008.

Current Assets

Included in Other current assets is \$2.6 million of restricted cash related to NJNG natural gas purchases.

New Accounting Standards

Recently Adopted

In July 2006, the Financial Accounting Standards Board (FASB) issued Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* (FIN 48), which alters the framework for recognizing income tax contingencies. Previously, under Statement of Financial Accounting Standards (SFAS) No. 5, *Accounting for Contingencies*, the focus was on the subsequent liability recognition for estimated losses from tax contingencies where such losses were probable and the related amounts could be reasonably estimated. Under this new interpretation, a contingent tax asset (i.e., an uncertain tax position) may only be recognized if it is more likely than not that it will ultimately be sustained upon audit. The Company adopted FIN 48 on October 1, 2007. The Company has evaluated its tax positions for all jurisdictions and all years for which the statute of limitations remains open and in accordance with the provisions of FIN 48, recorded an additional liability for unrecognized tax benefits and interest of approximately \$4.3 million and an increase in retained earnings as of October 1, 2007 of approximately \$1.2 million.. For additional information on the effect of adoption, see *Note 11. Adoption of FIN 48*.

Not Yet Adopted

In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurements* (SFAS 157). SFAS 157 defines fair value as the amount that would be exchanged to sell an asset or transfer a liability, in an orderly transaction between market participants, and establishes a fair value hierarchy of quotes and unobservable data that should be used to develop pricing assumptions. In addition, for assets and liabilities that are not actively traded, for example, certain kinds of derivatives, SFAS 157 requires that a fair value measurement include an adjustment for risks

New Jersey Resources Corporation

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NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

inherent in a valuation technique and/or inputs, such as those used in pricing models. SFAS 157 is effective for fiscal years beginning after November 15, 2007. The Company will adopt the provisions of the statement prospectively and is evaluating the effect on its financial position and results of operations.

In February 2007, the FASB issued SFAS No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities* (SFAS 159). SFAS 159 permits entities to elect to measure eligible items at fair value as an alternative to hedge accounting and to mitigate volatility in earnings. A company can either elect the fair value option according to a pre-existing policy, when the asset or liability is first recognized or when it enters into an eligible firm commitment. Changes in the fair value of assets and liabilities that the Company chooses to apply the fair value option to, are reported in earnings at each reporting date. SFAS 159 also provides guidance on disclosures that are intended to provide comparability to other companies' assets and liabilities that have different measurement attributes and to other companies with similar financial assets and liabilities. SFAS 159 is effective for fiscal years beginning after November 15, 2007. The Company is currently evaluating the potential impact on its statement of financial position and results of operations.

In June 2007, the FASB Emerging Issues Task Force (EITF) reached consensus on EITF Issue No. 06-11, *Accounting for Income Tax Benefits of Dividends on Share-Based Payment Awards* (EITF 06-11). EITF 06-11 applies to share-based payment arrangements that entitle employees to receive dividends or dividend equivalents and provides that the tax benefit related to dividends on certain share-based awards be recognized as an increase to additional paid-in capital and should be included in the pool of excess tax benefits available to absorb future tax deficiencies on share-based payment awards. EITF 06-11 will be applied prospectively to the income tax benefits of applicable dividends declared by the Company for fiscal years beginning after December 15, 2007. The Company is currently evaluating the effect of adoption on its statement of financial position and results of operations.

On December 4, 2007, the FASB issued SFAS No. 160, *Noncontrolling Interests in Consolidated Financial Statements* (SFAS 160). SFAS 160 is an amendment of Accounting Research Bulletin (ARB) No. 51 and was issued to improve the relevance, comparability, and transparency of the financial information that a reporting entity provides in its consolidated financial statements. This Statement applies to all entities that prepare consolidated financial statements, except not-for-profit organizations, but will affect only those entities that have an outstanding noncontrolling interest in one or more subsidiaries. SFAS 160 clarifies that a noncontrolling interest in a subsidiary is an ownership interest in the consolidated entity that should be reported as equity in the consolidated financial statements and that a parent company must recognize a gain or loss in net income when a subsidiary is deconsolidated. SFAS 160 is effective for fiscal years beginning after December 15, 2008 and early adoption is prohibited. The Company is currently evaluating the potential impact on its statement of financial position and results of operations.

On April 10, 2007, the FASB issued FASB Staff Position No. FIN 39-1 (FSP FIN 39-1), *Amendment of FASB Interpretation No. 39*. FSP FIN 39-1 provides additional guidance for parties that are subject to master netting arrangements. Specifically, for transactions that are executed with the same counterparty, it permits companies to offset the fair value amounts recognized for derivatives as well as the related fair value amounts of cash collateral receivables or payables, when certain conditions apply. FSP FIN 39-1 is effective for fiscal years beginning after November 15, 2007, with early application permitted. The Company's policy is to present its derivative positions and any receivables or payables with the same counterparty on a gross basis, therefore, NJR does not anticipate that FSP FIN 39-1 will have an impact on its statement of financial position and results of operations.

Restatement

Subsequent to the issuance of December 31, 2006 interim financial statements, the Company determined that certain derivative financial instruments at NJRES and NJR Energy were incorrectly accounted for as cash flow hedges. As a result, NJR concluded that the change in fair value of these derivative instruments should be recorded as a component of Gas purchases, or Operating revenues, as appropriate, in the Condensed Consolidated Statements of Income and not in Other comprehensive income, which is a component of Common Stock Equity, where they had been previously reported in the Company's Quarterly Report on Form 10-Q as of and for the three-month period ended December 31, 2006.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Accordingly, the following table sets forth the effects of the restatement on affected line items in the Condensed Consolidated Statements of Income and Condensed Consolidated Statements of Cash Flows for the three-month period ended December 31, 2006. Also included in the adjustment column, and as separate line items in the tables below, are certain immaterial corrections that the Company made to Other income and Equity in earnings of equity investees, net of tax for first quarter of fiscal 2007.

CONDENSED CONSOLIDATED STATEMENTS OF INCOME

<i>(Thousands)</i>	As Previously Reported	Adjustment	As Restated
Operating revenue	\$ 741,465	\$ (4,064)	\$ 737,401
Gas purchases	\$ 628,685	\$ (6,750)	\$ 621,935
Total operating expenses	\$ 689,321	\$ (6,750)	\$ 682,571
Operating Income	\$ 52,144	\$ 2,686	\$ 54,830
Other income	\$ 1,989	\$ (693)	\$ 1,296
Income before income taxes and equity in earnings of affiliates	\$ 46,258	\$ 1,993	\$ 48,251
Income tax provision	\$ 18,134	\$ 1,100	\$ 19,234
Equity in earnings, net of tax	\$ —	\$ 417	\$ 417
Net Income	\$ 28,124	\$ 1,310	\$ 29,434
Basic earnings per share	\$ 1.01	\$ 0.05	\$ 1.06
Diluted earnings per share	\$ 1.01	\$ 0.04	\$ 1.05

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

<i>(Thousands)</i>	As Previously Reported	Adjustment	As Restated
Net Income	\$ 28,124	\$ 1,310	\$ 29,434
Unrealized loss (gain) on derivative instruments, net of tax	\$ 120	\$ (2,189)	\$ (2,069)
Equity in earnings from investments, net of distributions	\$ —	\$ (417)	\$ (417)
Other noncurrent assets	\$ 1,218	\$ 417	\$ 1,635
Other noncurrent liabilities	\$ (9,703)	\$ 879	\$ (8,824)

2. REGULATION

Filed Base Rate Case

As a result of increases in NJNG's operating, maintenance and capital costs, NJNG petitioned the New Jersey Board of Public Utilities (BPU), on November 20, 2007, to increase base rates for delivery service by approximately \$58.4 million, which includes a return on NJNG's equity component of 11.375 percent. This petition is consistent with NJNG's objectives of providing safe and reliable service to its customers and earning a market-based return on its regulated investments. Preliminary matters and timelines are being established among NJNG, the BPU and Division of Rate Counsel (Rate Counsel) before the Office of the Administrative Law Judge. Based upon statutory time frames and potential regulatory lag, it is unlikely that any modification to NJNG's delivery rates would become effective during fiscal 2008.

Conservation Incentive Program (CIP)

The CIP allows NJNG to recover utility gross margin variations related to both weather and customer usage. Recovery of such utility gross margin variations (filed for annually and recovered one year following the end of the CIP usage year) is subject to additional conditions, including an earnings test and an evaluation of Basic Gas Supply Service (BGSS) related savings.

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NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

In October 2007, the BPU provisionally approved the implementation of NJNG's initial CIP recovery rates, based upon program information NJNG included in an Amendment to its Petition for Annual Review, which was filed with the BPU in August 2007. The approved rates add 1.7 percent to the average residential heating customer's bill and are designed to recover approximately \$15.6 million of previously accrued amounts.

In conjunction with the CIP, NJNG incurs costs related to its obligation to fund programs that promote customer conservation efforts during the pilot program. As of December 31, 2007, NJNG had a remaining liability of \$1.2 million related to these programs.

Basic Gas Supply Service

BGSS is a BPU approved rate mechanism designed to allow for the recovery of natural gas commodity costs. NJNG periodically adjusts its rates to its residential and small commercial customers to reflect increases or decreases in the cost of natural gas sold to customers. The following are NJNG's BGSS filings and related rate adjustments or refunds during the first quarter of fiscal 2008:

- On October 3, 2007, the BPU provisionally approved a decrease to NJNG's BGSS rate effective October 4, 2007, which results in a 3.6 percent decrease to the average residential customer bill.
- On November 26, 2007, NJNG notified the BPU that it would provide refunds and subsequently issued a credit to customers of \$32 million in December 2007, as a result of the decrease in the anticipated costs of wholesale natural gas prices.

Other Incentive Programs

NJNG is eligible to receive financial incentives for reducing BGSS costs through a series of utility gross margin-sharing programs that include off-system sales, capacity release, storage incentive and financial risk management (FRM) programs. In October 2007, the BPU approved an extension of the utility gross margin-sharing programs mentioned above through October 31, 2008. Concurrently, the BPU reduced the sharing percentage of the margin generated by the FRM program that will be retained by NJNG from 20 percent to 15 percent effective November 1, 2007. The incentive programs are subject to revisions in NJNG's base rate case and remain in effect as currently established until it is resolved.

Societal Benefits Clause (SBC) and Weather Normalization Clause (WNC)

The SBC is comprised of three primary components: a Universal Service Fund rider (USF), a Manufactured Gas Plant Remediation Adjustment Clause (RAC), and the New Jersey Clean Energy Program (NJCEP).

In October 2007, the BPU approved the following adjustments to recovery rates associated with the SBC programs:

SBC

- \$14.7 million in eligible costs to be recovered annually for MGP remediation expenditures incurred through June 30, 2006;
- an increase in the recovery of NJCEP funding requirements from \$6.3 million to \$13.0 million for fiscal year 2008 due to the gradual increase in NJNG's obligation to the State of New Jersey and a prior underrecovery, (NJNG's liability as of December 31, 2007 was \$11 million); and,
- a decrease to the statewide USF recovery rate, which will have a negligible impact on customer rates.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

In addition, the BPU approved an increase of \$8.1 million, or 0.9 percent to the WNC rate, to recover the net amounts deferred relating to weather related margin variations during the 2004-2005 and 2005-2006 winter periods.

Regulatory Assets & Liabilities

The Company had the following regulatory assets, all related to NJNG, on the Condensed Consolidated Balance Sheets:

<i>(Thousands)</i>	December 31, 2007	September 30, 2007	Recovery Period
Regulatory assets—current			
Underrecovered gas costs	\$ 9,300	—	Less than one year ⁽¹⁾
WNC	5,860	8,105	Less than one year ⁽²⁾
CIP	14,085	16,529	Less than one year ⁽³⁾
Total current	\$ 29,245	\$ 24,634	
Regulatory assets—noncurrent			
Remediation costs (Note 12)			
Expended, net	\$ 85,533	\$ 85,071	(4)
Liability for future expenditures	105,340	105,340	(5)
CIP	4,191	—	(6)
Deferred income and other taxes	13,815	13,979	Various ⁽⁷⁾
Derivatives (Note 3)	45,354	51,861	(8)
Postemployment benefit costs (Note 9)	33,614	33,988	(9)
SBC	17,985	22,130	Various ⁽¹⁰⁾
Total noncurrent	\$305,832	\$312,369	

(1) Recoverable, subject to BPU approval, through BGSS, without interest.

(2) Recoverable as a result of BPU approval in October 2007, without interest. This balance reflects the net results for the winter periods of 2004-2005 and 2005-2006. No new WNC activity is being recorded due to the existence of the CIP. All previously deferred amounts related to the WNC have been approved for recovery.

(3) Recoverable or refundable, subject to BPU annual approval, without interest. Balance includes approximately \$7.0 million relating to the weather component of the calculation and approximately \$7.1 million relating to the customer usage component of the calculation. Recovery from customers is designed to be one year from date of rate approval by the BPU.

(4) Recoverable, subject to BPU approval, with interest over rolling 7-year periods.

(5) Estimated future expenditures. Recovery will be requested when actual expenditures are incurred.

(6) Recoverable or refundable, subject to BPU annual approval, without interest. Balance includes approximately \$1.8 million relating to the weather component of the calculation and approximately \$2.4 million relating to the customer usage component of the calculation.

(7) Recoverable without interest, subject to BPU approval.

(8) Recoverable, subject to BPU approval, through BGSS, without interest.

(9) Recoverable or refundable, subject to BPU approval, without interest. Includes unrecognized service costs recorded in accordance with SFAS No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postemployment Plans* that NJNG has determined are recoverable in rates charged to customers (see Note 9, *Employee Benefit Plans*).

(10) Recoverable with interest, subject to BPU approval.

If there are any changes in regulatory positions that indicate the recovery of regulatory assets is not probable, the related cost would be charged to income in the period of such determination.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The Company had the following regulatory liabilities, all related to NJNG, on the Condensed Consolidated Balance Sheets:

(Thousands)	December 31, 2007	September 30, 2007
Regulatory liability—current		
Overrecovered gas costs	—	\$ 9,583
Total current	—	\$ 9,583
Regulatory liabilities—noncurrent		
Cost of removal obligation ⁽¹⁾	\$61,012	\$60,094
Market development fund (MDF) ⁽²⁾	—	1,176
Total-noncurrent	\$61,012	\$61,270

- (1) NJNG accrues and collects for cost of removal in rates. This liability represents collections in excess of actual expenditures. Approximately \$19.9 million, including accretion of \$350,000 for the three-month period ended December 31, 2007, of regulatory assets relating to asset retirement obligations have been netted against the cost of removal obligation as of December 31, 2007 (see *Note 10. Asset Retirement Obligations*).
- (2) The MDF provided financial incentives to encourage customers to switch to third party suppliers and has supported other unbundling related initiatives. The MDF funding obligations terminated as of October 31, 2006 and the remaining balance was credited back to customers through the BGSS in October 2007.

3. DERIVATIVE INSTRUMENTS

The Company and its subsidiaries are subject to market risk due to fluctuations in the price of natural gas. To manage the risk of such fluctuations, the Company and its subsidiaries enter into futures contracts, option agreements and swap agreements to economically hedge future purchases and sales of natural gas.

On October 1, 2007, the Company changed the treatment of its physical commodity contracts at NJRES, such that all contracts entered into after September 30, 2007 are now recognized as derivative instruments, and are not accounted for using the “normal purchase normal sales” scope exception of Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities* (as amended and interpreted, SFAS 133). All NJRES physical commodity contracts entered into after September 30, 2007, are accounted for at fair value on the Condensed Consolidated Balance Sheets, with changes in fair value being reflected as a component of Operating revenues on the Condensed Consolidated Statements of Income. All physical commodity contracts at NJRES that were in existence prior to October 1, 2007, which were previously designated as meeting the normal purchase normal sales scope exception of SFAS 133, as well as physical commodity contracts at NJNG and NJR Energy, which also meet the normal purchase normal sale scope exception, continue to be accounted for under accrual accounting.

All of the Company’s financial instruments (financial futures, options or swaps), are accounted for as derivatives in accordance with SFAS 133 and recorded at fair value in the Condensed Consolidated Balance Sheets. Changes in fair value are recorded as a component of Gas purchases or Operating revenues, for NJRES and NJR Energy, respectively, in the Condensed Consolidated Statements of Income as unrealized gains or losses. Changes in fair value of NJNG’s financial derivative instruments are recorded as a component of Regulatory assets or liabilities in the Condensed Consolidated Balance Sheets, as these amounts will be recovered through future BGSS amounts as an increase or reduction to the cost of natural gas in NJNG’s tariff.

When certain financial derivative instruments at NJRES settle prior to the actual sale of the natural gas inventory purchases that they were designed to economically hedge, NJRES records realized gains or losses as a component of Gas purchases in the Condensed Consolidated Statements of Income.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Unrealized gains (losses) and realized gains (losses) at NJRES related to financial derivative instruments that are included as a component of Gas purchases, and unrealized gains (losses) at NJR Energy related to financial derivative instruments and unrealized gains (losses) at NJRES related to physical commodity contracts that are included as a component of Operating revenues, for the three months ended December 31, 2007 and 2006 are as follows:

<i>(Thousands)</i>	December 31, 2007	2006
NJRES:		
Unrealized gains – Physical Commodity Contracts	\$ 2,044	—
Unrealized (losses) gains – Financial Instruments	(6,966)	8,039
Realized (losses) – Financial Instruments	(5,163)	(1,289)
<i>Subtotal NJRES</i>	\$(10,085)	\$ 6,750
NJR Energy		
Unrealized gains (losses) – Financial Instruments	(305)	(4,064)
Total NJRES and NJR Energy unrealized and realized (losses) gains	\$(10,390)	\$ 2,686

Generally, exchange-traded futures contracts require a deposit of margin cash, the amount of which is subject to change based on market price movements and in accordance with exchange rules. The Company maintains broker margin accounts for NJNG and NJRES. The balances are as follows:

<i>(Thousands)</i>	December 31, 2007	September 30, 2007
NJNG broker margin deposit	\$ 39	\$ 12,345
NJNG broker margin (liability)	\$(1,917)	—
NJRES broker margin deposit (liability)	\$ 8,551	\$(15,143)

4. INVESTMENTS IN EQUITY INVESTEEES

NJR's Investments in equity investees include the following investments:

<i>(Thousands)</i>	December 31, 2007	September 30, 2007
Steckman Ridge	\$60,881	\$56,726
Iroquois	20,844	22,073
Other	8,177	7,944
Total	\$89,902	\$86,743

NJR uses the equity method of accounting for its investments in Steckman Ridge and Iroquois.

Other investments represent investments in equity securities of publicly traded energy companies, all of which are immaterial on an individual basis, and are accounted for as available for sale securities, with any change in the value of such investments recorded as Accumulated other comprehensive income, a component of Common stock equity.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The following is summarized financial information for Iroquois, as of and for the three-month periods as indicated below:

	December 31,	
(Thousands)	2007	2006
Operating revenues	\$38,754	\$39,519
Operating income	\$19,298	\$20,021
Net income	\$7,582	\$7,473

	December 31,	September 30,
(Millions)	2007	2007
Total assets	\$791.0	\$814.3

5. EARNINGS PER SHARE

The following table presents the calculation of the Company's basic and diluted earnings per share:

	Three Months Ended December 31,	
(Thousands, except per share amounts)	2007	2006
Net Income, as reported	\$30,185	\$29,434
Basic earnings per share		
Weighted average shares of common stock outstanding—basic	27,785	27,713
Basic earnings per common share	\$1.09	\$1.06
Diluted earnings per share		
Weighted average shares of common stock outstanding—basic	27,785	27,713
Incremental shares ⁽¹⁾	167	191
Weighted average shares of common stock outstanding—diluted	27,952	27,904
Diluted earnings per common share	\$1.08	\$1.05

(1) Incremental shares consist of stock options, stock awards and performance units.

On January 23, 2008 the Company announced a three for two stock split payable on March 3, 2008 with fractional shares paid in cash. The amounts above do not include the effect of this proposed stock split. The following table shows the impact of the planned stock split on the number of shares outstanding and calculated basic and diluted earnings per share as if it occurred at the beginning of the earliest period presented:

	Pro- Forma Three Months Ended December 31,	
(Thousands, except per share amounts)	2007	2006
Net Income	\$30,185	\$29,434
Basic earnings per share		
Weighted average shares of common stock outstanding—basic	41,678	41,570
Basic earnings per common share	\$0.72	\$0.71
Diluted earnings per share		
Weighted average shares of common stock outstanding—basic	41,678	41,570
Incremental shares	250	287
Weighted average shares of common stock outstanding—diluted	41,928	41,857
Diluted earnings per common share	\$0.72	\$0.70

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

6. DEBT

NJR

On December 13, 2007, NJR refinanced its prior senior credit facility for a new \$325 million, five-year, revolving, unsecured credit facility. The new credit facility permits the borrowing of amounts under a revolving basis, as well as the issuance of letters of credit. It also permits an increase to the facility, from time to time, with the existing or new lenders, in a minimum of \$5 million increments up to a maximum \$100 million. The new credit facility refinances an earlier credit facility that provided for \$325 million in revolving credit that was scheduled to expire on December 16, 2007. The Company used the initial borrowings under the new credit facility to refinance its prior credit facility and pay all related fees and expenses. Depending on borrowing levels and credit ratings, NJR's interest rate can either be, at its discretion, the London inter-bank offered rate ("LIBOR") or the Federal Funds Open Rate plus an applicable spread and facility fee. As of December 31, 2007, NJR's effective rate was 5.18% on outstanding borrowings of \$92.6 million under this credit facility.

As of December 31, 2007, NJR had four letters of credit outstanding, totaling \$17.5 million, on behalf of NJRES. Two letters of credit, totaling \$4.5 million, are used in conjunction with a long-term natural gas storage agreement and expire on December 31, 2008. The other two letters of credit, totaling \$13 million, are used for margin and collateral requirements for natural gas transactions and expire on March 31, 2008.

NJR also has a \$675,000 letter of credit outstanding on behalf of CR&R, which will expire on December 31, 2008. The letter of credit is in place to support development activities.

These letters of credit reduce the amount available under NJR's committed credit facility by the same amount. NJR does not anticipate that these letters of credit will be drawn upon by the counterparties and they will be renewed as necessary.

NJNG

In August 2007, the BPU approved NJNG's petition requesting authorization to issue and sell, in one or more series, an aggregate of \$125 million in medium-term notes through July 31, 2010. The notes may be issued on a secured or unsecured basis and maturities can range from one to forty years. The proceeds from the issuance of the notes will be used to refinance short-term debt, which has been incurred to fund capital expenditure requirements and pension and other post-employment benefit programs. NJNG is currently seeking approval to revise the market yield spread conditions of the BPU's prior approval to reflect current credit market conditions. Provided that such approval is granted by the BPU, the notes are anticipated to be issued during the second quarter of fiscal 2008.

NJNG received \$7.5 million and \$5.5 million in December 2007 and 2006, respectively, in connection with the sale-leaseback of its natural gas meters. This sale-leaseback program is expected to be continued on an annual basis.

At December 31, 2007, NJNG had a stand alone letter of credit in the amount of \$3 million, which will expire on December 31, 2008. This letter of credit does not reduce the amount available to be borrowed under NJNG's credit facility. NJNG does not anticipate that this letter of credit will be drawn upon by the counterparty, and it will be renewed as necessary, upon its expiration.

Neither NJNG nor the results of its operations are obligated or pledged to support the NJR or NJRES credit facilities.

NJRES

As of December 31, 2007 NJRES had a 3-year \$30 million committed credit facility that expires in October 2009 with a multinational financial institution. There were no borrowings under this facility as of December 31, 2007.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Consolidated

There were no issuances or redemptions of long-term debt securities for NJR, NJNG or NJRES during the three months ended December 31, 2007

A summary of NJR's and NJNG's long-term debt, committed credit facilities which require commitment fees on the unused amounts, and NJRES' committed facility that does not require a fee, are as follows:

<i>(Thousands)</i>	December 31, 2007	September 30, 2007
NJR		
Long - term debt ⁽¹⁾	\$75,000	\$75,000
Bank credit facilities	\$325,000	\$325,000
Amount outstanding at end of period	\$92,600	\$40,250
Weighted average interest rate at end of period	5.18%	6.17%
NJNG ⁽²⁾		
Long - term debt ⁽¹⁾	\$254,800	\$254,800
Bank credit facilities	\$250,000	\$250,000
Amount outstanding at end of period	\$190,100	\$175,700
Weighted average interest rate at end of period	4.48%	5.19%
NJRES		
Bank credit facilities	\$30,000	\$30,000
Amount outstanding at end of period	—	\$30,000
Weighted average interest rate at end of period	—	5.78%

(1) Long-term debt excludes lease obligations of \$59.3 million and \$53.3 million at December 31, 2007 and September 30, 2007, respectively.

(2) The table includes only committed credit facilities for short-term borrowings. Also included in short-term debt on the Condensed Consolidated balance sheet as of December 31, 2007 and September 30, 2007, are \$6.3 and \$10.5 million, respectively, related to an uncommitted credit facility.

7. CAPITALIZED FINANCING COSTS AND DEFERRED INTEREST

Allowance for Funds Used During Construction, (AFUDC) included in Utility plant, and capitalized interest included in Real estate properties and other and Investments in equity investees on the Condensed Consolidated Balance Sheets, are as follows:

<i>(\$ in thousands)</i>	Three Months Ended December 31,			
	2007		2006	
AFUDC – Utility plant	\$535		\$379	
Weighted average rate	8.31	%	5.36	%
Capitalized interest – Real estate properties and other	\$36		\$ 43	
Weighted average interest rates	5.08	%	5.55	%
Capitalized interest – Investments in equity investees	\$855		—	
Weighted average interest rates	5.98	%	—	

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Commencing on October 1, 2007, NJNG is including a capitalized cost of equity, at its currently allowed return on equity rate of 11.5 percent, for its utility plant construction as a component of AFUDC. Amounts shown in the table above for the three months ended December 31, 2006 represent an interest cost component only.

NJR, through its CR&R subsidiary, capitalizes interest associated with the development and construction of its commercial buildings. Interest is also capitalized associated with the acquisition, development and construction of a natural gas storage facility through NJR's equity investment in Steckman Ridge (see *Note 4. Investments in Equity Investees*).

Pursuant to a BPU order, NJNG is permitted to recover carrying costs on uncollected balances related to SBC program costs, which include NJCEP, RAC and USF expenditures. Accordingly, Other income included \$738,000 and \$887,000 of deferred interest related to these SBC program costs for period ended December 31, 2007 and 2006, respectively.

8. STOCK-BASED COMPENSATION

On November 14, 2007, the Company granted 41,320 performance units, which are market condition awards and vest in September 2010, and 41,320 shares of restricted stock, which vest in equal installments over three years, subject to certain conditions. On the same date, the Company also granted 23,590 restricted shares that vest immediately. During the first quarter of fiscal 2008, 11,237 shares were issued pursuant to performance units granted in fiscal 2005 that were earned as of September 30, 2007.

During the first three months of fiscal 2008, included in operation and maintenance expense is \$483,000 related to stock based compensation. There is approximately \$5.0 million of deferred compensation expense related to unvested shares, options and performance units that are expected to be recognized over the next 3 years.

9. EMPLOYEE BENEFIT PLANS

Pension and Other Postemployment Benefit Plans (OPEB)

The components of the net periodic cost for pension benefits, including NJR's Pension Equalization Plan, and OPEB costs (principally health care and life insurance) for employees and covered dependents were as follows:

(Thousands)	Pension		OPEB	
	Three Months Ended		Three Months Ended	
	December 31,		December 31,	
	2007	2006	2007	2006
Service cost	\$ 728	\$ 733	\$ 488	\$ 454
Interest cost	1,648	1,554	821	757
Expected return on plan assets	(2,183)	(2,052)	(583)	(541)
Recognized actuarial loss	275	399	262	266
Prior service cost amortization	14	21	20	20
Transition obligation amortization	—	—	89	89
Net periodic cost	\$ 482	\$ 655	\$1,097	\$1,045

In fiscal 2008, the Company has no minimum pension funding requirements. The Company's funding to its OPEB plans is expected to be approximately \$1.5 million in fiscal 2008 and \$1.1 million annually, over the next four years. Additional contributions may be made based on market conditions and various assumptions.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. ASSET RETIREMENT OBLIGATIONS (ARO)

NJR recognizes AROs related to the costs associated with cutting and capping its main and service gas distribution pipelines of NJNG, which is required by New Jersey law when taking such gas distribution pipeline out of service.

The following is an analysis of the change in the ARO liability for the period ended December 31, 2007, in thousands:

Balance at October 1, 2007	\$23,895
Accretion	350
Additions	—
Retirements	(177)
Balance at December 31, 2007	\$24,068

Accretion amounts are not reflected as an expense on NJR's Condensed Consolidated Statements of Income, but rather are deferred as a regulatory asset and netted against NJNG's regulatory liabilities, for presentation purposes, on the Condensed Consolidated Balance Sheet.

11. ADOPTION OF FIN 48

During 2006, the FASB issued Interpretation No. 48, *Accounting for Uncertainty in Income Taxes – An Interpretation of FASB Statement No. 109* (FIN 48), which is effective for the Company in fiscal 2008. FIN 48 clarifies the accounting for uncertainty in income taxes recognized in an entity's financial statements in accordance with FASB Statement No. 109, *Accounting for Income Taxes* (SFAS 109) and prescribes a recognition threshold and measurement attributes for financial statement disclosure of tax positions taken or expected to be taken on a tax return. Under FIN 48, the impact of an uncertain income tax position on the income tax return must be recognized at the largest amount that is more-likely-than-not to be sustained upon audit by the relevant taxing authority. An uncertain income tax position will not be recognized if it does not have a greater than 50 percent likelihood of being sustained. Additionally, FIN 48 provides guidance on derecognition, declassification and interest and penalties, among other items.

The Company adopted the provisions of FIN 48 on October 1, 2007. The total amount of FIN 48 liabilities as of the date of adoption was \$6.5 million, including \$4.7 million of uncertain tax liabilities and \$1.8 million of interest and penalties. As a result of the implementation of FIN 48, the Company recognized an additional \$4.3 million as an increase in the liability for unrecognized tax benefits and interest. The previously recorded amount of \$2.2 million, as well as the additional amount recognized associated with the adoption of FIN 48, are included as a component of Deferred and accrued taxes in the Current classification of the Condensed Consolidated Balance Sheets. The following table represents the increase in liability with respect to the adoption of FIN 48:

(\$ in millions)	As of October 1, 2007
Increase in Retained Earnings (cumulative effect)	\$ 1.2
Decrease in Deferred income taxes	\$ (4.3)
Increase in Deferred and accrued taxes (FIN 48 liability)	\$ 4.3

There are \$1.7 million of state taxes included in the balance of unrecognized tax benefits as of October 1, 2007. If they were to be recognized, it would affect the effective tax rate, as this amount had previously been fully reserved for, and was fully reflected as a component of current Deferred and accrued taxes in the Condensed Consolidated Balance Sheets.

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NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

There is \$3.1 million included in the balance of unrecognized tax benefits as of October 1, 2007 that relates to a filing position the Company took concerning the depreciable life of certain of its fixed assets at NJNG. The Company filed an automatic change in method of accounting which is currently under audit with the Internal Revenue Service (IRS). The Company anticipates closing the audit and settling this issue within the next 12 months. The settlement of this issue would reduce the FIN 48 reserve by approximately \$3.6 million, which includes associated interest.

The Company recognizes interest and penalties accrued related to unrecognized tax benefits as additional tax expense. Upon adoption of FIN 48 on October 1, 2007 the Company had \$1.8 million of accrued interest and penalties related to the above liability computed under FIN 48, which had previously been expensed in the Condensed Consolidated Statements of Income.

The Company and one or more of its subsidiaries files income tax returns in the United States Federal jurisdiction and in the states of New Jersey, New York and Connecticut. The Company neither files in, nor believes it has a filing requirement in, any foreign jurisdictions.

The Company is no longer subject to United States federal income tax examinations for years prior to fiscal 2004. The IRS commenced an examination of the Company's fiscal 2005 federal income tax return during the third quarter of fiscal 2007. The exam is expected to be completed by the end of fiscal 2008.

The Company is not currently under examination in any state but the periods ended September 30, 2003 forward are all statutorily open to examination. In New Jersey, NJNG currently has an open Tax Court case for the periods September 30, 1998 through September 30, 2002, which relates to New Jersey tax apportionment rules. The Company expects a final tax court ruling related to this case during fiscal 2008, and the unrecognized benefit of the \$1.7 million of state taxes that is included as part of the entire initial adoption of FIN 48, as described above.

An unfavorable ruling would result in a tax, interest and penalty expense of approximately \$2.9 million. This liability has previously been reserved for, and the tax and interest would be deductible for federal income tax purposes.

12. COMMITMENTS AND CONTINGENT LIABILITIES

Cash Commitments

NJNG has entered into long-term contracts, expiring at various dates through 2022, for the supply, storage and delivery of natural gas. These contracts include current annual fixed charges of approximately \$85.7 million at current contract rates and volumes, which are recoverable through the BGSS.

For the purpose of securing adequate storage and pipeline capacity, NJRES enters into storage and pipeline capacity contracts, which require the payment of certain demand charges by NJRES, in order to maintain the ability to access such natural gas storage or pipeline capacity, during a fixed time period, which generally range from one to five years. Demand charges are based on established rates as regulated by the Federal Energy Regulatory Commission (FERC). These demand charges represent commitments to pay storage providers or pipeline companies for the right to store and transport natural gas utilizing their respective assets. As of December 31, 2007, NJRES had contractual obligations for demand charges related to storage contracts and pipeline capacity contracts of \$32.1 million and \$59.9 million, respectively.

As of December 31, 2007, there were NJR guarantees covering approximately \$352 million of natural gas purchases and demand fee commitments of NJRES and NJNG not yet reflected in Accounts payable on the Condensed Consolidated Balance Sheet.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Costs for storage and pipeline demand fees, included as a component of Gas purchases on the Condensed Consolidated Statements of Income, are as follows:

	Three Months Ended December 31,	
<i>(Thousands)</i>	2007	2006
NJRES	\$27.6	\$36.8
NJNG	18.7	19.3
Total	\$46.3	\$56.1

NJNG's capital expenditures are estimated at \$78.6 million for fiscal 2008, of which approximately \$16.4 million has been committed, and consists primarily of its construction program to support customer growth, maintenance of its distribution system and replacement needed under pipeline safety regulations.

The Company's future minimum lease payments under various operating leases are less than \$3.0 million annually for the next five years and \$2.2 million in the aggregate for all years thereafter.

Legal Proceedings

Manufactured Gas Plant Remediation

NJNG is responsible for the remedial cleanup of three Manufactured Gas Plant (MGP) sites, dating back to gas operations in the late 1800s and early 1900s, which contain contaminated residues from former gas manufacturing operations. NJNG is currently involved in administrative proceedings with the New Jersey Department of Environmental Protection (NJDEP) with respect to two of the sites, as well as participating in various studies and investigations by outside consultants to determine the nature and extent of any such contaminated residues and to develop appropriate programs of remedial action, where warranted, under Administrative Consent Orders or Memoranda of Agreement with the NJDEP.

NJNG may, subject to BPU approval, recover its remediation expenditures, including carrying costs, over rolling 7-year periods pursuant to a remediation adjustment clause (RAC) approved by the BPU. In October 2007, the BPU approved \$14.7 million in eligible costs to be recovered annually for MGP remediation expenditures incurred through September 30, 2006. As of December 31, 2007, \$85.5 million of previously incurred remediation costs, net of recoveries from customers and insurance proceeds, are included in Regulatory assets on the Condensed Consolidated Balance Sheet.

In September 2007, NJNG updated an environmental review of the MGP sites, including a review of potential liability for investigation and remedial action. NJNG estimated at the time of the review that total future expenditures to remediate and monitor the three MGP sites for which it is responsible will range from approximately \$105.3 million to \$164.8 million. NJNG's estimate of these liabilities is based upon known facts, existing technology and enacted laws and regulations in place when the review was completed. However, NJNG expects actual costs to differ from these estimates. Where it is probable that costs will be incurred, but the information is sufficient only to establish a range of possible liability, and no point within the range is more likely than any other, it is NJNG's policy to accrue the lower end of the range. Accordingly, NJNG has recorded an MGP remediation liability and a corresponding Regulatory asset of \$105.3 million on the Condensed Consolidated Balance Sheet. The actual costs to be incurred by NJNG are dependent upon several factors, including final determination of remedial action, changing technologies and governmental regulations, the ultimate ability of other responsible parties to pay and any insurance recoveries.

NJNG is presently investigating the potential settlement of alleged Natural Resource Damage claims that might be brought by the NJDEP concerning the three MGP sites. NJDEP has not made any specific demands for compensation for alleged injury to groundwater or other natural resources. NJNG's evaluation of these potential

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

claims is in the early stages, and it is not yet possible to quantify the amount of compensation, if any, that NJDEP might seek to recover. NJNG anticipates any costs associated with this matter would be recoverable through the RAC.

NJNG will continue to seek recovery of MGP-related costs through the RAC. If any future regulatory position indicates that the recovery of such costs is not probable, the related cost would be charged to income in the period of such determination. However, because recovery of such costs is subject to BPU approval, there can be no assurance as to the ultimate recovery through the RAC or the impact on the Company's results of operations, financial position or cash flows, which could be material.

General

The Company is party to various other claims, legal actions and complaints arising in the ordinary course of business. In the Company's opinion, other than as disclosed above, the ultimate disposition of these matters will not have a material adverse effect on its financial condition, results of operations or cash flows.

13. BUSINESS SEGMENT DATA

Information related to the Company's various business segments, which are presented in the Condensed Consolidated Statements of Cash Flows, is detailed below.

The Natural Gas Distribution segment consists of regulated energy and off-system, capacity and storage management operations. The Energy Services segment consists of unregulated wholesale energy operations. The Retail and Other segment consists of appliance and installation services, commercial real estate development, investments and other corporate activities.

	Three Months Ended December 31,	
<i>(Thousands)</i>	2007	2006
Operating Revenues		
Natural Gas Distribution	\$ 284,360	\$ 239,407
Energy Services	520,211	495,787
Retail and Other	6,631	2,276
Subtotal	811,202	737,470
Intersegment Revenues ⁽¹⁾	(64)	(69)
Total	\$ 811,138	\$ 737,401
Depreciation and Amortization		
Natural Gas Distribution	\$ 9,233	\$ 8,738
Energy Services	53	54
Retail and Other	117	110
Total	\$ 9,403	\$ 8,902
Operating Income		
Natural Gas Distribution	\$ 31,602	\$ 36,716
Energy Services	22,563	21,596
Retail and Other	372	(3,482)
Total	\$ 54,537	\$ 54,830
Net Income		
Natural Gas Distribution	\$ 16,670	\$ 19,908
Energy Services	13,150	11,524
Retail and Other	365	(1,998)
Total	\$ 30,185	\$ 29,434

(1) Consists of transactions between subsidiaries that are eliminated in consolidation.

New Jersey Resources Corporation

Part I

NOTES TO CONDENSED UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

14. OTHER

At December 31, 2007, there were 27,815,759 shares of common stock outstanding and the book value per share was \$24.01.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Management's Overview

New Jersey Resources Corporation (NJRC or the Company) is an energy services holding company providing retail natural gas service in New Jersey and wholesale natural gas and related energy services to customers in states from the Gulf Coast and Mid-Continent regions to the New England region and Canada through its two principal subsidiaries, New Jersey Natural Gas (NJNG) and NJRC Energy Services (NJRES).

Comprising the Natural Gas Distribution segment, NJNG is a natural gas utility that provides regulated retail natural gas service in central and northern New Jersey and also participates in the off-system sales and capacity release markets. NJNG is regulated by the New Jersey Board of Public Utilities (BPU).

NJRES maintains and transacts around a portfolio of physical assets consisting of natural gas storage and transportation contracts. In addition, NJRES provides wholesale energy services to non-affiliated utility and energy companies. NJRES comprises the Energy Services segment.

The Retail and Other segment includes NJRC Home Services (NJRHS), which provides service, sales and installation of appliances; NJRC Energy (NJRE), an investor in energy-related ventures, most significantly through NJNR Pipeline, which holds the Company's 5.53 percent interest in Iroquois Gas and Transmission System, LP (Iroquois), a 412-mile natural gas pipeline from the New York-Canadian border to Long Island, New York, and NJRC Steckman Ridge Storage Company, which has a 50 percent equity ownership interest in Steckman Ridge GP, LLC and Steckman Ridge, LP (collectively, Steckman Ridge), a planned 17.7 billion cubic foot (Bcf) natural gas storage facility, with up to 12 Bcf working capacity, that is being jointly developed and constructed with a partner in western Pennsylvania; NJRC Investment, which makes energy-related equity investments; Commercial Realty and Resources (CR&R), which holds and develops commercial real estate; and NJRC Service Company, which provides support services to the various NJRC businesses.

NJRC has restated the financial statements for the period ended December 31, 2006 related to a change in accounting for certain derivative financial instruments. Refer to *Note 1. General*, herein.

Net income by business segment is as follows:

(\$ in thousands)	Three Months Ended December 31,			
	2007		2006	
Net Income				
Natural Gas Distribution	\$16,670	55%	\$19,908	68%
Energy Services	13,150	44	11,524	39
Retail and Other	365	1	(1,998)	(7)
Total	\$30,185	100%	\$29,434	100%

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

NJRES and NJR Energy account for certain of its derivative instruments (financial futures, swaps and options) used to economically hedge the forecasted purchase, sale and transportation of natural gas at fair value, as required under Statement of Financial Accounting Standards No. 133, *Accounting for Derivative Instruments and Hedging Activities* (as amended and interpreted, SFAS 133). In addition, effective October 1, 2007, NJRES is no longer electing the “normal purchase normal sale” (NPNS) scope exception of SFAS 133 for contracts that result in the physical purchase or sale of natural gas at NJRES. As such, any new contracts to purchase or sell the natural gas commodity are accounted for as derivatives, at fair value, at NJRES.

The change in fair value of these derivative instruments at NJRES and NJR Energy over periods of time, referred to as unrealized gains or losses, can result in substantial volatility in reported net income under generally accepted accounting principles of the United States of America (GAAP). When a financial instrument settles the result is the realization of these gains or losses. NJRES utilizes certain financial instruments to economically hedge inventory placed into storage that will be sold at a later date, all of which were contemplated as part of an entire forecasted transaction. GAAP requires that when a financial instrument that is economically hedging natural gas that has been placed into inventory, but not yet sold, has been settled, the realized gain or loss associated with that settlement must be reflected currently in the income statement. While NJRES will recognize the same economic impact from the entire planned transaction, this also leads to additional volatility in NJRES’ earnings.

Unrealized losses and gains at NJRES and NJR Energy are the result of changes in the fair value of natural gas futures and basis swaps, as applicable, used to economically hedge future natural gas sales, purchases and transportation. Additionally NJRES records unrealized gains and losses on physical natural gas commodity contracts entered into after September 30, 2007. Realized gains and losses at NJRES are the result of the settlement of natural gas futures instruments used to economically hedge natural gas purchases in inventory that have not been sold.

Included in Net income in the table above are unrealized (losses) and gains in the Energy Services segment of \$(2.9) million and \$4.5 million, after taxes, for the three-month period ended December 31, 2007 and 2006, respectively. Also included in Net income in the table above are realized (losses) of \$(3.0) million and \$(759,000), after taxes, for the three-month period ended December 31, 2007 and 2006, respectively, related to derivative instruments that have settled that are designed to economically hedge natural gas that is still in storage inventory.

Included in Net income above are unrealized (losses) in the Retail and Other segment of \$(180,000) and \$(2.4) million, after taxes, for the period ended December 31, 2007 and 2006, respectively.

Natural Gas Distribution Segment

Natural Gas Distribution operations have been managed with the goal of growing profitably through several key initiatives including:

- Assessing the market and timing with respect to filing for a base rate increase, which takes into account many factors, including, but not limited to, earning a reasonable rate of return on the investments that have been constructed in the gas distribution system, as well as recovery of all prudently incurred costs in order to provide reliable service throughout NJNG’s service territory.

Based upon increases in NJNG’s operating, maintenance and capital costs, NJNG petitioned the BPU, on November 20, 2007, to increase base rates for its natural gas delivery service by approximately \$58.4 million, including a return on NJNG’s equity component of 11.375 percent. This base rate case filing is consistent with NJNG’s objectives of providing safe and reliable service to its customers and earning a market-based return. Based upon statutory time frames and potential regulatory lag, it is unlikely that any modification to its delivery rates would become effective during fiscal 2008;

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

- Working with the BPU and New Jersey Department of the Public Advocate, Rate Counsel, for the development of the decoupling of the impact of customer usage on utility gross margin, which has allowed for the implementation of the Conservation Incentive Program (CIP). The CIP allows NJNG to promote conservation programs to its customers while maintaining protection of its utility gross margin associated with reduced customer usage. CIP usage differences are calculated annually and are recovered one year following the end of the CIP usage year;
- Managing its customer growth, which is expected to range from 1.6 to 1.8 percent annually;
- Generating earnings from various BPU-authorized gross margin-sharing incentive programs; and
- Managing the volatility of wholesale natural gas prices through a hedging program designed to keep customers’ prices as stable as possible.

In conducting NJNG’s business, management focuses on factors it believes may have significant influence on its future financial results. NJNG’s policy is to work with all stakeholders, including customers, regulators and policymakers, to achieve favorable results. These factors include the rate of NJNG’s customer growth in its service territory, which can be influenced by general economic conditions as well as political and regulatory policies that may impact the new housing market. A portion of NJNG’s customer growth comes from the conversion market, which is influenced by the delivered cost of natural gas compared with competing fuels, interest rates and other economic conditions.

The CIP pilot program was implemented effective October 1, 2006 to allow NJNG to recover utility gross margin variations related to both weather and customer usage. Recovery of such margin variations is subject to additional conditions including an earnings test, which includes a return on equity component of 10.5 percent, and an evaluation of Basic Gas Supply Service (BGSS)-related savings achieved. An annual review of the CIP must be filed in June of each year, coincident with NJNG’s annual BGSS filing. In October 2007, the BPU provisionally approved NJNG’s initial CIP recovery rates, which are designed to recover approximately \$15.6 million of accrued margin amounts.

In conjunction with the CIP, NJNG is required to administer programs that promote customer conservation efforts. As of December 31, 2007 and September 30, 2007, the obligation to fund these conservation programs was recorded at its present value of \$1.2 million and \$1.4 million, respectively on the Condensed Consolidated Balance Sheets.

Prior to fiscal 2007, the impact of weather was mitigated by a Weather Normalization Clause (WNC), which was suspended with the commencement of the CIP. In October 2007, the BPU approved the full recovery of \$8.1 million of previously deferred amounts related to the WNC.

Energy Services Segment

NJRES provides unregulated wholesale energy services, including base load natural gas, peaking and balancing services, utilizing physical assets it controls through natural gas pipeline transportation and storage contracts, as well as providing asset management services to customers in states from the Gulf Coast and Mid-continent regions to the Appalachian and Northeast regions and Canada.

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

NJRES incorporates the following elements to provide for growth, while focusing on maintaining a low-risk operating and counterparty credit profile:

- Providing natural gas portfolio management services to nonaffiliated utilities and electric generation facilities;
- Leveraging transactions for the delivery of natural gas to customers by aggregating the natural gas commodity costs and transportation costs in order to minimize the total cost required to provide and deliver natural gas to NJRES’ customers by identifying the lowest cost alternative with the natural gas supply, transportation availability and markets to which NJRES is able to access through its business footprint and contractual asset portfolio;
- Identifying and benefiting from variations in pricing of natural gas transportation and storage assets due to location or timing differences of natural gas prices to generate gross margin; and
- Managing economic hedging programs that are designed to mitigate adverse market price fluctuations in natural gas transportation and storage commitments.

NJRES views “financial margin” as its key financial measurement metric. NJRES’ financial margin represents revenues earned from the sale of natural gas less costs of natural gas sold, transportation and storage, and excludes any accounting impact from the change in fair value of derivative instruments designed to hedge the economic impact of its transactions that have not been settled, which represent unrealized gains and losses, and realized gains and losses associated with financial instruments economically hedging natural gas in storage and not yet sold.

NJRES has built a portfolio of customers including local distribution companies, industrial companies, electric generators and retail aggregators. Sales to these customers have allowed NJRES to leverage its transportation and storage capacity and manage sales to these customers in an aggregate fashion. This strategy allows NJRES to extract more value from its portfolio of natural gas storage and pipeline transportation capacity through the arbitrage of pricing differences as a result of locational differences or over different periods of time.

NJRES also focuses on creating value from underutilized natural gas assets, which are typically amassed through contractual rights to natural gas transportation and storage capacity. NJRES has developed a portfolio of natural gas storage and transportation capacity in states in the Northeast, Gulf Coast, Mid-continent and Appalachian regions and eastern Canada. These assets become more valuable when prices change between these areas and across time periods. NJRES seeks to optimize this process on a daily basis as market conditions change by evaluating all the natural gas supplies, transportation and opportunities to which it has access, to find the most profitable alternative to serve its various commitments. This enables NJRES to capture geographic pricing differences across these various regions as delivered natural gas prices change as a result of market conditions. NJRES focuses on earning a financial margin on a single original transaction and then utilizing that transaction, and the changes in prices across the regions or across time periods, as the basis to further improve the initial result.

In a similar manner, NJRES participates in natural gas storage transactions where it seeks to identify pricing differences that occur over time, as prices for future delivery periods at many different delivery points, are readily available. For example, NJRES generates financial margin by locking in the differential between purchasing natural gas at a low current or future price and, in a related transaction, selling that natural gas at a higher current or future price, all within the constraints of its credit and contracts policies. Through the use of transportation and storage services, NJRES is able to generate financial margin through pricing differences that occur over the duration of time the assets are held.

NJRES’ portfolio management customers include nonaffiliated utilities and electric generation plants. Services provided by NJRES include optimization of underutilized natural gas assets and basic gas supply functions.

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

NJRES also participates in park-and-loan transactions with pipeline counterparties, where NJRES will borrow natural gas when there is an opportunity to capture arbitrage value. In these cases, NJRES evaluates the economics of the transaction to determine if it can capture pricing differentials in the marketplace in order to be able to generate financial margin. In evaluating these transactions NJRES will compare the fixed fee it will pay and the resulting spread it can generate when considering the amount it will receive to sell the borrowed gas to another counterparty in relation to the cost it will incur to purchase the gas at a later date for return back to the pipeline. When the transaction allows NJRES to generate a financial margin, NJRES will fix the financial margin by economically hedging the transaction with natural gas futures.

In conducting its business, NJRES mitigates risk by following formal risk management guidelines, including trading limits, approval processes, segregation of duties, and formal contract and credit review and approval procedures. NJRES continuously monitors and seeks to reduce the risk associated with various counterparties credit exposure. The Risk Management Committee (RMC) of NJR, oversees compliance with these established guidelines.

Retail and Other Segment

In the Retail and Other segment, NJR utilizes a subsidiary, NJR Energy Holdings, to develop its investments in natural gas “mid-stream” assets. Mid-stream assets represent natural gas transportation and storage facilities. NJR believes that acquiring, owning and developing these mid-stream assets, which generally have a regulated rate or tariff structure, can provide a significant growth opportunity for the Company. To that end, NJR has acquired an interest in Iroquois and Steckman Ridge, which is currently under development, and is actively pursuing other potential opportunities that meet its investment and development criteria. Other businesses in the Retail and Other segment include NJRHS, which provides service, sales and installation of appliances to over 149,000 customers, and is focused on growing its installation business and expanding its service contract customer base, and CR&R, which seeks additional opportunities to enhance the value of its undeveloped land.

The financial results of Retail and Other consist primarily of the operating results of NJRHS and equity in earnings attributable to the Company’s equity investment in Iroquois as well as to investments made by NJR Energy, an investor in other energy-related ventures through its operating subsidiaries.

As of December 31, 2007, excluding capitalized interest and other direct costs, NJR has invested \$58 million in the Steckman Ridge natural gas storage facility. Project costs related to the development of the storage facility are expected to be approximately \$250 million of which NJR is responsible for 50 percent, or \$125 million. NJR anticipates that Steckman Ridge will be able to secure non-recourse financing for a portion of the construction and development of its facilities, thereby potentially reducing the expected funding obligation of NJR. There can be no assurances that such non-recourse project financing will be secured or available for Steckman Ridge.

Critical Accounting Policies

A summary of NJR’s critical accounting policies is included in *Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations* of its Annual Report on Form 10-K for the period ended September 30, 2007. NJR’s critical accounting policies have not changed materially from those reported in the 2007 Annual Report on Form 10-K with the exception of the following:

Derivative Instruments

Derivative activities are recorded in accordance with SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended (SFAS 133), under which NJR records the fair value of derivatives held as assets and liabilities. NJR’s unregulated subsidiaries record changes in the fair value of its derivative instruments in Gas purchases or Operating revenues, as appropriate, on the Condensed Consolidated Statements of Income.

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

In providing its unregulated wholesale energy services, NJRES also enters into physical contracts to buy and sell natural gas. For contracts entered into prior to October 1, 2007, NJRES elected to use the “normal purchase normal sale” scope exception (NPNS or normal) under SFAS 133 since the contracts provided for the purchase or sale of natural gas with the intention of delivering the natural gas in quantities expected to be used or sold by NJRES over a reasonable period of time in the normal course of its business. The Company continues to believe that the conditions that originally qualified these contracts as normal continue to exist, and, accordingly, NJRES will record the related liabilities incurred and assets acquired under these remaining contracts when title to the underlying natural gas commodity passes under accrual based accounting.

Effective October 1, 2007, the Company has decided to discontinue using the NPNS exception for any new physical commodity contracts entered into by NJRES. The criteria for designating contracts as normal includes an assessment of the probability of delivery at inception while considering certain factors such as expected future demand. NJRES will continue to enter into these contracts with the intention of physically delivering the natural gas; however, NJRES has determined that the probability of net settling these contracts for cash may be greater than had previously been experienced. As a result, commencing with contracts entered into subsequent to September 30, 2007, NJRES will treat these contracts as derivatives and record them at fair value in the Condensed Consolidated Balance Sheet, with changes in fair value being recorded as a component of Operating revenues in the Condensed Consolidated Statements of Income.

Capitalized Financing Costs

NJNG capitalizes an allowance for funds used during construction (AFUDC), as a component of Utility plant in the Condensed Consolidated Balance Sheets. Commencing October 1, 2007, in addition to cost of debt, AFUDC also includes the estimated cost of equity funds used to finance construction on its natural gas transmission and distribution system, which is currently established through allowed rates at 11.5 percent. The debt portion of AFUDC is recorded as a reduction to Interest expense and the equity portion is recorded in Other income in the Condensed Consolidated Statements of Income. Under regulatory rate practices and in accordance with SFAS No. 71, *Accounting for the Effects of Certain Types of Regulation*, NJNG fully recovers both components of AFUDC through base rates.

Recently Issued Accounting Standards

Refer to *Note 1. General*, for discussion of recently issued accounting standards.

Results of Operations

Consolidated

Net income for the three-month period ended December 31, 2007 increased by 2.6 percent to approximately \$30.2 million, compared with net income of approximately \$29.4 million for the same period in fiscal 2007. Basic and diluted earnings per share increased by 2.8 percent to \$1.09 and \$1.08, compared with \$1.06 and \$1.05, respectively.

The increase in net income was due primarily to the following:

- increased gross margin and lower interest expense at NJRES due to decreased short-term debt levels used to fund natural gas storage purchases for inventory;

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

- lower unrealized losses at NJR Energy as a result of fluctuations in market prices and mix of open financial positions economically hedging forecasted natural gas purchases and sales; partially offset by
- lower gross margin from incentive-based programs and increased operation and maintenance expense at NJNG.

The Company’s Operating revenues and Gas purchases are as follows:

	Three Months Ended December 31,		
(\$ in Thousands)	2007	2006	% Change
Operating revenues	\$ 811,138	\$ 737,401	10.0%
Gas purchases	\$ 684,694	\$ 621,935	10.1%

Operating revenues increased \$73.7 million for the three months ended December 31, 2007, compared with the same period of the prior fiscal year due primarily to:

- increased NJNG firm sales as a result of it being 13.4 percent colder than the same period of the prior fiscal year, and lower BGSS customer refunds provided to residential and small commercial customers in fiscal 2008 compared to fiscal 2007; and
- increased revenues at NJRES due to higher sales volumes and prices, along with the commencement of including the change in fair value of physical commodity contracts beginning in fiscal 2008.

These same factors resulted in an increase in Gas purchases of \$62.8 million for the three months ended December 31, 2007, as compared to the same periods in the prior fiscal year, which includes the impact of a decrease of \$19 million in unrealized gains at NJRES that resulted in increased gas purchases.

Natural Gas Distribution Operations

NJNG is a local natural gas distribution company that provides regulated retail energy services to approximately 481,000 residential and commercial customers in central and northern New Jersey and participates in the off-system sales and capacity release markets.

NJNG’s business is seasonal by nature, as weather conditions directly influence the volume of natural gas delivered. Specifically, customer demand substantially increases during the winter months when natural gas is used for heating purposes. As a result, NJNG receives most of its gas distribution revenues during the first and second fiscal quarters and is subject to variations in earnings and working capital during the year.

The Electric Discount and Energy Competition Act (EDECA) provides the framework for New Jersey’s energy markets, which are open to competition from other energy suppliers. Currently, NJNG’s residential markets are open to competition, and its rates are segregated between BGSS (natural gas commodity) and delivery (i.e., transportation) components. NJNG earns no utility gross margin on the commodity portion of its natural gas sales. NJNG earns utility gross margin through the delivery of natural gas to its customers. Under an existing order from the BPU, BGSS can be provided by suppliers other than the state’s natural gas utilities.

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

NJNG’s financial results are as follows:

<i>(Thousands)</i>	Three Months Ended December 31,	
	2007	2006
Utility Gross Margin		
Operating revenues	\$ 284,360	\$ 239,407
Less:		
Gas purchases	190,148	150,993
Energy and other taxes	16,363	12,520
Regulatory rider expense	12,165	9,466
Total Utility Gross Margin	\$ 65,684	\$ 66,428
Utility Gross Margin		
Residential and commercial	\$ 59,196	\$ 58,368
Transportation	4,934	4,566
Total Utility Firm Gross Margin	64,130	62,934
Incentive programs	1,420	3,278
Interruptible	134	216
Total Utility Gross Margin	65,684	66,428
Operation and maintenance expense	23,879	20,255
Depreciation and amortization	9,233	8,738
Other taxes not reflected in utility gross margin	970	719
Operating Income	\$ 31,602	\$ 36,716
Other income	1,232	1,047
Interest charges, net	6,119	5,393
Income tax provision	10,045	12,462
Net Income	\$ 16,670	\$ 19,908

Utility Gross Margin

NJNG’s utility gross margin is defined as natural gas revenues less natural gas purchases, sales tax, a Transitional Energy Facilities Assessment (TEFA) and regulatory rider expenses. Management believes that utility gross margin provides a more meaningful basis than revenue for evaluating utility operations since natural gas costs, sales tax, TEFA and regulatory rider expenses are included in operating revenue and passed through to customers and, therefore, have no effect on utility gross margin. This definition of utility gross margin may not be comparable to the definition of gross margin used by others in the natural gas distribution business and other industries.

Natural gas costs are charged to operating expenses on the basis of therm sales at the prices in NJNG’s BGSS tariff approved by the BPU. The BGSS tariff rate includes projected natural gas costs, net of supplier refunds, the impact of hedging activities and credits from non-firm sales and transportation activities. Any underrecoveries or overrecoveries from the projected amounts are deferred and reflected in the BGSS tariff rate in subsequent years.

TEFA, which is included in Energy and other taxes on the Condensed Consolidated Statements of Income, is calculated on a per-therm basis and excludes sales to cogeneration facilities, other utilities and off-system sales. TEFA represents a regulatory allowed assessment imposed on all energy providers in the state of New Jersey, as TEFA has replaced the previously used utility gross receipts tax formula.

Regulatory rider expenses consist of recovery of state-mandated programs and the remediation adjustment clause costs. These expenses are offset by corresponding revenues and are calculated on a per-therm basis.

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

NJNG’s Operating revenues and Gas purchases for the three months ended December 31, 2007 increased \$45.0 million, and \$39.2 million, respectively, compared with the same period in the prior fiscal year due primarily to weather being 13.4 percent colder than the same period in the prior fiscal year. The increase in Operating revenues and Gas purchases was also affected by the BGSS customer refunds provided to residential and small commercial customers of \$32.1 million and \$55.1 million, inclusive of sales tax refunds of \$2.1 million and \$3.6 million, in December 2007 and December 2006, respectively. In both fiscal years, these customer refunds were the result of anticipated reductions in the cost to acquire wholesale natural gas, as compared to the current established rate included in NJNG’s BGSS tariff.

Sales tax and TEFA, which are presented as both components of Revenues and Operating Expenses in the Condensed Consolidated Statements of Income, totaled \$16.4 million and \$12.5 million for the three months ended December 31, 2007 and 2006, respectively. The increase is due primarily to an increase in operating revenue from firm sales of \$42 million for the three months ended December 31, 2007.

Regulatory rider expenses totaled \$12.2 million and \$9.5 million for the three months ended December 31, 2007 and 2006, respectively. The increase in regulatory rider expenses is due primarily to an increase in firm throughput of 2.4 Bcf for the three months ended December 31, 2007 as compared to the three months ended December 31, 2006, which was due primarily to an increase in usage as a result of the previously mentioned colder weather.

Utility gross margin is comprised of three major categories:

- Utility Firm Gross Margin, which is derived from residential and commercial customers who receive natural gas service from NJNG through either sales or transportation tariffs;
- Incentive programs, where margins generated or savings achieved from BPU-approved off-system sales, capacity release, Financial Risk Management (defined in Incentive Programs, below) or storage incentive programs are shared between customers and NJNG; and
- Utility gross margin from interruptible customers, which is generated from large commercial and industrial customers who receive non-firm natural gas service at lower rates, and is subject to BPU-approved incentives through October 31, 2007.

Utility Firm Gross Margin

Effective October 1, 2006, the BPU approved the CIP to encourage energy savings while allowing NJNG to recover the necessary costs of operations. The three-year pilot program eliminates the disincentive to promote conservation and energy efficiency, since utility gross margin is no longer directly linked to customer usage. The CIP tariff normalizes NJNG’s utility gross margin recoveries for variances not only in weather but also other factors affecting usage, including customer conservation. Recovery of utility gross margin for the non-weather variance through the CIP is limited to the amount of certain gas supply cost savings achieved, and is subject to an earnings test, which contains a return on equity component of 10.5 percent.

Customers switching between sales service and transportation service affect the components of utility gross margin from firm customers. NJNG’s total utility gross margin is not negatively affected by customers who use its transportation service and purchase natural gas from another supplier because its tariff is designed so that no profit is earned on the commodity portion of sales to firm customers. All customers who purchase natural gas from another supplier continue to use NJNG for transportation service.

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Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Total utility firm gross margin increased \$1.2 million, or 1.9 percent, for the three months ended December 31, 2007, as compared to the same period in the prior fiscal year, due primarily to an increase in residential customers along with a slight increase in transport customer margin. Gross margin from the commercial customers remained relatively consistent with the same period in the prior fiscal year.

The weather for the three months ended December 31, 2007 was 8.2 percent warmer than normal, which resulted in an accrual of utility gross margin under the CIP of \$2.9 million, compared with 18.3 percent warmer than normal weather for the same period last fiscal year, which resulted in an accrual of utility gross margin of \$8.0 million. In addition, customer usage was lower than the established benchmark during fiscal 2008, which resulted in an additional accrual of utility gross margin under the CIP of \$3.2 million compared to \$3.3 million in fiscal 2007.

For the period ended December 31, 2007, NJNG had 9,324 and 8,551 residential customers and 4,889 and 4,319 commercial customers using its transportation service at December 31, 2007 and 2006, respectively. The increase in transportation customers for the period ended December 31, 2007 was due primarily to an increase in marketing activity by third party natural gas service providers in NJNG’s service territory.

Utility firm gross margin from transportation service remained relatively flat at \$4.9 million for the three months ended December 31, 2007, as compared to 4.6 million for the three months ended December 31, 2006. NJNG transported 2.8 Bcf for its firm customers in the three months ended December 31, 2007, compared with 2.5 Bcf for the same period ended December 31, 2006.

NJNG added, in total, 1,723 and 2,614 new customers during the three months ended December 31, 2007 and 2006, respectively. In addition, NJNG converted 104 and 69 existing customers to natural gas heat and other services during the same periods for fiscal 2008 and 2007, respectively. This customer growth represents an estimated annual increase of approximately 0.24 Bcf in sales to firm customers, assuming normal weather and usage.

Incentive Programs

To reduce the overall cost of its natural gas supply commitments, NJNG has entered into contracts to sell natural gas to wholesale customers outside its franchise territory when the natural gas is not needed for system requirements. These off-system sales enable NJNG to spread its fixed demand costs, which are charged by pipelines to access their supplies year round, over a larger and more diverse customer base. NJNG also participates in the capacity release market on the interstate pipeline network when the capacity is not needed for its firm system requirements. NJNG retains 15 percent of the utility gross margin from these sales, with 85 percent credited to firm customers through the BGSS.

The Financial Risk Management (FRM) program is designed to provide price stability to NJNG’s natural gas supply portfolio. The FRM program includes an incentive mechanism designed to encourage the use of financial instruments to hedge NJNG’s natural gas costs. As of November 1, 2007, NJNG retains 15 percent of the utility gross margin, with 85 percent credited to firm customers through the BGSS. Previously, NJNG customers were credited 80 percent and NJNG retained 20 percent of the gains and losses.

The storage incentive program shares gains and losses on an 80 percent and 20 percent basis between customers and NJNG, respectively. This program measures the difference between the actual cost of natural gas injected into storage and a benchmark applicable to the April-through-October injection season.

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Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

NJNG’s incentive programs totaled 9.7 Bcf and generated \$1.4 million of utility gross margin for the three months ended December 31, 2007, compared with 10.6 Bcf and \$3.3 million of utility gross margin during the same period last fiscal year. Utility gross margin from incentive programs comprised 2.2 percent of total utility gross margin at December 31, 2007 and 4.9 percent of total utility gross margin for the same period in fiscal 2007, respectively. The decrease in utility gross margin was due primarily to:

- a decrease in margin from the storage program as a result of timing variations of storage incentive transactions;
- a decrease in margin from the FRM program as a result of natural gas option spreads that were lower in the three months ended December 31, 2007 as compared with the three months ended December 31, 2006, coupled with slightly decreased volumes and a decrease in the sharing percentage; slightly offset by
- an increase in higher average sales prices offset by a decrease in sales volumes, which resulted in a net increase in off system sales margin.

New York Mercantile Exchange (NYMEX) settlement prices for natural gas are a general indication of the monthly market movements. NYMEX prices have increased by 6.2 percent to an average of \$6.965/dth for the three months ended December 31, 2007, compared with \$6.557/dth for the same period of the prior fiscal year, while the average off-system price increased by 12 percent to an average of \$7.934/dth during the period ended December 31, 2007 compared to \$7.083/dth in the same period last fiscal year.

Interruptible Tariff Revenues

NJNG serves 45 customers through interruptible sales and/or transportation tariffs. Sales made under the interruptible sales tariff are priced on market-sensitive energy parity rates. Although therms sold and transported to interruptible customers represented 5.4 percent of total throughput for the three months ended December 31, 2007, and 4.0 percent of the total throughput during the same period last fiscal year, they accounted for less than 1 percent of the total utility gross margin in each year due to the sharing formulas that govern these sales through October 2007.

Under these formulas, NJNG retains 10 percent of the utility gross margin from interruptible sales and 5 percent of the utility gross margin from transportation sales, with 90 percent and 95 percent, respectively, credited to firm sales customers through the BGSS. Interruptible sales were 0.7 Bcf and 0.2 Bcf for the three months ended December 31, 2007 and 2006, respectively. In addition, NJNG transported 0.9 Bcf for each of the three months ended December 31, 2007 and 2006, respectively, for its interruptible customers. The agreement with the BPU approved on October 3, 2007, included the termination of the incentive programs related to interruptible sales, on-system interruptible transportation and sales to certain electric generation facilities effective November 1, 2007.

Operation and Maintenance Expense

Operation and maintenance expense increased \$3.6 million, or 17.9 percent, during the three months ended December 31, 2007, as compared with the same period last fiscal year, due primarily to:

- higher compensation costs of \$2.7 million due primarily to an increases in the number of employees and overtime labor as well as annual wage increases;
- an increase in the bad debt reserves of \$229,000 as a result of an increase in operating revenue that result in a change in the nature of customer accounts receivable; and
- an increase in materials and supplies expense of \$329,000 due primarily to an increase in high pressure meter relocations.

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Operating Income

Operating income decreased \$5.1 million, or 13.9 percent, for the three months ended December 31, 2007 as compared with the same period last fiscal year, due primarily to:

- a decrease in margin from incentive programs of \$1.9 million as discussed above;
- an increase in depreciation expense of \$495,000, as a result of greater utility plant being placed into service; and
- an increase in Operations and maintenance expense in the amount of \$3.6 million, as discussed above; partially offset by
- an increase in firm margin in the amount of \$1.2 million as discussed above.

Interest Charges

Interest charges increased \$726,000 for the three months ended December 31, 2007 compared with the same period last fiscal year, due primarily to:

- an increase in BGSS interest of \$194,000 due to customers balances associated with overrecovered gas costs;
- an increase of \$119,000 in short-term interest due to higher average balances on short-term debt offset by lower average interest rates; and
- an increase of \$217,000 associated with reduced amounts capitalized under NJNG’s new AFUDC accounting policy effective October 1, 2007. As a result of now including a cost of equity component in its AFUDC calculation, the amount of interest capitalized for AFUDC purposes is calculated using a lower basis, as compared with the prior period, thereby causing the increase in interest expense.

Net Income

Net income decreased \$3.2 million, or 16.3 percent, to \$16.7 million from \$19.9 million in the three months ended December 31, 2007 and 2006, respectively, primarily as a result of lower operating income of \$5.1 million, as described above, offset by lower income tax expense of \$2.4 million.

Energy Services Operations

NJRES utilizes contractual assets that it controls for natural gas storage and pipeline transportation to meet its various sale and delivery commitments to its customers. NJRES purchases natural gas predominantly in the Gulf region of the United States and Canada, and transports that gas, through the use of pipeline contracts to which it has reserved capacity through the payment of a fixed demand charge, to either storage facilities that it has reserved, primarily in the Appalachian, Mid-Continent and Gulf regions of the United States and Canada or directly to customers in various market areas including the Northeastern region of the United States and eastern Canada.

NJRES enters into contracts for delivery of physical natural gas and also enters into derivative financial contracts at advantageous prices to establish an initial financial margin for each of its forecasted transactions. Through the use of its contracts for natural gas storage and pipeline capacity, NJRES is able to take advantage of pricing differences between geographic locations, commonly referred to as “locational spreads,” as well as over

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Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

different time periods, for the delivery of natural gas to its customers, thereby improving the initially established financial margin result. NJRES utilizes financial futures, forwards and swap contracts to economically fix and protect the cash flows surrounding these transactions.

Predominantly all of NJRES’ purchases and sales result in the physical delivery of natural gas, and therefore, NJRES has elected the “normal purchase normal sale” scope exception of SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended (SFAS 133), for all physical commodity contracts entered into prior to October 1, 2007, under which related liabilities incurred and assets acquired under these contracts are recorded when title to the underlying commodity passes. For all physical commodity contracts entered into subsequent to September 30, 2007, NJRES has elected to not use the normal purchase normal sale scope exception of SFAS 133, and records these physical commodity contracts at fair value on the Condensed Consolidated Balance Sheets. All changes in the fair value of physical commodity contracts entered into subsequent to October 1, 2007 are recorded as part of Operating revenues in the Condensed Consolidated Statements of Income.

The changes in fair value of NJRES’ financial instruments, which are financial futures, options, and swap contracts, are recognized in the Condensed Consolidated Statements of Income, as a component of Gas purchases.

NJRES’ financial and physical contracts will result, over time, in earning a gross margin on the entire transaction. For financial reporting purposes under GAAP, the change in fair value associated with derivative instruments used to economically hedge these transactions are recorded as a component of Operating revenues or Gas purchases in the Condensed Consolidated Statements of Income, as appropriate, during the duration of the financial instrument or commodity contract. These changes in fair value are referred to as unrealized gains and losses. In other instances, certain financial contracts designed to economically fix or hedge the price of natural gas that is purchased and placed into storage, to be sold at a later date, settle and result in realized gains, which are recorded as a component of Gas purchases in the Condensed Consolidated Statements of Income.

These unrealized gains or losses from the change in fair value of unsettled financial instruments and physical commodity contracts, or realized gains or losses related to financial instruments that economically hedge natural gas inventory that has not been sold as part of a planned transaction, cause large variations in the reported gross margin and earnings of NJRES. NJRES will continue to earn the same amount of gross margin over the time period of the forecasted transaction; however, gross margin or earnings during periods prior to transaction settlement will not reflect the underlying economic result.

NJRES expenses its demand charges, which represent the right to use natural gas pipeline and storage capacity assets of a third-party for a fixed period of time, ratably over the term of the related natural gas pipeline or storage contract.

NJRES’ financial results are summarized as follows:

	Three Months Ended December 31,	
<i>(Thousands)</i>	2007	2006
Operating revenues	\$ 520,211	\$ 495,787
Gas purchases	494,546	470,942
Gross margin	25,665	24,845
Operation and maintenance expense	2,840	3,003
Depreciation and amortization	53	54
Other taxes	209	192
Operating income	22,563	21,596
Other income	130	135
Interest charges, net	877	1,711
Income tax provision	8,666	8,496
Net income	\$ 13,150	\$ 11,524

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Gross margin for the three months ended December 31, 2007 remained relatively consistent in comparison with the same period in the prior fiscal year. NJRES incurred derivative losses of \$(10.1) million and gains of \$6.8 million for the three months ended December 31, 2007 and 2006, respectively, due primarily to fluctuations in market prices and portfolio mix of open trade positions that reduced the unrealized portion of financial derivative gains from \$8.0 million in the prior fiscal year period to an unrealized loss of \$(7.0) million in the current fiscal year period. These losses on financial derivatives were partially offset by the unrealized gains associated with the change in fair value of physical commodity forward positions of \$2.0 million, which commenced in fiscal 2008.

Additionally, management of the Company uses non-GAAP measures when viewing the results of NJRES to monitor the operational results without the impact of unsettled and certain settled derivative instruments. These non-GAAP measures are “financial margin” and “net financial earnings.”

Financial margin represents Operating revenues from the sale of natural gas less Gas purchases, and excludes the accounting impacts of unrealized gains and losses from derivative instruments and realized gains and losses of certain derivative instruments related to natural gas inventory. These accounting impacts represent the change in fair value of these financial instruments, which represent futures and swaps designed to economically hedge forecasted natural gas purchases, sales and transportation, and are primarily open positions resulting in unrealized gains or losses and settled derivative positions related to natural gas that is still included in inventory storage. These settled instruments represent realized gains and losses under GAAP, but result in economically hedging the ultimate sale of natural gas. In addition, all of NJRES’ physical commodity contracts entered into after September 30, 2007 are being accounted for as derivatives, with the change in fair value recorded as an unrealized gain or loss under GAAP. Net financial earnings represent Net income excluding the accounting impacts of unrealized and realized gains and losses from these derivative instruments, after taxes.

As revenues from the sale of natural gas to its customers, on a wholesale basis, are highly correlated to the wholesale price of natural gas and the economic impact of its derivative instruments will be substantially the same as the accounting results under GAAP upon transaction settlement, management of the Company believes that the net financial margin and net financial earnings measurements represent the economic results of operations of NJRES. While significant volatility is measured on a GAAP basis the ultimate impact of the transaction will yield the same cash flow and economic result upon settlement of the derivative instrument and completion of the forecasted transaction. In viewing the financial margin and net financial earnings of NJRES, management of the Company reviews the results of operations without this volatility to measure the economic impact that NJRES achieved in relation to established benchmarks and goals.

The following table is a computation of Financial margin of NJRES:

<i>(Thousands)</i>	Three Months Ended December 31,	
	2007	2006
Operating revenues	\$ 520,211	\$ 495,787
Gas purchases	494,546	470,942
Add:		
Unrealized loss (gain) on derivative instruments	4,922	(8,039)
Realized loss from derivative instruments related to natural gas inventory	5,163	1,289
Financial margin	\$ 35,750	\$ 18,095

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

A reconciliation of Operating income, the closest GAAP financial measurement, to the Financial margin of NJRES is as follows:

	Three Months Ended December 31,	
<i>(Thousands)</i>	2007	2006
Operating income	\$ 22,563	\$ 21,596
Add:		
Operation and maintenance expense	2,840	3,003
Depreciation and amortization	53	54
Other taxes	209	192
Subtotal – Gross margin	\$ 25,665	\$ 24,845
Add:		
Unrealized loss (gain) on derivative instruments	4,922	(8,039)
Realized loss from derivative instruments related to natural gas inventory	5,163	1,289
Financial margin	\$ 35,750	\$ 18,095

A reconciliation of Net income to Net financial earnings is as follows:

	Three Months Ended December 31,	
<i>(Thousands)</i>	2007	2006
Net income (loss)	\$ 13,150	\$ 11,524
Add:		
Unrealized loss (gain) on derivative instruments, net of taxes	2,900	(4,464)
Realized loss from derivative instruments related to natural gas inventory, net of taxes	3,042	759
Net financial earnings	\$ 19,092	\$ 7,819

NJRES' financial margin for the three months ended December 31, 2007 increased \$17.7 million, compared with the same period in prior fiscal year, due primarily to increased availability of capacity assets in the Northeast market region. The additional capacity enabled NJRES to transport higher volumes of natural gas to the Northeast region during the current winter season, when these capacity assets have a greater market value and correspondingly higher locational spread, than in the summer season when demand for natural gas is typically lower. The increase in financial margin was also partially attributable to colder weather in the Northeast and Mid-Continent regions of the U.S., when compared to the same period in the prior fiscal year, which resulted in higher demand levels for natural gas, and enabled NJRES to actively participate in the supply of natural gas to those regions through transaction activities that optimized the value of the existing portfolio of physical assets.

NJRES’ operation and maintenance expense decreased \$163,000, during the three months ended December 31, 2007, compared with the same period last fiscal year, due primarily to timing of adjustments related to performance incentives, partially offset by additional shared corporate service costs.

Future results are subject to NJRES’ ability to maintain and expand its wholesale marketing activities and are contingent upon many other factors, including an adequate number of appropriate counterparties, volatility in the natural gas market, sufficient liquidity in the energy trading market and continued access to the capital markets.

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Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Retail and Other Operations

The consolidated financial results of Retail and Other are summarized as follows:

<i>(Thousands)</i>	Three Months Ended December 31,	
	2007	2006
Operating revenues	\$ 6,631	\$ 2,276
Operation and maintenance expense	\$ 5,460	\$ 5,058
Other income	\$ 166	\$ 114
Equity in earnings, net of tax	\$ 424	\$ 417
Net income (loss)	\$ 365	\$ (1,998)

NJR Energy has an economic hedge associated with a long-term fixed-price contract to sell gas to a counterparty. Unrealized losses or gains at NJR Energy are the result of the change in value associated with derivative financial instruments (futures contracts) designed to economically hedge the long-term fixed-price contract.

The results of operations include unrealized (losses) associated with these derivative instruments of \$(305,000) and \$(4.1) million for the three months ended December 31, 2007 and 2006, respectively, which are recorded, pre-tax, as a component of Operating revenues. On an after-tax basis, these unrealized (losses) are \$(180,000) and \$(2.4) million for the three months ended December 31, 2007 and 2006, respectively.

Operating revenue for the three months ended December 31, 2007 increased \$4.4 million due primarily to lower unrealized losses at NJR Energy, which are the result of a combination of the partial settlement of these futures contracts, partially offset by an increase in value of the futures contracts in relation to changing market conditions.

Operation and maintenance expenses for the three months ended December 31, 2007 increased \$402,000 due to higher compensation costs due primarily to an increase in the number of employees as well as annual wage increases.

Other income for the three months ended December 31, 2007 remained consistent as compared to the same period in fiscal 2007.

Taxes netted in Equity in earnings from Iroquois are \$282,000 and \$276,000 and are included in the Condensed Consolidated Statements of Income for the three months ended December 31, 2007 and 2006, respectively. Equity in earnings from Iroquois is driven by the underlying performance of natural gas transportation through its existing pipeline, which is based on FERC regulated tariffs.

Net income for the three months ended December 31, 2007 increased \$2.4 million compared to the same period in fiscal 2007 due primarily the reasons noted above.

Liquidity and Capital Resources

NJR’s objective is to maintain a consolidated capital structure that reflects the different characteristics of each business segment and provides adequate financial flexibility for accessing capital markets as required.

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ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

NJR’s consolidated capital structure was as follows:

	December 31, 2007	September 30, 2007
Common stock equity	49%	50%
Long-term debt	27	30
Short-term debt	24	20
Total	100%	100%

Common stock equity

NJR satisfies its external common equity requirements, if any, through issuances of its common stock, including the proceeds from stock issuances under its Automatic Dividend Reinvestment Plan (DRP) and proceeds from the exercise of options issued under the Company’s long-term incentive program. The DRP allows NJR, at its option, to use shares purchased on the open market or newly issued shares.

As of December 31, 2007, the Company had a 4.5 million share repurchase plan that has been approved by its Board of Directors and has repurchased approximately 3.5 million shares under this plan.

Debt

NJR and its unregulated subsidiaries rely on cash flows generated from operating activities and utilization of committed credit facilities to provide liquidity to meet working capital and external debt-financing requirements.

As of December 31, 2007, NJR, NJRES and NJNG had committed credit facilities of \$605 million with approximately \$289 million available under these facilities (see *Note 6. Debt*).

NJR believes that as of December 31, 2007, NJR, NJNG and NJRES were, and currently are, in compliance with all debt covenants.

NJR believes that existing borrowing availability, its current cash balances and its cash flow from operations will be sufficient to satisfy it and its subsidiaries’ working capital, capital expenditure and dividend requirements for the foreseeable future. NJR, NJNG and NJRES currently anticipate that its financing requirements in fiscal 2008 and 2009 will be met through the issuance of short-term and long-term debt and proceeds from the Company’s Automatic Dividend Reinvestment Plan. The proposed issuance of up to \$125 million of medium-term debt to satisfy a portion of NJNG’s financing requirements is pending BPU review and approval.

NJR

On December 13, 2007, NJR refinanced its prior senior credit facility for a new \$325 million, five-year, revolving, unsecured credit facility. The new credit facility permits the borrowing of amounts under a revolving basis, as well as the issuance of letters of credit. It also permits an increase to the facility, from time to time, with the existing or new lenders, in a minimum of \$5 million increments up to a maximum \$100 million. The new credit facility refinances an earlier credit facility that provided for \$325 million in revolving credit that was scheduled to expire on December 16, 2007. NJR used the initial borrowings under the new credit facility to refinance its prior credit facility and pay all related fees and expenses. The new credit facility permits the borrowing of revolving loans and swingline loans, as well as the issuance of letters of credit. In addition, NJR’s subsidiaries have guaranteed to the lenders all of NJR’s obligations under the new credit facility.

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Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Depending on borrowing levels and credit ratings, NJR’s interest rate can either be, at its discretion, the London inter-bank offered rate (“LIBOR”) or the Federal Funds Open Rate plus an applicable spread and facility fee. As of December 31, 2007, NJR’s effective rate was 5.18 percent on outstanding borrowings of \$92.6 million under this credit facility.

In addition, borrowings under NJR’s new credit facility are conditioned upon compliance with a maximum leverage ratio, as defined in the new credit facility, of not more than 0.65 to 1.00 at any time.

NJR uses its short term borrowings primarily to finance its share repurchases, to satisfy NJRES’ short term liquidity needs and to finance, on an initial basis, unregulated investments. NJRES’ use of high-injection, high-withdrawal storage facilities and anticipated pipeline park-and-loan arrangements, combined with related economic hedging activities in the volatile wholesale natural gas market, create significant short-term cash requirements.

NJNG

NJNG satisfies its debt needs by issuing short- and long-term debt based upon its own financial profile. The seasonal nature of NJNG’s operations creates large short-term cash requirements, primarily to finance natural gas purchases and customer accounts receivable. NJNG obtains working capital for these requirements, and for the temporary financing of construction and MGP remediation expenditures and energy tax payments, through the issuance of commercial paper and short-term bank loans.

To support the issuance of commercial paper, NJNG has a \$250 million committed credit facility with several banks, with a 5-year term, expiring in December 2009. NJNG had \$109.1 million of commercial paper borrowings supported by the credit facility as of December 31, 2007, and \$175.7 million of commercial paper borrowings as of September 30, 2007.

NJNG has a 3-year, \$30 million uncommitted credit facility with a multinational financial institution. As of December 31, 2007, NJNG had borrowings of \$6.3 million outstanding under this facility. Borrowings under this facility are in addition to the amount available under the NJNG bank credit facility mentioned above.

Neither NJNG nor its assets are obligated or pledged to support the NJR or NJRES facilities.

NJRES

NJRES has a 3-year \$30 million committed credit facility with a multinational financial institution. Borrowings under this facility are guaranteed by NJR. There were no borrowings under this facility as of December 31, 2007.

New Jersey Resources Corporation

Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Contractual Obligations

The following table is a summary of NJR, NJNG and NJRES contractual cash obligations and financial commitments and their applicable payment due dates as of December 31, 2007.

(Thousands)	Payments Due by Period				
	Total	Up to 1 Year	2-3 Years	4-5 Years	After 5 Years
Contractual Obligations					
Long-term debt ⁽¹⁾	\$522,886	\$45,754	\$71,349	\$23,748	\$382,035
Capital lease obligations ⁽¹⁾	91,418	8,813	17,821	19,899	44,885
Operating leases	10,933	3,027	4,021	1,707	2,178
Short-term debt ⁽¹⁾	304,026	304,026	—	—	—
New Jersey Clean Energy Program ⁽¹⁾	10,945	10,945	—	—	—
Construction obligations	3,938	3,938	—	—	—
Remediation expenditures ⁽²⁾	105,340	19,000	17,900	10,200	58,240
Natural gas supply purchase obligations–NJNG	91,093	71,359	19,734	—	—
Demand fee commitments - NJNG	601,752	85,737	204,600	169,595	141,820
Natural gas supply purchase obligations–NJRES	866,577	537,302	329,275	—	—
Demand fee commitments - NJRES	218,026	92,001	81,764	33,104	11,157
Total contractual cash obligations	\$2,826,934	\$1,181,902	\$746,464	\$258,253	\$640,315

⁽¹⁾ These obligations include an interest component, as defined under the governing agreements.

⁽²⁾ Expenditures are estimated.

In fiscal 2008, the Company has no minimum pension funding requirements. The Company’s funding to its OPEB plans is expected to be approximately \$1.5 million in fiscal 2008 and \$1.1 million annually, over the next four years. Additional contributions may be made based on market conditions and various assumptions.

As of December 31, 2007, there were NJR guarantees covering approximately \$352 million of natural gas purchases and demand fee commitments of NJRES and NJNG, included in natural gas supply purchase obligations above, not yet reflected in Accounts payable on the Condensed Consolidated Balance Sheet.

The Company is obligated to fund up to \$125 million associated with the construction and development of Steckman Ridge. Currently, NJR anticipates that Steckman Ridge will secure non-recourse project financing for a portion of its construction activities and therefore potentially reduce NJR’s obligation. There can be no assurances that Steckman Ridge will eventually secure such non-recourse project financing.

Total capital expenditures for fiscal 2008 are estimated at \$78.6 million, including expenditures of \$13.5 million incurred during the three months ended December 31, 2007.

Off-Balance-Sheet Arrangements

The Company does not have any off-balance-sheet financing arrangements.

Cash Flow

Operating Activities

As presented in the Condensed Consolidated Statements of Cash Flows, cash flow used in operations totaled \$6.5 million for the three months ended December 31, 2007, compared with cash flow from operations of \$12.4 million for the same period in fiscal 2007. Operating cash flows were primarily impacted by variations in working capital, which are a function of the seasonality of NJR’s business and fluctuations in wholesale natural gas prices.

New Jersey Resources Corporation

Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Changes in working capital more than offset higher net income and deferred income taxes during the first quarter of fiscal 2008. The components of working capital that contributed to the decrease in operating cash flows for the three months ended December 31, 2007 as compared to the same period in fiscal 2007 are as follows:

- At NJNG, an increase in billed and unbilled accounts receivable of \$48.9 million as a result of colder weather and lower customer credits in fiscal 2008 as compared to fiscal 2007; partially offset by
- A decrease in inventory at NJNG as a result of increased usage during the heating season; and
- A decrease in the change in gas purchases payable primarily at NJRES as a result of lower gas storage balances, partially offset by increased natural gas commodity prices.

NJNG’s MGP expenditures are currently expected to total \$19.1 million in fiscal 2008 (see *Note 12. Commitments and Contingent Liabilities*).

Financing Activities

Cash flow from financing activities totaled \$23.1 million for the three months ended December 31, 2007, compared with cash flows from financing activities of \$5.3 million for the same period in the prior fiscal year. The change was due primarily to an increase in short-term borrowings, which typically increase during the winter and was impacted during the first quarter of fiscal 2008 by the increased demand of natural gas as a result of the colder weather as compared with the same period in fiscal 2007, offset by cash payments for treasury stock of \$10.1 million of which \$7.7 million is for settled purchases from the fourth quarter of fiscal 2007.

NJNG received \$7.5 million in the three months ended December 31, 2007, in connection with the sale-leaseback of its gas meters. This sale-leaseback program will continue on an annual basis.

Investing Activities

Cash flows used in investing activities totaled \$17.9 million for the three months ended December 31, 2007, compared with \$12.5 million in the same period in fiscal 2007. The increase was due primarily to an additional equity investment in Steckman Ridge and increased capital expenditures for utility plant offset by cash received from the sale of land at CR&R in the first quarter of fiscal 2007 that did not recur in fiscal 2008.

Retail and Other capital expenditures each year have been made primarily in connection with investments made to preserve the value of real estate holdings. At December 31, 2007, CR&R owned 83 acres of undeveloped land and a 56,400-square-foot building on 5 acres of land.

NJR is obligated to finance 50 percent of the acquisition and development costs of the Steckman Ridge storage facility, up to a maximum of \$125 million, of which \$58 million was expended through December 31, 2007.

NJR’s investment in Steckman Ridge is a strategic investment to enter the mid-stream natural gas business. This storage capacity will provide NJR the potential to diversify its revenue stream through another market-based outlet that has a consistent demand and a regulated tariff structure. NJR anticipates a portion of Steckman Ridge to be financed on a non-recourse, or project, basis and for the majority of its revenue to be secured by long-term contracts; however, there can be no assurances that this will occur.

NJRES does not currently anticipate any significant capital expenditures in fiscal 2008.

New Jersey Resources Corporation

Part I

ITEM 2. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS (Continued)

Credit Ratings

The table below summarizes NJNG’s credit ratings issued by two rating entities, Standard and Poor’s (S&P) and Moody’s Investors Service, Inc. (Moody’s) as of December 31, 2007:

	Standard and Poor’s	Moody’s
Corporate Rating	A+	N/A
Commercial Paper	A-1	P-1
Senior Secured	AA-	Aa3
Ratings Outlook	Negative	Stable

NJNG’s S&P and Moody’s Senior Secured ratings are investment-grade ratings and represent the sixth highest rating within the investment grade category. Moody’s and S&P give NJNG’s commercial paper the highest rating within the Commercial Paper investment-grade category.

Investment-grade ratings are generally divided into three groups: high, upper medium and medium. NJNG’s senior secured ratings and the commercial paper ratings fall into the high group. NJR is not a rated entity.

NJNG is not party to any lending agreements that would accelerate the maturity date of any obligation caused by a failure to maintain any specific credit rating. A rating set forth above is not a recommendation to buy, sell or hold the Company’s or NJNG’s securities and may be subject to revision or withdrawal at any time. Each rating set forth above should be evaluated independently of any other rating.

The timing and mix of any external financings will target a common equity ratio that is consistent with maintaining the Company’s current short- and long-term credit ratings.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Financial Risk Management

Commodity Market Risks

Natural gas is a nationally traded commodity, and its prices are determined effectively by the New York Mercantile Exchange (NYMEX) and over-the-counter markets. The prices on the NYMEX and over-the-counter markets generally reflect the notional balance of natural gas supply and demand, but are also influenced significantly from time to time by other events.

The regulated and unregulated natural gas businesses of the Company and its subsidiaries are subject to market risk due to fluctuations, in the price of natural gas. To economically hedge against such fluctuations, the Company and its subsidiaries have entered into futures contracts, options agreements and swap agreements. To manage these derivative instruments, the Company has well-defined risk management policies and procedures that include daily monitoring of volumetric limits and monetary guidelines. The Company’s natural gas businesses are conducted through three of its operating subsidiaries. First, NJNG is a regulated utility that uses futures, options and swaps to economically hedge against price fluctuations and its recovery of natural gas costs is governed by the BPU. Second, NJRES uses futures, options and swaps to economically hedge purchases and sales of natural gas. Finally, NJR Energy has entered into two swap transactions related to an 18-year fixed-price contract, expiring in October 2010 to sell remaining volumes of approximately 6.7 Bcf of natural gas (Gas Sales Contract) to an energy marketing company.

New Jersey Resources Corporation

Part I

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK (Continued)

The following table reflects the changes in the fair market value of financial derivatives related to natural gas purchases and sales from December 31, 2007:

<i>(Thousands)</i>	Balance September 30, 2007	Increase (Decrease) in Fair Market Value	Less Amounts Settled	Balance December 31, 2007
NJNG	\$(51,861)	\$(1,942)	\$(8,449)	\$(45,354)
NJRES	89,446	(2,049)	7,820	79,577
NJR Energy	28,353	623	928	28,048
Total	\$ 65,938	\$(3,368)	\$ 299	\$ 62,271

There were no changes in methods of valuations during the year ended December 31, 2007.

The following is a summary of fair market value of financial derivatives related to natural gas purchases and sales at December 31, 2007, by method of valuation and by maturity for each fiscal year period:

<i>(Thousands)</i>	2008	2009	2010-2012	After 2012	Total Fair Value
Price based on NYMEX	\$51,045	\$6,436	\$(3,691)	—	\$53,790
Price based on other external data	5,908	1,865	708	—	8,481
Total	\$56,953	\$8,301	\$(2,983)	—	\$62,271

The following is a summary of financial derivatives by type as of December 31, 2007:

		Volume (Bcf)	Price per Mmbtu	Amounts included in Derivatives (Thousands)
NJNG	Futures	3.4	\$6.93 - \$ 8.80	\$ 5,726
	Swaps	2.5	\$4.19 - \$ 9.70	(49,410)
	Options	6.6	\$7.25 - \$11.00	(1,670)
NJRES	Futures	(6.6)	\$6.94 - \$11.59	4,880
	Swaps	(93.6)	\$6.74 - \$13.03	72,372
	Options	0.6	\$6.75 - \$11.25	2,325
NJR Energy	Swaps	7.2	\$3.22 - \$ 4.41	28,048
Total				\$62,271

The following table reflects the changes in the fair market value of physical commodity contracts from December 31, 2007:

<i>(Thousands)</i>	Balance September 30, 2007	Increase (Decrease) in Fair Market Value	Less Amounts Settled	Balance December 31, 2007
NJRES	—	\$5,615	\$3,571	\$ 2,044

The Company uses a value-at-risk (VaR) model to assess the market risk of its net futures, options and swap positions. VaR represents the potential loss in value of NJRES' trading portfolio due to adverse market movements over a defined time horizon (NJRES utilizes holding periods of 1 day and 10 days) with a specified confidence level (NJRES utilizes either a 95 percent or 99 percent confidence level). As an example, utilizing a 1 day holding period with a 95 percent confidence level would indicate that there is a 5 percent chance that the liquidation value of the NJRES portfolio would fall below the expected trading value by an amount at least as large as the calculated VaR.

New Jersey Resources Corporation

Part I

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK (Continued)

The VaR at December 31, 2007, using the variance-covariance method with a 95 percent confidence level and a 1-day holding period, was \$500,000. The VaR with a 99 percent confidence level and a 10-day holding period was \$2.3 million. The calculated VaR represents an estimate of the potential change in the value of the net positions. These estimates may not be indicative of actual results because actual market fluctuations may differ from forecasted fluctuations.

Wholesale Credit Risk

NJNG, NJRES and NJR Energy engage in wholesale marketing activities. NJR monitors and manages the credit risk of its wholesale marketing operations through credit policies and procedures that management believes reduce overall credit risk. These policies include a review and evaluation of prospective counterparties' financial statements and/or credit ratings, daily monitoring of counterparties' credit limits, daily communication with traders regarding credit status and the use of credit mitigation measures, such as minimum margin requirements, collateral requirements and netting agreements. Examples of collateral include letters of credit and cash received for either prepayment or margin deposit.

The Company's Risk Management Committee (RMC) continuously monitors NJR's credit risk management policies and procedures. The RMC is comprised of individuals from NJR-affiliated companies that meet twice a month and, among other things, evaluates the effectiveness of existing credit policies and procedures, reviews material transactions and discusses emerging issues.

The following is a summary of gross and net credit exposures, grouped by investment and noninvestment grade counterparties, as of December 31, 2007. Gross credit exposure is defined as the unrealized fair value of derivative and energy trading contracts plus any outstanding receivable for the value of natural gas delivered for which payment has not yet been received. Net credit exposure is defined as gross credit exposure reduced by collateral received from counterparties and/or payables, where netting agreements exist. The amounts presented below exclude accounts receivable for retail natural gas sales and services.

Unregulated counterparty credit exposure as December 31, 2007, is as follows:

<i>(Thousands)</i>	Gross Credit Exposure	Net Credit Exposure
Investment grade	\$ 294,237	\$ 204,835
Noninvestment grade	1,368	—
Internally rated investment grade	19,626	12,323
Internally rated noninvestment grade	3,617	—
Total	\$ 318,848	\$ 217,158

NJNG's counterparty credit exposure as of December 31, 2007, is as follows:

<i>(Thousands)</i>	Gross Credit Exposure	Net Credit Exposure
Investment grade	\$ 31,331	\$ 18,556
Noninvestment grade	567	4
Internally rated investment grade	3,962	3,403
Internally rated noninvestment grade	57	—
Total	\$ 35,917	\$ 21,963

New Jersey Resources Corporation

Part I

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK (Continued)

Due to the inherent volatility in the prices of natural gas commodities and derivatives, the market value of contractual positions with individual counterparties could exceed established credit limits or collateral provided by those counterparties. If a counterparty failed to perform the obligations under its contract (for example, failed to deliver or pay for natural gas), then the Company could sustain a loss. This loss would comprise the loss on natural gas delivered but not paid for and/or the cost of replacing natural gas not delivered at a price higher than the price in the original contract. Any such loss could have a material impact on the Company's financial condition, results of operations or cash flows.

Interest Rate Risk—Long-Term Debt

At December 31, 2007, the Company (excluding NJNG) had no variable-rate long-term debt.

At December 31, 2007, NJNG had total variable-rate, tax-exempt long-term debt of \$97.0 million. To limit its exposure to variable rates the company purchased interest rate caps. These caps have a strike price of 4.5 percent, expire in July 2009 and reference the USD-BMA Municipal Index.

Effects of Inflation

Although inflation rates have been relatively low to moderate in recent years, any change in price levels has an effect on operating results due to the capital-intensive and regulated nature of the Company's utility subsidiary. The Company attempts to minimize the effects of inflation through cost control, productivity improvements and regulatory actions where appropriate.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Under the supervision and with the participation of the Company's management, including the principal executive officer and principal financial officer, the Company conducted an evaluation of the effectiveness of the design and operation of its disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e)) under the Exchange Act, as of the end of the period covered by this report. Based on this evaluation, the Company's principal executive officer and principal financial officer concluded that, as of end of the period covered by this report, the Company's disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act, is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to the Company's management, including its principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure.

In connection with the Company's preparation of its consolidated financial statements for the fiscal year ended September 30, 2007, the Company reassessed its accounting treatment and disclosures for its derivative instruments under Statement of Financial Accounting Standards 133 *Accounting for Derivative Instruments and Hedging Activities* (as interpreted and amended, "SFAS 133"). As a result of this accounting assessment, the Company determined that certain of its derivative instruments have not qualified as cash flow hedges under SFAS 133 as they did not meet the definition for "critical-terms-match," as defined under paragraph 65 of SFAS 133 and related authoritative accounting literature issued by various standard setting bodies and their related interpretations for all fiscal periods. As the Company has determined the hedging relationships did not meet the "critical-terms-match," the related derivative instruments did not qualify as cash flow hedges and the unrealized gains or losses on the derivative instruments are required to be reflected in the Consolidated Statement of Income for each period rather than recorded in Comprehensive Income and included as a component of "accumulated other comprehensive

New Jersey Resources Corporation

Part I

ITEM 4. CONTROLS AND PROCEDURES (Continued)

income,” a component of Total Common Stock Equity in the Consolidated Balance Sheets, until the forecasted transaction is settled. Therefore, because of this material weakness, the Company amended and restated certain of its historical consolidated financial statements and made appropriate changes in the preparation of its consolidated financial statements for the year ended September 30, 2007, including the Condensed Consolidated Statements of Income and of Cash flows for the three months ended December 31, 2006.

The Company continually reviews its disclosure controls and procedures and makes changes, as necessary, to ensure the quality of its financial reporting. As detailed below, the Company has implemented certain additional controls that it believes will significantly reduce the potential for similar issues to arise in the future.

Changes in Internal Control over Financial Reporting

Management and the Board of Directors are committed to the remediation of the material weakness set forth above as well as the continued improvement of the Company’s overall system of internal control over financial reporting. Management is in the process of actively addressing and remediating the material weakness in internal control over financial reporting described above. During the quarter ended December 31, 2007, in connection with the material weakness in internal control over financial reporting detailed above, the Company implemented or is in the process of implementing the following controls designed to substantially reduce the risk of a similar material weakness occurring in the future:

- improving training, education and accounting reviews for all relevant personnel involved in the accounting treatment and disclosures for the Company’s derivative instruments to ensure compliance with generally accepted accounting principles, including SFAS 133 and its related interpretations;
- ensuring the Company has the accounting technical expertise requirements necessary for compliance with SFAS 133;
- initiating a thorough review of the design of the internal control over financial reporting related to the accounting of derivative instruments, which will incorporate an analysis of the current staffing levels, job assignments and the design of all internal control processes for the accounting for derivative instruments and implement new and improved processes and controls, if warranted; and
- increasing the level of review and discussion of significant accounting matters and supporting documentation with senior finance management.

In addition, as part of the Company’s fiscal 2008 assessment of internal control over financial reporting, management will conduct sufficient testing and evaluation of the controls to be implemented as part of this remediation plan to ascertain that they operate effectively. The Company anticipates that these remediation actions represent ongoing improvement measures. While the Company has taken steps to remediate the material weakness, these steps may not be adequate to fully remediate the material weakness, and additional measures may be required. The effectiveness of its remediation efforts will not be known until the Company can test those controls in connection with the management tests of internal control over financial reporting that the Company will perform as of September 30, 2008. The Company believes, however, these measures will fully remediate the above identified material weakness in its internal control over financial reporting.

These were the only changes in the Company’s internal control over financial reporting (as such term is defined in Exchange Act Rule 13a-15(f)) that occurred during the quarter ended December 31, 2007, that have materially affected, or are reasonably likely to materially affect, internal control over financial reporting.

New Jersey Resources Corporation

Part II

ITEM 1. LEGAL PROCEEDINGS

Information regarding reportable legal proceedings is contained in Part I, "Item 3. Legal Proceedings" in NJR's Annual Report on Form 10-K for the year ended September 30, 2007, and is set forth in Part I, Item 1, Note 12, *Commitment and Contingent Liabilities—Legal Proceedings*. No legal proceedings became reportable during the quarter ended December 31, 2007 and there have been no material developments during such quarter regarding any previously reported legal proceedings, which have not been previously disclosed.

ITEM 1A. RISK FACTORS

Part I, Item 1A, "Risk Factors," of NJR's 2007 Annual Report on Form 10-K includes a detailed discussion of NJR's risk factors. There have been no changes to those risk factors during the quarter ended December 31, 2007.

ITEM 2. UNREGISTERED SALE OF EQUITY SECURITIES AND USE OF PROCEEDS

In 1996, the NJR Board of Directors authorized the repurchase of up to 1 million of the Company's common shares. Since 1996, the repurchase plan has been expanded several times. On November 14, 2007, the NJR Board of Directors authorized an increase to the plan to permit the repurchase, in the open market or in privately negotiated transactions, of 1 million shares, bringing the total permitted repurchases to 4.5 million shares as of that date. As of December 31, 2007, the Company has 960,747 shares of its common stock still available for repurchase.

The following table sets forth NJR's repurchase activity for the quarter ended December 31, 2007:

Period	Total Number of Shares (or Units) Purchased	Average Price Paid per Share (or Unit)	Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs	Maximum Number (or Approximate Dollar Value) of Shares (or Units) That May Yet be Purchased Under the Plans or Programs
10/1/07 – 10/31/07	—	—	—	8,147
11/1/07 – 11/30/07	—	—	—	1,008,147 ⁽¹⁾
12/1/07 – 12/31/07	47,400	50.082	—	960,747
Total	47,400	50.082	—	960,747

⁽¹⁾ Includes 1 million additional common shares approved to be repurchased by NJR Board of Directors.

New Jersey Resources Corporation

Part II

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

- (a) An annual meeting of shareholders was held on January 23, 2008.
- (b) The shareholders voted upon the following matters at the January 23, 2008 annual shareholders meeting:
- (i) The election of three directors to the Board of Directors for terms expiring in 2011. The results of the voting were as follows:

<u>DIRECTORS UNTIL 2011</u>	<u>FOR</u>	<u>WITHHELD</u>
Nina Aversano	21,771,028	1,290,463
Jane M. Kenny	22,661,663	399,829
David A. Trice	21,674,820	1,386,671

In addition to the directors elected at the annual meeting, the terms of the following members of NJR's Board of Directors continued after the meeting:

- (ii) Approval of the action of the Audit Committee in retaining Deloitte & Touche LLP as NJR's independent registered public accounting firm. The results of the voting were as follows:

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>
22,770,312	223,844	67,335

In addition to the directors elected at the annual meeting, the terms of the following members of NJR's Board of Directors continued after the meeting:

Lawrence R. Codey
Laurence M. Downes
M. William Howard
Alfred C. Koeppe
J. Terry Strange
William H. Turner
George R. Zoffinger

There were no broker non-votes in either of the matters voted upon by our shareholders.

New Jersey Resources Corporation

Part II

ITEM 6. EXHIBITS

- 4.9 \$325 million Revolving Credit Facility Credit Agreement by and among the Company, PNC Bank, N.A. as Administrative Agent, the banks party thereto, JPMorgan Chase Bank, N.A. and Bank of America, N.A., as Syndication Agents, Citibank, N.A. and The Bank of Nova Scotia, as Documentation Agents and PNC Capital Markets, LLC, as Lead Arranger, dated as of December 13, 2007.
- 31.1 Certification of the Chief Executive Officer pursuant to section 302 of the Sarbanes-Oxley Act
- 31.2 Certification of the Chief Financial Officer pursuant to section 302 of the Sarbanes-Oxley Act
- 32.1 Certification of the Chief Executive Officer pursuant to section 906 of the Sarbanes-Oxley Act*
- 32.2 Certification of the Chief Financial Officer pursuant to section 906 of the Sarbanes-Oxley Act*

*This certificate accompanies this report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by NJR for purposes of Section 18 or any other provision of the Securities Exchange Act of 1934, as amended.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

NEW JERSEY RESOURCES CORPORATION

(Registrant)

Date: February 6, 2008

By:/s/ Glenn C. Lockwood

Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated:

\$325,000,000 REVOLVING CREDIT FACILITY

CREDIT AGREEMENT

by and among

NEW JERSEY RESOURCES CORPORATION

and

EACH OF THE GUARANTORS PARTY HERETO

and

THE BANKS PARTY HERETO

and

PNC BANK, NATIONAL ASSOCIATION,

as Administrative Agent

JPMORGAN CHASE BANK, N.A. and BANK OF AMERICA, N.A. as Syndication Agents

CITIBANK, N.A. and THE BANK OF NOVA SCOTIA as Documentation Agents

and

PNC CAPITAL MARKETS LLC,

as Lead Arranger

Dated as of December 13, 2007

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EXHIBITS

EXHIBIT 1.1(A)	-	ASSIGNMENT AND ASSUMPTION AGREEMENT
EXHIBIT 1.1(B)	-	BANK JOINDER
EXHIBIT 1.1(G)(1)	-	GUARANTOR JOINDER
EXHIBIT 1.1(G)(2)	-	GUARANTY AGREEMENT
EXHIBIT 1.1(R)	-	REVOLVING CREDIT NOTE
EXHIBIT 1.1(S)	-	SWING LOAN NOTE
EXHIBIT 2.4	-	LOAN REQUEST
EXHIBIT 2.5	-	SWING LOAN REQUEST
EXHIBIT 5.5	-	COMMITMENT REDUCTION NOTICE
EXHIBIT 7.1.3(A)	-	OPINION OF COUNSEL
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EXHIBIT 8.3.3	-	COMPLIANCE CERTIFICATE

CREDIT AGREEMENT

THIS CREDIT AGREEMENT is dated as of December 13, 2007 and is made by and among **NEW JERSEY RESOURCES CORPORATION**, a New Jersey corporation (the "Borrower"), **EACH OF THE GUARANTORS** (as hereinafter defined), the **BANKS** (as hereinafter defined), **JPMORGAN CHASE BANK, N.A.** and **BANK OF AMERICA, N.A.**, each in its capacity as a syndication agent, **CITIBANK, N.A.** and **THE BANK OF NOVA SCOTIA**, each in its capacity as a documentation agent, and **PNC BANK, NATIONAL ASSOCIATION**, in its capacity as administrative agent for the Banks under this Agreement (hereinafter referred to in such capacity as the "Agent").

WITNESSETH:

WHEREAS, the Borrower has requested the Banks to provide a revolving credit facility to the Borrower in an aggregate principal amount not to exceed \$325,000,000; and

WHEREAS, the revolving credit facility shall be used for refinancing existing indebtedness and general corporate purposes of the Borrower; and

WHEREAS, the Banks are willing to provide such credit upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, the parties hereto, in consideration of their mutual covenants and agreements hereinafter set forth and intending to be legally bound hereby, covenant and agree as follows:

1. CERTAIN DEFINITIONS

1.1 Certain Definitions.

In addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the following meanings, respectively, unless the context hereof clearly requires otherwise:

Acquired Person shall mean a Person or business acquired by any Loan Party in a transaction which is a Permitted Acquisition.

Acquisition Compliance Certificate shall have the meaning assigned to that term in Section 8.2.5.

Additional Bank shall have the meaning assigned to that term in Section 11.11(iv).

Affiliate as to any Person shall mean any other Person (i) which directly or indirectly controls, is controlled by, or is under common control with such Person, (ii) which beneficially owns or holds 10% or more of any class of the voting or other equity interests of such Person, or (iii) 10% or more of any class of voting interests or other equity interests of which is beneficially owned or held, directly or indirectly, by such Person. Control, as used in this definition, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, including the power to elect a majority of the directors or trustees of a corporation or trust, as the case may be.

Agent shall mean PNC Bank, National Association, and its successors and assigns.

Agent's Fee shall have the meaning assigned to that term in Section 10.15.

Agent's Letter shall have the meaning assigned to that term in Section 10.15.

Agreement shall mean this Credit Agreement, as the same may be supplemented or amended from time to time, including all schedules and exhibits.

Anti-Terrorism Laws shall mean any Laws relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the Laws comprising or implementing the Bank Secrecy Act, and the Laws administered by the United States Treasury Department's Office of Foreign Asset Control (as any of the foregoing Laws may from time to time be amended, renewed, extended, or replaced).

Applicable Facility Fee Rate shall mean the percentage rate per annum at the indicated level of Debt Rating in the pricing grid on Schedule 1.1(A) below the heading "Facility Fee." The Applicable Facility Fee Rate shall be computed in accordance with the parameters set forth on Schedule 1.1(A).

Applicable Letter of Credit Fee Rate shall mean the percentage rate per annum at the indicated level of Debt Rating in the pricing grid on Schedule 1.1(A) below the heading "Letter of Credit Fee." The Applicable Letter of Credit Fee Rate shall be computed in accordance with the parameters set forth on Schedule 1.1(A).

Applicable Margin shall mean, as applicable:

(A) the percentage spread to be added to Base Rate under the Base Rate Option at the indicated level of Debt Rating in the pricing grid on Schedule 1.1(A) below the heading "Base Rate Spread" or

(B) the percentage spread to be added to LIBOR Rate under the LIBOR Rate Option at the indicated level of Debt Rating in the pricing grid on Schedule 1.1(A) below the heading "LIBOR Rate Spread."

The Applicable Margin shall be computed in accordance with the parameters set forth on Schedule 1.1(A).

Approved Fund shall mean, with respect to any Bank, any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered by such Bank, an Affiliate of such Bank or an entity or an Affiliate of an entity that administers or manages such Bank.

Assignment and Assumption Agreement shall mean an Assignment and Assumption Agreement by and among a Purchasing Bank, a Transferor Bank and the Agent, as Agent and on behalf of the remaining Banks, substantially in the form of Exhibit 1.1(A).

Authorized Officer shall mean those individuals, designated by written notice to the Agent from the Borrower, authorized to execute notices, reports and other documents on behalf of the Loan Parties required hereunder. The Borrower may amend such list of individuals from time to time by giving written notice of such amendment to the Agent.

Bank Joinder shall mean a Bank Joinder substantially in the form of Exhibit 1.1(B).

Bank Provided Interest Rate Hedge shall mean an Interest Rate Hedge which is provided by any Bank and that meets the following requirements: such Interest Rate Hedge (i) is documented in a standard International Swap Dealer Association Agreement, (ii) provides for the method of calculating the reimbursable

amount of the provider's credit exposure in a reasonable and customary manner, and (iii) is entered into for hedging (rather than speculative) purposes. The liabilities of the Loan Parties to the provider of any Bank-Provided Interest Rate Hedge shall be "Obligations" hereunder, guaranteed obligations under the Guaranty Agreement and otherwise treated as Obligations for purposes of each of the other Loan Documents.

Banks shall mean the financial institutions named on Schedule 1.1(B) and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a Bank.

Base Rate shall mean the greater of (i) the interest rate per annum announced from time to time by the Agent at its Principal Office as its then prime rate, which rate may not be the lowest rate then being charged commercial borrowers by the Agent, or (ii) the Federal Funds Open Rate plus 1/2% per annum.

Base Rate Option shall mean the option of the Borrower to have Revolving Credit Loans bear interest at the rate and under the terms and conditions set forth in Section 4.1.1(i).

Benefit Arrangement shall mean at any time an "employee benefit plan" within the meaning of Section 3(3) of ERISA, which is neither a Plan nor a Multiemployer Plan and which is maintained, sponsored or otherwise contributed to by any member of the ERISA Group.

Blocked Person shall have the meaning assigned to such term in Subsection 6.1.25.

Borrower shall mean New Jersey Resources Corporation, a corporation organized and existing under the laws of the State of New Jersey.

Borrowing Date shall mean, with respect to any Loan, the date for the making thereof or the renewal or conversion thereof at or to the same or a different Interest Rate Option, which shall be a Business Day.

Borrowing Tranche shall mean specified portions of Loans outstanding as follows: (i) any Loans to which a LIBOR Rate Option applies which become subject to the same Interest Rate Option under the same Loan Request by the Borrower and which have the same Interest Period shall constitute one Borrowing Tranche, and (ii) all Loans to which a Base Rate Option applies shall constitute one Borrowing Tranche.

Business Day shall mean any day other than a Saturday or Sunday or a legal holiday on which commercial banks are authorized or required to be closed for business in Pittsburgh, Pennsylvania and if the applicable Business Day relates to any Loan to which the LIBOR Rate Option applies, such day must also be a day on which dealings are carried on in the London interbank market.

Closing Date shall mean the Business Day on which the first Loan shall be made, which shall be December 13, 2007. The closing shall take place on the Closing Date at such time and place as the parties agree.

Commercial Letter of Credit shall mean any letter of credit which is issued in respect of the purchase of goods or services by one or more of the Loan Parties in the ordinary course of their business.

Commitment shall mean, as to any Bank, its Revolving Credit Commitment and, in the case of the Agent, its Swing Loan Commitment, and Commitments shall mean the aggregate of the Revolving Credit Commitments and Swing Loan Commitment of all of the Banks.

Compliance Certificate shall have the meaning assigned to such term in Section 8.3.3.

Consideration shall mean with respect to any Permitted Acquisition, the aggregate of (i) the cash paid by any of the Loan Parties, directly or indirectly, to the seller in connection therewith, (ii) the Indebtedness incurred or assumed by any of the Loan Parties, whether in favor of the seller or otherwise and whether fixed or contingent, (iii) any Guaranty given or incurred by any Loan Party in connection therewith, and (iv) any other consideration given or obligation incurred by any of the Loan Parties in connection therewith.

Consolidated Shareholders' Equity shall mean as of any date of determination the sum of the amounts of common shareholders' equity and preferred shareholders' equity on the balance sheet, prepared in accordance with GAAP, for the Borrower and its Subsidiaries on a consolidated basis as of such date of determination.

Consolidated Total Capitalization shall mean as of any date of determination the sum of (i) Consolidated Total Indebtedness, plus (ii) Consolidated Shareholders' Equity.

Consolidated Total Indebtedness shall mean as of any date of determination total Indebtedness (excluding non-recourse Indebtedness of Project Subsidiaries), without duplication, of the Borrower and its Subsidiaries.

Contamination shall mean the presence or release or threat of release of Regulated Substances in, on, under or migrating to or from the Property, which pursuant to Environmental Laws requires notification or reporting to an Official Body, or which pursuant to Environmental Laws requires the performance of a Remedial Action or which otherwise constitutes a violation of Environmental Laws.

Debt Rating shall mean the rating of New Jersey Natural Gas's senior secured long-term debt by each of Standard & Poor's and Moody's.

Dollar, Dollars, U.S. Dollars and the symbol \$ shall mean lawful money of the United States of America.

Drawing Date shall have the meaning assigned to that term in Section 2.9.3.2.

Environmental Complaint shall mean any (i) written notice of non-compliance or violation, citation or order relating in any way to any Environmental Law, Environmental Permit, Contamination or Regulated Substance; (ii) civil, criminal, administrative or regulatory investigation instituted by an Official Body relating in any way to any Environmental Law, Environmental Permit, Contamination or Regulated Substance; (iii) administrative, regulatory or judicial action, suit, claim or proceeding instituted by any Person or Official Body or any other written notice of liability or potential liability from any Person or Official Body, in either instance, relating to or setting forth allegations or a cause of action for personal injury (including but not limited to death), property damage, natural resource damage, contribution or indemnity for the costs associated with the performance of Remedial Actions, direct recovery for the costs associated with the performance of Remedial Actions, liens or encumbrances attached to or recorded or levied against property for the costs associated with the performance of Remedial Actions, civil or administrative penalties, criminal fines or penalties or declaratory or equitable relief arising under any Environmental Laws; or (iv) subpoena, request for information or other written notice or demand of any type issued by an Official Body pursuant to any Environmental Laws.

Environmental Laws shall mean all federal, tribal, state, local and foreign Laws (including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j, the Federal Air Pollution Control Act, 42 U.S.C. § 7401 et seq., the Oil Pollution Act, 33 U.S.C. § 2701 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 to 136y, the Occupational

Safety and Health Act, 29 U.S.C. § 651 et seq., each as amended, and any regulations promulgated or any equivalent state or local Law, and any amendments thereto) and any consent decrees, consent orders, consent agreements, settlement agreements, judgments, orders, directives, policies or programs issued by or entered into with an Official Body pertaining or relating to: (i) pollution or pollution control; (ii) protection of human health from exposure to Regulated Substances; (iii) protection of the environment and/or natural resources; (iv) protection of employee safety in the workplace and protection of employees from exposure to Regulated Substances in the workplace (but excluding workers compensation and wage and hour Laws); (v) the presence, use, management, generation, manufacture, processing, extraction, treatment, recycling, refining, reclamation, labeling, sale, transport, storage, collection, distribution, disposal or release or threat of release of Regulated Substances; (vi) the presence of Contamination; (vii) the protection of endangered or threatened species; and (viii) the protection of Environmentally Sensitive Areas.

Environmental Permits shall mean all permits, licenses, bonds or other forms of financial assurances, waivers, exemptions, consents, registrations, identification numbers, approvals or authorizations required under Environmental Laws (i) to own, occupy or maintain the Property; (ii) for the operations and business activities of any Loan Party; or (iii) for the performance of a Remedial Action.

Environmental Records shall mean all notices, reports, records, plans, applications, forms or other filings relating or pertaining to the Property, Contamination, the performance of a Remedial Action and the operations and business activities of any Loan Party which pursuant to Environmental Laws, Environmental Permits or at the request or direction of an Official Body either must be submitted to an Official Body or which otherwise must be maintained.

Environmentally Sensitive Area shall mean (i) any wetland as defined by applicable Environmental Laws; (ii) any area designated as a coastal zone pursuant to applicable Laws, including Environmental Laws; (iii) any area of historic or archeological significance or scenic area as defined or designated by applicable Laws, including Environmental Laws; (iv) habitats of endangered species or threatened species as designated by applicable Laws, including Environmental Laws; or (v) a floodplain or other flood hazard area as defined pursuant to any applicable Laws.

ERISA shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

ERISA Group shall mean, at any time, the Borrower and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under Section 414 of the Internal Revenue Code.

Event of Default shall mean any of the events described in Section [9.1](#) and referred to therein as an "Event of Default."

Executive Order No. 13224 shall mean the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

Existing Credit Facility shall mean that certain Credit Agreement among the Borrower, the guarantors party thereto, the banks party thereto, Fleet National Bank and SunTrust Bank, each in its capacity as a syndication agent, Bank of Tokyo-Mitsubishi Trust Company and JPMorgan Chase Bank NA, previously known as JPMorgan Chase Bank, each in its capacity as a documentation agent, Bank One, NA, Citizens Bank of Massachusetts and The Bank of New York, each in its capacity as a co-agent, and PNC Bank, National Association,

in its capacity as administrative agent for the Banks, dated December 16, 2004 (as amended by that certain First Amendment, dated November 15, 2005).

Expiration Date shall mean December 13, 2012.

Facility Fees collectively and Facility Fees separately shall have the meaning given to such terms in Section 2.3.

Federal Funds Effective Rate for any day shall mean the rate per annum (based on a year of 360 days and actual days elapsed and rounded upward to the nearest 1/100 of 1%) announced by the Federal Reserve Bank of New York (or any successor) on such day as being the weighted average of the rates on overnight federal funds transactions arranged by federal funds brokers on the previous trading day, as computed and announced by such Federal Reserve Bank (or any successor) in substantially the same manner as such Federal Reserve Bank computes and announces the weighted average it refers to as the "Federal Funds Effective Rate" as of the date of this Agreement; provided, if such Federal Reserve Bank (or its successor) does not announce such rate on any day, the "Federal Funds Effective Rate" for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

Federal Funds Open Rate for any day shall mean the rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption "OPEN" (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by the Agent (an "Alternate Source") (or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Alternate Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Alternate Source, a comparable replacement rate determined by the Agent at such time (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Business Day, the Federal Funds Open Rate for such day shall be the "open" rate on the immediately preceding Business Day. If and when the Federal Funds Open Rate changes, the rate of interest with respect to any advance to which the Federal Funds Open Rate applies will change automatically without notice to the Borrower, effective on the date of any such change.

GAAP shall mean generally accepted accounting principles as are in effect in the United States from time to time, subject to the provisions of Section 1.3, and applied on a consistent basis both as to classification of items and amounts.

Governmental Acts shall have the meaning assigned to that term in Section 2.9.8.

Guarantor shall mean each of the parties to this Agreement which is designated as a "Guarantor" on the signature page hereof and each other Person which joins this Agreement as a Guarantor after the date hereof pursuant to Section 11.19; provided, however, that the Project Subsidiaries shall not be designated as a "Guarantor" nor required to join this Agreement as a Guarantor pursuant to Section 11.19.

Guarantor Joinder shall mean a joinder by a Person as a Guarantor under this Agreement, the Guaranty Agreement and the other Loan Documents in the form of Exhibit 1.1(G)(1).

Guaranty of any Person shall mean any obligation of such Person guaranteeing or in effect guaranteeing any liability or obligation of any other Person in any manner, whether directly or indirectly, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

Guaranty Agreement shall mean the Guaranty and Suretyship Agreement in substantially the form of Exhibit 1.1(G)(2) executed and delivered by each of the Guarantors to the Agent for the benefit of the Banks.

Hedging Contract Policies shall mean the written internal policies and procedures with respect to hedging or trading of gas contracts or other commodity, hedging contracts of any kind, or any derivatives or other similar financial instruments of the Borrower and its Subsidiaries, as in effect on the date of this Agreement, a copy of which has been delivered to the Agent and each Bank.

Hedging Transaction shall mean any transaction entered into by a Loan Party or any of its Subsidiaries in accordance with the Hedging Contract Policies, as the same may be amended, restated, modified, or supplemented from time to time.

Historical Statements shall have the meaning assigned to that term in Section 6.1.8.1.

Hybrid Security shall mean any of the following: (i) beneficial interests issued by a trust which constitutes a Subsidiary of any Loan Party, substantially all of the assets of which trust are unsecured Indebtedness of any Loan Party or any Subsidiary of any Loan Party or proceeds thereof, and all payments of which Indebtedness are required to be, and are, distributed to the holders of beneficial interests in such trust promptly after receipt by such trust, or (ii) any shares of capital stock or other equity interest that, other than solely at the option of the issuer thereof, by their terms (or by the terms of any security into which they are convertible or exchangeable) are, or upon the happening of an event or the passage of time would be, required to be redeemed or repurchased, in whole or in part, or have, or upon the happening of an event or the passage of time would have, a redemption or similar payment.

Inactive Subsidiary shall mean, at any time, any Subsidiary of any Person, which Subsidiary (i) does not conduct any business or have operations, and (ii) does not have total assets with a net book value, as of any date of determination, in excess of \$100,000.

Indebtedness shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (i) borrowed money, (ii) amounts raised under or liabilities in respect of any note purchase or acceptance credit facility, (iii) reimbursement obligations (contingent or otherwise) under any letter of credit, currency swap agreement, interest rate swap, cap, collar or floor agreement or other interest rate or currency exchange rate management device, (iv) any other transaction (including forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but not including trade payables and accrued expenses incurred in the ordinary course of business which are not represented by a promissory note or other evidence of indebtedness and which are not more than thirty (30) days past due), (v) any Hedging Transaction, to the extent that any net indebtedness, obligations or liabilities of such Person in respect thereof constitutes "indebtedness" as determined in accordance with GAAP, (vi) any Guaranty of any Hedging Transaction described in the immediately preceding clause (v), (vii) any Guaranty of Indebtedness for borrowed money, (viii) any Hybrid Security described in clause (i) of the definition of Hybrid Security, or (ix) the mandatory repayment obligation of the issuer of any Hybrid Security described in clause (ii) of the definition of Hybrid Security.

Ineligible Security shall mean any security which may not be underwritten or dealt in by member banks of the Federal Reserve System under Section 16 of the Banking Act of 1933 (12 U.S.C. Section 24, Seventh), as amended.

Insolvency Proceeding shall mean, with respect to any Person, (a) a case, action or proceeding with respect to such Person (i) before any court or any other Official Body under any bankruptcy,

insolvency, reorganization or other similar Law now or hereafter in effect, or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, conservator (or similar official) of such Person or otherwise relating to the liquidation, dissolution, winding-up or relief of such Person, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of such Person's creditors generally or any substantial portion of its creditors; undertaken under any Law.

Interest Period shall mean the period of time selected by the Borrower in connection with (and to apply to) any election permitted hereunder by the Borrower to have Revolving Credit Loans bear interest under the LIBOR Rate Option. Subject to the last sentence of this definition, such period shall be one, two, three or six Months, and solely with approval of the Agent a shorter period. Such Interest Period shall commence on the effective date of such Interest Rate Option, which shall be (i) the Borrowing Date if the Borrower is requesting new Loans, or (ii) the date of renewal of or conversion to the LIBOR Rate Option if the Borrower is renewing or converting to the LIBOR Rate Option applicable to outstanding Loans. Notwithstanding the second sentence hereof: (A) any Interest Period which would otherwise end on a date which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, and (B) the Borrower shall not select, convert to or renew an Interest Period for any portion of the Loans that would end after the Expiration Date.

IRH Provider shall have the meaning assigned to such term in Section [9.2.5.2](#) [Collateral Sharing].

Interest Rate Hedge shall mean an interest rate exchange, collar, cap, swap, adjustable strike cap, adjustable strike corridor or similar agreements entered into by the Loan Parties or their Subsidiaries in order to provide protection to, or minimize the impact upon, the Borrower, any other Loan Party and/or their Subsidiaries of increasing floating rates of interest applicable to Indebtedness.

Interest Rate Option shall mean any LIBOR Rate Option or Base Rate Option.

Internal Revenue Code shall mean the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

Investment shall have the meaning assigned to that term in Section 8.2.4.

Labor Contracts shall mean all employment agreements, employment contracts, collective bargaining agreements and other agreements among any Loan Party or Subsidiary of a Loan Party and its employees.

Law shall mean any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, release, ruling, order, injunction, writ, decree, bond, judgment, authorization or approval, lien or award of or settlement agreement with any Official Body.

Letter of Credit shall have the meaning assigned to that term in Section 2.9.1.

Letter of Credit Borrowing shall have the meaning assigned to such term in Section 2.9.3.4.

Letter of Credit Fee shall have the meaning assigned to that term in Section 2.9.2.

Letters of Credit Outstanding shall mean at any time the sum of (i) the aggregate undrawn face amount of outstanding Letters of Credit, and (ii) the aggregate amount of all unpaid and outstanding Reimbursement Obligations and Letter of Credit Borrowings.

LIBOR Rate shall mean, with respect to the Loans comprising any Borrowing Tranche to which the LIBOR Rate Option applies for any Interest Period, the interest rate per annum determined by the Agent by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (i) the rate which appears on the Bloomberg Page BBAM1 (or on such other substitute Bloomberg page that displays rates at which US dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by the Agent which has been approved by the British Bankers' Association as an authorized information vendor for the purpose of displaying rates at which U.S. Dollar deposits are offered by leading banks in the London interbank deposit market (an "Alternate Source"), at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period as the London interbank offered rate for U.S. Dollars for an amount comparable to such Borrowing Tranche and having a borrowing date and a maturity comparable to such Interest Period (or if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAM1 (or any substitute page) or any Alternate Source, a comparable replacement rate determined by the Administrative Agent at such time (which determination shall be conclusive absent manifest error)), by (ii) a number equal to 1.00 minus the LIBOR Reserve Rate Percentage. LIBOR may also be expressed by the following formula:

Average of London interbank offered rates quoted

by Bloomberg or appropriate successor as shown on

LIBOR = Bloomberg Page BBAM1

1.00 - LIBOR Reserve Rate Percentage

The LIBOR Rate shall be adjusted with respect to any Loan to which the LIBOR Rate Option applies that is outstanding on the effective date of any change in the LIBOR Rate Reserve Percentage as of such effective date. The Agent shall give prompt notice to the Borrower of the LIBOR Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

LIBOR Rate Option shall mean shall mean the option of the Borrower to have Loans bear interest at the rate and under the terms set forth in Section 4.1.1(ii) [Revolving Credit LIBOR Rate Option].

LIBOR Rate Reserve Percentage shall mean as of any day the maximum percentage in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as "Eurocurrency Liabilities").

Lien shall mean any mortgage, deed of trust, pledge, lien, security interest, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing).

LLC Interests shall have the meaning given to such term in Section 6.1.2.

Loan Documents shall mean this Agreement, the Agent's Letter, the Guaranty Agreement, the Notes (if any) and any other instruments, certificates or documents delivered or contemplated to be delivered hereunder or thereunder or in connection herewith or therewith, as the same may be supplemented or amended from time to time in accordance herewith or therewith, and Loan Document shall mean any of the Loan Documents.

Loan Parties shall mean the Borrower and the Guarantors.

Loan Request shall mean a request for a Revolving Credit Loan or a request to select, convert to or renew a Base Rate Option or LIBOR Rate Option with respect to an outstanding Revolving Credit Loan in accordance with Sections 2.4, 2.5, 4.1 and 4.2.

Loans shall mean collectively and Loan shall mean separately all Revolving Credit Loans and Swing Loans or any Revolving Credit Loan or Swing Loan.

Material Adverse Change shall mean any set of circumstances or events which (i) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Agreement or any other Loan Document, (ii) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations or prospects of the Loan Parties taken as a whole, (iii) impairs materially or could reasonably be expected to impair materially the ability of the Loan Parties taken as a whole to duly and punctually pay and perform the Obligations in accordance with the Loan Documents, or (iv) impairs materially or could reasonably be expected to impair materially the ability of the Agent or any of the Banks, to the extent permitted, to enforce their legal remedies pursuant to this Agreement or any other Loan Document.

Month, with respect to an Interest Period under the LIBOR Rate Option, shall mean the interval between the days in consecutive calendar months numerically corresponding to the first day of such Interest Period. If any LIBOR Rate Interest Period begins on a day of a calendar month for which there is no numerically corresponding day in the month in which such Interest Period is to end, the final month of such Interest Period shall be deemed to end on the last Business Day of such final month.

Moody's shall mean Moody's Investors Service, Inc. and its successors.

Mortgage Indenture shall mean that certain Indenture of Mortgage and Deed of Trust dated April 1, 1952 from New Jersey Natural Gas Company to BNY Midwest Trust Company, as successor to Harris Trust and Savings Bank, Trustee, as heretofore and hereafter amended, modified and supplemented.

Multiemployer Plan shall mean any employee benefit plan which is a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA and to which the Borrower or any member of the ERISA Group is then making or accruing an obligation to make contributions or, within the preceding five Plan years, has made or had an obligation to make such contributions.

Multiple Employer Plan shall mean a Plan which has two or more contributing sponsors (including the Borrower or any member of the ERISA Group) at least two of whom are not under common control, as such a plan is described in Sections 4063 and 4064 of ERISA.

New Jersey Natural Gas shall mean New Jersey Natural Gas Company, a corporation organized and existing under the laws of the State of New Jersey, which corporation is a Subsidiary of the Borrower.

NJNG Credit Agreement shall mean that certain Credit Agreement, dated as of December 16, 2004, among New Jersey Natural Gas, as the borrower, JPMorgan Chase Bank NA and Fleet National Bank, each as syndication agent, Bank of Tokyo-Mitsubishi Trust Company and Citicorp North America, Inc., each as documentation agent, PNC Bank, National Association, as the administrative agent, and the Banks party thereto, as the same has been amended and may be further restated, amended, modified or supplemented from time to time.

NJR Note Agreements shall mean the Note Purchase Agreements, dated March 15, 2004 and September 24, 2007, respectively, by and among the Borrower and the respective purchasers party thereto, as the same may be supplemented, amended, or modified from time to time as permitted by Section 8.2.18 [Amendments to NJR Note Agreements] hereof.

NJR Notes shall mean the unsecured Indebtedness issued by the Borrower pursuant to the NJR Note Agreements.

Notes shall mean the Revolving Credit Notes and Swing Loan Note, if any.

Notices shall have the meaning assigned to that term in Section 11.6.

Obligations shall mean any obligation or liability of any of the Loan Parties to the Agent or any of the Banks, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, under or in connection with this Agreement, any Notes, the Letters of Credit, the Agent's Letter or any other Loan Document. Obligations shall include the liabilities to any Bank under any Bank-Provided Interest Rate Hedge but shall not include the liabilities to other Persons under any other Interest Rate Hedge.

Official Body shall mean any national, federal, state, local or other government or political subdivision or any agency, authority, board, bureau, central bank, commission, department or instrumentality of either, or any court, tribunal, grand jury or arbitrator, in each case whether foreign or domestic.

Participation Advance shall mean, with respect to any Bank, such Bank's payment in respect of its participation in a Letter of Credit Borrowing according to its Ratable Share pursuant to Section [2.9.3.4](#).

Partnership Interests shall have the meaning given to such term in Section 6.1.2.

PBGC shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA or any successor.

Permitted Acquisitions shall have the meaning assigned to such term in Section [8.2.5](#) [Liquidations, Mergers, Consolidations, Acquisitions].

Permitted Investments shall mean:

(i) direct obligations of the United States of America or any agency or instrumentality thereof or obligations backed by the full faith and credit of the United States of America maturing in twelve (12) months or less from the date of acquisition;

(ii) repurchase agreements having a duration of not more than sixty (60) days that are collateralized by full faith and credit obligations of the United States Government or obligations guaranteed by the United States Government and its agencies;

(iii) interests in investment companies registered under the Investment Company Act of 1940, as amended (or in a separate portfolio of such an investment company), that invest primarily in full faith and credit obligations of the United States Government or obligations guaranteed by the United States Government and its agencies and repurchase agreements collateralized by such obligations;

(iv) time deposits with any office located in the United States of the Banks or any other bank or trust company which is organized under the laws of the United States and has combined capital, surplus and undivided profits of not less than \$500,000,000 or with any bank which is organized other than under the laws of the United States (y) the commercial paper of which is rated at least A-1 by Standard & Poor's and P-1 by Moody's (or, if such commercial paper is rated only by Standard & Poor's, at least A-1 by Standard & Poor's, or if such commercial paper is rated only by Moody's, at least P-1 by Moody's) or (z) the long term senior debt of which is rated at least AA by Standard & Poor's and Aa2 by Moody's (or, if such debt is rated only by Standard & Poor's, at least AA by Standard & Poor's, or if such debt is rated only by Moody's, at least Aa2 by Moody's);

(v) commercial paper having a maturity of not more than one year from the date of such investment and rated at least A-1 by Standard & Poor's and P-1 by Moody's (or, if such commercial paper is rated only by Standard & Poor's, at least A-1 by Standard & Poor's or, if such commercial paper is rated only by Moody's, at least P-1 by Moody's);

- (vi) instruments held for collection in the ordinary course of business;
- (vii) any equity or debt securities or other form of debt instrument obtained in settlement of debts previously contracted;
- (viii) any Investment arising out of a Permitted Related Business Opportunity; and

(ix) any other form of Investment by the Borrower or any of its Subsidiaries in any Person so long as the consideration paid or exchanged by the Borrower, or any of its Subsidiaries, for such investment (whether in cash or the value of payment-in-kind, with the value of payment-in-kind as reasonably determined by the Borrower) does not exceed \$30,000,000 in the aggregate for all Investments permitted by this clause (ix).

Permitted Liens shall mean:

- (i) Liens for taxes, assessments, or similar charges, incurred in the ordinary course of business and which are not yet due and payable;
- (ii) Pledges or deposits made in the ordinary course of business to secure payment of workmen's compensation, or to participate in any fund in connection with workmen's compensation, unemployment insurance, old-age pensions or other social security programs;
- (iii) Liens of mechanics, materialmen, warehousemen, carriers, or other like Liens, securing obligations incurred in the ordinary course of business that are not yet due and payable and Liens of landlords securing obligations to pay lease payments that are not yet due and payable or in default;
- (iv) Any Lien arising out of judgments or awards but only to the extent that the creation of any such Lien shall not be an event or condition which, with or without notice or lapse of time or both, would cause Borrower to be in violation of Section 9.1.6, but after giving affect to the thirty (30) day period in Section 9.1.6;
- (v) Security interests in favor of lessors of personal property, which property is the subject of a true lease;
- (vi) Good-faith pledges or deposits made in the ordinary course of business to secure performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, not in excess of the aggregate amount due thereunder, or to secure statutory obligations, or surety, appeal, indemnity, performance or other similar bonds required in the ordinary course of business;
- (vii) Encumbrances consisting of zoning restrictions, easements, rights-of-way or other restrictions on the use of real property and minor defects to title to real property, none of which materially impairs the use of such property or the value thereof;
- (viii) Liens on property leased by any Loan Party or Subsidiary of a Loan Party securing obligations of such Loan Party or Subsidiary to the lessor under such leases, so long as to the extent the payments or other amounts due and owing under any such lease constitute Indebtedness, such Indebtedness is permitted under Section 8.2.1(vi);
- (ix) Any Lien existing on the date of this Agreement and described on Schedule 1.1(P), provided, that, to the extent any such Lien secures Indebtedness permitted by Section 8.2.1(ii), such Lien may continue to secure any renewals or extensions of such Indebtedness permitted by Section 8.2.1(ii) so long as (i) the principal amount of the Indebtedness secured by any such Lien is not hereafter increased and (ii) no additional assets become subject to such Lien;

(x) Reserved;

(xi) Purchase Money Security Interests, provided, that the aggregate amount of loans and deferred payments secured by such Purchase Money Security Interests shall not exceed \$20,000,000 (excluding for the purpose of this computation any loans or deferred payments secured by Liens described on Schedule 1.1(P));

(xii) Liens on any property or asset of an Acquired Person so long as: (a) such Liens secure Indebtedness of the Acquired Person and such Indebtedness and such Liens on property or assets of the Acquired Person existed prior to the consummation of the Permitted Acquisition and were not created in contemplation of or in connection with such acquisition, (b) such Liens apply solely to the assets of the Acquired Person and do not apply to any asset of any Loan Party, and (c) after giving effect to such Permitted Acquisition and all other Permitted Acquisitions made by the Loan Parties from and after the Closing Date, the aggregate outstanding amount of all Indebtedness secured by Liens permitted by this clause (xii) shall not exceed \$75,000,000; and

(xiii) The following, (A) if the validity or amount thereof is being contested in good faith by appropriate and lawful proceedings diligently conducted so long as levy and execution thereon have been stayed and continue to be stayed or (B) if a final judgment is entered and such judgment is discharged within thirty (30) days of entry, and could not be reasonably expected to result in a Material Adverse Change:

(1) Claims or Liens for taxes, assessments or charges due and payable and subject to interest or penalty, provided that the applicable Loan Party maintains such reserves or other appropriate provisions as shall be required by GAAP and pays all such taxes, assessments or charges forthwith upon the commencement of proceedings to foreclose any such Lien;

(2) Claims, Liens or encumbrances upon, and defects of title to, real or personal property, including any attachment of personal or real property or other legal process prior to adjudication of a dispute on the merits; or

(3) Claims or Liens of mechanics, materialmen, warehousemen, carriers, or other statutory nonconsensual Liens.

Notwithstanding the foregoing definition of Permitted Lien or any other provision of the Loan Documents to the contrary, each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, at any time create, incur, assume or suffer to exist any Lien on any of the capital stock of New Jersey Natural Gas, or agree or become liable to do so.

Permitted Related Business Opportunity shall mean any transaction with another Person (other than any Inactive Subsidiary of the Borrower) involving business activities or assets reasonably related or complementary to the business of the Borrower and its Subsidiaries as conducted on the Closing Date or as may be conducted pursuant to Section 8.2.9, including, without limitation, the ownership, management and marketing of storage, capacity and transportation of gas and other forms of energy, the generation, transmission or storage of gas and other forms of energy, or the access to gas and energy transmission lines, and business initiatives for the conservation and efficiency of gas and energy.

Permitted Transferee shall mean, as of any date of determination, any of the following with respect to any then current officer or director of the Borrower: (i) such Person's spouse, lineal descendants or lineal descendant's of such Person's spouse, (ii) any charitable corporation or trust established by such officer or director or by any Person described in the immediately preceding clause (i), (iii) any trust (or in the case of a minor, a custodial account under a Uniform Gifts or Transfers to Minors Act) of which the beneficiary or beneficiaries are

one or more Persons described in the immediately preceding clauses (i) or (ii), or (iv) any executor or administrator upon the death of such officer or director or the death of any Person described in the immediately preceding clauses (i) or (ii).

Person shall mean any individual, corporation, partnership, limited liability company, association, joint-stock company, trust, unincorporated organization, joint venture, government or political subdivision or agency thereof, or any other entity.

Plan shall mean at any time an employee pension benefit plan (including a Multiple Employer Plan, but not a Multiemployer Plan) which is covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Internal Revenue Code and either (i) is maintained by any member of the ERISA Group for employees of any member of the ERISA Group or (ii) has at any time within the preceding five years been maintained by any entity which was at such time a member of the ERISA Group for employees of any entity which was at such time a member of the ERISA Group.

PNC Bank shall mean PNC Bank, National Association, its successors and assigns.

Potential Default shall mean any event or condition which with notice, passage of time, or both, would constitute an Event of Default.

Principal Office shall mean the main banking office of the Agent in Pittsburgh, Pennsylvania.

Prohibited Transaction shall mean any prohibited transaction as defined in Section 4975 of the Internal Revenue Code or Section 406 of ERISA for which neither an individual nor a class exemption has been issued by the United States Department of Labor.

Project Subsidiaries shall mean the present Subsidiaries of NJR Energy Corporation, a New Jersey corporation, NJR Storage Holdings Company, a Delaware corporation, and any other future midstream asset project Subsidiaries of the Borrower or of NJR Energy Corporation, NJR Storage Holdings Company and their respective Subsidiaries.

Property shall mean all real property, both owned and leased, of any Loan Party or Subsidiary of a Loan Party.

Purchase Money Security Interest shall mean Liens upon tangible personal property securing loans to any Loan Party or Subsidiary of a Loan Party or deferred payments by such Loan Party or Subsidiary for the purchase of such tangible personal property.

Purchasing Bank shall mean a Bank which becomes a party to this Agreement by executing an Assignment and Assumption Agreement.

Ratable Share shall mean the proportion that a Bank's Commitment (excluding its Swing Loan Commitment) bears to the Commitments (excluding the Swing Loan Commitment) of all of the Banks.

Regulated Entity shall mean any Person which is subject under Law to any of the laws, rules or regulations respecting the financial, organizational or rate regulation of electric companies, public utilities, or public utility holding companies.

Regulated Substances shall mean, without limitation, any substance, material or waste, regardless of its form or nature, defined under Environmental Laws as a "hazardous substance," "pollutant," "pollution," "contaminant," "hazardous or toxic substance," "extremely hazardous substance," "toxic chemical,"

"toxic substance," "toxic waste," "hazardous waste," "special handling waste," "industrial waste," "residual waste," "solid waste," "municipal waste," "mixed waste," "infectious waste," "chemotherapeutic waste," "medical waste," or "regulated substance" or any other substance, material or waste, regardless of its form or nature, which is regulated, controlled or governed by Environmental Laws due to its radioactive, ignitable, corrosive, reactive, explosive, toxic, carcinogenic or infectious properties or nature or any other material, substance or waste, regardless of its form or nature, which otherwise is regulated, controlled or governed by Environmental Laws, including without limitation, petroleum and petroleum products (including crude oil and any fractions thereof), natural gas, synthetic gas and any mixtures thereof, asbestos, urea formaldehyde, polychlorinated biphenyls, mercury, radon and radioactive materials.

Regulation U shall mean Regulation U, T, or X as promulgated by the Board of Governors of the Federal Reserve System, as amended from time to time.

Reimbursement Obligation shall have the meaning assigned to such term in Section 2.9.3.2.

Remedial Action shall mean any investigation, identification, characterization, delineation, cleanup, removal, remediation, containment, control or abatement of or other response actions to Regulated Substances and any closure or post-closure measures associated therewith.

Reportable Event shall mean a reportable event described in Section 4043 of ERISA and regulations thereunder with respect to a Plan or Multiemployer Plan.

Required Banks shall mean

(A) if there are no Loans, Reimbursement Obligations or Letter of Credit Borrowings outstanding, Required Banks shall mean Banks whose Commitments (excluding the Swing Loan Commitments) aggregate at least 51% of the Commitments of all of the Banks (excluding the Swing Loan Commitments), or

(B) if there are Loans, Reimbursement Obligations, or Letter of Credit Borrowings outstanding, Required Banks shall mean:

(i) prior to a termination of the Commitments hereunder pursuant to Section 9.2.1 or 9.2.2, any Bank or group of Banks if the sum of the Loans (excluding the Swing Loans), Reimbursement Obligations and Letter of Credit Borrowings of such Banks then outstanding aggregates at least 51% of the total principal amount of all of the Loans (excluding the Swing Loans), Reimbursement Obligations and Letter of Credit Borrowings then outstanding.

(ii) after a termination of the Commitments hereunder pursuant to Section 9.2.1 or 9.2.2, any Bank or group of Banks if the sum of the Loans, Reimbursement Obligations and Letter of Credit Borrowings of such Banks then outstanding aggregates at least 51% of the total principal amount of all of the Loans, Reimbursement Obligations and Letter of Credit Borrowings then outstanding.

Reimbursement Obligations and Letter of Credit Borrowings shall be deemed, for purposes of this definition, to be in favor of the Agent and not a participating Bank if such Bank has not made its Participation Advance in respect thereof and shall be deemed to be in favor of such Bank to the extent of its Participation Advance if it has made its Participation Advance in respect thereof.

Required Share shall have the meaning assigned to such term in Section 5.10.

Revolving Credit Commitment shall mean, as to any Bank at any time, the amount initially set forth opposite its name on Schedule 1.1(B) in the column labeled "Amount of Commitment for Revolving Credit Loans," and thereafter as determined by the Agent after giving effect to each applicable Bank

Joinder and Assignment and Assumption Agreement executed by such Bank and delivered to the Agent, and Revolving Credit Commitments shall mean the aggregate Revolving Credit Commitments of all of the Banks.

Revolving Credit Loans shall mean collectively and Revolving Credit Loan shall mean separately all Revolving Credit Loans or any Revolving Credit Loan made by the Banks or one of the Banks to the Borrower pursuant to Section 2.1.1 or 2.9.3.

Revolving Credit Note shall mean any Revolving Credit Note of the Borrower in the form of Exhibit 1.1(R) issued by the Borrower at the request of a Bank pursuant to Section 5.9 evidencing the Revolving Credit Loans to such Bank, together with all amendments, extensions, renewals, replacements, refinancings or refundings thereof in whole or in part.

Revolving Facility Usage shall mean at any time the sum of the Revolving Credit Loans outstanding, the Swing Loans outstanding and the Letters of Credit Outstanding.

SEC shall mean the Securities and Exchange Commission or any governmental agencies substituted therefor.

SEC Filings shall mean the Borrower's Form 10-K, filed with the SEC for the fiscal year ended September 30, 2007.

Section 20 Subsidiary shall mean the Subsidiary of the bank holding company controlling any Bank, which Subsidiary has been granted authority by the Federal Reserve Board to underwrite and deal in certain Ineligible Securities.

Settlement Date shall mean the 7th day of each week (if such day is a Business Day and if not, the next succeeding Business Day) and any other Business Day on which the Agent elects to effect settlement pursuant to Section 5.10.

Significant Subsidiary shall mean, New Jersey Natural Gas, NJR Energy Services Company, or any Subsidiary of the Borrower which at any time (i) has gross revenues equal to or in excess of five percent (5%) of the gross revenues of the Borrower and its Subsidiaries on a consolidated basis, or (ii) has total assets equal to or in excess of five percent (5%) of the total assets of the Borrower and its Subsidiaries on a consolidated basis, in either case, as determined and consolidated in accordance with GAAP.

Solvent shall mean, with respect to any Person on a particular date, that on such date (i) such Person is able to realize upon its assets and pay its debts and other liabilities as they mature in the normal course of business, and (ii) such Person has not incurred debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature.

Standard & Poor's shall mean Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and its successors.

Standby Letter of Credit shall mean a Letter of Credit issued to support obligations of one or more of the Loan Parties, contingent or otherwise, which finance the working capital and business needs of the Loan Parties incurred in the ordinary course of business, but excluding any Letter of Credit under which the stated amount of such Letter of Credit increases automatically over time.

Subsidiary of any Person at any time shall mean (i) any corporation or trust of which 50% or more (by number of shares or number of votes) of the outstanding capital stock or shares of beneficial interest normally entitled to vote for the election of one or more directors or trustees (regardless of any contingency which does or may suspend or dilute the voting rights) is at such time owned directly or indirectly by such Person or one or

more of such Person's Subsidiaries, (ii) any partnership of which such Person is a general partner or of which 50% or more of the partnership interests is at the time directly or indirectly owned by such Person or one or more of such Person's Subsidiaries, (iii) any limited liability company of which such Person is a member or of which 50% or more of the limited liability company interests is at the time directly or indirectly owned by such Person or one or more of such Person's Subsidiaries or (iv) any corporation, trust, partnership, limited liability company or other entity which is controlled or capable of being controlled by such Person or one or more of such Person's Subsidiaries.

Subsidiary Shares shall have the meaning assigned to that term in Section 6.1.2.

Swing Loan Commitment shall mean PNC Bank's commitment to make Swing Loans to the Borrower pursuant to Section 2.1.2 hereof in an aggregate principal amount up to \$50,000,000.

Swing Loan Interest Rate shall mean as to each Swing Loan the rate of interest quoted by PNC Bank applicable thereto and accepted by the Borrower with respect to such Swing Loan.

Swing Loan Note shall mean the Swing Loan Note of the Borrower in the form of Exhibit 1.1(S) evidencing the Swing Loans, together with all amendments, extensions, renewals, replacements, refinancings or refundings thereof in whole or in part.

Swing Loan Request shall mean a request for Swing Loans made in accordance with Section 2.5 hereof.

Swing Loans shall mean collectively and Swing Loan shall mean separately all Swing Loans or any Swing Loan made by PNC Bank to the Borrower pursuant to Section 2.1.2 hereof.

Transferor Bank shall mean the selling Bank pursuant to an Assignment and Assumption Agreement.

Unregulated Subsidiary shall mean any Subsidiary of the Borrower other than New Jersey Natural Gas.

USA Patriot Act shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

1.2 Construction.

Unless the context of this Agreement otherwise clearly requires, the following rules of construction shall apply to this Agreement and each of the other Loan Documents:

1.2.1. Number; Inclusion.

references to the plural include the singular, the plural, the part and the whole; "or" has the inclusive meaning represented by the phrase "and/or" and "including" has the meaning represented by the phrase "including without limitation";

1.2.2. Determination.

references to "determination" of or by the Agent or the Banks shall be deemed to include good-faith estimates by the Agent or the Banks (in the case of quantitative determinations) and good-faith

beliefs by the Agent or the Banks (in the case of qualitative determinations) and such determination shall be conclusive absent manifest error;

1.2.3. Agent's Discretion and Consent.

whenever the Agent or the Banks are granted the right herein to act in its or their sole discretion or to grant or withhold consent such right shall be exercised in good faith;

1.2.4. Documents Taken as a Whole.

the words "hereof," "herein," "hereunder," "hereto," and similar terms in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document as a whole and not to any particular provision of this Agreement or such other Loan Document;

1.2.5. Headings.

the section and other headings contained in this Agreement or such other Loan Document and the Table of Contents (if any), preceding this Agreement or such other Loan Document are for reference purposes only and shall not control or affect the construction of this Agreement or such other Loan Document or the interpretation thereof in any respect;

1.2.6. Implied References to this Agreement.

article, section, subsection, clause, schedule and exhibit references are to this Agreement or other Loan Document, as the case may be, unless otherwise specified;

1.2.7. Persons.

reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement or such other Loan Document, as the case may be, and reference to a Person in a particular capacity excludes such Person in any other capacity;

1.2.8. Modifications to Documents.

reference to any agreement (including this Agreement and any other Loan Document together with the schedules and exhibits hereto or thereto), document or instrument means such agreement, document or instrument as amended, modified, replaced, substituted for, superseded or restated;

1.2.9. From, To and Through.

relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including"; and

1.2.10. Shall; Will.

references to "shall" and "will" are intended to have the same meaning.

1.3 Accounting Principles.

Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters and all financial statements to be delivered pursuant to this Agreement shall be made and prepared in accordance with GAAP (including principles of consolidation where appropriate), and all accounting or financial terms shall have the meanings ascribed to such terms by GAAP; provided, however, that all accounting terms used in Section 8.2 [Negative Covenants] (and all defined terms used in the definition of any accounting term used in Section 8.2) shall have the meaning given to such terms (and defined terms) under GAAP as in effect on the date hereof applied on a basis consistent with those used in preparing the Annual Statements referred to in Section 6.1.8.1 [Historical Statements]. In the event of any change after the date hereof in GAAP, and if such change would result in the inability to determine compliance with the financial covenants set forth in Section 8.2 based upon the Borrower's regularly prepared financial statements by reason of the preceding sentence, then the parties hereto agree to endeavor, in good faith, to agree upon an amendment to this Agreement that would adjust such financial covenants in a manner that would not affect the substance thereof, but would allow compliance therewith to be determined in accordance with the Borrower's financial statements at that time.

2. REVOLVING CREDIT AND SWING LOAN FACILITIES

2.1 Commitments.

2.1.1. Revolving Credit Loans.

Subject to the terms and conditions hereof and relying upon the representations and warranties herein set forth, each Bank severally agrees to make Revolving Credit Loans to the Borrower at any time or from time to time on or after the date hereof to the Expiration Date, provided that, after giving effect to each such Revolving Credit Loan the aggregate amount of Revolving Credit Loans from such Bank shall not exceed such Bank's Revolving Credit Commitment minus such Bank's Ratable Share of the amount of Letters of Credit Outstanding; and provided further that the Revolving Facility Usage at any time shall not exceed the Revolving Credit Commitments of all the Banks. Within such limits of time and amount and subject to the other provisions of this Agreement, the Borrower may borrow, repay and reborrow pursuant to this Section 2.1.1. The outstanding principal amount of all Revolving Credit Loans, together with accrued interest thereon, shall be due and payable on the Expiration Date.

2.1.2. Swing Loan Commitment.

Subject to the terms and conditions hereof and relying upon the representations and warranties herein set forth, PNC Bank agrees to make Swing Loans to the Borrower at any time or from time to time after the date hereof to, but not including, the Expiration Date, in an aggregate principal amount of up to but not in excess of the Swing Loan Commitment, provided that the Revolving Facility Usage at any time shall not exceed the Revolving Credit Commitments of all the Banks. Within such limits of time and amount and subject to the other provisions of this Agreement, the Borrower may borrow, repay and reborrow pursuant to this Section 2.1.2. The outstanding principal amount of all Swing Loans, together with accrued interest thereon, shall be due and payable on the earlier of the Settlement Date applicable thereto or the Expiration Date.

2.2 Nature of Banks' Obligations with Respect to Revolving Credit Loans.

Each Bank shall be obligated to participate in each request for Revolving Credit Loans pursuant to Section 2.4 [Revolving Credit Loan Requests] in accordance with its Ratable Share. The aggregate amount of each Bank's Revolving Credit Loans outstanding hereunder to the Borrower at any time shall never exceed its Revolving Credit Commitment minus its Ratable Share of the amount of Letters of Credit Outstanding. The obligations of each

Bank hereunder are several. The failure of any Bank to perform its obligations hereunder shall not affect the Obligations of the Borrower to any other party nor shall any other party be liable for the failure of such Bank to perform its obligations hereunder. The Banks shall have no obligation to make Revolving Credit Loans hereunder on or after the Expiration Date.

2.3 Facility Fees.

Accruing from the date hereof until the Expiration Date, the Borrower agrees to pay to the Agent for the account of each Bank, as consideration for such Bank's Revolving Credit Commitment hereunder, a nonrefundable facility fee (the "Facility Fee") equal to the Applicable Facility Fee Rate (computed on the basis of a year of 360 days and actual days elapsed) on the average daily amount of such Bank's Revolving Credit Commitment as the same may be constituted from time to time. All Facility Fees shall be payable quarterly in arrears on the first day of each January, April, July and October after the date hereof and on the Expiration Date or upon acceleration of the Loans.

2.4 Revolving Credit Loan Requests.

Except as otherwise provided herein, the Borrower may from time to time prior to the Expiration Date request the Banks to make Revolving Credit Loans or renew or convert the Interest Rate Option applicable to existing Revolving Credit Loans pursuant to Section 4.2 [Interest Periods], by delivering to the Agent, not later than 10:00 a.m., Pittsburgh time, (i) three (3) Business Days prior to the proposed Borrowing Date with respect to the making of Revolving Credit Loans to which the LIBOR Rate Option applies or the date of conversion to or the renewal of the LIBOR Rate Option for any such Loans; and (ii) one (1) Business Day prior to either the proposed Borrowing Date with respect to the making of a Revolving Credit Loan to which the Base Rate Option applies or the last day of the preceding Interest Period with respect to the conversion to the Base Rate Option for any Loan, of a Loan Request therefor duly completed by an Authorized Officer or an individual previously designated by an Authorized Officer substantially in the form of Exhibit 2.4 or a Loan Request by telephone immediately confirmed in writing by letter, facsimile or telex in the form of such Exhibit, it being understood that the Agent may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation, provided such individual purports to be an Authorized Officer or an individual previously designated by an Authorized Officer as having such authority. Each Loan Request shall be irrevocable and shall specify (i) the proposed Borrowing Date; (ii) the aggregate amount of the proposed Revolving Credit Loans comprising each Borrowing Tranche, the amount of which shall be in integral multiples of \$1,000,000 and not less than \$3,000,000 for each Borrowing Tranche to which the LIBOR Rate Option applies and not less than the lesser of \$1,000,000 and in integral multiples of \$100,000 or the maximum amount available for Borrowing Tranches to which the Base Rate Option applies; (iii) whether the LIBOR Rate Option or Base Rate Option shall apply to the proposed Loans comprising the applicable Borrowing Tranche; and (iv) in the case of a Borrowing Tranche to which the LIBOR Rate Option applies, an appropriate Interest Period for the Loans comprising such Borrowing Tranche.

2.5 Swing Loan Requests.

Except as otherwise provided herein, the Borrower may from time to time prior to the Expiration Date request PNC Bank to make a Swing Loan by delivery to PNC Bank, not later than 12:00 noon Pittsburgh time, on the proposed Borrowing Date of a request therefor duly completed by an Authorized Officer or an individual previously designated by an Authorized Officer substantially in the form of Exhibit 2.5 hereto or a request by telephone immediately confirmed in writing by letter, facsimile or telex, it being understood that PNC Bank may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation, provided such individual purports to be an Authorized Officer or an individual previously designated by an Authorized Officer as having such authority. Each Swing Loan Request shall be irrevocable and shall specify (i) the proposed Borrowing Date, (ii) the term of the proposed Swing Loan, which shall be no less than one day and no longer than seven (7) days, and (iii) the principal amount of such Swing Loan, which shall not be less than \$250,000 and shall be an integral multiple of \$100,000.

2.6. Making Revolving Credit Loans and Swing Loans.

2.6.1. Making Revolving Credit Loans.

The Agent shall, promptly after receipt by it of a Loan Request for or with respect to Revolving Credit Loans pursuant to Section 2.4 [Revolving Credit Loan Requests], notify the Banks with Revolving Credit Commitments of its receipt of such Loan Request specifying: (i) the proposed Borrowing Date and the time and method of disbursement of the Revolving Credit Loans requested thereby; (ii) the amount and type of each such Revolving Credit Loan and the applicable Interest Period (if any); and (iii) the apportionment among the Banks of such Revolving Credit Loans as determined by the Agent in accordance with Section 2.2 [Nature of Banks' Obligations etc.]. Each Bank shall remit the principal amount of each Revolving Credit Loan to the Agent such that the Agent is able to, and the Agent shall, to the extent the Banks have made funds available to it for such purpose and subject to Section 7.2 [Each Additional Loan or Letter of Credit], fund such Revolving Credit Loans to the Borrower in U.S. Dollars and immediately available funds at the Principal Office prior to 2:00 p.m., Pittsburgh time, on the applicable Borrowing Date, provided that if any Bank fails to remit such funds to the Agent in a timely manner, the Agent may elect in its sole discretion to fund with its own funds the Revolving Credit Loans of such Bank on such Borrowing Date, and such Bank shall be subject to the repayment obligation in Section 10.16 [Availability of Funds].

2.6.2. Making Swing Loans.

So long as PNC Bank elects to make Swing Loans, PNC Bank shall, after receipt by it of a Swing Loan Request pursuant to Section 2.5 fund such Swing Loan to the Borrower in U.S. Dollars and immediately available funds at the Principal Office prior to 2:00 p.m. Pittsburgh time on the Borrowing Date. Each Swing Loan shall bear interest at the Swing Loan Interest Rate applicable thereto.

2.7 Swing Loan Note.

The obligation of the Borrower to repay the unpaid principal amount of the Swing Loans made to it by PNC Bank together with interest thereon shall be evidenced by a demand promissory note of the Borrower dated the Closing Date in substantially the form attached hereto as Exhibit 1.1(S) payable to the order of PNC Bank in a face amount equal to the Swing Loan Commitment.

2.8 Use of Proceeds.

The proceeds of the Loans shall be used by the Borrower for general corporate purposes (including Permitted Investments in any Loan Party or in any Project Subsidiary) of the Borrower and in accordance with Section 8.1.10 [Use of Proceeds].

2.9 Letter of Credit Subfacility.

2.9.1. Issuance of Letters of Credit.

Borrower may request the issuance of a letter of credit (each a "Letter of Credit") on behalf of itself by delivering to the Agent an application and agreement for letters of credit in such form as the Agent may specify from time to time duly completed by an Authorized Officer or an individual previously designated by an Authorized Officer by no later than 10:00 a.m., Pittsburgh time, at least five (5) Business Days, or such shorter period as may be agreed to by the Agent, in advance of the proposed date of issuance. Each Letter of Credit shall be a Standby Letter of Credit (and may not be a Commercial Letter of Credit). Subject to the terms and conditions hereof and in reliance on the agreements of the other Banks set forth in this Section 2.9, the Agent or any of the Agent's Affiliates reasonably acceptable to Borrower will issue a Letter of Credit provided that each Letter of

Credit shall (A) have a maximum maturity of twelve (12) months from the date of issuance, and (B) in no event expire later than ten (10) Business Days prior to the Expiration Date and provided, further, that in no event shall the Revolving Facility Usage exceed, at any one time, the Revolving Credit Commitments.

2.9.2. Letter of Credit Fees.

The Borrower shall pay (i) to the Agent for the ratable account of the Banks a fee (the "Letter of Credit Fee") equal to the Applicable Letter of Credit Fee Rate then in effect (computed on the basis of a year of 360 days and actual days elapsed) per annum, and (ii) to the Agent for its own account a fronting fee equal to 0.125% per annum (computed on the basis of a year of 360 days and actual days elapsed), which fees shall be computed on the daily average amount of Letters of Credit Outstanding and shall be payable quarterly in arrears commencing with the first Business Day of each January, April, July and October following issuance of each Letter of Credit and on the Expiration Date. The Borrower shall also pay to the Agent for the Agent's sole account the Agent's then in effect customary fees and administrative expenses payable with respect to the Letters of Credit as the Agent may generally charge or incur from time to time in connection with the issuance, maintenance, modification (if any), assignment or transfer (if any), negotiation, and administration of Letters of Credit.

2.9.3. Disbursements, Reimbursement.

2.9.3.1 Immediately upon the issuance of each Letter of Credit, each Bank shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Agent a participation in such Letter of Credit and each drawing thereunder in an amount equal to such Bank's Ratable Share of the maximum amount available to be drawn under such Letter of Credit and the amount of such drawing, respectively.

2.9.3.2 In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, the Agent will promptly notify the Borrower. Provided that it shall have received such notice, the Borrower shall reimburse (such obligation to reimburse the Agent shall sometimes be referred to as a "Reimbursement Obligation") the Agent prior to 12:00 noon, Pittsburgh time on each date that an amount is paid by the Agent under any Letter of Credit (each such date, an "Drawing Date") in an amount equal to the amount so paid by the Agent. In the event the Borrower fails to reimburse the Agent for the full amount of any drawing under any Letter of Credit by 12:00 noon, Pittsburgh time, on the Drawing Date, the Agent will promptly notify each Bank thereof, and the Borrower shall be deemed to have requested that Revolving Credit Loans be made by the Banks under the Base Rate Option to be disbursed on the Drawing Date under such Letter of Credit, subject to the amount of the unutilized portion of the Revolving Credit Commitment and subject to the conditions set forth in Section 7.2 [Each Additional Loan] other than any notice requirements. Any notice given by the Agent pursuant to this Section 2.9.3.2 may be oral if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

2.9.3.3 Each Bank shall upon any notice pursuant to Section 2.9.3.2 make available to the Agent an amount in immediately available funds equal to its Ratable Share of the amount of the drawing, whereupon the participating Banks shall (subject to Section 2.9.3.4) each be deemed to have made a Revolving Credit Loan under the Base Rate Option to the Borrower in that amount. If any Bank so notified fails to make available to the Agent for the account of the Agent the amount of such Bank's Ratable Share of such amount by no later than 2:00 p.m., Pittsburgh time on the Drawing Date, then interest shall accrue on such Bank's obligation to make such payment, from the Drawing Date to the date on which such Bank makes such payment (i) at a rate per annum equal to the Federal Funds Effective Rate during the first three (3) days following the Drawing Date and (ii) at a rate per annum equal to the rate applicable to Loans under the Base Rate Option on and after the fourth (4th) day following the Drawing Date. The Agent will promptly give notice of the occurrence of the Drawing Date, but failure of the Agent to give any such notice on the Drawing Date or in sufficient time to enable any Bank to effect such payment on such date shall not relieve such Bank from its obligation under this Section 2.9.3.3, provided, however, interest shall not accrue on any Bank's obligation to make a payment under this Section 2.9.3.3, until such Bank has received notice of the Drawing Date from the Agent.

2.9.3.4 With respect to any unreimbursed drawing that is not converted into Revolving Credit Loans under the Base Rate Option to the Borrower in whole or in part as contemplated by Section 2.9.3.2, because of the Borrower's failure to satisfy the conditions set forth in Section 7.2 [Each Additional Loan or Letter of Credit] other than any notice requirements or for any other reason, the Borrower shall be deemed to have incurred from the Agent a borrowing (each a "Letter of Credit Borrowing") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to the Revolving Credit Loans under the Base Rate Option. Each Bank's payment to the Agent pursuant to Section 2.9.3.3 shall be deemed to be a payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a "Participation Advance" from such Bank in satisfaction of its participation obligation under this Section 2.9.3.

2.9.4. Repayment of Participation Advances.

2.9.4.1 Upon (and only upon) receipt by the Agent for its account of immediately available funds from the Borrower (i) in reimbursement of any payment made by the Agent under the Letter of Credit with respect to which any Bank has made a Participation Advance to the Agent, or (ii) in payment of interest on such a payment made by the Agent under such a Letter of Credit, the Agent will pay to each Bank, in the same funds as those received by the Agent, the amount of such Bank's Ratable Share of such funds, except the Agent shall retain the amount of the Ratable Share of such funds of any Bank that did not make a Participation Advance in respect of such payment by Agent.

2.9.4.2 If the Agent is required at any time to return to any Loan Party, or to a trustee, receiver, liquidator, custodian, or any official in any Insolvency Proceeding, any portion of the payments made by any Loan Party to the Agent pursuant to Section 2.9.4.1 in reimbursement of a payment made under the Letter of Credit or interest or fee thereon, each Bank shall, on demand of the Agent, forthwith return to the Agent the amount of its Ratable Share of any amounts so returned by the Agent plus interest thereon from the date such demand is made to the date such amounts are returned by such Bank to the Agent, at a rate per annum equal to the Federal Funds Effective Rate in effect from time to time.

2.9.5. Documentation.

Each Loan Party agrees to be bound by the terms of the Agent's application and agreement for letters of credit and the Agent's written regulations and customary practices relating to letters of credit, though such interpretation may be different from such Loan Party's own. In the event of a conflict between such application or agreement and this Agreement, this Agreement shall govern. It is understood and agreed that, except in the case of gross negligence or willful misconduct, the Agent shall not be liable for any error and/or mistakes, whether of omission or commission, in following any Loan Party's written instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto, provided that each Loan Party agrees that all instructions provided to the Agent by a Loan Party with respect to any Letter of Credit shall be provided in writing.

2.9.6. Determinations to Honor Drawing Requests.

In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, the Agent shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit.

2.9.7. Nature of Participation and Reimbursement Obligations.

Each Bank's obligation in accordance with this Agreement to make the Revolving Credit Loans or Participation Advances, as contemplated by Section 2.9.3, as a result of a drawing under a Letter of Credit, and the Obligations of the Borrower to reimburse the Agent upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.9 under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such Bank may have against the Agent or any of its Affiliates, the Borrower or any other Person for any reason whatsoever;

(ii) the failure of any Loan Party or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions applicable to Revolving Credit Loans set forth in Section 2.1.1 [Revolving Credit Loans], 2.4 [Revolving Credit Loan Requests], [2.6](#) [Making Revolving Credit Loans and Swing Loans] or [7.2](#) [Each Additional Loan or Letter of Credit] or as otherwise set forth in this Agreement for the making of a Revolving Credit Loan, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of the Banks to make Participation Advances under Section 2.9.3 [Disbursements; Reimbursement];

(iii) any lack of validity or enforceability of any Letter of Credit;

(iv) any claim of breach of warranty that might be made by any Loan Party or any Bank against any beneficiary of a Letter of Credit, or the existence of any claim, set-off, recoupment, counterclaim, crossclaim, defense or other right which any Loan Party or any Bank may have at any time against a beneficiary, successor beneficiary any transferee or assignee of any Letter of Credit or the proceeds thereof (or any Persons for whom any such transferee may be acting), the Agent or its Affiliates or any Bank or any other Person or, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between any Loan Party or Subsidiaries of a Loan Party and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of (or any defect in or forgery of any signature or endorsement on) or the form of or lack of validity, sufficiency, accuracy, enforceability or genuineness of any draft, demand, instrument, certificate or other document presented under or in connection with any Letter of Credit, or any fraud or alleged fraud in connection with any Letter of Credit, or the transport of any property or provisions of services relating to a Letter of Credit, in each case even if the Agent or any of the Agent's Affiliates has been notified thereof;

(vi) payment by the Agent or any of its Affiliates under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit;

(vii) the solvency of, or any acts of omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by the Agent or any of Agent's Affiliates to issue any Letter of Credit in the form requested by any Loan Party, unless the Agent has received written notice from such Loan Party of such failure within three Business Days after the Agent shall have furnished such Loan Party a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of any Loan Party or Subsidiaries of a Loan Party;

(x) any breach of this Agreement or any other Loan Document by any party thereto;

(xi) the occurrence or continuance of an Insolvency Proceeding with respect to any Loan Party;

(xii) the fact that an Event of Default or a Potential Default shall have occurred and be continuing;

(xiii) the fact that the Expiration Date shall have passed or this Agreement or the Commitments hereunder shall have been terminated; and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

Notwithstanding the foregoing, no Bank shall be required to make a Revolving Credit Advance or a Participation Advance in excess of its Revolving Credit Commitment minus its Ratable Share of any Letters of Credit Outstanding.

2.9.8. Indemnity.

In addition to amounts payable as provided in Section 10.5 [Reimbursement and Indemnification of Agent by the Borrower], the Borrower hereby agrees to protect, indemnify, pay and save harmless the Agent and any of Agent's Affiliates that has issued a Letter of Credit from and against any and all claims, demands, liabilities, damages, taxes, penalties, interest, judgments, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which the Agent or any of Agent's Affiliates may incur or be subject to as a consequence of the issuance of any Letter of Credit, other than as a result of (A) the gross negligence or willful misconduct of the Agent as determined by a final judgment of a court of competent jurisdiction or (B) the wrongful dishonor by the Agent or any of Agent's Affiliates of a proper demand for payment made under any Letter of Credit, except if such dishonor resulted from any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or governmental authority (all such acts or omissions herein called "Governmental Acts").

2.9.9. Liability for Acts and Omissions.

As between any Loan Party and the Agent, or the Agent's Affiliates, such Loan Party assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, the Agent shall not be responsible for any of the following including any losses or damages to any Loan Party or other Person or property relating therefrom: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if the Agent or the Agent's Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of any Loan Party against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among any Loan Party and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Agent or the Agent's Affiliates, as applicable, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of the Agent's or the Agent's Affiliates rights or powers hereunder. Nothing in the preceding sentence shall relieve the Agent from liability for the Agent's gross negligence or willful misconduct in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall the Agent or the Agent's Affiliates be liable to any Loan Party for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

Without limiting the generality of the foregoing, the Agent and each of its Affiliates (i) may rely on any oral or other communication believed in good faith by the Agent or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by the Agent or its Affiliate; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on the Agent or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a carrier or any similar document (each an "Order") and honor any drawing in connection with any Letter of Credit that is the subject to such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by the Agent or the Agent's Affiliates under or in connection with the Letters

of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not put the Agent or the Agent's Affiliates under any resulting liability to the Borrower or any Bank.

2.10 Borrowings to Repay Swing Loans.

PNC Bank may, at its option, exercisable at any time for any reason whatsoever, demand repayment of the Swing Loans, and each Bank shall make a Revolving Credit Loan in an amount equal to such Bank's Ratable Share of the aggregate principal amount of the outstanding Swing Loans, plus, if PNC Bank so requests, accrued interest thereon, provided that no Bank shall be obligated in any event to make Revolving Credit Loans in excess of its Revolving Credit Commitment minus such Bank's Ratable Share of the amount of Letters of Credit Outstanding. Revolving Credit Loans made pursuant to the preceding sentence shall bear interest at the Base Rate Option and shall be deemed to have been properly requested in accordance with Section 2.4 without regard to any of the requirements of that provision. PNC Bank shall provide notice to the Banks (which may be telephonic or written notice by letter, facsimile or telex) that such Revolving Credit Loans are to be made under this Section 2.10 and of the apportionment among the Banks, and the Banks shall be unconditionally obligated to fund such Revolving Credit Loans (whether or not the conditions specified in Section 2.4 or Section 7.2 are then satisfied) by the time PNC Bank so requests, which shall not be earlier than 3:00 p.m. Pittsburgh time on the Business Day next after the date the Banks receive such notice from PNC Bank.

2.11 Right to Increase Commitments.

Provided that there is no Event of Default or Potential Default, if the Borrower wishes to increase the Revolving Credit Commitments, the Borrower shall notify the Agent thereof, provided that any such increase shall be in a minimum of \$5,000,000 and the aggregate of all such increases in the Revolving Credit Commitments shall not exceed \$100,000,000 from and after the Closing Date. Each Bank shall have the right at any time within fifteen (15) days following such notice to increase its respective Revolving Credit Commitment so as to provide such added commitment pro rata in accordance with such Bank's Ratable Share, and any portion of such requested increase that is not provided by any Bank shall: (i) first be available to the other Banks pro rata in accordance with their Ratable Share, (ii) next be available to the other Banks in such a manner as the Borrower, the Agent and those Banks shall agree, and (iii) thereafter, to the extent not provided by the Banks, to any additional bank proposed by the Borrower, which is approved by the Agent (which approval shall not be unreasonably withheld) and that becomes a party to this Agreement pursuant to Section [11.11](#) [Successors and Assigns; Joinder of a Bank]. In the event of any such increase in the aggregate Revolving Credit Commitments effected pursuant to the terms of this Section 2.11, new Notes shall, to the extent necessary, be executed and delivered by the Borrower in exchange for the surrender of the existing Notes. In addition, Borrower shall deliver to Agent a Secretary's Certificate, including resolutions, a confirmation of Guaranty Agreement executed by the Guarantors, a legal opinion and such other documentation as the Agent reasonably may require, all of which shall be in form and substance satisfactory to the Agent.

3. INTENTIONALLY OMITTED

4. INTEREST RATES

4.1 Interest Rate Options.

The Borrower shall pay interest in respect of the outstanding unpaid principal amount of the Loans as selected by it from the Base Rate Option or LIBOR Rate Option set forth below applicable to the Loans, it being understood that, subject to the provisions of this Agreement, the Borrower may select different Interest Rate Options and different Interest Periods to apply simultaneously to the Loans comprising different Borrowing Tranches and may convert to or renew one or more Interest Rate Options with respect to all or any portion of the comprising any

Borrowing Tranche, provided that there shall not be at any one time outstanding more than ten (10) Borrowing Tranches in the aggregate among all of the Loans, and provided further that only the Swing Loan Interest Rate shall apply to the Swing Loans. If at any time the designated rate applicable to any Loan made by any Bank exceeds such Bank's highest lawful rate, the rate of interest on such Bank's Loan shall be limited to such Bank's highest lawful rate.

4.1.1. Revolving Credit Interest Rate Options.

The Borrower shall have the right to select from the following Interest Rate Options applicable to the Revolving Credit Loans (subject to the provision above regarding Swing Loans):

(i) Base Rate Option: A fluctuating rate per annum (computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed) equal to the Base Rate plus the Applicable Margin, such interest rate to change automatically from time to time effective as of the effective date of each change in the Base Rate; or

(ii) LIBOR Rate Option: A rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to the LIBOR Rate plus the Applicable Margin.

Notwithstanding the foregoing, if any Event of Default has occurred and is continuing, no Loan may be made, converted to or renewed under any LIBOR Rate Option.

4.1.2. Rate Quotations.

The Borrower may call the Agent on or before the date on which a Loan Request is to be delivered to receive an indication of the interest rates then in effect, but it is acknowledged that such projection shall not be binding on the Agent or the Banks nor affect the rate of interest which thereafter is actually in effect when the election is made.

4.1.3. Change in Fees or Interest Rates.

If the Applicable Margin, Applicable Letter of Credit Fee Rate or Applicable Facility Fee Rate is increased or reduced with respect to any period for which the Borrower has already paid interest, the Facility Fee or the Letter of Credit Fee, the Agent shall recalculate the additional interest, Facility Fee or Letter of Credit Fee due from or to the Borrower and shall, within fifteen (15) Business Days after the Borrower notifies the Agent of such increase or decrease, give the Borrower and the Banks notice of such recalculation.

4.1.3.1 Any additional interest, Facility Fee or Letter of Credit Fee due from the Borrower shall be paid to the Agent for the account of the Banks on the next date on which an interest or fee payment is due; provided, however, that if there are no Loans outstanding or if the Loans are due and payable, such additional interest, Facility Fee or Letter of Credit Fee shall be paid promptly after receipt of written request for payment from the Agent.

4.1.3.2 Any interest, Facility Fee or Letter of Credit Fee refund due to the Borrower shall be credited against payments otherwise due from the Borrower on the next interest or fee payment due date or, if the Loans have been repaid and the Banks are no longer committed to lend under this Agreement, the Banks shall pay the Agent for the account of the Borrower such interest, Facility Fee or Letter of Credit Fee refund not later than five Business Days after written notice from the Agent to the Banks.

4.2 Interest Periods.

At any time when the Borrower shall select, convert to or renew a LIBOR Rate Option, the Borrower shall notify the Agent thereof by delivering a Loan Request at least three (3) Business Days prior to the effective date of such Interest Rate Option. The notice shall specify an Interest Period during which such Interest Rate Option shall apply. Notwithstanding the preceding sentence, the following provisions shall apply to any selection of, renewal of, or conversion to a LIBOR Rate Option:

4.2.1. Amount of Borrowing Tranche.

the amount of each Borrowing Tranche of Loans to which a LIBOR Rate Option applies shall be in integral multiples of \$1,000,000 and not less than \$3,000,000;

4.2.2. Renewals.

in the case of the renewal of a LIBOR Rate Option at the end of an Interest Period, the first day of the new Interest Period shall be the last day of the preceding Interest Period, without duplication in payment of interest for such day.

4.3 Interest After Default.

To the extent permitted by Law, upon the occurrence of an Event of Default and until such time such Event of Default shall have been cured or waived:

4.3.1. Letter of Credit Fees, Interest Rate.

the Letter of Credit Fee and the rate of interest for each Loan otherwise applicable pursuant to Section 2.9.2 [Letter of Credit Fees] or Section 4.1 [Interest Rate Options], respectively, shall be increased by 2.0% per annum; and

4.3.2. Other Obligations.

each other Obligation hereunder if not paid when due shall bear interest at a rate per annum equal to the sum of the rate of interest applicable under the Base Rate Option plus an additional 2% per annum from the time such Obligation becomes due and payable and until it is paid in full.

4.3.3. Acknowledgment.

The Borrower acknowledges that the increase in rates referred to in this Section 4.3 reflects, among other things, the fact that such Loans or other amounts have become a substantially greater risk given their default status and that the Banks are entitled to additional compensation for such risk; and all such interest shall be payable by Borrower upon demand by Agent.

4.4 LIBOR Rate Unascertainable; Illegality; Increased Costs; Deposits Not Available.

4.4.1. Unascertainable.

If on any date on which a LIBOR Rate would otherwise be determined with respect to Loans, the Agent shall have determined that:

- (i) adequate and reasonable means do not exist for ascertaining such LIBOR Rate, or
- (ii) a contingency has occurred which materially and adversely affects the London interbank eurodollar market relating to the LIBOR Rate, the Agent shall have the rights specified in Section 4.4.3.

4.4.2. Illegality; Increased Costs; Deposits Not Available.

If at any time any Bank shall have determined that:

- (i) the making, maintenance or funding of any Loan to which a LIBOR Rate Option applies has been made unlawful or materially impracticable by compliance by such Bank in good faith with any Law or any interpretation or application thereof by any Official Body or with any request or directive of any such Official Body (whether or not having the force of Law), or
- (ii) such LIBOR Rate Option will not adequately and fairly reflect the cost to such Bank of the establishment or maintenance of any such Loan in a material respect, or
- (iii) after making all reasonable efforts, deposits of the relevant amount in Dollars for the relevant Interest Period for a Loan, or to banks generally, to which a LIBOR Rate Option applies, respectively, are not available to such Bank with respect to such Loan, or to banks generally, in the interbank eurodollar market,

then the Agent shall have the rights specified in Section 4.4.3.

4.4.3. Agent's and Banks' Rights.

In the case of any event specified in Section 4.4.1 above, the Agent shall promptly so notify the Banks and the Borrower thereof, and in the case of an event specified in Section 4.4.2 above, such Bank shall promptly so notify the Agent and endorse a certificate to such notice as to the specific circumstances of such notice, and the Agent shall promptly send copies of such notice and certificate to the other Banks and the Borrower. Upon such date as shall be specified in such notice (which shall not be earlier than the date such notice is given), the obligation of (A) the Banks, in the case of such notice given by the Agent, or (B) such Bank, in the case of such notice given by such Bank, to allow the Borrower to select, convert to or renew a LIBOR Rate Option shall be suspended until the Agent shall have later notified the Borrower, or such Bank shall have later notified the Agent, of the Agent's or such Bank's, as the case may be, determination that the circumstances giving rise to such previous determination no longer exist. If at any time the Agent makes a determination under Section 4.4.1 and the Borrower has previously notified the Agent of its selection of, conversion to or renewal of a LIBOR Rate Option and such

Interest Rate Option has not yet gone into effect, such notification shall be deemed to provide for the selection of, conversion to or renewal of the Base Rate Option otherwise available with respect to such Loans if the Borrower has requested the LIBOR Rate Option. If any Bank notifies the Agent of a determination under Section 4.4.2, the Borrower shall, subject to the Borrower's indemnification Obligations under Section 5.6.2 [Indemnity], as to any Loan of the Bank to which a LIBOR Rate Option applies, on the date specified in such notice either (i) as applicable, convert such Loan to the Base Rate Option otherwise available with respect to such Loan, or (ii) prepay such Loan in accordance with Section 5.4.1 [Voluntary Prepayments]. Absent due notice from the Borrower of conversion or prepayment, such Loan shall automatically be converted to the Base Rate Option otherwise available with respect to such Loan upon such specified date.

4.5 Selection of Interest Rate Options.

If the Borrower fails to select a new Interest Period to apply to any Borrowing Tranche of Loans under the LIBOR Rate Option at the expiration of an existing Interest Period applicable to such Borrowing Tranche in accordance with the provisions of Section 4.2 [Interest Periods], the Borrower shall be deemed to have converted such Borrowing Tranche to the Base Rate Option, commencing upon the last day of the existing Interest Period.

5. PAYMENTS

5.1 Payments.

All payments and prepayments to be made in respect of principal, interest, Facility Fees, Letter of Credit Fees, Agent's Fee or other fees or amounts due from the Borrower hereunder shall be payable prior to 11:00 a.m., Pittsburgh time, on the date when due without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Borrower, and without set-off, counterclaim or other deduction of any nature, and an action therefor shall immediately accrue. Such payments shall be made to the Agent at the Principal Office for the account of PNC Bank with respect to the Swing Loans and for the ratable accounts of the Banks with respect to the Revolving Credit Loans and in immediately available funds, and the Agent shall promptly distribute such amounts to the Banks in immediately available funds, provided that in the event payments are received by 11:00 a.m., Pittsburgh time, by the Agent with respect to the Loans and such payments are not distributed to the Banks on the same day received by the Agent, the Agent shall pay the Banks the Federal Funds Effective Rate, with respect to the amount of such payments for each day held by the Agent and not distributed to the Banks. The Agent's and each Bank's statement of account, ledger or other relevant record shall, in the absence of manifest error, be conclusive as the statement of the amount of principal of and interest on the Loans and other amounts owing under this Agreement and shall be deemed an "account stated."

5.2 Pro Rata Treatment of Banks.

Each borrowing of Revolving Credit Loans shall be allocated to each Bank according to its Ratable Share and each selection of, conversion to or renewal of any Interest Rate Option applicable to Revolving Credit Loans and each payment or prepayment by the Borrower with respect to principal or interest on the Revolving Credit Loans or Facility Fees, Letter of Credit Fees, or other fees (except for the Agent's Fee) or amounts due from the Borrower hereunder to the Banks with respect to the Revolving Credit Loans shall (except as provided in Section 4.4.3 [Agent's and Banks' Rights] in the case of an event specified in Section 4.4 [LIBOR Rate Unascertainable; Etc.], Section 5.4.2 [Replacement of a Bank] or Section 5.6 [Additional Compensation in Certain Circumstances]) be made in proportion to the applicable Revolving Credit Loans outstanding from each Bank and, if no such Loans are then outstanding, in proportion to the Ratable Share in the case of each Bank. Notwithstanding any of the foregoing, each borrowing or payment or prepayment by the Borrower of principal, interest, fees or other amounts from the Borrower with respect to Swing Loans shall be made by or to PNC Bank according to Section 2.

5.3 Interest Payment Dates.

Interest on Swing Loans and on Loans to which the Base Rate Option applies shall be due and payable quarterly in arrears on the first day of each January, April, July and October after the date hereof and on the Expiration Date or upon acceleration of the Loans. Interest on Loans to which the LIBOR Rate Option applies shall be due and payable on the last day of each Interest Period for those Loans and, if such Interest Period is longer than three (3) Months, also on the 90th day of such Interest Period.

5.4 Prepayments.

5.4.1. Voluntary Prepayments.

The Borrower shall have the right at its option from time to time to prepay the Loans in whole or part without premium or penalty (except as provided in Section 5.4.2 below or in Section 5.6 [Additional Compensation in Certain Circumstances]):

- (i) at any time with respect to Swing Loans or with respect to any Loan to which the Base Rate Option applies,
- (ii) on the last day of the applicable Interest Period with respect to Loans to which a LIBOR Rate Option applies, or
- (iii) on the date specified in a notice by any Bank pursuant to Section 4.4 [LIBOR Rate Unascertainable, Etc.] with respect to any Loan to which a LIBOR Rate Option applies.

Whenever the Borrower desires to prepay any part of the Loans, it shall provide a prepayment notice to the Agent by 1:00 p.m., Pittsburgh time, at least one (1) Business Day prior to the date of prepayment of the Revolving Credit Loans or no later than 2:00 p.m., Pittsburgh time, on the date of prepayment of Swing Loans setting forth the following information:

- (w) the date, which shall be a Business Day, on which the proposed prepayment is to be made;
- (x) a statement indicating the application of the prepayment among the Revolving Credit Loans and Swing Loans;
- (y) the total principal amount of such prepayment which, with respect to Loans to which the Base Rate Option applies, shall not be less than \$500,000 for any Revolving Credit Loan and which, with respect to Swing Loans, shall not be less than \$500,000, and
- (z) the total principal amount of such prepayment, which, with respect to Loans to which the LIBOR Rate Option applies, shall not be less than \$1,000,000 for any Revolving Credit Loan.

All prepayment notices shall be irrevocable. The principal amount of the Loans for which a prepayment notice is given, together with interest on such principal amount except with respect to Loans to which the Base Rate Option applies, shall be due and payable on the date specified in such prepayment notice as the date on which the proposed prepayment is to be made. Except as provided in Section 4.4.3 [Agent's and Banks' Rights], if

the Borrower prepays a Loan but fails to specify the applicable Borrowing Tranche which the Borrower is prepaying, the prepayment shall be applied (i) first to Swing Loans and second to Revolving Credit Loans; and (ii) after giving effect to the allocations in clause (i) above and in the preceding sentence, first to Loans to which the Swing Loan Interest Rate applies, second to Loans to which the Base Rate Option applies, and then to Loans to which the LIBOR Rate Option applies. Any prepayment hereunder shall be subject to the Borrower's Obligation to indemnify the Banks under Section 5.6.2 [Indemnity].

5.4.2. Replacement of a Bank.

In the event any Bank (i) gives notice under Section 4.4 [LIBOR Rate Unascertainable, Etc.] or Section 5.6.1 [Increased Costs, Etc.], (ii) does not fund Revolving Credit Loans because the making of such Loans would contravene any Law applicable to such Bank, (iii) becomes subject to the control of an Official Body (other than normal and customary supervision), or (iv) causes the Borrower to pay, withhold or indemnify any Taxes or Other Taxes pursuant to Section 5.8, then the Borrower shall have the right at its option, with the consent of the Agent, which shall not be unreasonably withheld, to prepay the Loans of such Bank in whole, together with all interest accrued thereon, and terminate such Bank's Commitment within ninety (90) days after (w) receipt of such Bank's notice under Section 4.4 [LIBOR Rate Unascertainable, Etc.] or 5.6.1 [Increased Costs, Etc.], (x) the date such Bank has failed to fund Revolving Credit Loans because the making of such Loans would contravene Law applicable to such Bank, (y) the date such Bank became subject to the control of an Official Body, as applicable, or (z) the date such payment of Taxes or Other Taxes pursuant to Section 5.8 is due; provided that the Borrower shall also pay to such Bank at the time of such prepayment any amounts required under Section 5.6 [Additional Compensation in Certain Circumstances] and Section 5.8 [Taxes] and any accrued interest due on such amount and any related fees; provided, however, that the Commitment of such Bank shall be provided by one or more of the remaining Banks or a replacement bank reasonably acceptable to the Agent; provided, further, the remaining Banks shall have no obligation hereunder to increase their Commitments. Notwithstanding the foregoing, the Agent may only be replaced subject to the requirements of Section 10.14 [Successor Agent] and provided that all Letters of Credit have expired or been terminated or replaced.

5.4.3. Change of Lending Office.

Each Bank agrees that prior to giving notice to any claim for increased costs, indemnification or other special payments under Section 4.4.2 [Illegality, Etc.], 5.6.1 [Increased Costs, Etc.] or Section 5.8 [Taxes] with respect to such Bank, it will have initiated reasonable efforts (subject to overall policy considerations of such Bank) to designate another lending office for any Loans or Letters of Credit affected by such event, provided that such designation is made on such terms that such Bank and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of such Section. Nothing in this Section 5.4.3 shall affect or postpone any of the Obligations of the Borrower or any other Loan Party or the rights of the Agent or any Bank provided in this Agreement.

5.5 Voluntary Commitment Reductions.

The Borrower shall have the right, upon not less than five (5) Business Days' written irrevocable notice to the Agent, to terminate the Commitments or, from time to time, to reduce the amount of the Commitments, which notice shall specify the date and amount of any such reduction and otherwise be substantially in the form of Exhibit 5.5 (a "Commitment Reduction Notice"). Any such reduction shall be in a minimum amount equal to \$5,000,000 or an integral multiple thereof, provided, that the Revolving Credit Commitments may not be reduced below the aggregate principal amount of the Revolving Facility Usage. Each reduction of Revolving Credit Commitments shall ratably reduce the Revolving Credit Commitments of the Banks.

5.6 Additional Compensation in Certain Circumstances.

5.6.1. Increased Costs or Reduced Return Resulting From Taxes, Reserves, Capital Adequacy Requirements, Expenses, Etc.

If any Law, guideline or interpretation or any change in any Law, guideline or interpretation or application thereof by any Official Body charged with the interpretation or administration thereof or compliance with any request or directive (whether or not having the force of Law) of any central bank or other Official Body:

- (i) subjects any Bank to any tax or changes the basis of taxation with respect to this Agreement, the Loans or payments by the Borrower of principal, interest, Facility Fees, Letter of Credit Fees or other amounts due from the Borrower hereunder (except for taxes on the overall net income of such Bank),
- (ii) imposes, modifies or deems applicable any reserve, special deposit or similar requirement against credits or commitments to extend credit extended by, or assets (funded or contingent) of, deposits with or for the account of, or other acquisitions of funds by, any Bank or any lending office of any Bank, or
- (iii) imposes, modifies or deems applicable any capital adequacy or similar requirement (A) against assets (funded or contingent) of, or letters of credit, other credits or commitments to extend credit extended by, any Bank, or (B) otherwise applicable to the obligations of any Bank or any lending office of any Bank under this Agreement,

and the result of any of the foregoing is to increase the cost to, reduce the income receivable by, or impose any expense (including loss of margin) upon any Bank or its lending office with respect to this Agreement or the making, maintenance or funding of any part of the Loans (or, in the case of any capital adequacy or similar requirement, to have the effect of reducing the rate of return on any Bank's capital, taking into consideration such Bank's customary policies with respect to capital adequacy) by an amount which such Bank in its reasonable discretion deems to be material, such Bank shall from time to time notify the Borrower and the Agent of the amount determined in good faith (using any averaging and attribution methods employed in good faith) by such Bank to be necessary to compensate such Bank for such increase in cost, reduction of income, additional expense or reduced rate of return. Such notice shall set forth in reasonable detail the basis for such determination. Such amount shall be due and payable by the Borrower to such Bank thirty (30) days after such notice is given.

5.6.2. Indemnity.

In addition to the compensation required by Section 5.6.1 [Increased Costs, Etc.], the Borrower shall indemnify each Bank against all liabilities, losses or expenses (including loss of margin, any loss or expense incurred in liquidating or employing deposits from third parties and any loss or expense incurred in connection with funds acquired by a Bank to fund or maintain Loans subject to a LIBOR Rate Option) which such Bank sustains or incurs as a consequence of any:

- (i) payment, prepayment, conversion or renewal of any Loan to which a LIBOR Rate Option applies on a day other than the last day of the corresponding Interest Period (whether or not such payment or prepayment is mandatory,

(ii) voluntary or automatic and whether or not such payment or prepayment is then due),

(iii) attempt by the Borrower to revoke (expressly, by later inconsistent notices or otherwise) in whole or part any Loan Requests under Section 2.4 [Revolving Credit Loan Requests], Section 2.5 [Swing Loan Requests] or Section 4.2 [Interest Periods] or notice relating to voluntary prepayments under Section 5.4.1 [Voluntary Prepayments] or notice relating to voluntary Commitment reductions under Section 5.5 [Voluntary Commitment Reductions], or

(iv) default by the Borrower in the performance or observance of any covenant or condition contained in this Agreement or any other Loan Document, including any failure of the Borrower to pay when due (by acceleration or otherwise) any principal of or interest on the Loans, Letter of Credit Fees, or Facility Fees or any other amount due hereunder.

If any Bank sustains or incurs any such loss or expense, it shall from time to time notify the Borrower of the amount determined in good faith by such Bank (which determination may include such assumptions, allocations of costs and expenses and averaging or attribution methods as such Bank shall deem reasonable) to be necessary to indemnify such Bank for such loss or expense. Such notice shall set forth in reasonable detail the basis for such determination. Such amount shall be due and payable by the Borrower to such Bank thirty (30) days after such notice is given.

5.7 Interbank Market Presumption.

For all purposes of this Agreement and each Note with respect to any aspects of the LIBOR Rate or any Loan under the LIBOR Rate Option, each Bank and Agent shall be presumed to have obtained rates, funding, currencies, deposits, and the like in the London interbank market regardless whether it did so or not; and, each Bank's and Agent's determination of amounts payable under, and actions required or authorized by, Sections 4.4 [LIBOR Rate Unascertainable; Illegality; Increased Costs; Deposits Not Available] and 5.6 [Additional Compensation in Certain Circumstances] shall be calculated, at each Bank's and Agent's option, as though each Bank and Agent funded its pro rata share of each Borrowing Tranche of Loans under the LIBOR Rate Option through the purchase of deposits of the types and maturities corresponding to the deposits used as a reference in accordance with the terms hereof in determining the LIBOR Rate applicable to such Loans, whether in fact that is the case.

5.8 Taxes.

5.8.1. No Deductions.

All payments made by Borrower hereunder and under each Note shall be made free and clear of and without deduction for any present or future taxes, levies, imposts, deductions, charges, or withholdings, and all liabilities with respect thereto, excluding taxes imposed on the net income of any Bank and all income and franchise taxes applicable to any Bank of the United States (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings, and liabilities being hereinafter referred to as "Taxes"). If Borrower shall be required by Law to deduct any Taxes from or in respect of any sum payable hereunder or under any Note, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 5.8.1) each Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrower shall make such deductions, and (iii) Borrower shall timely pay the full amount deducted to the relevant tax authority or other authority in accordance with applicable Law.

5.8.2. Stamp Taxes.

In addition, Borrower agrees to pay any present or future stamp or documentary taxes or any other excise or property taxes, charges, or similar levies which arise from any payment made hereunder or from the execution, delivery, or registration of, or otherwise with respect to, this Agreement or any Note (hereinafter referred to as "Other Taxes").

5.8.3. Indemnification for Taxes Paid by a Bank.

Borrower shall indemnify each Bank for the full amount of Taxes or Other Taxes (including, without limitation, any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 5.8.3) paid by any Bank and any liability (including penalties, interest, and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted. This indemnification shall be made within 30 days from the date a Bank makes written demand therefor.

5.8.4. Certificate.

Within thirty (30) days after the date of any payment of any Taxes by Borrower, Borrower shall furnish to each Bank, at its address referred to herein, the original or a certified copy of a receipt evidencing payment thereof. If no Taxes are payable in respect of any payment by Borrower, such Borrower shall, if so requested by a Bank, provide a certificate of an officer of Borrower to that effect.

5.8.5. Survival.

Without prejudice to the survival of any other agreement of Borrower hereunder, the agreements and obligations of Borrower contained in Sections 5.8.1 through and including 5.8.4 shall survive the payment in full of principal and interest hereunder and under any instrument delivered hereunder.

5.9 Notes.

Upon the request of any Bank, the Revolving Credit Loans made by such Bank may be evidenced by a Revolving Credit Note in the form of Exhibit 1.1(R).

5.10 Settlement Date Procedures.

In order to minimize the transfer of funds between the Banks and the Agent, the Borrower may borrow, repay and reborrow Swing Loans and PNC Bank may make Swing Loans as provided in Section 2.1.2 [Swing Loan Commitment] hereof during the period between Settlement Dates. Not later than 11:00 a.m., Pittsburgh time, on each Settlement Date, the Agent shall notify each Bank of its Ratable Share of the total of the Revolving Credit Loans and the Swing Loans (each a "Required Share"). Prior to 2:00 p.m., Pittsburgh time, on such Settlement Date, each Bank shall pay to the Agent the amount equal to the difference between its Required Share and its Revolving Credit Loans, and the Agent shall pay to each Bank its Ratable Share of all payments made by the Borrower to the Agent with respect to the Revolving Credit Loans. The Agent shall also effect settlement in accordance with the foregoing sentence on the proposed Borrowing Dates for Revolving Credit Loans and may at its option effect settlement on any other Business Day. These settlement procedures are established solely as a matter of administrative convenience, and nothing contained in this Section 5.10 shall relieve the Banks of their obligations to fund Revolving Credit Loans on dates other than a Settlement Date pursuant to Sections 2.1.1 [Revolving Credit Loans] and 2.2 [Nature of Banks' Obligations with Respect to Revolving Credit Loans]. The Agent may at any time at its option for any reason whatsoever require each Bank to pay immediately to the Agent such Bank's Ratable Share

of the outstanding Revolving Credit Loans and each Bank may at any time require the Agent to pay immediately to such Bank its Revolving Credit Ratable Share of all payments made by the Borrower to the Agent with respect to the Revolving Credit Loans.

6. REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties.

The Loan Parties, jointly and severally, represent and warrant to the Agent and each of the Banks as follows:

6.1.1. Organization and Qualification.

Each Loan Party and each Subsidiary that is not an Inactive Subsidiary of each Loan Party is a corporation, partnership or limited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Each Loan Party and each Subsidiary that is not an Inactive Subsidiary of each Loan Party has the lawful power to own or lease its properties and to engage in the business it presently conducts or proposes to conduct. Each Loan Party and each Subsidiary that is not an Inactive Subsidiary of each Loan Party is duly licensed or qualified and in good standing in each jurisdiction where the failure to be so licensed or qualified could reasonably be expected to result in a Material Adverse Change.

6.1.2. Subsidiaries.

Schedule 6.1.2 states the name of each of the Borrower's Subsidiaries, its jurisdiction of formation, its authorized capital stock, the issued and outstanding shares (referred to herein as the "Subsidiary Shares") and the owners thereof if it is a corporation, its outstanding partnership interests (the "Partnership Interests") if it is a partnership and its outstanding limited liability company interests, interests assigned to managers thereof and the voting rights associated therewith (the "LLC Interests") if it is a limited liability company and also indicates if such Subsidiary is an Inactive Subsidiary. The Borrower and each Subsidiary of the Borrower has good and marketable title to all of the Subsidiary Shares, Partnership Interests and LLC Interests it purports to own, free and clear in each case of any Lien. All Subsidiary Shares, Partnership Interests and LLC Interests have been validly issued, and all Subsidiary Shares are fully paid and nonassessable. All capital contributions and other consideration required to be made or paid in connection with the issuance of the Partnership Interests and LLC Interests have been made or paid, as the case may be. There are no options, warrants or other rights outstanding to purchase any such Subsidiary Shares, Partnership Interests or LLC Interests except as indicated on Schedule 6.1.2.

6.1.3. Power and Authority.

Each Loan Party has full power to enter into, execute, deliver and carry out this Agreement and the other Loan Documents to which it is a party, to incur the Indebtedness contemplated by the Loan Documents and to perform its Obligations under the Loan Documents to which it is a party, and all such actions have been duly authorized by all necessary proceedings on its part.

6.1.4. Validity and Binding Effect.

This Agreement has been duly and validly executed and delivered by each Loan Party, and each other Loan Document which any Loan Party is required to execute and deliver on or after the date hereof will have been duly executed and delivered by such Loan Party on the required date of delivery of such Loan Document. This Agreement and each other Loan Document constitutes, or will constitute, legal, valid and binding

obligations of each Loan Party which is or will be a party thereto on and after its date of delivery thereof, enforceable against such Loan Party in accordance with its terms, except to the extent that enforceability of any of such Loan Document may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of creditors' rights generally or limiting the right of specific performance.

6.1.5. No Conflict.

Neither the execution and delivery of this Agreement or the other Loan Documents by any Loan Party nor the consummation of the transactions herein or therein contemplated or compliance with the terms and provisions hereof or thereof by any of them will conflict with, constitute a default under or result in any breach of (i) the terms and conditions of the certificate of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents of any Loan Party or (ii) any Law or any material agreement or instrument or order, writ, judgment, injunction or decree to which any Loan Party or any of its Subsidiaries is a party or by which it or any of its Subsidiaries is bound or to which it is subject, or result in the creation or enforcement of any Lien, charge or encumbrance whatsoever upon any property (now or hereafter acquired) of any Loan Party or any of its Subsidiaries (other than Liens granted under the Loan Documents).

6.1.6. Litigation.

Except as set forth in the SEC Filings, there are no actions, suits, proceedings or investigations (other than Environmental Complaints which are specifically addressed in Section [6.1.21](#) [Environmental Matters]) pending or, to the knowledge of any Loan Party, threatened against such Loan Party or any Subsidiary of such Loan Party at law or equity before any Official Body which individually or in the aggregate could reasonably be expected to result in a Material Adverse Change. None of the Loan Parties or any Subsidiaries of any Loan Party is in violation of any order, writ, injunction or any decree of any Official Body which could reasonably be expected to result in any Material Adverse Change.

6.1.7. Title to Properties.

Each Loan Party and each Subsidiary of each Loan Party has good and marketable title to or valid leasehold interest in all properties, assets and other rights which it purports to own or lease or which are reflected as owned or leased on its books and records, free and clear of all Liens and encumbrances (other than Environmental Complaints which are specifically addressed in Section [6.1.21](#) [Environmental Matters]) except Permitted Liens, and subject to the terms and conditions of the applicable leases. All leases of property are in full force and effect without the necessity for any consent which has not previously been obtained upon consummation of the transactions contemplated hereby.

6.1.8. Financial Statements.

6.1.8.1 Historical Statements.

The Borrower has delivered to the Agent copies of its audited consolidated year-end financial statements for and as of the end of the fiscal year ended September 30, 2007 (the "Historical Statements"). The Historical Statements were compiled from the books and records maintained by the Borrower's management, are correct and complete in all material respects and fairly represent the consolidated financial condition of the Borrower and its Subsidiaries as of their dates and the results of operations for the fiscal periods then ended and have been prepared in accordance with GAAP consistently applied.

6.1.8.2 Accuracy of Financial Statements.

Neither the Borrower nor any Subsidiary of the Borrower has any liabilities, contingent or otherwise, or forward or long-term commitments that are not disclosed in the Historical Statements or in the notes thereto, and except as disclosed therein there are no unrealized or anticipated losses from any commitments of the Borrower or any Subsidiary of the Borrower that could reasonably be expected to cause a Material Adverse Change. Except as disclosed in the financial statements contained in the SEC Filings with regard to the results of operations of the Company and its consolidated Subsidiaries for the fiscal year of the Company ended September 30, 2005, since September 30, 2007, no Material Adverse Change has occurred.

6.1.9. Use of Proceeds; Margin Stock; Section 20 Subsidiaries.

6.1.9.1 General.

The Loan Parties intend to use the proceeds of the Loans in accordance with Sections [2.8](#) and 8.1.10.

6.1.9.2 Margin Stock.

None of the Loan Parties or any Subsidiaries of any Loan Party engages or intends to engage principally, or as one of its important activities, in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U). No part of the proceeds of any Loan has been or will be used, immediately, incidentally or ultimately, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or to refund Indebtedness originally incurred for such purpose, or for any purpose which entails a violation of or which is inconsistent with the provisions of the regulations of the Board of Governors of the Federal Reserve System. None of the Loan Parties or any Subsidiary of any Loan Party holds or intends to hold margin stock in such amounts that more than 25% of the reasonable value of the assets of any Loan Party or Subsidiary of any Loan Party is or will be represented by margin stock.

6.1.9.3 Section 20 Subsidiaries.

The Loan Parties are unaware of any circumstances where any portion of the proceeds of the Loans would be used to purchase any Ineligible Securities being underwritten by a Section 20 Subsidiary.

6.1.10. Full Disclosure.

Neither this Agreement nor any other Loan Document, nor any certificate, statement, agreement or other documents furnished to the Agent or any Bank in connection herewith or therewith, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they were made, not misleading. There is no fact known to any Loan Party that could reasonably be expected to result in a Material Adverse Change which has not been set forth in this Agreement or in the certificates, statements, agreements or other documents furnished in writing to the Agent and the Banks prior to or at the date hereof in connection with the transactions contemplated hereby or otherwise disclosed in the SEC Filings.

6.1.11. Taxes.

All federal, state, local and other tax returns required to have been filed with respect to each Loan Party and each Subsidiary of each Loan Party have been filed, and payment or adequate

provision has been made for the payment of all taxes, fees, assessments and other governmental charges which have or may become due pursuant to said returns or to assessments received, except (i) to the extent that such taxes, fees, assessments and other charges are being contested in good faith by appropriate proceedings diligently conducted and for which such reserves or other appropriate provisions if any, as shall be required by GAAP shall have been made or (ii) to the extent that with respect to taxes (other than any U.S. federal or state income taxes, state taxes on equity or capital or comparable state taxes on income, equity or capital and which are otherwise related to the conduct of business, or local real property taxes all of which taxes are subject to the requirements of the immediately preceding clause (i)), fees, assessments or other government charges, the failure to so pay or so contest could not reasonably be expected to result in a Material Adverse Change. There are no agreements or waivers extending the statutory period of limitations applicable to any federal income tax return of any Loan Party or Subsidiary of any Loan Party for any period.

6.1.12. Consents and Approvals.

No consent, approval, exemption, order or authorization of, or a registration or filing with, any Official Body or any other Person is required by any Law or any agreement in connection with the execution, delivery and carrying out of this Agreement and the other Loan Documents by any Loan Party, except as listed on Schedule 6.1.12, all of which shall have been obtained or made on or prior to the Closing Date except as otherwise indicated on Schedule 6.1.12.

6.1.13. No Event of Default; Compliance With Instruments.

No event has occurred and is continuing and no condition exists or will exist after giving effect to the borrowings or other extensions of credit to be made on the Closing Date under or pursuant to the Loan Documents which constitutes an Event of Default or Potential Default. None of the Loan Parties or any Subsidiaries of any Loan Party is in violation of (i) any term of its certificate of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents or (ii) any material agreement or instrument to which it is a party or by which it or any of its properties may be subject or bound where such violation could reasonably be expected to result in a Material Adverse Change.

6.1.14. Patents, Trademarks, Copyrights, Licenses, Etc.

Each Loan Party and each Subsidiary of each Loan Party owns or has the contractual right to use all the patents, trademarks, service marks, trade names, copyrights, licenses, registrations, franchises, permits and rights reasonably necessary to own and operate its properties and to carry on its business as presently conducted and planned to be conducted by such Loan Party or Subsidiary, without known possible, alleged or actual conflict with the rights of others, except where the failure to do so could not reasonably be expected to have a Material Adverse Change.

6.1.15. Insurance.

No notice has been given or claim made and no grounds exist to cancel or avoid any insurance policies or bonds to which any Loan Party or any Subsidiary of any Loan Party is a party or to reduce the coverage provided thereby. Such policies and bonds provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each Loan Party and each Subsidiary of each Loan Party in accordance with prudent business practice in the industry of the Loan Parties and their Subsidiaries.

6.1.16. Compliance With Laws.

The Loan Parties and their Subsidiaries are in compliance in all material respects with all applicable Laws (other than Environmental Laws which are specifically addressed in Section 6.1.21 [Environmental Matters]) in all jurisdictions in which any Loan Party or Subsidiary of any Loan Party is presently or will be doing business except where the failure to do so could not reasonably be expected to result in a Material Adverse Change.

6.1.17. Material Contracts; Burdensome Restrictions.

All material contracts relating to the business operations of each Loan Party and each Subsidiary of any Loan Party, including all Plans and material Labor Contracts, are valid, binding and enforceable upon such Loan Party or Subsidiary and, to the best of such Loan Parties' knowledge, each of the other parties thereto in accordance with their respective terms; and there is no material default thereunder, to the Loan Parties' knowledge, with respect to parties other than such Loan Party or Subsidiary. None of the Loan Parties or their Subsidiaries is bound by any contractual obligation, or subject to any restriction in any organization document, or any requirement of Law which could reasonably be expected to result in a Material Adverse Change

6.1.18. Investment Companies; Regulated Entities.

None of the Loan Parties or any Subsidiaries of any Loan Party is an "investment company" registered or required to be registered under the Investment Company Act of 1940 or under the "control" of an "investment company" as such terms are defined in the Investment Company Act of 1940 and shall not become such an "investment company" or under such "control". None of the Loan Parties or any Subsidiaries of any Loan Party is subject to any other federal or state statute or regulation limiting its ability to incur Indebtedness for borrowed money.

6.1.19. Plans and Benefit Arrangements.

(i) The Borrower and each other member of the ERISA Group are in compliance in all material respects with any applicable provisions of ERISA with respect to all Benefit Arrangements, Plans and Multiemployer Plans. There has been no Prohibited Transaction with respect to any Benefit Arrangement or any Plan or, to the best knowledge of the Borrower, with respect to any Multiemployer Plan or Multiple Employer Plan, which could result in any material liability of the Borrower or any other member of the ERISA Group. The Borrower and all other members of the ERISA Group have made when due any and all payments required to be made under any agreement relating to a Multiemployer Plan or a Multiple Employer Plan or any Law pertaining thereto. With respect to each Plan and Multiemployer Plan, the Borrower and each other member of the ERISA Group (i) have fulfilled in all material respects their obligations under the minimum funding standards of ERISA, (ii) have not incurred any liability to the PBGC, and (iii) have not had asserted against them any penalty for failure to fulfill the minimum funding requirements of ERISA. All Plans, Benefit Arrangements and Multiemployer Plans have been administered in all material respects in accordance with their terms and applicable Law.

(ii) No event requiring notice to the PBGC under Section 302(f)(4)(A) of ERISA has occurred or is reasonably expected to occur with respect to any Plan, and no amendment with respect to which security is required under Section 307 of ERISA has been made or is reasonably expected to be made to any Plan.

(iii) Neither the Borrower nor any other member of the ERISA Group has incurred or reasonably expects to incur any material withdrawal liability under ERISA to any Multiemployer Plan or Multiple Employer Plan. Neither the Borrower nor any other member of the ERISA Group has been notified by any Multiemployer Plan or Multiple Employer Plan that such Multiemployer Plan or Multiple Employer Plan has been terminated within the meaning of Title IV of ERISA and, to the best knowledge of the Borrower, no Multiemployer Plan or Multiple Employer Plan is reasonably expected to be reorganized or terminated, within the meaning of Title IV of ERISA.

6.1.20. Employment Matters.

Each of the Loan Parties and each of their Subsidiaries is in compliance with the Labor Contracts and all applicable federal, state and local labor and employment Laws including those related to equal employment opportunity and affirmative action, labor relations, minimum wage, overtime, child labor, medical insurance continuation, worker adjustment and relocation notices, immigration controls and worker and unemployment compensation, where the failure to comply could reasonably be expected to result in a Material Adverse Change. There are no outstanding grievances, arbitration awards or appeals therefrom arising out of the Labor Contracts or current or threatened strikes, picketing, handbilling or other work stoppages or slowdowns at facilities of any of the Loan Parties or any of their Subsidiaries which in any case could reasonably be expected to result in a Material Adverse Change. The Borrower has delivered to the Agent true and correct copies of each of the Labor Contracts.

6.1.21. Environmental Matters.

None of the Loan Parties or any Subsidiaries of any Loan Party has received any Environmental Complaint and none of the Loan Parties has any reason to believe that such an Environmental Complaint might be received which could reasonably be expected to result in a Material Adverse Change. There are no pending or, to any Loan Party's knowledge, threatened Environmental Complaints relating to any Loan Party or Subsidiary of any Loan Party or any of the Properties or, to any Loan Party's knowledge, any prior owner, operator or occupant of any of the Properties pertaining to, or arising out of, any Contamination or violations of Environmental Laws or Environmental Permits which could reasonably be expected to result in a Material Adverse Change. The Loan Parties and their Subsidiaries are in compliance with all applicable Environmental Laws in all jurisdictions in which any Loan Party or Subsidiary of any Loan Party is doing business except where the failure to do so could not reasonably be expected to result in a Material Adverse Change. The Loan Parties and their Subsidiaries hold and are operating in compliance with Environmental Permits, except where the failure to do so could not reasonably be expected to result in a Material Adverse Change.

6.1.22. Senior Debt Status.

The Obligations of each Loan Party under this Agreement, the Guaranty Agreement and each of the other Loan Documents to which it is a party do rank and will rank at least pari passu in priority of payment with all other Indebtedness of such Loan Party except Indebtedness of such Loan Party to the extent secured by Permitted Liens. There is no Lien upon or with respect to any of the properties or income of any

Loan Party or Unregulated Subsidiary of any Loan Party which secures indebtedness or other obligations of any Person except for Permitted Liens.

6.1.23. Reserved.

6.1.24. Permitted Related Business Opportunities.

The information set forth on Schedule 6.1.24 is true, complete and correct in all material respects and sets forth a list of the Investments in Permitted Related Business Opportunities by the Loan Parties and their Subsidiaries as of the Closing Date and includes, without limitation, the amount and nature of each such Investment, a description of the activities engaged in by the Loan Parties and their Subsidiaries in connection with such Investment, and a description of the activities engaged in by the Person in which the Investment has been made.

6.1.25. Anti-Terrorism Laws; Executive Order No. 13224.

None of the Loan Parties nor any Subsidiary of any Loan Party is any of the following (each a "Blocked Person");

- (i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;
- (ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;
- (iii) a Person or entity with which any Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;
- (iv) a Person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order No. 13224;
- (v) a Person or entity that is named as a "specially designated national" on the most current list published by the United States Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list, or
- (vi) a Person or entity who is affiliated or associated with a Person or entity listed above.

6.2 Continuation of Representations.

The Loan Parties make the representations and warranties in this Section 6 on the date hereof, on the Closing Date, and each date thereafter on which a Loan is made or a Letter of Credit is issued as provided in and subject to Sections 7.1 and 7.2. Should any of the information or disclosures provided on any of the Schedules attached hereto become outdated or incorrect in any material respect, the Borrower shall promptly provide the Agent in writing with such revisions or updates to such Schedule as may be necessary or appropriate to update or correct same; provided, however, that no Schedule shall be deemed to have been amended, modified or superseded by any such correction or update, nor shall any breach of warranty or representation resulting from the inaccuracy or incompleteness of any such Schedule be deemed to have been cured thereby, unless and until the Required Banks, in their sole and absolute discretion, shall have accepted in writing such revisions or updates to such Schedule; provided further however that any update to Schedule 6.1.2, delivered to the Agent in form and substance satisfactory to the Agent, as a result of the creation, acquisition, liquidation, dissolution or winding-up of affairs of a

Subsidiary in accordance with Sections 8.2.8 [Subsidiaries, Partnerships and Joint Ventures] and 8.2.5 [Liquidations, Mergers, Consolidations, Acquisitions] as otherwise permitted hereunder shall be deemed to amend the existing Schedule 6.1.2 upon acceptance thereof in writing by the Agent..

7. CONDITIONS OF LENDING AND ISSUANCE OF LETTERS OF CREDIT

The obligation of each Bank to make Loans and of the Agent to issue Letters of Credit hereunder is subject to the performance by each of the Loan Parties of its Obligations to be performed hereunder at or prior to the making of any such Loans or issuance of such Letters of Credit and to the satisfaction of the following further conditions:

7.1 Conditions to First Loans and Letters of Credit.

On the Closing Date:

7.1.1. Officer's Certificate.

The representations and warranties of each of the Loan Parties contained in Section 6 and in each of the other Loan Documents shall be true and accurate on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date (except representations and warranties which relate solely to an earlier date or time, which representations and warranties shall be true and correct on and as of the specific dates or times referred to therein), and each of the Loan Parties shall have performed and complied with all covenants and conditions hereof and thereof, no Event of Default or Potential Default shall have occurred and be continuing or shall exist; and there shall be delivered to the Agent for the benefit of each Bank a certificate of each of the Loan Parties, dated the Closing Date and signed by the Chief Executive Officer, President, Chief Financial Officer or other Authorized Officer of each of the Loan Parties, to each such effect.

7.1.2. Secretary's Certificate.

There shall be delivered to the Agent for the benefit of each Bank a certificate dated the Closing Date and signed by the Secretary or an Assistant Secretary of each of the Loan Parties, certifying as appropriate as to:

(i) all action taken by each Loan Party in connection with this Agreement and the other Loan Documents;

(ii) the names of the officer or officers authorized to sign this Agreement and the other Loan Documents and the true signatures of such officer or officers and specifying the Authorized Officers permitted to act on behalf of each Loan Party for purposes of this Agreement and the true signatures of such officers, on which the Agent and each Bank may conclusively rely; and

(iii) copies of its organizational documents, including its certificate of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, and limited liability company agreement as in effect on the Closing Date certified by the appropriate state official where such documents are filed in a state office together with certificates from the appropriate state officials as to the continued existence and good standing of each Loan Party in each state where organized or qualified to do business and a bring-down certificate by facsimile dated the Closing Date.

7.1.3. Opinion of Counsel.

There shall be delivered to the Agent for the benefit of each Bank a written opinion of (a) Troutman Sanders LLP, counsel for the Loan Parties (who may rely on the opinions of such other counsel and Certificates of the Borrower's in-house counsel as may be reasonably acceptable to the Agent), dated the Closing Date and in substantially the form attached hereto as Exhibit 7.1.3(A), and (b) Richard Reich, in-house counsel for the Loan Parties, dated the Closing Date and in substantially the form attached hereto as Exhibit 7.1.3(B).

7.1.4. Legal Details.

All legal details and proceedings in connection with the transactions contemplated by this Agreement and the other Loan Documents shall be in form and substance satisfactory to the Agent and counsel for the Agent, and the Agent shall have received all such other counterpart originals or certified or other copies of such documents and proceedings in connection with such transactions, in form and substance satisfactory to the Agent and said counsel, as the Agent or said counsel may reasonably request. The Agent shall have received this Agreement executed by the Borrower and each Bank and the Notes executed by the Borrower.

7.1.5. Payment of Fees.

The Borrower shall have paid or caused to be paid to the Agent for itself and for the account of the Banks to the extent not previously paid all fees accrued through the Closing Date and the costs and expenses for which the Agent and the Banks are entitled to be reimbursed.

7.1.6. Consents.

The material consents, if any, required to effectuate the transactions contemplated hereby as set forth on Schedule 6.1.12 shall have been obtained.

7.1.7. Officer's Certificate Regarding MACs.

Except as disclosed in the financial statements contained in the SEC Filings with regard to the results of operations of the Company and its consolidated Subsidiaries for the fiscal year of the Company ended September 30, 2005, since September 30, 2007, no Material Adverse Change shall have occurred; since that date through and including the Closing Date, there shall have been no material change in the management of any Loan Party or Subsidiary of any Loan Party; and there shall have been delivered to the Agent for the benefit of each Bank a certificate dated the Closing Date and signed by the Chief Executive Officer, President, Chief Financial Officer or other Authorized Officer of each Loan Party to each such effect.

7.1.8. No Violation of Laws.

The making of the Loans and the issuance of the Letters of Credit shall not contravene any Law applicable to any Loan Party or any of the Banks.

7.1.9. No Actions or Proceedings.

No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or legislative body to enjoin, restrain or prohibit, or to obtain damages in respect of, this Agreement, the other Loan Documents or the consummation of the

transactions contemplated hereby or thereby or which, in the Agent's sole discretion, would make it inadvisable to consummate the transactions contemplated by this Agreement or any of the other Loan Documents.

7.1.10. Delivery of Guaranty Agreement.

The Guaranty Agreement shall have been duly executed and delivered to the Agent for the benefit of the Banks.

7.1.11. Hedging Contract Policies.

The Loan Parties shall have delivered to the Agent and each Bank a true and complete copy of the Hedging Contract Policies, and the Hedging Contract Policies shall be satisfactory in form and substance to each Bank.

7.1.12. Termination of Commitments and Repayment of Outstanding Indebtedness.

The Loan Parties shall have repaid all obligations, indebtedness, interest fees, expenses and other amounts due and owing under the Existing Credit Facility, all commitments to lend thereunder shall have been irrevocably terminated and all letters of credit issued thereunder shall have been terminated, all to the satisfaction of the Agent.

7.2 Each Additional Loan or Letter of Credit.

At the time of making any Loans or issuing any Letters of Credit other than Loans made or Letters of Credit issued on the Closing Date and after giving effect to the proposed extensions of credit: (i) the representations and warranties of the Loan Parties contained in Section 6 (other than the representations and warranties contained in the first sentence of Section 6.1.6 [Litigation], the last sentence of Section 6.1.8.2 [Financial Statements], and Section 6.1.21 [Environmental Matters]) and in the other Loan Documents shall be true on and as of the date of such additional Loan or Letter of Credit with the same effect as though such representations and warranties had been made on and as of such date (except representations and warranties which expressly relate solely to an earlier date or time, which representations and warranties shall be true and correct on and as of the specific dates or times referred to therein), and the Loan Parties shall have performed and complied with all covenants and conditions hereof; (ii) no Event of Default or Potential Default shall have occurred and be continuing or shall exist; (iii) the making of the Loans or issuance of such Letters of Credit shall not contravene any Law applicable to any Loan Party or any Subsidiary of any Loan Party or any of the Banks; (iv) and the Borrower shall have delivered to the Agent a duly executed and completed Loan Request, Swing Loan Request, or application for a Letter of Credit as the case may be.

8. COVENANTS

8.1 Affirmative Covenants.

The Loan Parties, jointly and severally, covenant and agree that until payment in full of the Loans, Reimbursement Obligations and Letter of Credit Borrowings, and interest thereon, expiration or termination of all Letters of Credit, satisfaction of all of the Loan Parties' other Obligations under the Loan Documents and termination of the Commitments, the Loan Parties shall comply at all times with the following affirmative covenants:

8.1.1. Preservation of Existence, Etc.

Each Loan Party shall, and shall cause each of its Subsidiaries to, maintain its legal existence as a corporation, partnership or limited liability company and its license or qualification and good standing in each jurisdiction in which its ownership or lease of property or the nature of its business makes such license or qualification necessary, except (i) where the lack of legal existence of any Subsidiary or the failure to be so licensed or qualified could not reasonably be expected to have a Material Adverse Change, or (ii) as otherwise expressly permitted in Section 8.2.5 [Liquidations, Mergers, Etc.].

8.1.2. Payment of Liabilities, Including Taxes, Etc.

Each Loan Party shall, and shall cause each of its Subsidiaries to, duly pay and discharge all liabilities to which it is subject or which are asserted against it, promptly as and when the same shall become due and payable, including all taxes, assessments and governmental charges upon it or any of its properties, assets, income or profits, prior to the date on which penalties attach thereto, except to the extent that such liabilities, including taxes, assessments or charges, are being contested in good faith and by appropriate and lawful proceedings diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made, but only to the extent that failure to discharge any such liabilities would not result in any additional liability which could reasonably be expected to result in a Material Adverse Change.

8.1.3. Maintenance of Insurance.

Each Loan Party shall, and shall cause each of its Subsidiaries to, insure its properties and assets against loss or damage by fire and such other insurable hazards as such assets are commonly insured (including fire, extended coverage, property damage, workers' compensation, public liability and business interruption insurance) and against other risks (including errors and omissions) in such amounts as similar properties and assets are insured by prudent companies in similar circumstances carrying on similar businesses, and with reputable and financially sound insurers, including self-insurance to the extent customary.

8.1.4. Maintenance of Properties and Leases.

Each Loan Party shall, and shall cause each of its Subsidiaries to, maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the general practice of other businesses of similar character and size, all of those properties useful or necessary to its business, and from time to time, such Loan Party will make or cause to be made all appropriate repairs, renewals or replacements thereof.

8.1.5. Maintenance of Patents, Trademarks, Etc.

Each Loan Party shall, and shall cause each of its Subsidiaries to, maintain in full force and effect all patents, trademarks, service marks, trade names, copyrights, licenses, franchises, permits and other authorizations necessary for the ownership and operation of its properties and business if the failure so to maintain the same could constitute a Material Adverse Change.

8.1.6. Visitation Rights.

Each Loan Party shall, and shall cause each of its Subsidiaries to, permit any of the officers or authorized employees or representatives of the Agent or any of the Banks to visit and inspect any of its properties and to examine and make excerpts from its books and records and discuss its business affairs, finances and

accounts with its officers, all in such detail and at such times and as often as any of the Banks may reasonably request, provided that each Bank shall provide the Borrower and the Agent with reasonable notice prior to any visit or inspection, and, prior to an Event of Default, any such visit or inspection shall occur during regular business hours. In the event any Bank desires to conduct an audit of any Loan Party, such Bank shall make a reasonable effort to conduct such audit contemporaneously with any audit to be performed by the Agent, and prior to an Event of Default, any such audit (whether by the Agent or any Bank) shall be at the sole cost and expense of the Agent or such Bank, as the case may be.

8.1.7. Keeping of Records and Books of Account.

The Borrower shall, and shall cause each Subsidiary of the Borrower to, maintain and keep proper books of record and account which enable the Borrower and its Subsidiaries to issue financial statements in accordance with GAAP and as otherwise required by applicable Laws of any Official Body having jurisdiction over the Borrower or any Subsidiary of the Borrower, and in which full, true and correct entries shall be made in all material respects of all its dealings and business and financial affairs.

8.1.8. Plans and Benefit Arrangements.

The Borrower shall, and shall cause each other member of the ERISA Group to, comply with ERISA, the Internal Revenue Code and other applicable Laws applicable to Plans and Benefit Arrangements except where such failure, alone or in conjunction with any other failure, would not reasonably be expected to result in a Material Adverse Change. Without limiting the generality of the foregoing, the Borrower shall cause all of its Plans and all Plans maintained by any member of the ERISA Group to be funded in accordance with the minimum funding requirements of ERISA and shall make, and cause each member of the ERISA Group to make, in a timely manner, all contributions due to Plans, Benefit Arrangements and Multiemployer Plans.

8.1.9. Compliance With Laws.

Each Loan Party shall, and shall cause each of its Subsidiaries to, comply with all applicable Laws, including all Environmental Laws, in all material respects, provided that it shall not be deemed to be a violation of this Section 8.1.9 if any failure to comply with any Law would not result in fines, penalties, costs associated with the performance of any Remedial Actions, other similar liabilities or injunctive relief which in the aggregate could not reasonably be expected to result in a Material Adverse Change. Without limiting the generality of the foregoing, each Loan Party shall, and shall cause each of its Subsidiaries to, obtain, maintain, renew and comply with all Environmental Permits applicable to their respective operations and activities, provided that it shall not be deemed to be a violation of this Section 8.1.9 if any failure to do so would not result in cease and desist orders or fines, penalties or other similar liabilities or injunctive relief which in the aggregate could not reasonably be expected to result in a Material Adverse Change.

8.1.10. Use of Proceeds.

The Loan Parties will use the Letters of Credit and the proceeds of the Loans only for general corporate purposes of the Borrower and for working capital of the Borrower (including, without limitation (i) the use of Letters of Credit to support obligations arising in the ordinary course of the business of the Loan Parties, as such business is permitted to be conducted pursuant to Section 8.2.9 [Continuation of or Change in Business] and (ii) to repay and terminate Indebtedness outstanding under the Existing Credit Facility). The Loan Parties shall not use the Letters of Credit or the proceeds of the Loans for any purposes which contravenes any applicable Law or any provision hereof.

8.1.11. Reserved.

8.2 Negative Covenants.

The Loan Parties, jointly and severally, covenant and agree that until payment in full of the Loans, Reimbursement Obligations and Letter of Credit Borrowings, and interest thereon, expiration or termination of all Letters of Credit, satisfaction of all of the Loan Parties' other Obligations hereunder and termination of the Commitments, the Loan Parties shall comply with the following negative covenants:

8.2.1. Indebtedness.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, at any time create, incur, assume or suffer to exist any Indebtedness, except:

- (i) Indebtedness under the Loan Documents;
- (ii) Existing Indebtedness as set forth on Schedule 8.2.1 (including any extensions or renewals thereof, provided there is no increase in the amount thereof or other significant change in the terms thereof unless otherwise specified on Schedule 8.2.1);
- (iii) Indebtedness of a Loan Party to another Loan Party;
- (iv) Intentionally omitted;
- (v) Additional, unsecured Indebtedness of the Borrower incurred after the Closing Date, not to exceed at any time outstanding, after giving effect thereto, 65% of Consolidated Total Capitalization, so long as, both before and after giving effect to any proposed additional Indebtedness: (a) no Potential Default or Event of Default shall have occurred and be continuing, and (b) provided that such additional Indebtedness shall not contain (i) covenants, defaults and other terms and conditions more restrictive than those contained in this Agreement or (ii) any negative covenants, financial covenants, and defaults that are not also contained in this Agreement;
- (vi) Additional Indebtedness, in respect of capitalized leases (including, without limitation, capitalized leases for metered assets) not to exceed at any time outstanding in the aggregate for the Loan Parties and their Unregulated Subsidiaries \$60,000,000;
- (vii) Additional Indebtedness of NJR Energy Services Company arising under any Hedging Transaction;
- (viii) Additional Indebtedness, at any time outstanding not to exceed \$10,000,000, secured by Liens permitted by Section 8.2.2(i);
- (ix) Intentionally omitted;

(x) the NJR Notes and any refinancing thereof, so long as any Indebtedness refinancing the NJR Notes: (a) is unsecured, (b) is on terms (including, without limitation the events of default, covenants, and prepayment, redemption and repurchase provisions) no more restrictive in any material respect than the NJR Note Agreements unless the Borrower shall have irrevocably offered the Agent and the Banks to enter at any time into an amendment of this Agreement to add to this Agreement substantially similar covenants, provisions or Events of Default, as the case may be, (c) has a maturity date no earlier than 180 days after the Expiration Date, and (d) has an interest rate not materially in excess of prevailing rates at such time for like transactions with a borrower of comparable credit rating to the Borrower;

(xi) Intentionally omitted;

(xii) Indebtedness, secured by Purchase Money Security Interests as permitted by clause (xi) of the definition of Permitted Liens, not to exceed at any time outstanding in the aggregate for the Loan Parties and their Unregulated Subsidiaries \$20,000,000;

(xiii) Indebtedness not to exceed at any time outstanding in the aggregate for the Loan Parties and their Unregulated Subsidiaries \$75,000,000, so long as: (a) such Indebtedness is Indebtedness of an Acquired Person which existed prior to the consummation of the Permitted Acquisition in connection with which such Acquired Person was acquired by a Loan Party and such Indebtedness was not incurred in contemplation of or in connection with such Permitted Acquisition; and (b) such Indebtedness if secured is secured by Liens permitted by clause (xii) of the definition of Permitted Liens; and

(xiv) Non-recourse Indebtedness of the Project Subsidiaries.

8.2.2. Liens.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries (other than Project Subsidiaries) to, at any time create, incur, assume or suffer to exist any Lien on any of its property or assets, tangible or intangible, now owned or hereafter acquired, or agree or become liable to do so, except:

(i) Liens existing on such property at the time of the acquisition of such property; provided that the fair market value of all assets secured as permitted by this Section 8.2.2 clause (i) shall not exceed, at any time, \$10,000,000 and provided further that the Indebtedness secured by Liens permitted by this Section 8.2.2 clause (i) shall not at any time outstanding exceed \$10,000,000;

(ii) Permitted Liens; and

(iii) Extensions or renewals of any Lien described in clause (i) or (ii) of this Section 8.2.2, provided that: (a) any such extension or renewal shall be limited to the property theretofore subject to such Lien, and (b) the principal amount of the Indebtedness secured by such Lien shall not be increased and shall otherwise be permitted by Section 8.2.1.

8.2.3. Guaranties.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, at any time, directly or indirectly, become or be liable in respect of any Guaranty, or assume, guarantee, become surety for, endorse or otherwise agree, become or remain directly or contingently liable upon or with respect to any obligation or liability of any other Person, except for

(i) Guaranties of Indebtedness of the Loan Parties permitted pursuant to Section 8.2.1 [Indebtedness], (provided however, that the NJR Notes shall not be guaranteed by any Loan Party or any Subsidiary of a Loan Party unless such Person is also a Guarantor);

(ii) Guaranties of any Loan Party or any of its Unregulated Subsidiaries of obligations of NJR Energy Services Company arising under any Hedging Transaction; and

(iii) Guaranties by the Borrower of various obligations of any of its Unregulated Subsidiaries in connection with any transaction arising in connection with its ordinary course of business as conducted on the Closing Date or as otherwise permitted to be conducted pursuant to Section 8.2.9.

8.2.4. Loans and Investments.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, at any time make or suffer to remain outstanding any loan or advance to, or purchase, acquire or own any stock, bonds, notes or securities of, or any partnership interest (whether general or limited) or limited liability company interest in, or any other investment or interest in, or make any capital contribution to, any other Person, or agree, become or remain liable to do any of the foregoing (any of the foregoing being an "Investment"), except:

(i) trade credit extended on usual and customary terms in the ordinary course of business;

(ii) advances to employees to meet expenses incurred by such employees in the ordinary course of business;

(iii) Permitted Investments;

(iv) loans, advances and investments in other Loan Parties and in the Project Subsidiaries; and

(v) any Investment which constitutes a Permitted Acquisition in accordance with Section 8.2.5 [Liquidations, Mergers, Consolidations, Acquisitions].

8.2.5. Liquidations, Mergers, Consolidations, Acquisitions.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, dissolve, liquidate or wind-up its affairs, or become a party to any merger or consolidation, or acquire by purchase, lease or otherwise all or substantially all of the assets or capital stock of any other Person, provided that:

(1) any Loan Party other than the Borrower may consolidate or merge into another Loan Party which is wholly-owned by one or more of the other Loan Parties,

(2) any Inactive Subsidiary of the Borrower may dissolve, liquidate or wind-up its affairs or any Inactive Subsidiary of the Borrower may consolidate or merge into: (a) any other Inactive Subsidiary of the Borrower, or (b) any Loan Party, other than the Borrower, so long as such Inactive Subsidiary has no liabilities, contingent or otherwise, other than Indebtedness permitted by Section 8.2.1, and

(3) any Loan Party may acquire, whether by purchase or by merger, (A) all of the ownership interests of another Person or (B) substantially all of assets of another Person or of a business or division of another Person (each a "Permitted Acquisition"), provided that each of the following requirements is met:

a. if the Loan Parties are acquiring the ownership interests in such Person, such Person (other than Project Subsidiaries) shall execute a Guarantor Joinder and join this Agreement as a Guarantor pursuant to Section [11.19](#) [Joinder of Guarantors] on or before the date of such Permitted Acquisition;

b. the Loan Parties, such Person (other than Project Subsidiaries) and its owners, as applicable, shall comply with Section [11.19](#) [Joinder of Guarantors] on or before the date of such Permitted Acquisition;

c. the board of directors or other equivalent governing body of such Person shall have approved such Permitted Acquisition and, if the Loan Parties shall use any portion of the Loans to fund such Permitted Acquisition, the Loan Parties also shall have delivered to the Banks written evidence of the approval of the board of directors (or equivalent body) of such Person for such Permitted Acquisition;

d. the business acquired, or the business conducted by the Person whose ownership interests are being acquired, as applicable, shall be substantially the same as one or more line or lines of business conducted by the Loan Parties or otherwise be compliant with Section [8.2.9](#) [Continuation of or Change in Business];

e. no Potential Default or Event of Default shall exist immediately prior to and after giving effect to such Permitted Acquisition;

f. the Borrower shall demonstrate that it shall be in compliance with the covenants contained in Section 8.2.12 [Maximum Leverage Ratio] after giving effect to such Permitted Acquisition (including in such computation Indebtedness or other liabilities assumed or incurred in connection with such Permitted Acquisition but excluding income earned or expenses incurred by the Person, business or assets to be acquired prior to the date of such Permitted Acquisition) by delivering at least five (5) Business Days prior to such Permitted Acquisition a certificate in the form of [Exhibit 8.2.5](#) (the "Acquisition Compliance Certificate") evidencing such compliance; and

g. the Loan Parties shall deliver to the Agent at least five (5) Business Days before such Permitted Acquisition copies of any agreements entered into or proposed to be entered into by such Loan Parties in connection with such Permitted Acquisition and shall deliver to the Agent such other information about such Person or its assets as the Agent or any Bank may reasonably require.

8.2.6. Dispositions of Assets or Unregulated Subsidiaries.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, sell, convey, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, tangible or intangible (including sale, assignment, discount or other disposition of accounts, contract rights, chattel paper, equipment or general intangibles with or without recourse or of capital stock, shares of beneficial interest, partnership interests or limited liability company interests of an Unregulated Subsidiary of such Loan Party), except:

- (i) transactions involving the sale of inventory in the ordinary course of business;
- (ii) any sale, transfer or lease of assets in the ordinary course of business which are no longer necessary or required in the conduct of such Loan Party's or such Unregulated Subsidiary's business;
- (iii) any sale, transfer or lease of assets by any wholly owned Unregulated Subsidiary of such Loan Party to another Loan Party;
- (iv) any sale, transfer or lease of assets in the ordinary course of business which are replaced by substitute assets acquired or leased;
- (v) intentionally omitted;
- (vi) any sale, transfer or lease of assets of any Inactive Subsidiary of the Borrower;
- (vii) any sale, transfer or lease of assets of any Project Subsidiary provided that at the time of any such sale, transfer or lease, no Event of Default shall exist or shall result from such sale, transfer or lease; and
- (viii) any sale, transfer or lease of assets, other than those specifically excepted pursuant to clauses (i) through (vii) above, provided that (i) at the time of any disposition, no Event of Default shall exist or shall result from such disposition, and (ii) the aggregate net book value of all assets so sold by the Loan Parties and their Unregulated Subsidiaries shall not exceed in any fiscal year five (5%) of the consolidated total assets of the Loan Parties and their Unregulated Subsidiaries as determined on a consolidated basis in accordance with GAAP.

8.2.7. Affiliate Transactions.

Except solely with respect to any Permitted Related Business Opportunities as previously disclosed to the Agent and each of the Banks, each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, enter into or carry out any transaction (including purchasing property or services from or selling property or services to any Affiliate of any Loan Party or other Person) unless such transaction is not otherwise prohibited by this Agreement, is entered into in the ordinary course of business upon fair and reasonable arm's-length terms and conditions and is in accordance with all applicable Law.

8.2.8. Subsidiaries, Partnerships and Joint Ventures.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, own or create directly or indirectly any Subsidiaries other than (i) any Subsidiary which is a Regulated Entity, (ii) any Subsidiary which is an Inactive Subsidiary of the Borrower, (iii) New Jersey Resources Foundation Inc., a non-profit corporation organized under the laws of the State of New Jersey, (iv) any Subsidiary which has joined this Agreement as Guarantor on the Closing Date, (v) any Project Subsidiary, and (vi) any Subsidiary formed after the Closing Date which joins this Agreement as a Guarantor pursuant to Section [11.19](#) [Joinder of Guarantors]. Each of the Loan Parties shall not become or agree to (1) become a general or limited partner in any general or limited partnership, except that the Loan Parties may be general or limited partners in other Loan Parties and except that the Loan Parties or their Subsidiaries may be a limited partner in a Permitted Related Business Opportunity, (2) become a member or manager of, or hold a limited liability company interest in, a limited liability company, except that the Loan Parties may be members or managers of, or hold limited liability company interests in, other Loan Parties and except that the Loan Parties or their Subsidiaries may be members or managers of, or hold limited liability company interests in a Permitted Related Business Opportunity, or (3) become a joint venturer or hold a joint venture interest in any joint venture, except that the Loan Parties or their Subsidiaries may become a joint venturer in or hold a joint venture interest in any joint venture that is a Permitted Related Business Opportunity.

8.2.9. Continuation of or Change in Business.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, engage in any business other than the business of each Loan Party or Unregulated Subsidiary substantially as conducted and operated by such Loan Party or Unregulated Subsidiary during the present fiscal year, and any line of business or business activity related or complementary to the business of the Loan Parties conducted as of the Closing Date.

8.2.10. Plans and Benefit Arrangements.

Each of the Loan Parties shall not, and shall not permit any of its Unregulated Subsidiaries to, engage in a Prohibited Transaction with any Plan, Benefit Arrangement or Multiemployer Plan which, alone or in conjunction with any other circumstances or set of circumstances resulting in liability under ERISA or otherwise violate ERISA.

8.2.11. Fiscal Year.

The Borrower shall not, and shall not permit any Subsidiary (other than Project Subsidiaries) of the Borrower to, change its fiscal year from the twelve-month period beginning October 1 and ending September 30.

8.2.12. Maximum Leverage Ratio.

The Loan Parties shall not at any time permit the ratio of Consolidated Total Indebtedness of the Borrower and its Subsidiaries to Consolidated Total Capitalization to exceed 0.65 to 1.00.

8.2.13. Reserved.

8.2.14. Reserved.

8.2.15. Payment of Dividends; Redemptions.

The Loan Parties shall not, and shall not permit any Subsidiary to, declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any shares of any class of capital stock of any Loan Party, or purchase, redeem or otherwise acquire for value (or permit any of its Subsidiaries to do so) any shares of any class of capital stock or other securities of any Loan Party or any warrants, rights or options to acquire any such shares or other securities, now or hereafter outstanding, except that (a) the Borrower may (i) declare and make any dividend payment or other distribution payable in common stock of the Borrower, (ii) purchase, redeem or otherwise acquire shares of its common stock or warrants, rights or options to acquire any such shares so long as no Event of Default or Potential Default shall have occurred and is continuing or would result therefrom, and (iii) declare and make its quarterly dividend, so long as, after giving effect thereto, no Event of Default shall have occurred and is continuing, and (b) that any (i) Unregulated Subsidiary of the Borrower may declare and make any dividend payment or other distribution to the Borrower or to any other Loan Party, and (ii) Project Subsidiary may declare and make any dividend payment or other distribution to any Person.

8.2.16. Reserved.

8.2.17. Off-Balance Sheet Financing.

Each Loan Party and each Unregulated Subsidiary of each Loan Party shall not engage in any off-balance sheet transaction (i.e., the liabilities in respect of which do not appear on the liability side of the balance sheet, with such balance sheet prepared in accordance with GAAP) providing the functional equivalent of borrowed money (including asset securitizations, sale/leasebacks or Synthetic Leases (other than any sale/leaseback transaction or Synthetic Lease entered into, in either case, with respect to meter assets and which transaction is otherwise permitted by this Agreement)) with liabilities in excess, in the aggregate for the Borrower and its Subsidiaries as of any date of determination, of five (5%) of the total assets of the Borrower and its Subsidiaries, determined and consolidated in accordance with GAAP as of the date of determination. For purposes of this Section 8.2.17 (a) "Synthetic Lease" shall mean any lease transaction under which the parties intend that (i) the lease will be treated as an "operating lease" by the lessee pursuant to Statement of Financial Accounting Standards No. 13, as amended, or appropriate successor thereto, and (ii) the lessee will be entitled to various tax benefits ordinarily available to owners (as opposed to lessees) of like property and (b) the amount of any lease which is not a capital lease in accordance with GAAP is the aggregate amount of minimum lease payments due pursuant to such lease for any non-cancelable portion of its term.

8.2.18. Amendments to NJR Note Agreements.

Each Loan Party and each Unregulated Subsidiary of each Loan Party shall not enter into any one or more amendments, modifications, restatements, or the like of any of the NJR Note Agreements containing covenants or events of default materially more restrictive than the covenants or Events of Default contained in this Agreement (a "Modification Agreement") unless no later than five (5) Business Days after entering into any such Modification Agreement, Borrower shall have irrevocably offered the Agent and the Banks to enter at any time into an amendment of this Agreement to add to this Agreement substantially similar covenants or Events of Default, as the case may be.

The foregoing shall not be construed as: (i) a consent by the Agent or any Bank to any action or inaction otherwise restricted or prohibited by this Agreement, or (ii) a waiver by the Agent or any Bank of any Potential Default or Event of Default resulting from any Modification Agreement.

8.2.19. No Violation of Anti-Terrorism Laws.

The Loan Parties and each Unregulated Subsidiary of any Loan Party shall not: (i) violate any of the prohibitions set forth in the Executive Order No. 13224, the USA Patriot Act or any other Anti-Terrorism Law applicable to any of them or the business that they conduct, and (ii) require the Agent or the Banks to take any action that would cause the Agent or the Banks to be in violation of the prohibitions set forth in the Executive Order No. 13224, the USA Patriot Act or any other Anti-Terrorism Law, it being understood that the Agent or any Bank can refuse to honor any such request or demand otherwise validly made by any such Loan Party or any Unregulated Subsidiary of any Loan Party under this Agreement or any other Loan Document.

The Loan Parties, jointly and severally, covenant and agree that until payment in full of the Loans, Reimbursement Obligations and Letter of Credit Borrowings, and interest thereon, expiration or termination of all Letters of Credit, satisfaction of all of the Loan Parties' other Obligations hereunder and under the other Loan Documents and termination of the Commitments, the Loan Parties will furnish or cause to be furnished to the Agent and each of the Banks:

8.3.1. Quarterly Financial Statements.

As soon as available and in any event within forty-five (45) calendar days after the end of each of the first three fiscal quarters in each fiscal year (or such earlier or later date, from time to time established by the SEC in accordance with the Securities Exchange Act of 1934, as amended, or within fifty (50) days in the event the Borrower shall file its Form 10-Q within the extension period pursuant to Rule 12b-25 of the Securities Exchange Act of 1934, as amended), financial statements of the Borrower, consisting of a consolidated and consolidating balance sheet as of the end of such fiscal quarter and related consolidated and consolidating statements of income, stockholders' equity and cash flows for the fiscal quarter then ended and the fiscal year through that date, all in reasonable detail and certified (subject to normal year-end audit adjustments) by the Chief Executive Officer, President or Chief Financial Officer of the Borrower as having been prepared in accordance with GAAP, consistently applied, and setting forth in comparative form the respective financial statements for the corresponding date and period in the previous fiscal year. The Loan Parties will be deemed to have complied with the delivery requirements of this Section 8.3.1 if within forty-five (45) days after the end of their fiscal quarter (or such earlier or later date, from time to time established by the SEC in accordance with the Securities Exchange Act of 1934, as amended), the Borrower delivers to the Agent and each of the Banks a copy of its Form 10-Q as filed with the SEC and the financial statements contained therein meets the requirements described in this Section.

8.3.2. Annual Financial Statements.

As soon as available and in any event within ninety (90) days after the end of each fiscal year of the Borrower (or such earlier or later date, from time to time established by the SEC in accordance with the Securities Exchange Act of 1934, as amended, or within one hundred five (105) days in the event the Borrower shall file its Annual Report on Form 10-K within the extension period pursuant to Rule 12b-25 of the Securities Exchange Act of 1934, as amended), financial statements of the Borrower consisting of a consolidated balance sheet as of the end of such fiscal year, and related consolidated statements of income, stockholders' equity and cash flows for the fiscal year then ended, all in reasonable detail and setting forth in comparative form the financial statements as of the end of and for the preceding fiscal year, and certified by independent certified public accountants of nationally recognized standing satisfactory to the Agent. The certificate or report of accountants shall be free of qualifications (other than any consistency qualification that may result from a change in the method used to prepare the financial statements as to which such accountants concur) and shall not indicate the occurrence or existence of any event, condition or contingency which would materially impair the prospect of payment or performance of any covenant, agreement or duty of any Loan Party under any of the Loan Documents. The Loan Parties will be deemed to have complied with the delivery requirements of this Section 8.3.2 if within ninety (90) days (or one hundred five (105) days, if applicable) after the end of their fiscal year (or such earlier or later date, from time to time established by the SEC in accordance with the Securities Exchange Act of 1934, as amended), the Borrower delivers to the Agent and each of the Banks a copy of its Annual Report on Form 10-K as filed with the SEC and the financial statements and certification of public accountants contained therein meets the requirements described in this Section.

It is expressly agreed that any financial information or financial statements (including, without limitation the annual financial statements required pursuant to this Section 8.3.2) submitted to the Agent or the Banks which has been prepared by an independent public accountant or other outside accountant shall be accompanied by a statement in writing signed by such accountant disclosing that the accountant is aware that the financial information or financial statements prepared by the accountant would be submitted to and relied upon by the Agent and/or the Banks in connection with the Agent's or the Banks' determination to grant or continue credit.

8.3.3. Certificate of the Borrower.

Concurrently with the financial statements of the Borrower furnished to the Agent and to the Banks pursuant to Sections 8.3.1 [Quarterly Financial Statements] and 8.3.2 [Annual Financial Statements], a certificate (each a "Compliance Certificate") of the Borrower signed, in the case of financial statements furnished pursuant to Section 8.3.1, by the Chief Executive Officer, Chief Financial Officer or Treasurer of the Borrower and in the case of the financial statements furnished pursuant to Section 8.3.2, by the Chief Executive Officer, Chief Financial Officer or Treasurer of the Borrower in the form of Exhibit 8.3.3.

8.3.4. Notice of Default.

Promptly after any Authorized Officer (or other executive officer) of any Loan Party has learned of the occurrence of an Event of Default or Potential Default, a certificate signed by the Chief Executive Officer, President or Chief Financial Officer of such Loan Party setting forth the details of such Event of Default or Potential Default and the action which the such Loan Party proposes to take with respect thereto.

8.3.5. Notice of Litigation.

Promptly after the commencement thereof, notice of (i) all actions, suits, proceedings or investigations before or by any Official Body or any other Person against any Loan Party or Subsidiary of any Loan Party, involve a claim or series of claims in excess of \$10,000,000 or, (ii) any Environmental Complaint, individually or in the aggregate exceed \$10,000,000, and in either case which if adversely determined could reasonably be expected to result in a Material Adverse Change.

8.3.6. Notice of Change in Debt Rating.

Within five (5) Business Days after Standard & Poor's or Moody's announces a change in the Debt Rating of New Jersey Natural Gas, notice of such change. The Borrower will deliver, together with such notice, a copy of any written notification which Borrower or New Jersey Natural Gas received from the applicable rating agency regarding such change of Debt Rating.

8.3.7. Sale of Assets.

At least thirty (30) calendar days prior thereto, notice with respect to any proposed sale or transfer of assets pursuant to Section 8.2.6(viii) where the consideration for such sale or transfer of assets is in excess of \$5,000,000.

8.3.8. Budgets, Forecasts, Other Reports and Information.

Promptly upon their becoming available to the Borrower:

- (i) any reports, notices or proxy statements generally distributed by the Borrower to its stockholders on a date no later than the date supplied to such stockholders,
- (ii) regular or periodic reports, including Forms 10-K, 10-Q and 8-K, registration statements and prospectuses, filed by the Borrower with the SEC,
- (iii) to the extent not previously reported in regular or periodic reports, including Forms 10-K, 10-Q and 8-K, registration statements and prospectuses, filed by the Borrower with the SEC, the Borrower shall notify the Banks promptly of the enactment or adoption of any Law which may result in a Material Adverse Change,
- (iv) to the extent requested by the Agent or any Bank, the annual budget and any forecasts or projections of the Loan Parties, and
- (v) with respect to the Hedging Transaction activities of the Loan Parties and their Subsidiaries, to the extent not previously reported in regular or periodic reports, including Forms 10-K, 10-Q and 8-K, registration statements and prospectuses, filed by the Borrower with the SEC, such other reports and information as any of the Banks may from time to time reasonably request.

8.3.9. Notices Regarding Plans and Benefit Arrangements.

8.3.9.1 Certain Events.

Promptly upon becoming aware of the occurrence thereof, notice (including the nature of the event and, when known, any action taken or threatened by the Internal Revenue Service or the PBGC with respect thereto) of:

- (i) any Reportable Event with respect to the Borrower or any other member of the ERISA Group (regardless of whether the obligation to report said Reportable Event to the PBGC has been waived),
- (ii) any Prohibited Transaction which could subject the Borrower or any other member of the ERISA Group to a civil penalty assessed pursuant to Section 502(i) of ERISA or a tax imposed by Section 4975 of the Internal Revenue Code in connection with any Plan, any Benefit Arrangement or any trust created thereunder,

- (iii) any assertion of material withdrawal liability with respect to any Multiemployer Plan,
- (iv) any partial or complete withdrawal from a Multiemployer Plan by the Borrower or any other member of the ERISA Group under Title IV of ERISA (or assertion thereof), where such withdrawal is likely to result in material withdrawal liability,
- (v) any cessation of operations (by the Borrower or any other member of the ERISA Group) at a facility in the circumstances described in Section 4062(e) of ERISA,
- (vi) withdrawal by the Borrower or any other member of the ERISA Group from a Multiple Employer Plan,
- (vii) a failure by the Borrower or any other member of the ERISA Group to make a payment to a Plan required to avoid imposition of a Lien under Section 302(f) of ERISA,
- (viii) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 307 of ERISA, or
- (ix) any change in the actuarial assumptions or funding methods used for any Plan, where the effect of such change is to materially increase or materially reduce the unfunded benefit liability or obligation to make periodic contributions.

8.3.9.2 Notices of Involuntary Termination and Annual Reports.

Promptly after receipt thereof, copies of (a) all notices received by the Borrower or any other member of the ERISA Group of the PBGC's intent to terminate any Plan administered or maintained by the Borrower or any member of the ERISA Group, or to have a trustee appointed to administer any such Plan; and (b) at the request of the Agent or any Bank each annual report (IRS Form 5500 series) and all accompanying schedules, the most recent actuarial reports, the most recent financial information concerning the financial status of each Plan administered or maintained by the Borrower or any other member of the ERISA Group, and schedules showing the amounts contributed to each such Plan by or on behalf of the Borrower or any other member of the ERISA Group in which any of their personnel participate or from which such personnel may derive a benefit, and each Schedule B (Actuarial Information) to the annual report filed by the Borrower or any other member of the ERISA Group with the Internal Revenue Service with respect to each such Plan.

8.3.9.3 Notice of Voluntary Termination.

Promptly upon the filing thereof, copies of any Form 5310, or any successor or equivalent form to Form 5310, filed with the PBGC in connection with the termination of any Plan.

9. DEFAULT

9.1 Events of Default.

An Event of Default shall mean the occurrence or existence of any one or more of the following events or conditions (whatever the reason therefor and whether voluntary, involuntary or effected by operation of Law):

9.1.1. Payments Under Loan Documents.

The Borrower shall fail to pay (i) any principal of any Loan (including scheduled installments, mandatory prepayments or the payment due at maturity), Reimbursement Obligation or Letter of Credit Borrowing when such principal is due hereunder or (ii) any interest on any Loan, Facility Fee, Reimbursement Obligation or Letter of Credit Borrowing or any other amount owing hereunder or under the other Loan Documents within three (3) Business Days after such interest, fee, or other amount becomes due in accordance with the terms hereof or thereof;

9.1.2. Breach of Warranty.

Any representation or warranty made at any time by any of the Loan Parties herein or by any of the Loan Parties in any other Loan Document, or in any certificate, other instrument or statement furnished pursuant to the provisions hereof or thereof, shall prove to have been false or misleading in any material respect as of the time it was made or furnished;

9.1.3. Breach of Negative Covenants or Visitation Rights.

Any of the Loan Parties shall default in the observance or performance of any covenant contained in Section 8.1.6 [Visitation Rights] or Section [8.2](#) [Negative Covenants];

9.1.4. Breach of Other Covenants.

Any of the Loan Parties shall default in the observance or performance of any other covenant, condition or provision hereof or of any other Loan Document and such default shall continue unremedied for a period of thirty (30) Days after any Authorized Officer (or other executive officer) of any Loan Party becomes aware of the occurrence thereof (such grace period to be applicable only in the event such default can be remedied by corrective action of the Loan Parties as determined by the Agent in its reasonable discretion);

9.1.5. Defaults in Other Agreements or Indebtedness.

(i) A default or event of default shall occur at any time under the terms of any other agreement involving borrowed money or the extension of credit or any other Indebtedness under which any Loan Party or Subsidiary of any Loan Party may be obligated as a borrower or guarantor in excess of \$10,000,000 in the aggregate, and such breach, default or event of default consists of the failure to pay (beyond any period of grace permitted with respect thereto, whether waived or not) any indebtedness when due (whether at stated maturity, by acceleration or otherwise) or if such breach or default permits or causes the acceleration of any

indebtedness (whether or not such right shall have been waived) or the termination of any commitment to lend;

(ii) There shall occur under the NJNG Credit Agreement an "Event of Default" (as such term is defined in the NJNG Credit Agreement);

(iii) A default or event of default shall occur at any time under the terms of any agreement involving any off balance sheet transaction (including any asset securitization, sale/leaseback transaction, or Synthetic Lease) with obligations in the aggregate thereunder for which any Loan Party or Subsidiary of any Loan Party may be obligated in excess of \$10,000,000, and such breach, default or event of default consists of the failure to pay (beyond any period of grace permitted with respect thereto, whether waived or not) any obligation when due (whether at stated maturity, by acceleration or otherwise) or if such breach or default permits or causes the acceleration of any obligation (whether or not such right shall have been waived) or the termination of any such agreement;

9.1.6. Final Judgments or Orders.

Any final judgments or orders for the payment of money in excess of \$10,000,000 in the aggregate, to the extent not covered by insurance, shall be entered against any Loan Party by a court having jurisdiction in the premises, which judgment is not discharged, vacated, bonded or stayed pending appeal within a period of thirty (30) days from the date of entry;

9.1.7. Loan Document Unenforceable.

Any of the Loan Documents shall cease to be legal, valid and binding agreements enforceable against the party executing the same or such party's successors and assigns (as permitted under the Loan Documents) in accordance with the respective terms thereof or shall in any way be terminated (except in accordance with its terms) or become or be declared ineffective or inoperative or shall in any way be challenged or contested or cease to give or provide the respective rights, titles, interests, remedies, powers or privileges intended to be created thereby;

9.1.8. Uninsured Losses; Proceedings Against Assets.

The assets of any Loan Party or the assets of any Subsidiary of any Loan Party are attached, seized, levied upon or subjected to a writ or distress warrant; or such come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors and the same is not cured within thirty (30) days thereafter or otherwise fully bonded or covered by insurance (subject to reasonable and customary deductible amounts);

9.1.9. Notice of Lien or Assessment.

A notice of Lien or assessment in excess of \$10,000,000 which is not a Permitted Lien or Environmental Complaint in excess of \$10,000,000 is filed of record with respect to all or any part of any of the Loan Parties' or any of their Subsidiaries' assets by the United States, or any department, agency or instrumentality thereof, or by any state, county, municipal or other governmental agency, including the PBGC, or any taxes or debts owing at any time or times hereafter to any one of these becomes payable and the same is not paid within thirty (30) days after the same becomes payable;

9.1.10. Insolvency.

Any Loan Party or any Significant Subsidiary of a Loan Party ceases to be Solvent or admits in writing to a creditor or Official Body its inability to pay its debts as they mature;

9.1.11. Events Relating to Plans and Benefit Arrangements.

Any of the following occurs: (i) any Reportable Event, which the Agent determines in good faith constitutes grounds for the termination of any Plan by the PBGC or the appointment of a trustee to administer or liquidate any Plan, shall have occurred and be continuing; (ii) proceedings shall have been instituted or other action taken to terminate any Plan, or a termination notice shall have been filed with respect to any Plan; (iii) a trustee shall be appointed to administer or liquidate any Plan; (iv) the PBGC shall give notice of its intent to institute proceedings to terminate any Plan or Plans or to appoint a trustee to administer or liquidate any Plan; and, in the case of the occurrence of (i), (ii), (iii) or (iv) above, the Agent determines in good faith that the amount of the Borrower's liability is likely to exceed 10% of its consolidated tangible net worth; (v) the Borrower or any member of the ERISA Group shall fail to make any contributions when due to a Plan or a Multiemployer Plan; (vi) the Borrower or any other member of the ERISA Group shall make any amendment to a Plan with respect to which security is required under Section 307 of ERISA; (vii) the Borrower or any other member of the ERISA Group shall withdraw completely or partially from a Multiemployer Plan; (viii) the Borrower or any other member of the ERISA Group shall withdraw (or shall be deemed under Section 4062(e) of ERISA to withdraw) from a Multiple Employer Plan; or (ix) any applicable Law is adopted, changed or interpreted by any Official Body with respect to or otherwise affecting one or more Plans, Multiemployer Plans or Benefit Arrangements and, with respect to any of the events specified in (v), (vi), (vii), (viii) or (ix), the Agent determines in good faith that any such occurrence would be reasonably likely to materially and adversely affect the total enterprise represented by the Borrower and the other members of the ERISA Group;

9.1.12. Cessation of Business.

Any Loan Party or Subsidiary of a Loan Party ceases to conduct its business as contemplated, except as expressly permitted under Section 8.2.5 [Liquidations, Mergers, Etc.], Section 8.2.6 [Disposition of Assets or Unregulated Subsidiaries] or Section 8.2.9 [Continuation of or Change of Business] or any Loan Party or Subsidiary of a Loan Party is enjoined, restrained or in any way prevented by court order from conducting all or any material part of its business and such injunction, restraint or other preventive order is not dismissed within thirty (30) days after the entry thereof;

9.1.13. Change of Control.

(i) Any person or group of persons (within the meaning of Sections 13(d) or 14(a) of the Securities Exchange Act of 1934, as amended) shall have acquired beneficial ownership of (within the meaning of Rule 13d-3 promulgated by the SEC under said Act) 25% or more of the voting capital stock of the Borrower (provided that, for purposes of calculating the acquisition of beneficial ownership, any transfer of voting stock of the Borrower by any Person or group of Persons to a Permitted Transferee shall be deemed not to constitute a conveyance and acquisition of such stock), or (ii) within a period of twelve (12) consecutive calendar months, individuals who were directors of the Borrower on the first day of such period shall cease to constitute a majority of the board of directors of the Borrower unless the individuals who were elected or appointed directors during such twelve (12) month period were elected or appointed by a

majority of the individuals who were directors of the Borrower on the first day of such period or by their duly appointed or elected successors; or (iii) Borrower shall cease to own 100% of the issued and outstanding equity interests of New Jersey Natural Gas; or (iv) Borrower shall cease to own 51% of the issued and outstanding interest in any other Loan Party;

9.1.14. Involuntary Proceedings.

A proceeding shall have been instituted in a court having jurisdiction in the premises seeking a decree or order for relief in respect of any Loan Party or Subsidiary of a Loan Party in an involuntary case under any applicable bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, conservator (or similar official) of any Loan Party or Subsidiary of a Loan Party for any substantial part of its property, or for the winding-up or liquidation of its affairs, and such proceeding shall remain undismissed or unstayed and in effect for a period of sixty (60) consecutive days or such court shall enter a decree or order granting any of the relief sought in such proceeding; or

9.1.15. Voluntary Proceedings.

Any Loan Party or Subsidiary of a Loan Party shall commence a voluntary case under any applicable bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator, conservator (or other similar official) of itself or for any substantial part of its property or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action in furtherance of any of the foregoing.

9.1.16. No Limitation on Dividends and Distributions by Subsidiaries.

Any Loan Party or Subsidiary of a Loan Party (including, without limitation, New Jersey Natural Gas) enters into or otherwise agrees to be bound by any agreement not to pay dividends or make distributions to the Borrower, except for the restrictions that are no more onerous than the restrictions set forth in this Agreement and the restrictions set forth in the Mortgage Indenture, in each case as such restrictions exist as of the Closing Date.

9.2 Consequences of Event of Default.

9.2.1. Events of Default Other Than Bankruptcy, Insolvency or Reorganization Proceedings.

If an Event of Default specified under Sections 9.1.1 through 9.1.13 shall occur and be continuing, the Banks and the Agent shall be under no further obligation to make Loans or issue Letters of Credit, as the case may be, and the Agent may, and upon the request of the Required Banks shall, by written notice to the Borrower, take one or more of the following actions: (i) terminate the Commitments and thereupon the Commitments shall be terminated and of no further force and effect, or (ii) declare the unpaid principal amount of the Notes and Loans then outstanding and all interest accrued thereon, any unpaid fees and all other Indebtedness of the Borrower to the Banks hereunder and thereunder to be forthwith due and payable, and the same shall thereupon become and be immediately due and payable to the Agent for the benefit of each Bank without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived, and (iii) require the Borrower to, and the Borrower shall thereupon, deposit in a non-interest-bearing account with the Agent, as cash collateral for its Obligations under the Loan Documents, an amount equal to the maximum amount currently or at any time thereafter

available to be drawn on all outstanding Letters of Credit, and the Borrower hereby pledges to the Agent and the Banks, and grants to the Agent and the Banks a security interest in, all such cash as security for such Obligations. Upon the curing of all existing Events of Default to the satisfaction of the Required Banks, the Agent shall return such cash collateral to the Borrower; and

9.2.2. Bankruptcy, Insolvency or Reorganization Proceedings.

If an Event of Default specified under Section 9.1.14 [Involuntary Proceedings] or 9.1.15 [Voluntary Proceedings] shall occur, the Commitments shall automatically terminate and be of no further force and effect, the Agent and the Banks shall be under no further obligations to make Loans or issue Letters of Credit, as the case may be, and the unpaid principal amount of the Loans then outstanding and all interest accrued thereon, any unpaid fees and all other Indebtedness of the Borrower to the Banks hereunder and thereunder shall be immediately due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived; and

9.2.3. Set-off.

If an Event of Default shall occur and be continuing, any Bank to whom any Obligation is owed by any Loan Party hereunder or under any other Loan Document or any participant of such Bank which has agreed in writing to be bound by the provisions of Section 10.13 [Equalization of Banks] and any branch, Subsidiary or Affiliate of such Bank or participant anywhere in the world shall have the right, in addition to all other rights and remedies available to it, without notice to such Loan Party, to set-off against and apply to the then unpaid balance of all the Loans and all other Obligations of the Borrower and the other Loan Parties hereunder or under any other Loan Document any debt owing to, and any other funds held in any manner for the account of, the Borrower or such other Loan Party by such Bank or participant or by such branch, Subsidiary or Affiliate, including all funds in all deposit accounts (whether time or demand, general or special, provisionally credited or finally credited, or otherwise) now or hereafter maintained by the Borrower or such other Loan Party for its own account (but not including funds held in custodian or trust accounts) with such Bank or participant or such branch, Subsidiary or Affiliate. Such right shall exist whether or not any Bank or the Agent shall have made any demand under this Agreement or any other Loan Document, whether or not such debt owing to or funds held for the account of the Borrower or such other Loan Party is or are matured or unmatured and regardless of the existence or adequacy of any Guaranty or any other security, right or remedy available to any Bank or the Agent; and

9.2.4. Suits, Actions, Proceedings.

If an Event of Default shall occur and be continuing, and whether or not the Agent shall have accelerated the maturity of Loans pursuant to any of the foregoing provisions of this Section 9.2, the Agent or any Bank, if owed any amount with respect to the Loans, may proceed to protect and enforce its rights by suit in equity, action at law and/or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement or the other Loan Documents; and

9.2.5. Application of Proceeds; Collateral Sharing.

9.2.5.1 Application of Proceeds.

From and after the date on which the Agent has taken any action pursuant to this Section 9.2 and until all Obligations of the Loan Parties have been paid in full, any and all proceeds received by the Agent from the exercise of any remedy by the Agent, shall be applied as follows:

- (i) first, to reimburse the Agent and the Banks for out-of-pocket costs, expenses and disbursements, including reasonable attorneys' and paralegals' fees

and legal expenses, incurred by the Agent or the Banks in connection with collection of any Obligations of any of the Loan Parties under any of the Loan Documents;

(ii) second, to the repayment of all Indebtedness then due and unpaid of the Loan Parties to the Banks incurred under this Agreement or any of the other Loan Documents, whether of principal, interest, fees, expenses or otherwise, in such manner as the Agent may determine in its discretion; and

(iii) the balance, if any, as required by Law.

9.2.5.2 Collateral Sharing.

All Liens granted under each Loan Document (the "Collateral Documents") shall secure ratably and on a paripassu basis (i) the Obligations in favor of the Agent and the Banks hereunder and (ii) the Obligations incurred by any of the Loan Parties in favor of any Bank which provides a Bank Provided Interest Rate Hedge (the "IRH Provider"). The Agent under the Collateral Documents shall be deemed to serve as the collateral agent (the "Collateral Agent") for the IRH Provider and the Banks hereunder, provided that the Collateral Agent shall comply with the instructions and directions of the Agent (or the Banks under this Agreement to the extent that this Agreement or any other Loan Documents empowers the Banks to direct the Agent), as to all matters relating to the collateral, including the maintenance and disposition thereof. No IRH Provider (except in its capacity as a Bank hereunder) shall be entitled or have the power to direct or instruct the Collateral Agent on any such matters or to control or direct in any manner the maintenance or disposition of the collateral.

9.2.6. Other Rights and Remedies.

In addition to all of the rights and remedies contained in this Agreement or in any of the other Loan Documents, the Agent shall have all of the rights and remedies under applicable Law, all of which rights and remedies shall be cumulative and non-exclusive, to the extent permitted by Law. The Agent may, and upon the request of the Required Banks shall, exercise all post-default rights granted to the Agent and the Banks under the Loan Documents or applicable Law.

10. THE AGENT

10.1 Appointment.

Each Bank hereby irrevocably designates, appoints and authorizes PNC Bank to act as Agent for such Bank under this Agreement and to execute and deliver or accept on behalf of each of the Banks the other Loan Documents. Each Bank hereby irrevocably authorizes, the Agent to take such action on its behalf under the provisions of this Agreement and the other Loan Documents and any other instruments and agreements referred to herein, and to exercise such powers and to perform such duties hereunder as are specifically delegated to or required of the Agent by the terms hereof, together with such powers as are reasonably incidental thereto. PNC Bank agrees to act as the Agent on behalf of the Banks to the extent provided in this Agreement.

10.2 Delegation of Duties.

The Agent may perform any of its duties hereunder by or through agents or employees (provided such delegation does not constitute a relinquishment of its duties as Agent) and, subject to Sections 10.5 [Reimbursement and Indemnification of Agent by the Borrower] and Section 10.6 [Exculpatory Provisions; Limitation of Liability], shall be entitled to engage and pay for the advice or services of any attorneys, accountants or

other experts concerning all matters pertaining to its duties hereunder and to rely upon any advice so obtained. It is acknowledged and agreed that JPMorgan Chase Bank, N.A. and Bank of America, N.A. each have received the title of syndication agent under this Agreement, that Citibank, N.A. and The Bank of Nova Scotia each have received the title of documentation agent under this Agreement, however such designations are solely to give JPMorgan Chase Bank, N.A., Bank of America, N.A., Citibank, N.A. and The Bank of Nova Scotia their respective titles and each of JPMorgan Chase Bank, N.A., Bank of America, N.A., Citibank, N.A. and The Bank of Nova Scotia: (i) has no duties, responsibilities, functions obligations or liabilities implied or otherwise under the Loan Documents solely as a result of being so designated as a syndication agent or documentation agent, respectively, and (ii) is not entitled to any fee solely as a result of being so designated as a syndication agent or documentation agent, respectively, other than the closing fees payable on the Closing Date in accordance with the Agent's Letter.

10.3 Nature of Duties; Independent Credit Investigation.

The Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and no implied covenants, functions, responsibilities, duties, obligations, or liabilities shall be read into this Agreement or otherwise exist. The duties of the Agent shall be mechanical and administrative in nature; the Agent shall not have by reason of this Agreement a fiduciary or trust relationship in respect of any Bank; and nothing in this Agreement, expressed or implied, is intended to or shall be so construed as to impose upon the Agent any obligations in respect of this Agreement except as expressly set forth herein. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement with reference to the Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Each Bank expressly acknowledges (i) that the Agent has not made any representations or warranties to it and that no act by the Agent hereafter taken, including any review of the affairs of any of the Loan Parties, shall be deemed to constitute any representation or warranty by the Agent to any Bank; (ii) that it has made and will continue to make, without reliance upon the Agent, its own independent investigation of the financial condition and affairs and its own appraisal of the creditworthiness of each of the Loan Parties in connection with this Agreement and the making and continuance of the Loans hereunder; and (iii) except as expressly provided herein, that the Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Bank with any credit or other information with respect thereto, whether coming into its possession before the making of any Loan or at any time or times thereafter.

10.4 Actions in Discretion of Agent; Instructions From the Banks.

The Agent agrees, upon the written request of the Required Banks, to take or refrain from taking any action of the type specified as being within the Agent's rights, powers or discretion herein, provided that the Agent shall not be required to take any action which exposes the Agent to personal liability or which is contrary to this Agreement or any other Loan Document or applicable Law. In the absence of a request by the Required Banks, the Agent shall have authority, in its sole discretion, to take or not to take any such action, unless this Agreement specifically requires the consent of the Required Banks or all of the Banks. Any action taken or failure to act pursuant to such instructions or discretion shall be binding on the Banks, subject to Section 10.6 [Exculpatory Provisions, Etc.]. Subject to the provisions of Section 10.6, no Bank shall have any right of action whatsoever against the Agent as a result of the Agent acting or refraining from acting hereunder in accordance with the instructions of the Required Banks, or in the absence of such instructions, in the absolute discretion of the Agent.

10.5 Reimbursement and Indemnification of Agent by the Borrower.

The Borrower agrees to pay or reimburse the Agent and hold the Agent harmless against (a) liability for the payment of all reasonable out-of-pocket costs, expenses and disbursements, including fees and expenses of counsel (including the allocated costs of staff counsel), appraisers and environmental consultants, incurred by the Agent (i) in connection with the negotiation, preparation, printing, execution, administration, syndication, interpretation and performance of this Agreement and the other Loan Documents, (ii) relating to any

amendments, waivers or consents pursuant to the provisions hereof, requested by the Borrower or required by applicable law, (iii) in connection with the enforcement of this Agreement or any other Loan Document or collection of amounts due hereunder or thereunder or the proof and allowability of any claim arising under this Agreement or any other Loan Document, whether in bankruptcy or receivership proceedings or otherwise, (iv) in any workout or restructuring or in connection with the protection, preservation, exercise or enforcement of any of the terms hereof or of any rights hereunder or under any other Loan Document or in connection with any foreclosure, collection or bankruptcy proceedings, and (v) in connection with any Environmental Complaint threatened or asserted against the Agent or the Banks in any way relating to or arising out of this Agreement or any other Loan Documents (including, without limitation, the protection, preservation, exercise or enforcement of any of the terms hereof or of any rights hereunder or under any other Loan Document or in connection with any foreclosure, collection or bankruptcy proceedings or in any workout or restructuring) and (b) all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Agent, in its capacity as such, in any way relating to or arising out of (i) this Agreement or any other Loan Documents or any action taken or omitted by the Agent hereunder or thereunder, and (ii) any Environmental Complaint in any way relating to or arising out of this Agreement or any other Loan Documents or any action taken or omitted by the Agent hereunder or thereunder, provided that the Borrower shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements if the same results from the Agent's gross negligence or willful misconduct, or if the Borrower was not given notice of the subject claim and the opportunity to participate in the defense thereof, at its expense (except that the Borrower shall remain liable to the extent such failure to give notice does not result in a loss to the Borrower), or if the same results from a compromise or settlement agreement entered into without the consent of the Borrower, which shall not be unreasonably withheld. In addition, the Borrower agrees to reimburse and pay all reasonable out-of-pocket expenses of the Agent's regular employees and agents engaged periodically to perform audits of the Loan Parties' books, records and business properties, subject in all cases to the limitation set forth in Section [8.1.6](#) [Visitation Rights].

10.6 Exculpatory Provisions; Limitation of Liability.

Neither the Agent nor any of its directors, officers, employees, agents, attorneys or Affiliates shall (a) be liable to any Bank for any action taken or omitted to be taken by it or them hereunder, or in connection herewith including pursuant to any Loan Document, unless caused by its or their own gross negligence or willful misconduct, (b) be responsible in any manner to any of the Banks for the effectiveness, enforceability, genuineness, validity or the due execution of this Agreement or any other Loan Documents or for any recital, representation, warranty, document, certificate, report or statement herein or made or furnished under or in connection with this Agreement or any other Loan Documents, or (c) be under any obligation to any of the Banks to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions hereof or thereof on the part of the Loan Parties, or the financial condition of the Loan Parties, or the existence or possible existence of any Event of Default or Potential Default. No claim may be made by any of the Loan Parties, any Bank, the Agent or any of their respective Subsidiaries against the Agent, any Bank or any of their respective directors, officers, employees, agents, attorneys or Affiliates, or any of them, for any special, indirect or consequential damages or, to the fullest extent permitted by Law, for any punitive damages in respect of any claim or cause of action (whether based on contract, tort, statutory liability, or any other ground) based on, arising out of or related to any Loan Document or the transactions contemplated hereby or any act, omission or event occurring in connection therewith, including the negotiation, documentation, administration or collection of the Loans, and each of the Loan Parties (for itself and on behalf of each of its Subsidiaries), the Agent and each Bank hereby waives, releases and agrees never to sue upon any claim for any such damages, whether such claim now exists or hereafter arises and whether or not it is now known or suspected to exist in its favor. Each Bank agrees that, except for notices, reports and other documents expressly required to be furnished to the Banks by the Agent hereunder or given to the Agent for the account of or with copies for the Banks, the Agent and each of its directors, officers, employees, agents, attorneys or Affiliates shall not have any duty or responsibility to provide any Bank with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of the Loan Parties

which may come into the possession of the Agent or any of its directors, officers, employees, agents, attorneys or Affiliates.

10.7 Reimbursement and Indemnification of Agent by Banks.

Each Bank agrees to reimburse and indemnify, defend and save the Agent (to the extent not reimbursed by the Borrower and without limiting the Obligation of the Borrower to do so) in proportion to its Ratable Share harmless from and against all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements, including attorneys' fees and disbursements (including the allocated costs of staff counsel), and costs of appraisers and environmental consultants, of any kind or nature whatsoever which may be imposed on, incurred by or asserted against the Agent, in its capacity as such, in any way relating to or arising out of this Agreement or any other Loan Documents or any action taken or omitted by the Agent hereunder or thereunder, provided that no Bank shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements (a) if the same results from the Agent's gross negligence or willful misconduct, or (b) if such Bank was not given notice of the subject claim and the opportunity to participate in the defense thereof, at its expense (except that such Bank shall remain liable to the extent such failure to give notice does not result in a loss to the Bank), or (c) if the same results from a compromise and settlement agreement entered into without the consent of such Bank, which shall not be unreasonably withheld. In addition, each Bank agrees promptly upon demand to reimburse the Agent (to the extent not reimbursed by the Borrower and without limiting the Obligation of the Borrower to do so) in proportion to its Ratable Share for all amounts due and payable by the Borrower to the Agent in connection with the Agent's periodic audit of the Loan Parties' books, records and business properties.

10.8 Reliance by Agent.

The Agent shall be entitled to rely upon any writing, telex or teletype message, resolution, notice, consent, certificate, letter, statement, order or other document or conversation by telephone or otherwise believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon the advice and opinions of counsel and other professional advisers selected by the Agent. The Agent shall be fully justified in failing or refusing to take any action hereunder unless it shall first be indemnified to its satisfaction by the Banks against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action.

10.9 Notice of Default.

The Agent shall not be deemed to have knowledge or notice of the occurrence of any Potential Default or Event of Default unless the Agent has received written notice from a Bank or the Borrower referring to this Agreement, describing such Potential Default or Event of Default and stating that such notice is a "notice of default."

10.10 Notices.

The Agent shall promptly send to each Bank a copy of all notices received from the Borrower pursuant to the provisions of this Agreement or the other Loan Documents promptly upon receipt thereof. The Agent shall promptly notify the Borrower and the other Banks of each change in the Base Rate and the effective date thereof.

10.11 Banks in Their Individual Capacities; Agents in Its Individual Capacity.

With respect to its Commitment and the Loans made by it and any other rights and powers given to it as a Bank hereunder or under any of the other Loan Documents, the Agent shall have the same rights and powers

hereunder as any other Bank and may exercise the same as though it were not the Agent, and the term "Bank" and "Banks" shall, unless the context otherwise indicates, include the Agent in its individual capacity. PNC Bank and its Affiliates and each of the Banks and their respective Affiliates may, without liability to account, except as prohibited herein, make loans to, issue letters of credit for the account of, acquire equity interests in, accept deposits from, discount drafts for, act as trustee under indentures of, and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with, the Loan Parties and their Affiliates, in the case of the Agent, as though it were not acting as Agent hereunder and in the case of each Bank, as though such Bank were not a Bank hereunder, in each case without notice to or consent of the other Banks. The Banks acknowledge that, pursuant to such activities, the Agent or its Affiliates may (i) receive information regarding the Loan Parties or any of their Subsidiaries or Affiliates (including information that may be subject to confidentiality obligations in favor of the Loan Parties or such Subsidiary or Affiliate) and acknowledge that the Agent shall be under no obligation to provide such information to them, and (ii) accept fees and other consideration from the Loan Parties for services in connection with this Agreement and otherwise without having to account for the same to the Banks.

10.12 Holders of Notes.

The Agent may deem and treat any payee of any Note as the owner thereof for all purposes hereof unless and until written notice of the assignment or transfer thereof shall have been filed with the Agent. Any request, authority or consent of any Person who at the time of making such request or giving such authority or consent is the holder of any Note shall be conclusive and binding on any subsequent holder, transferee or assignee of such Note or of any Note or Notes issued in exchange therefor.

10.13 Equalization of Banks.

The Banks and the holders of any participations in any Commitments or Loans or other rights or obligations of a Bank hereunder agree among themselves that, with respect to all amounts received by any Bank or any such holder for application on any Obligation hereunder or under any such participation, whether received by voluntary payment, by realization upon security, by the exercise of the right of set-off or banker's lien, by counterclaim or by any other non-pro rata source, equitable adjustment will be made in the manner stated in the following sentence so that, in effect, all such excess amounts will be shared ratably among the Banks and such holders in proportion to their interests in payments on the Loans, except as otherwise provided in Sections 4.4.3 [Agent's and Banks' Rights], 5.4.2 [Replacement of a Bank] or 5.6 [Additional Compensation in Certain Circumstances]. The Banks or any such holder receiving any such amount shall purchase for cash from each of the other Banks an interest in such Bank's Loans in such amount as shall result in a ratable participation by the Banks and each such holder in the aggregate unpaid amount of the Loans, provided that if all or any portion of such excess amount is thereafter recovered from the Bank or the holder making such purchase, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, together with interest or other amounts, if any, required by law (including court order) to be paid by the Bank or the holder making such purchase.

10.14 Successor Agent.

The Agent (i) may resign as Agent or (ii) shall resign if such resignation is requested by the Required Banks (if the Agent is a Bank, the Agent's Loans and its Commitment shall be considered in determining whether the Required Banks have requested such resignation) or required by Section 5.4.2 [Replacement of a Bank], in either case of (i) or (ii) by giving not less than thirty (30) days' prior written notice to the Borrower. If the Agent shall resign under this Agreement, then either (a) the Required Banks shall appoint from among the Banks a successor agent for the Banks, subject to the consent of the Borrower, such consent not to be unreasonably withheld and such consent not to be required if an Event of Default exists and is continuing, or (b) if a successor agent shall not be so appointed and approved within the thirty (30) day period following the Agent's notice to the Banks of its resignation, then the Agent shall appoint, with the consent of the Borrower, such consent not to be unreasonably withheld, a successor agent who shall serve as Agent until such time as the Required Banks appoint and the Borrower consents to the appointment of a successor agent. Upon its appointment pursuant to either clause (a) or (b)

above, such successor agent shall succeed to the rights, powers and duties of the Agent, and the term "Agent" shall mean such successor agent, effective upon its appointment, and the former Agent's rights, powers and duties as Agent shall be terminated without any other or further act or deed on the part of such former Agent or any of the parties to this Agreement. After the resignation of any Agent hereunder, the provisions of this Section 10 shall inure to the benefit of such former Agent and such former Agent shall not by reason of such resignation be deemed to be released from liability for any actions taken or not taken by it while it was an Agent under this Agreement.

10.15 Agent's Fee.

The Borrower shall pay to the Agent a nonrefundable fee (the "Agent's Fee") for Agent's services hereunder under the terms of a letter (the "Agent's Letter") between the Borrower and Agent dated July 24, 2007, as the same may be amended, restated, modified or supplemented.

10.16 Availability of Funds.

The Agent may assume that each Bank has made or will make the proceeds of a Loan available to the Agent unless the Agent shall have been notified by such Bank on or before the later of (1) the close of Business on the Business Day preceding the Borrowing Date with respect to such Loan or two (2) hours before the time on which the Agent actually funds the proceeds of such Loan to the Borrower (whether using its own funds pursuant to this Section 10.16 or using proceeds deposited with the Agent by the Banks and whether such funding occurs before or after the time on which Banks are required to deposit the proceeds of such Loan with the Agent). The Agent may, in reliance upon such assumption (but shall not be required to), make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Agent by such Bank, the Agent shall be entitled to recover such amount on demand from such Bank (or, if such Bank fails to pay such amount forthwith upon such demand from the Borrower) together with interest thereon, in respect of each day during the period commencing on the date such amount was made available to the Borrower and ending on the date the Agent recovers such amount, at a rate per annum equal to (i) the Federal Funds Open Rate during the first three (3) days after such interest shall begin to accrue and (ii) the applicable interest rate in respect of such Loan after the end of such three-day period.

10.17 Calculations.

In the absence of gross negligence or willful misconduct, the Agent shall not be liable for any error in computing the amount payable to any Bank whether in respect of the Loans, fees or any other amounts due to the Banks under this Agreement. In the event an error in computing any amount payable to any Bank is made, the Agent, the Borrower and each affected Bank shall, forthwith upon discovery of such error, make such adjustments as shall be required to correct such error, and any compensation therefor will be calculated at the Federal Funds Open Rate.

10.18 Beneficiaries.

Except as expressly provided herein, the provisions of this Section 10 are solely for the benefit of the Agent and the Banks, and the Loan Parties shall not have any rights to rely on or enforce any of the provisions hereof. In performing its functions and duties under this Agreement, the Agent shall act solely as agent of the Banks and does not assume and shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any of the Loan Parties.

10.19 No Reliance on Agent's Customer Identification Program.

Each Bank acknowledges and agrees that neither such Bank, nor any of its Affiliates, participants or assignees, may rely on the Agent to carry out such Bank's, Affiliate's, participant's or assignee's customer

identification program, or other obligations required or imposed under or pursuant to the USA Patriot Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with any of the Loan Parties, their Affiliates or their agents, the Loan Documents or the transactions hereunder or contemplated hereby: (1) any identity verification procedures, (2) any record keeping, (3) comparisons with government lists, (4) customer notices, or (5) other procedures required under the CIP Regulations or such other Laws.

11. MISCELLANEOUS

11.1 Modifications, Amendments or Waivers.

With the written consent of the Required Banks, the Agent, acting on behalf of all the Banks, and the Borrower, on behalf of the Loan Parties, may from time to time enter into written agreements amending or changing any provision of this Agreement or any other Loan Document or the rights of the Banks or the Loan Parties hereunder or thereunder, or may grant written waivers or consents to a departure from the due performance of the Obligations of the Loan Parties hereunder or thereunder. Any such agreement, waiver or consent made with such written consent shall be effective to bind all the Banks and the Loan Parties; provided, that, no such agreement, waiver or consent may be made which will:

11.1.1. Increase of Revolving Credit Commitments; Extension of Expiration Date.

Without the written consent of the Required Banks and all Banks which have a Revolving Credit Commitment:

(i) increase the amount of the Revolving Credit Commitment of any Bank hereunder (other than any increase in the amount of the Revolving Credit Commitments in accordance with Section 2.11, which increase shall not require the consent of any Bank, other than each Bank increasing its Revolving Credit Commitment),

(ii) extend the Expiration Date,

(iii) whether or not any Revolving Credit Loans are outstanding extend the time for payment of principal or interest of any Revolving Credit Loan (excluding the due date of any mandatory prepayment of a Revolving Credit Loan or any mandatory Revolving Credit Commitment reduction in connection with such a mandatory prepayment hereunder except for mandatory reductions of the Revolving Credit Commitments on the Expiration Date), the Facility Fee, or any other fee payable to any Bank which has a Revolving Credit Commitment, or

(iv) reduce the principal amount of or the rate of interest borne by any Revolving Credit Loan or reduce the Facility Fee or any other fee payable to any Bank which has a Revolving Credit Commitment, or otherwise affect the terms of payment of the principal of or interest of any Revolving Credit Loan, the Facility Fee, or any other fee payable to any Bank which has a Revolving Credit Commitment;

11.1.2. Release of Collateral or Guarantor.

Without the written consent of all Banks, release any Guarantor from its Obligations under the Guaranty Agreement or any other security for any of the Loan Parties' Obligations; or

11.1.3. Miscellaneous.

Without the written consent of all Banks, amend Sections 5.2 [Pro Rata Treatment of Banks], 9.2.5 [Application of Proceeds; Collateral Sharing], 10.6 [Exculpatory Provisions, Etc.] or 10.13 [Equalization of Banks] or this Section 11.1, alter any provision regarding the pro rata treatment of the Banks, change the definition of Required Banks, or change any requirement providing for the Banks or the Required Banks to authorize the taking of any action hereunder;

provided, further, that no agreement, waiver or consent which would modify the interests, rights or obligations of the Agent in its capacity as Agent or as the issuer of Letters of Credit shall be effective without the written consent of the Agent, and no agreement, waiver or consent which would modify the interests, rights or obligations of PNC Bank with respect to its Swing Loan Commitment shall be effective without the written consent of PNC Bank.

11.2 No Implied Waivers; Cumulative Remedies; Writing Required.

No course of dealing and no delay or failure of the Agent or any Bank in exercising any right, power, remedy or privilege under this Agreement or any other Loan Document shall affect any other or future exercise thereof or operate as a waiver thereof, nor shall any single or partial exercise thereof or any abandonment or discontinuance of steps to enforce such a right, power, remedy or privilege preclude any further exercise thereof or of any other right, power, remedy or privilege. The rights and remedies of the Agent and the Banks under this Agreement and any other Loan Documents are cumulative and not exclusive of any rights or remedies which they would otherwise have. Any waiver, permit, consent or approval of any kind or character on the part of any Bank of any breach or default under this Agreement or any such waiver of any provision or condition of this Agreement must be in writing and shall be effective only to the extent specifically set forth in such writing.

11.3 Reimbursement and Indemnification of Banks by the Borrower; Taxes.

The Borrower agrees upon demand to pay or reimburse to each Bank (other than the Agent, as to which the Borrower's Obligations are set forth in Section 10.5 [Reimbursement and Indemnification of Agent by the Borrower]) and to save such Bank harmless against (i) liability for the payment of all reasonable out-of-pocket costs, expenses and disbursements (including fees and expenses of counsel (including allocated costs of staff counsel) for each Bank except with respect to (A) and (B) below), incurred by such Bank (a) in connection with the administration and interpretation of this Agreement, and other instruments and documents to be delivered hereunder, (b) relating to any amendments, waivers or consents pursuant to the provisions hereof requested by the Borrower or required by applicable law, (c) in connection with the enforcement of this Agreement or any other Loan Document, or collection of amounts due hereunder or thereunder or the proof and allowability of any claim arising under this Agreement or any other Loan Document, whether in bankruptcy or receivership proceedings or otherwise, (d) in any workout or restructuring or in connection with the protection, preservation, exercise or enforcement of any of the terms hereof or of any rights hereunder or under any other Loan Document or in connection with any foreclosure, collection or bankruptcy proceedings, and (e) in connection with any Environmental Complaint threatened or asserted against such Bank in any way relating to or arising out of this Agreement or any other Loan Documents (including, without limitation, the protection, preservation, exercise or enforcement of any of the terms hereof or of any rights hereunder or under any other Loan Document or in connection with any foreclosure, collection or bankruptcy proceedings or in any workout or restructuring), or (ii) all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Bank, in its capacity as such, in any way relating to or arising out of (y) this Agreement or any other Loan Documents or any action taken or omitted by such Bank hereunder or thereunder, and (z) any Environmental Complaint in any way relating to or arising out of this Agreement or any other Loan Documents or any action taken or omitted by such Bank hereunder or thereunder, provided that the Borrower shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits,

costs, expenses or disbursements (A) if the same results from such Bank's gross negligence or willful misconduct, or (B) if the Borrower was not given notice of the subject claim and the opportunity to participate in the defense thereof, at its expense (except that the Borrower shall remain liable to the extent such failure to give notice does not result in a loss to the Borrower), or (C) if the same results from a compromise or settlement agreement entered into without the consent of the Borrower, which shall not be unreasonably withheld. The Banks will attempt to minimize the fees and expenses of legal counsel for the Banks which are subject to reimbursement by the Borrower hereunder by considering the usage of one law firm to represent the Banks and the Agent if appropriate under the circumstances. The Borrower agrees unconditionally to pay all stamp, document, transfer, recording or filing taxes or fees and similar impositions now or hereafter determined by the Agent or any Bank to be payable in connection with this Agreement or any other Loan Document, and the Borrower agrees unconditionally to save the Agent and the Banks harmless from and against any and all present or future claims, liabilities or losses with respect to or resulting from any omission to pay or delay in paying any such taxes, fees or impositions.

11.4 Holidays.

Whenever payment of a Loan to be made or taken hereunder shall be due on a day which is not a Business Day such payment shall be due on the next Business Day (except as provided in Section 4.2 [Interest Periods] with respect to Interest Periods under the LIBOR Rate Option) and such extension of time shall be included in computing interest and fees, except that the Revolving Credit Loans and Swing Loans shall be due on the Business Day preceding the Expiration Date if the Expiration Date is not a Business Day. Whenever any payment or action to be made or taken hereunder (other than payment of the Loans) shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day, and such extension of time shall not be included in computing interest or fees, if any, in connection with such payment or action.

11.5 Funding by Branch, Subsidiary or Affiliate.

11.5.1. Notional Funding.

Each Bank shall have the right from time to time, without notice to the Borrower, to deem any branch, Subsidiary or Affiliate (which for the purposes of this Section 11.5 shall mean any corporation or association which is directly or indirectly controlled by or is under direct or indirect common control with any corporation or association which directly or indirectly controls such Bank) of such Bank to have made, maintained or funded any Loan to which the LIBOR Rate Option applies at any time, provided that immediately following (on the assumption that a payment were then due from the Borrower to such other office), and as a result of such change, the Borrower would not be under any greater financial obligation pursuant to Section 5.6 [Additional Compensation in Certain Circumstances] or Section 5.8 [Taxes] than it would have been in the absence of such change. Notional funding offices may be selected by each Bank without regard to such Bank's actual methods of making, maintaining or funding the Loans or any sources of funding actually used by or available to such Bank.

11.5.2. Actual Funding.

Each Bank shall have the right from time to time to make or maintain any Loan by arranging for a branch, Subsidiary or Affiliate of such Bank to make or maintain such Loan subject to the last sentence of this Section 11.5.2. If any Bank causes a branch, Subsidiary or Affiliate to make or maintain any part of the Loans hereunder, all terms and conditions of this Agreement shall, except where the context clearly requires otherwise, be applicable to such part of the Loans to the same extent as if such Loans were made or maintained by such Bank, but in no event shall any Bank's use of such a branch, Subsidiary or Affiliate to make or maintain any part of the Loans hereunder cause such Bank or such branch, Subsidiary or Affiliate to incur any cost or expenses payable by the Borrower hereunder or require the Borrower to pay any other compensation to any Bank (including

any expenses incurred or payable pursuant to Section 5.6 [Additional Compensation in Certain Circumstances]) or Section 5.8 [Taxes] which would otherwise not be incurred.

11.6 Notices; Lending Offices.

Any notice, request, demand, direction or other communication (for purposes of this Section 11.6 only, a "Notice") to be given to or made upon any party hereto under any provision of this Agreement shall be given or made by telephone or in writing (which includes means of electronic transmission (i.e., "e-mail") or facsimile transmission or by setting forth such Notice on a restricted access site on the World Wide Web (a "Website Posting") if Notice of such Website Posting (including the information necessary to access such site) has previously been delivered to the applicable parties hereto by another means set forth in this Section 11.6) in accordance with this Section 11.6. Any such Notice must be delivered to the applicable parties hereto at the addresses and numbers set forth under their respective names on Schedule 1.1(B) hereof or in accordance with any subsequent unrevoked Notice from any such party that is given in accordance with this Section 11.6. Any Notice shall be effective:

- (i) In the case of hand-delivery, when delivered;
- (ii) If given by mail, four days after such Notice is deposited with the United States Postal Service, with first-class postage prepaid, return receipt requested;
- (iii) In the case of a telephonic Notice, when a party is contacted by telephone, if delivery of such telephonic Notice is confirmed no later than the next Business Day by hand delivery, a facsimile or electronic transmission, a Website Posting or overnight courier delivery of a confirmatory notice (received at or before noon on such next Business Day);
- (iv) In the case of a facsimile transmission, when sent to the applicable party's facsimile machine's telephone number if the party sending such Notice receives confirmation of the delivery thereof from its own facsimile machine;
- (v) In the case of electronic transmission, when actually received;
- (vi) In the case of a Website Posting, upon delivery of a Notice of such posting (including the information necessary to access such web site) by another means set forth in this Section 11.6; and
- (vii) If given by any other means (including by overnight courier), when actually received.

Any Bank giving a Notice to a Loan Party shall concurrently send a copy thereof to the Agent, and the Agent shall promptly notify the other Banks of its receipt of such Notice.

11.7 Severability.

The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

11.8 Governing Law.

Each Letter of Credit and Section 2.9 [Letter of Credit Subfacility] shall be subject to either to the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce (the "ICC") at the time of issuance ("UCP") or the International Standby Practices (ICC Publication Number 590) ("ISP98") and any subsequent official revision thereof, and to the extent not inconsistent therewith, shall, pursuant to New York General Obligations Law Section 5-1401, for all purposes be governed by and construed and enforced in accordance with the laws of the State of New York and shall, pursuant to New York General Obligations Law Section 5-1401, for all purposes be governed by and construed and enforced in accordance with the laws of the State of New York.

11.9 Prior Understanding.

This Agreement and the other Loan Documents supersede all prior understandings and agreements, whether written or oral, between the parties hereto and thereto relating to the transactions provided for herein and therein, including any prior confidentiality agreements and commitments.

11.10 Duration; Survival.

All representations and warranties of the Loan Parties contained herein or made in connection herewith shall survive the making of Loans and issuance of Letters of Credit and shall not be waived by the execution and delivery of this Agreement, any investigation by the Agent or the Banks, the making of Loans, issuance of Letters of Credit, or payment in full of the Loans. All covenants and agreements of the Loan Parties contained in Sections 8.1 [Affirmative Covenants], 8.2 [Negative Covenants] and 8.3 [Reporting Requirements] herein shall continue in full force and effect from and after the date hereof so long as the Borrower may borrow or request Letters of Credit hereunder and until termination of the Commitments and payment in full of the Loans and expiration or termination of all Letters of Credit. All covenants and agreements of the Borrower contained herein relating to the payment of principal, interest, premiums, additional compensation or expenses and indemnification, including those set forth in Section 5 [Payments] and Sections 10.5 [Reimbursement and Indemnification of Agent by the Borrower], 10.7 [Reimbursement and Indemnification of Agent by Banks] and 11.3 [Reimbursement and Indemnification of Banks by the Borrower; Taxes], shall survive payment in full of the Loans, expiration or termination of the Letters of Credit and termination of the Commitments.

11.11 Successors and Assigns; Joinder of a Bank.

(i) This Agreement shall be binding upon and shall inure to the benefit of the Banks, the Agent, the Loan Parties and their respective successors and assigns, except that none of the Loan Parties may assign or transfer any of its rights and Obligations hereunder or any interest herein. Each Bank may, at its own cost, make assignments of or sell participations in all or any part of its Commitments and the Loans made by it to one or more banks or other entities, subject to the consent of the Borrower and the Agent with respect to any assignee, such consent not to be unreasonably withheld, provided that (1) no consent of the Borrower shall be required (A) if an Event of Default exists and is continuing, or (B) in the case of an assignment by a Bank to an Affiliate of such Bank or an Approved Fund of such Bank which assignment also shall not require the consent of the Agent and (2) any assignment by a Bank to a Person other than an Affiliate of such Bank may not be made in amounts less than the lesser of \$5,000,000 or the amount of the assigning Bank's Commitment. In the case of

an assignment, upon receipt by the Agent of the Assignment and Assumption Agreement, the assignee shall have, to the extent of such assignment (unless otherwise provided therein), the same rights, benefits and obligations as it would have if it had been a signatory Bank hereunder, the Commitments shall be adjusted accordingly, and upon surrender of any Revolving Credit Note subject to such assignment, the Borrower shall execute and deliver a new Revolving Credit Note to the assignee, if such assignee requests such a Note in an amount equal to the amount of the Revolving Credit Commitment assumed by it and a new Revolving Credit Note to the assigning Bank, if the assigning Bank requests such a Note, in an amount equal to the Revolving Credit Commitment retained by it hereunder. Any Bank which assigns any or all of its Commitment or Loans to a Person other than an Affiliate of such Bank shall pay to the Agent a service fee in the amount of \$3,500 for each assignment. In the case of a participation, the participant shall only have the rights specified in Section 9.2.3 [Set-off] (the participant's rights against such Bank in respect of such participation to be those set forth in the agreement executed by such Bank in favor of the participant relating thereto and not to include any voting rights except with respect to changes of the type referenced in Section 11.1.1 [Increase of Revolving Credit Commitments; Extension of Expiration Date], all of such Bank's obligations under this Agreement or any other Loan Document shall remain unchanged, and all amounts payable by any Loan Party hereunder or thereunder shall be determined as if such Bank had not sold such participation.

(ii) Any assignee or participant which is not incorporated under the Laws of the United States of America or a state thereof shall deliver to the Borrower and the Agent the form of certificate described in Section [11.18.1](#) [Tax Withholding] relating to federal income tax withholding. Each Bank may furnish any publicly available information concerning any Loan Party or its Subsidiaries and any other information concerning any Loan Party or its Subsidiaries in the possession of such Bank from time to time to assignees and participants (including prospective assignees or participants), provided that such assignees and participants agree to be bound by the provisions of Section 11.12 [Confidentiality].

(iii) Notwithstanding any other provision in this Agreement, any Bank may at any time pledge or grant a security interest in all or any portion of its rights under this Agreement, its Note (if any) and the other Loan Documents to any Federal Reserve Bank in accordance with Regulation A of the FRB or U.S. Treasury Regulation 31 CFR Section 203.14 without notice to or consent of the Borrower or the Agent. No such pledge or grant of a security interest shall release the transferor Bank of its obligations hereunder or under any other Loan Document.

(iv) A bank which is to become a party to this Agreement pursuant to Section 2.11 hereof or otherwise (each an "Additional Bank") shall execute and deliver to Agent a Bank Joinder to this Agreement in substantially the form attached hereto as Exhibit 1.1(B). Upon execution and delivery of a Bank Joinder, such Additional Bank shall be a party hereto and a Bank under each of the Loan Documents for all purposes, except that such Additional Bank shall not participate in any Loans to which the LIBOR Rate Option applies which are outstanding on the effective date of such Bank Joinder. If Borrower should renew after the effective date of such Bank Joinder the LIBOR Rate Option with

respect to Loans existing on such date, Borrower shall be deemed to repay the applicable Loans on the renewal date and then reborrow a similar amount on such date so that the Additional Bank shall participate in such Loans after such renewal date. Schedule 1.1(B) shall be amended and restated on the date of such Bank Joinder to revise the information contained therein as appropriate to reflect the information on the attachment to such Bank Joinder. Simultaneously with the execution and delivery of such Bank Joinder, Borrower shall execute a Revolving Credit Note, and deliver it to such Additional Bank together with originals of such other documents described in Section 7.1 hereof as such Additional Bank may reasonably require.

11.12 Confidentiality.

11.12.1. General.

The Agent and the Banks each agree to keep confidential all information obtained from any Loan Party or its Subsidiaries which is nonpublic and confidential or proprietary in nature (including any information the Borrower specifically designates as confidential), except as provided below, and to use such information only in connection with their respective capacities under this Agreement and for the purposes contemplated hereby. The Agent and the Banks shall be permitted to disclose such information (i) to outside legal counsel, accountants and other professional advisors who need to know such information in connection with the administration and enforcement of this Agreement, subject to agreement of such Persons to maintain the confidentiality, (ii) to assignees and participants as contemplated by Section 11.11, and prospective assignees and participants, provided that prior to such disclosure, such parties agree to be bound by this undertaking of confidentiality set forth in this Section 11.12, (iii) to the extent requested by any regulatory authority or, with notice to the Borrower, as otherwise required by applicable Law or by any subpoena or similar legal process, or in connection with any investigation or proceeding arising out of the transactions contemplated by this Agreement, (iv) if it becomes publicly available other than as a result of a breach of this Agreement or becomes available and is not reasonably known to be subject to confidentiality restrictions, or (v) if the Borrower shall have consented to such disclosure.

11.12.2. Sharing Information With Affiliates of the Banks.

Each Loan Party acknowledges that from time to time financial advisory, investment banking and other services may be offered or provided to the Borrower or one or more of its Affiliates (in connection with this Agreement or otherwise) by any Bank or by one or more Subsidiaries or Affiliates of such Bank and each of the Loan Parties hereby authorizes each Bank to share any information delivered to such Bank by such Loan Party and its Subsidiaries pursuant to this Agreement, or in connection with the decision of such Bank to enter into this Agreement, to any such Subsidiary or Affiliate of such Bank, it being understood that any such Subsidiary or affiliate of any Bank receiving such information shall be bound by the provisions of Section 11.12.1 as if it were a Bank hereunder. Such Authorization shall survive the repayment of the Loans and other Obligations and the termination of the Commitments.

11.13 Counterparts.

This Agreement may be executed by different parties hereto on any number of separate counterparts, each of which, when so executed and delivered, shall be an original, and all such counterparts shall together constitute one and the same instrument.

11.14 Agent's or Bank's Consent.

Whenever the Agent's or any Bank's consent is required to be obtained under this Agreement or any of the other Loan Documents as a condition to any action, inaction, condition or event, the Agent and each Bank shall be authorized to give or withhold such consent in its sole and absolute discretion and to condition its consent upon the giving of additional collateral, the payment of money or any other matter.

11.15 Exceptions.

The representations, warranties and covenants contained herein shall be independent of each other, and no exception to any representation, warranty or covenant shall be deemed to be an exception to any other representation, warranty or covenant contained herein unless expressly provided, nor shall any such exceptions be deemed to permit any action or omission that would be in contravention of applicable Law.

11.16 **WAIVER OF JURY TRIAL.**

EACH LOAN PARTY, THE AGENT AND THE BANKS HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR ANY COLLATERAL, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY, INCLUDING, WITHOUT LIMITATION, ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS OR ACTIONS OF THE AGENT OR THE BANKS RELATING TO THE ADMINISTRATION OF THE LOANS OR ENFORCEMENT OF THIS AGREEMENT OR THE LOAN DOCUMENTS, TO THE FULLEST EXTENT PERMITTED BY LAW. NO LOAN PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EACH LOAN PARTY CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF AGENT OR THE BANKS, HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT AGENT OR THE BANKS WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR AGENT AND THE BANKS TO ACCEPT THIS AGREEMENT AND THE LOAN DOCUMENTS AND MAKE THE LOANS.

11.17 **JURISDICTION & VENUE.**

EACH LOAN PARTY HEREBY IRREVOCABLY CONSENTS TO THE NONEXCLUSIVE JURISDICTION OF COURTS IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK AND THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS BE MADE BY CERTIFIED OR REGISTERED MAIL (RETURN RECEIPT REQUESTED) DIRECTED TO SUCH LOAN PARTY AT THE ADDRESSES PROVIDED FOR IN SECTION 11.6 [NOTICES; LENDING OFFICES] AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT THEREOF. NOTHING CONTAINED HEREIN SHALL AFFECT THE RIGHT OF AGENT TO SERVE LEGAL PROCESS BY ANY OTHER MANNER PERMITTED BY LAW. EACH LOAN PARTY IRREVOCABLY WAIVES ANY OBJECTION TO JURISDICTION AND VENUE OF ANY ACTION INSTITUTED AGAINST IT AS PROVIDED HEREIN AND AGREES NOT TO ASSERT ANY DEFENSE BASED ON FORUM NON CONVENIENS OR ANY LACK OF JURISDICTION OR VENUE THAT IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT.

11.18 Certifications From Banks and Participants.

11.18.1. Tax Withholding.

Each Bank or assignee or Participant of a Bank that is not incorporated under the laws of the United States of America or a state thereof (and, upon the written request of the Agent, each other Bank or assignee or Participant or a Bank) agrees that it will deliver to each of the Borrower and the Agent two (2) duly completed appropriate valid Withholding Certificates (as defined under §1.1441-1(c)(16) of the Income Tax Regulations (the "Regulations")) certifying its status (*i.e.*, United States or foreign person) and, if appropriate, making a claim of reduced, or exemption from, United States withholding tax on the basis of an income tax treaty or an exemption provided by the Internal Revenue Code (the "Code"). Such delivery may be made by electronic transmission as described in §1.1441-1(e)(4)(iv) of the Regulations if the Agent establishes an electronic delivery system. The term "Withholding Certificate" means a Form W-9; a Form W-8BEN; a Form W-8ECI; a Form W-81MY and the related statements and certifications as required under §1.1441-1(e)(3) of the Regulations; a statement described in §1.871-14(c)(2)(v) of the Regulations; or any other certificates under the Code or Regulations that certify or establish the status of a payee or beneficial owner as a United States or foreign person. Each Bank, assignee or Participant required to deliver to the Borrower and the Agent a valid Withholding Certificate pursuant to the preceding sentence shall deliver such valid Withholding Certificate as follows: (A) each Bank which is a party hereto on the Closing Date shall deliver such valid Withholding Certificate at least five (5) Business Days prior to the first date on which any interest or Fees are payable by the Borrower hereunder for the account of such Bank; (B) each assignee or Participant shall deliver such valid Withholding Certificate at least five (5) Business Days before the effective date of such assignment or Participation (unless the Agent in its sole discretion shall permit such assignee or Participant to deliver such Withholding Certificate less than five (5) Business Days before such date in which case it shall be due on the date specified by the Agent). Each Bank, assignee or Participant which so delivers a valid Withholding Certificate further undertakes to deliver to each of the Borrower and the Agent two (2) additional copies of such Withholding Certificate (or a successor form) on or before the date that such Withholding Certificate expires or becomes obsolete or after the occurrence of any event requiring a change in the most recent Withholding Certificate so delivered by it, and such amendments thereto or extensions or renewals thereof as may be reasonably requested by the Borrower or the Agent. Notwithstanding the submission of a Withholding Certificate claiming a reduced rate of, or exemption from, United States withholding taxes, the Agent shall be entitled to withhold United States federal income taxes at the full 30% withholding rate if in its reasonable judgment it is required to do so under the due diligence requirements imposed upon a withholding agent under §1.1441-7(b) of the Regulations. Further, the Agent is indemnified under §1.1461-1(e) of the Regulations against any claims and demands of any Bank or assignee or Participant of a Bank for the amount of any tax it deducts and withholds in accordance with regulations under §1441 of the Internal Revenue Code.

11.18.2. USA Patriot Act.

Each Bank or assignee or participant of a Bank that is not incorporated under the laws of the United States of America or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA Patriot Act and the applicable regulations because it is both (i) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (ii) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to the Agent the certification, or, if applicable, recertification, certifying that such Bank is not a "shell" and certifying to other matters as required by Section 313 of the USA Patriot Act and the applicable regulations: (1) within 10 days after the Closing Date, and (2) as such other times as are required under the USA Patriot Act.

11.19 Joinder of Guarantors.

Any Subsidiary of the Borrower which is required to join this Agreement as a Guarantor pursuant to Section [8.2.5](#) [Liquidations, Mergers, Consolidations, Acquisitions] and Section 8.2.8 [Subsidiaries, Partnerships and Joint Ventures] shall (i) execute and deliver to the Agent a Guarantor Joinder in substantially the form attached hereto as Exhibit 1.1(G)(1) pursuant to which it shall join as a Guarantor each of the documents to which the Guarantors are parties; and (ii) execute and deliver to the Agent documents in the forms described in Section [7.1.2](#) [Secretary's Certificate] modified as appropriate to relate to such Subsidiary and (iii) satisfy such other requirements as reasonably requested by the Agent. The Loan Parties shall deliver such Guarantor Joinder and related documents to the Agent within five (5) Business Days after the date of the filing of such Subsidiary's articles of incorporation if the Subsidiary is a corporation, the date of the filing of its certificate of limited partnership if it is a limited partnership or the date of its organization if it is an entity other than a limited partnership or corporation.

[SIGNATURE PAGES FOLLOW]

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have executed this Agreement as of the date first above written.

BORROWER:

ATTEST: **NEW JERSEY RESOURCES CORPORATION**

Name: /s/Rhonda Figueroa
Title: Rhonda Figueroa
Corporate Secretary

Name: /s/ Glenn C. Lockwood
Title: Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

NJR ENERGY CORPORATION

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

NJR ENERGY SERVICES COMPANY

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

NJR HOME SERVICES COMPANY

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

COMMERCIAL REALTY AND RESOURCES CORP.

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

PNC BANK, NATIONAL ASSOCIATION, individually and as Administrative Agent

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

BANK OF AMERICA, N.A., individually and as Syndication Agent

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

CITIBANK, N.A., individually and as Documentation Agent

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

JPMORGAN CHASE BANK, N.A., individually and as Syndication Agent

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

THE BANK OF NOVA SCOTIA, individually and as Documentation Agent

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

THE BANK OF NEW YORK MELLON

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

**[SIGNATURE PAGE TO NEW JERSEY
RESOURCES CORPORATION CREDIT AGREEMENT]**

WILLIAM STREET COMMITMENT CORPORATION

By: /s/ Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

SCHEDULE 1.1(A)**Pricing Grid**

Level	Debt Rating [Standard and Poor's and Moody's, Respectively]	Facility Fee	Base Rate Spread	LIBOR Rate Spread	Letter of Credit Fee
I	A+ or above or A1 or above	.05%	0%	.20%	.20%
II	A- or above but less than A+ or A3 or above but less than A1	.075%	0%	.275%	.275%
III	BBB or above but less than A- or Baa2 or above but less than A3	.10%	0%	.35%	.35%
IV	Less than BBB or less than Baa2 or unrated	.15%	0%	.55%	.55%

For purposes of determining the Applicable Margin, the Applicable Facility Fee Rate and the Applicable Letter of Credit Fee Rate:

(a) With respect to the Debt Ratings of Moody's and Standard and Poor's: (i) if one or both of Moody's or Standard and Poor's shall fail to have a Debt Rating in effect, then such rating agency which fails to have a Debt Rating in effect shall be deemed to have established a Debt Rating at Level IV, and (ii) if the Debt Rating established by Moody's and the Debt Rating established by Standard and Poor's differ, the pricing Level above shall be determined based upon the higher of the Debt Rating established by Moody's and the Debt Rating established by Standard and Poor's, provided, however, if one of the Debt Ratings is two or more Levels lower than the other, the applicable pricing Level shall be determined at the Level next above that of the Level of the lower of the two Debt Ratings.

(b) Any change in the Applicable Margin, the Applicable Facility Fee Rate, or the Applicable Letter of Credit Fee Rate shall become effective on the date of any public announcement of the change in the Debt Rating requiring such an increase or decrease.

Schedule 1.1(P): New Jersey Resources Corporation
Permitted Liens

None

Schedule 6.1.2: New Jersey Resources Corporation Subsidiaries

Name of Subsidiary	Jurisdiction of Incorporation	Authorized Capital Stock (Shares)	Issued and Outstanding Shares – “Subsidiary Shares”	Shareholder
New Jersey Natural Gas Company	New Jersey	3,214,923 (Common) 310,000 (Preferred)	1,679,846 (Common) 0 (Preferred)	New Jersey Resources Corporation
NJR Retail Holdings Corporation	New Jersey	1,000	1,000	New Jersey Resources Corporation
NJR Energy Investments Corporation	New Jersey	1,000	1,000	New Jersey Resources Corporation
NJR Service Corporation	New Jersey	1,000	1,000	New Jersey Resources Corporation
NJR Energy Services Company	New Jersey	1,000	1,000	New Jersey Resources Corporation
NJR Home Services Company	New Jersey	1,000	1,000	NJR Retail Holdings Corporation
NJR Plumbing Services, Inc.	New Jersey	1,000	1,000	NJR Home Services Company
NJR Energy Corporation	New Jersey	2,500	2,500	NJR Energy Holdings Corporation

Schedule 6.1.2: New Jersey Resources Corporation
Subsidiaries

Name of Subsidiary	Jurisdiction of Incorporation	Authorized Capital Stock (Shares)	Issued and Outstanding Shares – “Subsidiary Shares”	Shareholder
NJR Storage Holdings Company	Delaware	1,000	1,000	NJR Energy Holdings Corporation
NJR Steckman Ridge Storage Company	Delaware	1,000	1,000	NJR Storage Holdings Company
Steckman Ridge, LP	Delaware Limited Partnership	N/A	N/A	NJR Steckman Ridge Storage Company (49.5%) Steckman Ridge GP, LLC (1%)
Steckman Ridge, GP, LLC	Delaware Limited Liability Company	N/A	N/A	NJR Steckman Ridge Storage Company (50%)
NJR Storage Partners	New Jersey General Partnership	N/A	N/A	NJR Energy Services Company (Managing Partner) New Jersey Resources Corporation
NJNR Pipeline Company	New Jersey	2,500	2,500	NJR Energy Corporation
NJR Pipeline Company	New Jersey	1,000	1,000	NJR Energy Corporation
Commercial Realty & Resources Corp.	New Jersey	2,500	2,500	NJR Energy Investments Corporation
NJR Investment Company	New Jersey	1,000	1,000	NJR Energy Investments Corporation
NJR Energy Holdings Corporation	New Jersey	1,000	1,000	NJR Energy Investments Corporation
Options, warrants or other rights outstanding to purchase any Subsidiary Shares, Partnership Interests or LLC Interests:				
None				

Schedule 6.1.12: New Jersey Resources Corporation and Subsidiaries
Consents and Approvals

None

Schedule 6.1.24: Permitted Related Business Opportunities

None

Schedule 8.2.1: New Jersey Resources Corporation

Existing Indebtedness

(\$000)			Principal
	Rate	Maturity Date	Amount
Unsecured Senior Notes (Private Placement)	3.75%	3/15/09	\$25,000
Unsecured Senior Notes (Private Placement)	6.05%	09/24/17	50,000
TOTAL			\$75,000

Letters of Credit

Applicant	Issuer	L/C#	Amount	Beneficiary	Expiration
NJR	PNC Bank, National Association	18103566-00	\$3,995,000	Liberty Gas Storage	12/31/07
NJR	PNC Bank, National Association	18107905-00	\$500,000	Caledonia Energy Partners	12/31/07

Schedule 8.2.1: NJR Energy Services Company.
Existing Indebtedness

<u>(\$000)</u>	<u>Rate</u>	<u>Maturity Date</u>	<u>Principal Amount</u>
Indebtedness arising under \$30 million committed revolving credit agreement	Var.	10/12/09	\$30,000
TOTAL			<u>\$30,000</u>

**CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302
OF THE SARBANES-OXLEY ACT OF 2002**

I, Laurence M. Downes, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of New Jersey Resources Corporation;
- (2) Based on my knowledge, this Quarterly 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 Quarterly Report;
- (3) Based on my knowledge, the financial statements, and other financial information included in this Quarterly 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 Quarterly 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-f15(f) and 15d-15(f) for the Registrant and have:

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 Quarterly Report is being prepared;

- b.) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c.) evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this Quarterly Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Quarterly Report based on such evaluation;
 - 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 that has materially affected, or is reasonably likely to adversely 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, to the Registrant's auditors and the audit committee of Registrant's board of directors (or persons performing the equivalent functions):
 - a.) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
 - b.) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: February 6, 2008

By: /s/Laurence M. Downes
Laurence M. Downes
Chairman, President and
Chief Executive Officer

**CERTIFICATION OF THE CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302
OF THE SARBANES-OXLEY ACT OF 2002**

I, Glenn C. Lockwood, certify that:

- (1) I have reviewed this Quarterly Report on Form 10-Q of New Jersey Resources Corporation;
- (2) Based on my knowledge, this Quarterly 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 Quarterly Report;
- (3) Based on my knowledge, the financial statements, and other financial information included in this Quarterly 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 Quarterly 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)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-f15(f) and 15d-15(f) for the Registrant and have:
 - 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 Quarterly Report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this Quarterly Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Quarterly Report based on such evaluation;
 - 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 that has materially affected, or is reasonably likely to adversely 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, to the Registrant's auditors and the audit committee of Registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: February 6, 2008

By: /s/Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

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

The undersigned, Laurence M. Downes, hereby certifies as follows:

- (a) I am the Chief Executive Officer of New Jersey Resources Corporation (the “Company”);
- (b) To the best of my knowledge, the Company’s Quarterly Report on Form 10-Q for the period ended December 31, 2007 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (c) To the best of my knowledge, based upon a review of the Report, the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

NEW JERSEY RESOURCES CORPORATION

Date: February 6, 2008

By: /s/Laurence M. Downes
Laurence M. Downes
Chairman, President and
Chief Executive Officer

This certificate accompanies this Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 or any other provision of the Securities Exchange Act of 1934, as amended.

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

The undersigned, Glenn C. Lockwood, hereby certifies as follows:

- (a) I am the Chief Financial Officer of New Jersey Resources Corporation (the “Company”);
- (b) To the best of my knowledge, the Company’s Quarterly Report on Form 10-Q for the period ended December 31, 2007 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (c) To the best of my knowledge, based upon a review of the Report, the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

NEW JERSEY RESOURCES CORPORATION

Date: February 6, 2008

By: /s/Glenn C. Lockwood
Glenn C. Lockwood
Senior Vice President and
Chief Financial Officer

This certificate accompanies this Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 or any other provision of the Securities Exchange Act of 1934, as amended.