APS ORIGINAL

0000113736

ARIZONA PUBLIC SERVICE

Susan Casady
Regulatory Programs Leader
State Regulation

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Mail Station 9708
PO Box 53999
Phoenix, Arizona 85072-3999

RECEIVED

2010 JUN 30 P 3: 28

AZ CORP COMMISSION
DOCKET CONTROL

June 30, 2010

Docket Control
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

RE: APS/Pinnacle West Communications With Credit Rating Agencies
Docket No. E-01345A-08-0172

Attached please find copies of Arizona Public Service Company ("APS") and Pinnacle West's past communications with credit rating agencies pursuant to Decision No. 70667:

> Arizona Public Service Company shall file all currently existing communications within 10 days of the effective date of this Decision and shall file future communications on a monthly basis. The first such monthly report shall be due on February 1, 2009, and the monthly filings shall continue until the conclusion of Arizona Public Service Company's general rate case. Thereafter, Arizona Public Service Company shall make such filings on a six month basis, with the first filing due by January 1, 2010.[1]

This filing covers the communications with rating agencies from January 5, 2010, through June 15, 2010. If you have any questions regarding this information, please contact me at (602)250-2709.

Sincerely,

Susan Casady

Susan Casady

Arizona Corporation Commission
DOCKETED
JUN 30 2010
DOCKETED BY

SC/sl
Attachment

cc: Steve Olea (unredacted)
Brian Bozzo (unredacted)
Barbara Keene (unredacted)
Terri Ford (unredacted)
Elijah Abinah (unredacted)

[1] APS had made monthly filings covering the six months prior to January 1, 2010, so as a practical matter the first filing covering an entire six month period is due July 1, 2010.

Rating Agency Communication Log

Date	Person	APS/PNW Personnel	Subject	Comment
1/6/2010	Phil Smyth, Fitch	Jim McGill	Call from Fitch regarding PNW earnings	
1/6/2010	Phil Smyth, Fitch	Jim McGill	E-mail to Fitch regarding PNW earnings	
1/7/2010	Laura Schumacher, Moodys	Jim McGill	Call to Moodys regarding PNW visit	
1/7/2010	Phil Smyth, Fitch	Jim McGill	Call to Fitch regarding PNW visit	
1/7/2010	Phil Smyth, Fitch	Jim McGill	E-mail from Fitch regarding PNW visit	
1/7/2010	Mitchell Moss, Moodys	Jim McGill	Call from Moodys regarding PNW visit	
1/8/2010	Phil Smyth, Fitch	Jim McGill	Call to Fitch regarding PNW visit	
1/8/2010	Phil Smyth, Fitch	Jim McGill	E-mail from Fitch regarding PNW visit	
1/8/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P re: regulatory survey	
1/15/2010	Phil Smyth, Fitch	Jim McGill	Call to Fitch regarding PNW visit	
1/15/2010	Phil Smyth, Fitch	Jim McGill	E-mail from Fitch regarding PNW visit	
1/20/2010	Laura Schumacher, Moodys	Jim McGill	Call from Moodys regarding PNW visit	
1/20/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding PNW dividend	
1/20/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding PNW dividend	
1/20/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding PNW dividend	
1/21/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding senior mgmt changes	
1/21/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding PNW dividend	
1/21/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding PNW dividend	
1/22/2010	Tony Bettinelli, S&P	Jim McGill	Call to S&P regarding PNW visit	
1/22/2010	Tony Bettinelli, S&P	Jim McGill	Call from S&P regarding PNW visit	
1/22/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding PNW visit	
1/22/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P re: regulatory survey	
1/22/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P re: regulatory survey	
1/25/2010	Laura Schumacher, Moodys	Jim McGill	E-mail to Moodys with projections for PNW visit	Confidential attachment
1/25/2010	Phil Smyth, Fitch	Jim McGill	E-mail to Fitch with projections for PNW visit	Confidential attachment
1/26/2010	Phil Smyth, Rob Hornick, Fitch	Jim Hatfield and Jim McGill	Fitch/PNW visit	
1/26/2010	Laura Schumacher, Mitchell Moss, Larry Hess, Moodys	Jim Hatfield and Jim McGill	Moodys/PNW visit	

Rating Agency Communication Log

Date	Person	APS/PNW Personnel	Subject	Comment
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding office visit	
1/29/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding office visit	
2/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P to check availability for phone call	
2/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding availability for phone call	
2/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding availability for phone call	
2/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding availability for phone call	
2/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding after hours contacts	
2/9/2010	Tony Bettinelli, S&P	Jim Hatfield and Jim McGill	Call to S&P regarding imputed debt methodology	
2/11/2010	Laura Schumacher	Jim McGill	E-mail to Moody's regarding availability for phone call	
2/11/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding availability for phone call	
2/11/2010	Laura Schumacher	Jim McGill	E-mail to Moody's regarding availability for phone call	
2/11/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding availability for phone call	
2/11/2010	Laura Schumacher	Jim McGill	E-mail to Moody's regarding availability for phone call	
2/12/2010	Laura Schumacher and Mitchell Moss, Moody's	Jim McGill and Rufad Omanovic	Call to Moody's regarding imputed debt methodology	
2/12/2010	Laura Schumacher	Jim McGill	E-mail to Moody's with new APS credit agreement	

2/12/2010	Laura Schumacher	Jim McGill	E-mail to Moody's with new PNW credit agreement	
2/18/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding PNW commercial paper program	
2/18/2010	Laura Schumacher	Jim McGill	E-mail to Moody's regarding PNW commercial paper program	
2/18/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding PNW commercial paper program	
2/18/2010	Laura Schumacher	Jim McGill	E-mail to Moody's regarding PNW commercial paper program	
2/18/2010	Laura Schumacher	Jim McGill	E-mail to Moody's regarding PNW commercial paper program	
2/18/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding PNW commercial paper program	
2/22/2010	Mitchell Moss, Moody's	Jim McGill and Rufad Omanovic	Call from Moody's regarding statement of cashflows	
2/22/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding draft credit opinions for APS and PNW	

Rating Agency Communication Log

Date	Person	APS/PNW Personnel	Subject	Comment
2/24/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding draft credit opinions for APS and PNW	
2/24/2010	Laura Schumacher	Jim McGill	E-mail to Moody's regarding draft credit opinions for APS and PNW	
2/24/2010	Laura Schumacher	Jim McGill	E-mail from Moody's regarding draft credit opinions for APS and PNW	
2/24/2010	Laura Schumacher	Jim McGill	Call to Moody's regarding draft credit opinions for APS and PNW	
2/25/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P with presentation for office visit	Confidential Attachment
2/25/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding purchased power contracts	
2/26/2010	Tony Bettinelli, Anne Selting, and Todd Shipman (via phone), S&P	Jim Hatfield, Jim McGill, Karen Dolyniuk, and Rufad Omanovic	S&P office visit	
3/3/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding ACC approval of AZ Sun program	
3/3/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding ACC approval of AZ Sun program	
3/3/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding ACC approval of AZ Sun program	
3/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding AZ Sun	
3/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding AZ Sun	
3/5/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding AZ Sun	
3/3/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding new PNW treasurer	
3/3/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding new PNW treasurer	
3/3/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding new PNW treasurer	
3/9/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding purchased power contracts	
3/9/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding purchased power contracts	Confidential Attachment
3/9/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding purchased power contracts	

Rating Agency Communication Log

Date	Person	APS/PNW Personnel	Subject	Comment
3/31/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding pollution control bonds	
3/31/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding pollution control bonds	
3/31/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding pollution control bonds	
3/31/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding PNW 2009 Statistical Report	
3/31/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding PNW 2009 Statistical Report	
3/31/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding PNW 2009 Statistical Report	
4/7/2010	Laura Schumacher, Moodys	Jim McGill	Left message at Moody's regarding common stock offering	
4/7/2010	Phil Smyth, Fitch	Lee Nickloy and Jim McGill	Discussed common stock offering	
4/7/2010	Tony Bettinelli, S&P	Jim McGill	Left message at S&P regarding common stock offering	
4/7/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding common stock offering	
4/7/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding common stock offering	
4/7/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding common stock offering	
4/8/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding PNW 2009 Annual Report	
4/8/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding PNW 2009 Annual Report	
4/8/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding PNW 2009 Annual Report	
4/8/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding common stock offering price	
4/8/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding common stock offering price	
4/8/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding common stock offering price	
4/21/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding PNW dividend declaration	
4/21/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding PNW dividend declaration	
4/21/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding PNW dividend declaration	

Rating Agency Communication Log

Date	Person	APS/PNW Personnel	Subject	Comment
5/6/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding PNW Q1 earnings	
5/6/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding PNW Q1 earnings	
5/6/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding PNW Q1 earnings	
5/6/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding PNW Q1 10Q	
5/6/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding PNW Q1 10Q	
5/6/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding PNW Q1 10Q	
5/11/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding PNW shelf registration	
5/11/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding PNW shelf registration	
5/6/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding Northwind sale	
5/6/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding Northwind sale	
5/6/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding Northwind sale	
5/17/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding PNW update discussion	
5/17/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding PNW update discussion	
5/17/2010	Tony Bettinelli, S&P	Jim McGill	Phone call with S&P regarding PNW update discussion	
5/18/2010	Mitchell Moss, Moodys	Jim McGill	E-mail to Moodys re: adjustments	
5/18/2010	Mitchell Moss, Moodys	Jim McGill	E-mail from Moodys re: adjustments	confidential attachments
5/18/2010	Phil Smyth, Fitch	Jim McGill	Phone message from Fitch re: discussion	
5/18/2010	Phil Smyth, Fitch	Jim McGill	E-mail from Fitch re: lease debt and other questions	
5/18/2010	Phil Smyth, Fitch	Lee Nickloy and Jim McGill	Phone call with Fitch re: lease debt and other questions	
5/18/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P re: meeting	
5/18/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P re: meeting	
5/18/2010	Tony Bettinelli, S&P	Jim McGill	Voice mail from S&P re: meeting	
5/19/2010	Phil Smyth, Fitch	Jim McGill	E-mail to Fitch re: environmental spending	
5/19/2010	Phil Smyth, Fitch	Jim McGill	E-mail to Fitch re: lease data	confidential attachments
5/20/2010	Phil Smyth, Fitch	Jim McGill	Voice-mail from Fitch re: follow-up questions	
5/20/2010	Phil Smyth, Fitch	Jim McGill	Phone call discussing 2009 cashflows	
5/20/2010	Phil Smyth, Fitch	Lee Nickloy and Jim McGill	Phone call discussing 2009 cashflows	
5/20/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P re: liquidity survey	

Rating Agency Communication Log

Date	Person	APS/PNW Personnel	Subject	Comment
5/25/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding date for management meeting	
5/25/2010	Tony Bettinelli, S&P	Dody Nunlee	Phone call with S&P to set up management meeting	
5/25/2010	Phil Smyth, Fitch	Lee Nickloy	E-mail from Fitch regarding press release	
5/25/2010	Phil Smyth, Fitch	Lee Nickloy	Phone call with Fitch regarding press release	
5/25/2010	Phil Smyth, Fitch	Lee Nickloy	E-mail from Fitch regarding bank facility documents	
5/25/2010	Phil Smyth, Fitch	Lee Nickloy	E-mail to Fitch regarding bank facility documents	
5/25/2010	Phil Smyth, Fitch	Lee Nickloy	E-mail to Fitch regarding bank facility documents	
5/25/2010	Phil Smyth, Fitch	Lee Nickloy	E-mail from Fitch regarding bank facility documents	
5/27/2010	Tony Bettinelli, S&P	Dody Nunlee	E-mail from S&P regarding dial in for management meeting	
5/27/2010	Tony Bettinelli, S&P	Dody Nunlee	E-mail to S&P regarding dial in for management meeting	
6/1/2010	Laura Schumacher, Moodys	Investor Relations	E-mail regarding Klein on PNW board of directors	
6/1/2010	Phil Smyth, Fitch	Investor Relations	E-mail regarding Klein on PNW board of directors	
6/1/2010	Tony Bettinelli, S&P	Investor Relations	E-mail regarding Klein on PNW board of directors	
6/4/2010	Phil Smyth, Fitch	Lee Nickloy	E-mail from Fitch regarding Fitch Reports	
6/4/2010	Phil Smyth, Fitch	Jim McGill	Phone call with Fitch regarding Fitch Reports	
6/7/2010	Justin Hansen, S&P	Karen Dolyniuk	E-mail to S&P regarding ratings on letter of credit	
6/8/2010	Carla Siefer, S&P	Karen Dolyniuk	E-mail from S&P regarding ratings on letter of credit	
6/8/2010	Carla Siefer, S&P	Karen Dolyniuk	E-mail to S&P regarding ratings on letter of credit	
6/8/2010	Carla Siefer, S&P	Karen Dolyniuk	E-mail from S&P regarding ratings on letter of credit	
6/8/2010	Carla Siefer, S&P	Karen Dolyniuk	E-mail to S&P regarding ratings on letter of credit	
6/7/2010	Larry Bellinger, Moody's	Karen Dolyniuk	E-mail to Moody's regarding ratings on letter of credit	
6/8/2010	Larry Bellinger, Moody's	Karen Dolyniuk	E-mail from Moody's regarding ratings on letter of credit	
6/8/2010	Larry Bellinger, Moody's	Karen Dolyniuk	E-mail to Moody's regarding ratings on letter of credit	
6/9/2010	Chetara Mangaroo, Moody's	Karen Dolyniuk	E-mail from Moody's regarding ratings on letter of credit	
6/9/2010	Chetara Mangaroo, Moody's	Karen Dolyniuk	E-mail to Moody's regarding ratings on letter of credit	
6/10/2010	Tony Bettinelli, S&P	Jim McGill	E-mail to S&P regarding management meeting material	Confidential attachment

6/10/2010	Tony Bettinelli, S&P	Jim McGill	E-mail from S&P regarding management meeting material	
6/11/2010	Tony Bettinelli, Todd Shipman, and Richard Cortright, S&P	Jim Hatfield, Lee Nickloy, Jim McGill, and Rufad Omanovic	Management meeting (via phone) with S&P	
6/15/2010	Laura Schumacher, Moodys	Karen Dolyniuk	Phone call with Moody's regarding Coconino transaction	
6/15/2010	Laura Schumacher, Moodys	Karen Dolyniuk	Voice mail from Moody's regarding Coconino transaction and Palo Verde Unit 2 sale/leaseback	
6/15/2010	Laura Schumacher, Moodys	Karen Dolyniuk	E-mail to Moody's regarding ratings on letter of credit and PV U2 sale/leaseback	
6/15/2010	Tony Bettinelli, S&P	Karen Dolyniuk	Phone call with S&P regarding Coconino transaction	
6/15/2010	Tony Bettinelli, S&P	Karen Dolyniuk	E-mail to S&P regarding Coconino transaction	
6/15/2010	Richard Cortright, S&P	Lee Nickloy	E-mail to S&P regarding board meeting	
6/15/2010	Richard Cortright, S&P	Lee Nickloy	E-mail from S&P regarding board meeting and mortgage bond question	
6/15/2010	Richard Cortright, S&P	Lee Nickloy	E-mail to S&P regarding mortgage bond question	
6/15/2010	Richard Cortright, S&P	Jim McGill	Phone call from Richard regarding mortgage bonds	
6/15/2010	Richard Cortright, S&P	Lee Nickloy	Voice mail from S&P regarding mortgage bond question	
6/15/2010	Richard Cortright, S&P	Lee Nickloy	E-mail to S&P regarding mortgage bond question	

McGill, James T(Z71171)

From: Philip.Smyth@fitchratings.com
Sent: Wednesday, January 06, 2010 8:53 AM
To: McGill, James T(Z71171)
Subject: Re: Earnings

Thanks!

James.MCgill@pinn
aclewest.com

01/06/2010 09:43 AM

To
Philip.Smyth@fitchratings.com
cc

Subject
Earnings

Phil,
We'll be releasing earnings on 2/19/10 (will be filing our 10K that day also).

Jim

Email Firewall made the following annotations

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McGill, James T(Z71171)

From: Philip.Smyth@fitchratings.com
Sent: Thursday, January 07, 2010 11:51 AM
To: McGill, James T(Z71171)
Subject: Re: 1/26 meeting

Hi Jim,

Do you wish to meet at 12PM or later say 1 - 2PM. If you come at 12PM we will provide sandwiches. Let me know what works for you, I will circulate the proposed time to key participants on my end and get back to you ASAP.

Best Regards,

Philip Smyth, CFA
Senior Director
Fitch Ratings
212 908 0531

James.MCgill@pinnaclewest.com
01/07/2010 01:17 PM

To: Philip.Smyth@fitchratings.com
cc:
Subject: 1/26 meeting

Phil,
Left you a voice message earlier - Jim will be on a panel discussion the in the morning of 1/26, so we'd like to meet with you early afternoon if possible.

Jim

Email Firewall made the following annotations

NOTICE ---
This message is for the designated recipient only and may contain confidential, privileged or proprietary information. If you have received it in error, please notify the sender immediately and delete the original and any copy or printout. Unintended recipients are prohibited from making any other use of this e-mail. Although we have taken reasonable precautions to ensure no viruses are present in this e-mail, we accept no liability for any loss or damage arising from the use of this e-mail or attachments, or for any delay or errors or omissions in the contents which result from e-mail transmission.

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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 08, 2010 4:37 PM
To: Bettinelli, Antonio
Subject: STANDARD & POOR'S REGULATORY SURVEY - JAN. 2010
Attachments: regulatorysurvey2010.doc; S&P Regulatory.pdf; Assessments Of Regulatory.pdf

STANDARD & POOR'S REGULATORY SURVEY
January 2010

The S&P utilities team is updating it's survey on state regulatory environments. The survey augments the work that analysts already do to understand and assess credit supportive features of state regulation.

Please fill out a separate survey for each rated utility. If the utility is in more than one jurisdiction, please provide separate survey for each. This is for state regulated electric operations only, and FERC regulated assets are excluded.

We would like the surveys returned by the end of January. Thank you very much for your assistance.

Regards,

Tony Bettinelli

Associate
U.S. Utilities & Infrastructure
Standard & Poor's Corporate Ratings
San Francisco, CA
(415) 371-5067
tony_bettinelli@sandp.com

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STANDARD & POOR'S
REGULATORY SURVEY

UPDATE - January 2010

Please fill out a separate update for each rated utility with new information since the 2008 survey.
If the utility is in more than one jurisdiction, please provide separate survey for each.
Attach additional materials (e.g. company documents) or explanations if necessary to completely answer any of the questions.
For assistance, contact your primary analyst or Todd Shipman (212.438.7676) or todd_shipman@sandp.com

IMPORTANT: CLEARLY INDICATE IF AN ANSWER CONTAINS CONFIDENTIAL, NON-PUBLIC INFORMATION THAT YOU WOULD NOT WANT DISCLOSED
***Thank you very much for your assistance*. Please send the completed survey(s) to your analyst by the end of January.**

COMPANY

_____

JURISDICTION

_____

REGULATORY BODY

_____

1. RESOURCE PROCUREMENT PROCESS

If your utility has obligation-to-serve or POLR responsibilities, please note any new developments in the procurement process since 2008 (e.g. IRP, competitive procurement, regulatory oversight, or regulatory approval).

(If necessary, attach separate document):

_____
_____
_____
_____

2. RATE CASE INFORMATION

Provide the following information for base rate cases completed since 2008:

Date Filed	_____
Initiated By	_____
Interim Rate Increase Amount and Date	_____
Amount and % of Requested Rate Increase	_____
Amount and % Rate Increase Granted	_____
Date Permanent Rates Went Into Effect	_____
Rate Base Amount	_____
Test Year Used	_____
(If updated, through what date?)	_____
Return on Equity Authorized	_____
Capital Structure (% debt, preferred, common)	_____
Settlement (Y, N, Partial)	_____

3. LARGE CAPITAL EXPENDITURES

Please note changes to programs or riders authorized for significant capital projects (e.g. pre-approvals, separate rate mechanism, regulatory oversight, rate base treatment):

_____

_____

_____

4. TARIFF CLAUSES FOR SIGNIFICANT EXPENSES

Note significant changes (e.g. added, withdrawn, timing of rate adjustments, incentives) to any separate rate mechanisms for significant expenses such as purchased power or fuel:

_____

_____

_____

Any amounts disallowed in 2009? (note % of total cost):

_____

5. RATE DESIGN

Any significant regulatory changes to the monthly fixed charge in any of your customer classes?

_____

6. FINANCIAL REPORTING

Please attach financial reports submitted to your regulator in 2009 (or, if applicable, a summary part of the report with financial data) or provide a website address where they can be found:

_____

Please provide the actual, *jurisdictional* earned return on equity for 2008: _____

7. NON-TRADITIONAL RATEMAKING PRACTICES

Please note if any of the following were added or withdrawn in 2009:

Incentive Ratemaking ____

Revenue Decoupling ____

Weather Normalization ____

Other ____

Describe changes:

_____

_____

8. OTHER

Describe any practices or policy changes made by your regulator in 2009 that you think affects credit quality.

_____

_____

_____

THANK YOU!

SURVEY COMPLETED BY:

NAME _____

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November 7, 2008

Assessing U.S. Utility Regulatory Environments

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Assessing U.S. Utility Regulatory Environments

The assessment of regulatory risk is perhaps the most important factor in Standard & Poor's Ratings Services' analysis of a U.S. regulated, investor-owned utility's business risk. Each of the other four factors we examine--markets, operations, competitiveness, and management--can affect the quality of the regulation a utility experiences, but we believe the fundamental regulatory environment in the jurisdictions in which a utility operates often influences credit quality the most. In our credit analysis, we evaluate regulatory risk on a company-specific basis. A utility management's skill in managing regulatory risk can in many cases overcome a difficult regulatory environment. Conversely, other companies can experience greater regulatory risk even with supportive regulatory regimes if management fails to devote the necessary time and resources to the important task of managing regulatory risk. Operating in a state with a regulatory structure that is conducive to maintaining credit quality will improve the chances for a utility to successfully negotiate the regulatory maze.

This commentary discusses our views on what constitutes a favorable regulatory climate. We then use those factors to create assessments of the regulatory environments in states that regulate the electric and gas utilities that we rate. (See the table at the end of this article.) Our intention is to provide a common base for our own analysis of regulatory risk and to better communicate to investors, issuers, and regulators how various elements of regulation can affect credit quality. The exercise is also expected to enhance our ability to evaluate management by highlighting instances where our opinion of a company's regulatory risk diverges significantly from the fundamental quality of the regulatory jurisdictions where it operates.

The assessments of relevant jurisdictions are based on quantitative and qualitative factors. Importantly, we make our assessments from a credit perspective. We plan to update them annually or when significant events occur that have an important impact on the regulatory climate in a particular jurisdiction. The new regulatory assessment information augments the methodology applied to regulated utilities today.

Our introduction of these regulatory assessments coincides with what we view as the increasing influence of regulatory matters on the rated utilities' risk profiles and greater credit market awareness of the importance of understanding the regulatory process. Our goal in explaining our views on regulatory practices and policies and their effect on Standard & Poor's analysis of the credit quality of utilities is to provide additional transparency to the market.

Background

State utility regulation is almost as old as credit ratings. Standard & Poor's predecessor, Standard Statistics Bureau, was formed in 1906, and the first state utility commissions, as we know them today, appeared in 1907. Regulation has always been a factor in Standard & Poor's analysis of utility ratings, but its importance to our analysis has shifted with industry trends over time.

Before the 1970s, regulators presided for the most part over stable or decreasing rates as economic growth, rising consumption, and economies of scale drove costs down. The advent of inflation, rising and volatile fuel costs, and nuclear power missteps led to higher rates and, in our view, greater regulatory influence on credit quality during the 1980s. Restructuring in the natural gas and then the electric industries marked the 1990s and the first years of the new millennium, and the importance of regulatory issues in our analysis again started to subside. In our view, we are

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now in another era of increasing and unstable costs and some semblance of a return to traditional utility regulation. Consequently, the quality of regulation is at the forefront of our analysis of utility creditworthiness.

We have historically focused on regulatory risk on a company-specific basis. Nothing in what follows will change that approach. Utility commissions regulate diverse industries and adopt different approaches to different types of businesses. Treatment of utilities within the same industry can vary significantly in the same jurisdiction. The quality of the regulation experienced by a company is often the product of the company's management and business strategy as much as its regulators. The regulatory climate assessments only serve as a baseline of our opinion on the fundamental attitude of a jurisdiction toward the credit quality of the utilities in that state, and they are the starting point for Standard & Poor's analysis of the regulatory risk of each rated utility. Our goal is to achieve greater consistency and continuity in utility ratings.

Assessing Regulatory Jurisdictions

We assess jurisdictions on one basic attribute--the fundamental approach to controlling utility rates--and then in three major categories. The resulting assessments are based primarily on various measures of regulatory risk that are discussed briefly below. With respect to qualitative factors, we look for long-term, historical characteristics of the jurisdiction, as well as transient regulatory and political developments.

The foundation of our opinion of the regulation in a jurisdiction is the degree to which competitive market forces are allowed to influence rates. In order of credit-friendliness, a state will rely either on full cost-based regulation for all components of the utility bill, market-based mechanisms for generation, and (more rarely) retail markets, or a hybrid of the two to control the amount charged and the terms on which that service is offered. It may surprise some to learn that we consider a hybrid setup, which in most cases exists because the transition to some sort of competition has stalled, to harbor more risk for bondholders than a system that is committed to letting market prices set a major part of the customer's bill.

The risk inherent in the market-based model is straightforward: the price for electricity can be more volatile when based on a market than when it is based on embedded costs, and regulators are apt to resist full and timely recovery when changes in generation costs are abrupt and substantial (and perhaps misunderstood). The risks in a hybrid or transitional model are less apparent, but, in our opinion, potentially more significant. First, we consider the uncertainty of the timing of reaching the end state--and what that end state will look like--to be a negative factor from a credit perspective. Second, in some cases, the hybrid model may result in a "lower-of-cost-or-market" approach that allows generation rates to reflect one or the other at different times depending on which one suits ratepayers best. A utility and its bondholders may then face a prolonged period of potential exposure to market risk (the downside) with little or no opportunity to participate in the benefits of competition (the upside of greater returns).

After identifying the fundamental regulatory paradigm, our analysis turns to factors that influence the utility's business risk climate in the jurisdiction. The factors fall into three broad categories: ratemaking, political environment, and financial stability. Broadly speaking, the ratemaking and financial stability factors influence our assessments more than the paradigm and political factors.

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Ratemaking Practices And Procedures

The main, and often the most contentious, task of a regulator is to set the rates a utility may charge its customers. We analyze specific rate decisions as part of the surveillance of each utility. Our regulatory assessments focus on the jurisdiction's overall approach to setting rates and the process it uses to conduct and manage base rate filings. Practices pertaining to separate tariff clauses for large expense items are examined in the third category of the analysis (see below). In this part of the assessment, we concentrate on whether established base rates fairly reflect the cost structure of a utility and allow management an opportunity to earn a compensatory return that provides bondholders with a financial cushion that promotes credit quality.

Notably, the analysis does not revolve around "authorized" returns, but rather on actual earned returns. We note the many examples of utilities with healthy authorized returns that, we believe, have no meaningful expectation of actually earning that return because of rate case lag, expense disallowances, etc. Although, in general, the absolute level of financial returns is less important to our analysis than how that return is earned, we recognize that, all else being equal, higher earned returns translate into better credit metrics and a more comfortable equity cushion for bondholders. A regulatory approach that allows utilities the opportunity to consistently earn a reasonable return is a positive factor in our view of credit quality.

The rates of return and capital structures used to generate the revenue requirement in rate proceedings may not be the primary focus of the assessment, but those and other decisions made in the ratemaking process are still noted. We consider those decisions to be potential signals from regulators on their attitude toward credit quality. We believe that the capital structure in particular is a handy and direct indication from the regulator as to whether or not creditworthiness is an important consideration in its deliberations when setting rates. Obviously, any pronouncements from a regulator that explicitly address credit ratings or ratemaking practices that incorporate credit-minded adjustments (e.g., the use of double-leveraged capital structures or off-balance-sheet debt-like obligations) are considered in the Standard & Poor's assessment.

We analyze the issue of "regulatory lag" in a comprehensive manner and not just as a matter of the efficiency of the regulator in completing rate cases. As part of this analysis, we evaluate the timeliness of rate decisions, coupled with an evaluation of the test year. In addition, we take into account the timing of interim rates, and other practices that affect the appropriateness of rates periodically established by the regulator. We do not view the issue of regulatory lag as an intermittent concern, consequential only during times of acute inflation or rising capital spending, but as a consistent part of our credit analysis. Accordingly, in our regulatory assessments we focus on whether the regulator efficiently prosecutes rate requests and bases its decisions with respect to rate setting on the most current information.

In our view, the prevalence of rate case settlements is not necessarily an important credit consideration. Although the common assumption among market participants seems to be that a settlement must be in the best interest of a utility, we believe this assumption disregards the possibility that management will sometimes make decisions based on its effect on earnings at the expense of cash flow considerations. This does not mean we dismiss the ability of stipulations to reach a fair resolution of difficult matters that help regulators issue timely and constructive rate decisions. It just means that frequent settlements do not, in our view, directly lead to a conclusion that the regulatory environment in a state enhances credit quality.

An important policy-related issue outside of individual rate cases that falls under this part of the assessment is the

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regulatory oversight of large capital projects with long lead times that carry out-sized risks to a utility and its bondholders. In our opinion, practices such as legislative or regulatory recognition of the need for pre-approval of such endeavors, periodic reviews that substantively involve the regulator in the progress of the project, and rolling prudence determinations during construction can reduce the general level of risk associated with a utility committing substantial capital well in advance of the rate proceeding that results in the project being placed into rate base. Before committing to such projects, a resource-procurement process that uses objective guidelines to evaluate competing proposals to meet load obligations and keeps the regulator informed and involved in the decisions can, in our view, help to reduce the risk of subsequent disallowances. If the jurisdiction has an Integrated Resource Plan or similar mechanism that includes the participation of many parties and is used to definitively establish the need for new generation, we consider credit risk to be further diminished.

One more factor that we examine in this part of the analysis is whether a jurisdiction employs nontraditional ratemaking practices. Examples of what we may view to be potentially credit-enhancing regulatory mechanisms include weather normalization and incentive ratemaking. We believe that the beneficial effect on credit quality of a tariff clause that smooths out cash flows that can vary with outside influences like weather is self evident. The benefits of incentives incorporated into the regulatory regime may be less clear. Well-designed incentives can be at least credit neutral. A moderate amount of incentives can be credit supportive. We generally view incentive provisions (whether tied to cost control, reliability, or operational performance) as being beneficial for credit quality if they are linked to fair and objective benchmarks. Incentives that lack some or all of those features, such as a plain, long-term rate freeze, can be, in our opinion, detrimental to credit quality.

Political Insulation

The role of politics in utility regulation is often misunderstood. In most jurisdictions, legislatures created regulatory commissions and invested them with the power to set and enforce utility rates and service standards. Regardless of how a regulatory commission is statutorily organized, its function is to set and regulate rates and service standards with due regard not only for the interests of those who advance the capital needed to provide safe and reliable utility service but for other constituents as well. In this regard, bondholders should recognize that the setting of utility rates invariably reflects political as well as economic factors. Therefore, the potential for political considerations to affect utility regulation can be a key determinant when we assess a regulatory jurisdiction.

A primary factor in this part of our assessment is the method of selecting utility commissioners. In some jurisdictions, the governors appoint regulatory commissioners. In others, the same voters who pay utility bills directly elect commissioners. The regulatory risk associated with that model can sometimes be managed, but there is an inherent level of risk in elected regulatory bodies that we reflect in the assessment. Standard & Poor's also analyzes the track record of the involvement of the executive branch or the legislature in utility matters, and the relative visibility of utility issues in the political arena.

The ability of a regulator to deliver sound, fair, and timely rate decisions and set prudent regulatory policies that assist utility managers in managing business and financial risk can be affected by the overall atmosphere that it operates in. The tone can be set by the governor or legislature, the history and tradition of independence accorded to the regulatory body, and the behavior of important constituent groups that intervene in utility proceedings.

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Cash Flow Support And Stability

The final set of factors in our assessment of regulatory environments is arguably the most important. The phrase "cash is king" can be overused, but it does highlight an essential part of the credit analysis. A regulatory jurisdiction that recognizes the significance of cash flow in its decision making is one that will appeal to bondholders. Generating cash is a function of the actions of utility management, but the regulator can supply (or withhold) the tools that can affect the company's essential ability to actually realize the intended level of cash flow.

The most prominent factor in this part of the analysis is the application of separate tariff provisions for major expenses such as fuel and purchased power. The timely adjustment of rates in response to changing commodity prices and other expenses that are largely out of the control of utility management is a key component of a credit-enhancing regulatory jurisdiction. We analyze the quality of special tariff mechanisms to determine their effectiveness in producing the cash flow stability they are designed to achieve. The frequency of rate adjustments, the ability to quickly react to unusual market volatility, and the control of opportunities to engage in hindsight disallowances of costs could affect the analysis almost as much as whether the tariff provisions exist at all. The record of disallowances plays a part in the regulatory assessment.

The commission's policies and oversight covering hedging activities may also be a factor in this part of the review if a utility has sought regulatory approval. For utilities that attempt to manage commodity risks, we look for a clearly-stated hedging policy and a track record of activity that conforms to that policy. The responsibility for communicating the policy and demonstrating the prudence of the hedging activity rests with the utility, but the initial response to a hedging program and the history of the regulator's treatment of the results of the program could influence our assessment.

Regulators can employ other ratemaking techniques that promote stable cash flows. We consider a commission's decisions on rate design in assessing its attitude on credit quality. For example, we take into account the relative size of the typical monthly customer charge, a decoupling mechanism that severs the direct relationship between revenues and customer usage, or other rate design features that bolster credit quality.

Especially during upswings in the capital expenditure cycle, such as we are experiencing now, a jurisdiction's willingness to support large capital projects with cash during the construction phase is an important aspect of our analysis. This is especially true for ventures with big budgets and long lead times, such as baseload coal-fired or nuclear power plants and high-voltage transmission lines that are susceptible to construction delays. Allowance of a cash return on construction work-in-progress or similar ratemaking methods historically were considered extraordinary measures for use in unusual circumstances, but in today's environment of rising construction costs and possible inflationary pressures, cash flow support could be crucial in maintaining credit quality through the spending program.

Jurisdictional Assessments

The table below shows Standard & Poor's assessments of regulatory jurisdictions. The category titles are designed to communicate one other important point regarding utility regulation and its effect on ratings. All categories are denoted as "credit-supportive". To one degree or another, all U.S. utility regulation sustains credit quality when compared with the rest of corporate ratings at Standard & Poor's. The presence of regulators, no matter where in

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the spectrum of our assessments, reduces business risk and generally supports all U.S. utility ratings.

Regulatory Jurisdictions For Utilities Among U.S. States

Most credit supportive	More credit supportive	Credit supportive	Less credit supportive	Least credit supportive
	Alabama	Arkansas	Louisiana	Arizona
	California	Colorado	Maine	Delaware
	Florida	Connecticut	Missouri	Dist. of Columbia
	Georgia	Hawaii	Montana	Illinois
	Indiana	Idaho	New York	Maryland
	Iowa	Kansas	Oklahoma	New Mexico
	South Carolina	Kentucky	Rhode Island	
	Wisconsin	Massachusetts	Texas	
		Michigan	Utah	
		Minnesota	Vermont	
		Mississippi	Washington	
		Nevada	West Virginia	
		New Hampshire	Wyoming	
		New Jersey		
		North Carolina		
		North Dakota		
		Ohio		
		Oregon		
		Pennsylvania		
		South Dakota		
		Virginia		

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November 25, 2008

Credit FAQ:

Standard & Poor's Assessments Of Regulatory Climates For U.S Investor-Owned Utilities

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Frequently Asked Questions

Appendix

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Credit FAQ:

Standard & Poor's Assessments Of Regulatory Climates For U.S Investor-Owned Utilities

Based on Standard & Poor's Ratings Services' experience in rating U.S. investor-owned utilities, we believe that the fundamental regulatory environment can be one of the most important factors we analyze when assigning utility credit ratings. So, earlier this month we released our assessments of the credit-supportiveness of the regulatory environments in the primary jurisdictions that regulate the U.S. utilities we rate (see "Assessing U.S. Utility Regulatory Environments," published Nov. 7, 2008, on RatingsDirect). The following answers to frequently asked questions aim to provide additional information regarding how we evaluate the jurisdictions, how we incorporate the assessments into our ratings, and why we decided to create the assessments in the first place. The appendix includes a table of the assessments and a map highlighting each jurisdiction in the U.S to which we have issued an assessment.

Frequently Asked Questions

Why has Standard & Poor's decided to publish these assessments now?

We believe that the effect of regulatory risk on U.S. investor-owned utility ratings has grown in recent years, as has the importance of providing more transparency to the market and policymakers about our approach to analyzing regulatory risk.

We expect the importance of regulatory matters will continue to occupy a primary position in our analysis because the impulse toward deregulation has fallen, the utilities' costs have increased in magnitude and volatility, and utilities are facing ever-greater environmental burdens to meet broad societal and global goals. We believe that regulatory environments around the country must continue to evolve to address those burdens if credit quality is to be preserved. The intent of the Nov. 7 commentary and assessments is to better communicate how regulatory policy and practices affect credit quality.

Are you changing your methodology for rating U.S. investor-owned utilities with the new assessments?

No. Our ratings on a utility will continue to be tied to the utility's own regulatory risk, which depends on more than just the regulatory environment (or environments) where it operates. Management's attitude and capabilities with respect to managing regulatory risk, strategic imperatives, operating performance, and other factors can affect our conclusion on regulatory risk as much as our assessment of regulatory climate.

How do you factor regulation into the credit ratings of U.S. utilities?

The influence of regulatory decisions on the ability of utilities to produce predictable cash flow is a key factor in our credit analysis. Regulation generally supports investment-grade credit quality. The average rating for U.S. investor-owned utilities is 'BBB', while the average for the rest of corporate ratings is in the 'BB' range.

How will you use the assessments when reviewing ratings of U.S. utilities?

The assessments will be the starting point for our rating committee when it reviews a company's regulatory risk profile. We expect the assessments to enhance comparability in ratings across the U.S. utility sector by providing a common and explicit foundation for the evaluation of each utility's regulatory risk. The assessments will also help rating committees evaluate overall management because they will highlight situations where our assessment of a

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company's regulatory environment and our view of the company's regulatory risk don't match. Our view of management could be affected if a utility struggles to earn its authorized return in a supportive regulatory environment, or if it financially out-performs its peers in a difficult environment.

What are the assessments trying to measure?

The assessments attempt to measure the fundamental posture of a jurisdiction's policymakers toward issues that matter to a utility's creditors. Standard & Poor's identified many features of regulation that we believe reveal that posture, and gathered data on those factors. To the extent we used qualitative factors to form our opinion, we looked for long-term, institutional characteristics of the jurisdiction such as history of attention paid to credit quality, as well as more recent, possibly transient developments, such as the latest election results. Some important aspects of the assessments to be kept in mind include:

- The assessments are of the whole jurisdiction, not just the regulatory body.
- The assessments are done on an absolute basis, not on a relative scale.
- The assessments are made from a credit perspective.

What specific factors did you use to make the assessments?

The Nov. 7 commentary contains a full discussion of the various elements that Standard & Poor's analyzed in the assessments, but below is an abridged list of the factors, which we've grouped under four broad categories mentioned in the commentary. We give the most weight to the financial stability factors, followed in order by ratemaking factors, political factors, and the regulatory paradigm:

Ratemaking factors

- Cost recovery and earned returns,
- Ratemaking timeliness,
- Resource procurement process,
- Oversight of large capital commitments, and
- Nontraditional ratemaking practices.

Political factors

- Method of commissioner selection,
- Record of political influence, and
- Behavior of influential intervenors.

Financial stability factors

- Rate treatment of large capital expenditures,
- Rate treatment of large expenses,
- Cash flow metrics of regulated utilities, and
- Rate design.

In Standard & Poor's view, is a jurisdiction described as "More Credit-Supportive" one in which the commission is a "good" regulator? Similarly, is one in the "Least Credit-Supportive" category viewed by Standard & Poor's as a "poor" regulator?

No, not at all. First, remember that the assessments encompass much more than the behavior of the regulators in a jurisdiction. Second, all jurisdictions are described as "credit-supportive" and differ only in degree rather than in kind. And third, we designed the assessments to portray utility regulation in terms of its effect on credit quality.

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Public policy in a given jurisdiction, as dictated by the executive and legislative branches and implemented by the regulatory body, is properly governed by many different considerations that may or may not coincide with a particular level of creditworthiness. We don't intend the assessments to advocate for any specific ratemaking treatment or commission policy. They merely reflect our opinion of the credit consequences of those policies and other elements of our assessment methodology.

Why are no jurisdictions categorized as Most Credit-Supportive?

We make the assessments against an absolute standard of the degree of credit support. At this time, there are in our view no U.S. jurisdictions that qualify for the top category.

Appendix

Regulatory Assessments For Utilities Among U.S. States

Most credit supportive*	More credit supportive	Credit supportive	Less credit supportive	Least credit supportive
	Alabama	Arkansas	Louisiana	Arizona
	California	Colorado	Maine	Delaware
	Florida	Connecticut	Missouri	Dist. of Columbia
	Georgia	Hawaii	Montana	Illinois
	Indiana	Idaho	New York	Maryland
	Iowa	Kansas	Oklahoma	New Mexico
	South Carolina	Kentucky	Rhode Island	
	Wisconsin	Massachusetts	Texas	
		Michigan	Utah	
		Minnesota	Vermont	
		Mississippi	Washington	
		Nevada	West Virginia	
		New Hampshire	Wyoming	
		New Jersey		
		North Carolina		
		North Dakota		
		Ohio		
		Oregon		
		Pennsylvania		
		South Dakota		
		Virginia		

*In Standard & Poor's view, no U.S. jurisdictions qualify for the top category.

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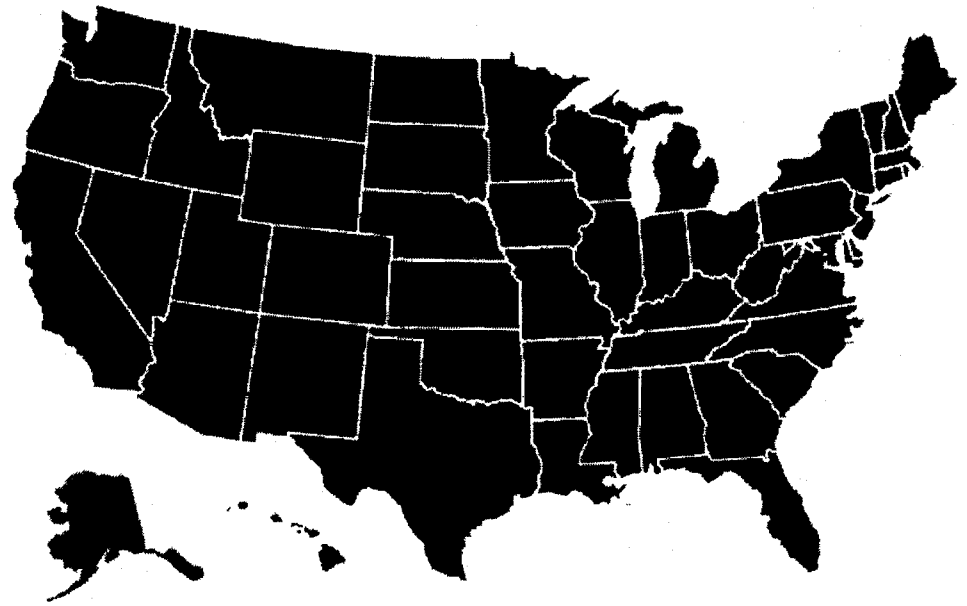
Standard & Poor's U.S. Utility Regulatory Environment Assessments



*The assessments are made against an absolute standard of the degree of credit support. At this time, we observe no U.S. jurisdictions that qualify in the top category.

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McGill, James T(Z71171)

From: Philip.Smyth@fitchratings.com
Sent: Friday, January 08, 2010 9:25 PM
To: McGill, James T(Z71171)
Subject: RE: 1/26 meeting

Jim,

We will meet at 33 Whitehall Street. Its right across the street from One State Street Plaza and the building has the Fitch logo on it. Proceed to the through security to the 18th floor reception area where I will greet you and accompany you and your colleagues to the meeting room. Please let me know who will be attending from PNW.

Will you provide updated models ahead of the meeting?

Thanks,

Phil

-----<James.MCgill@pinnaclewest.com> wrote: -----

To: <Philip.Smyth@fitchratings.com>
From: <James.MCgill@pinnaclewest.com>
Date: 01/08/2010 04:26PM
Subject: RE: 1/26 meeting

Phil - what is your street address where we'll be meeting?

-----Original Message-----
From: Philip.Smyth@fitchratings.com
[mailto:Philip.Smyth@fitchratings.com]
Sent: Thursday, January 07, 2010 11:51 AM
To: McGill, James T(Z71171)
Subject: Re: 1/26 meeting

Hi Jim,

Do you wish to meet at 12PM or later say 1 - 2PM. If you come at 12PM we will provide sandwiches. Let me know what works for you, I will circulate the proposed time to key participants on my end and get back to you ASAP.

Best Regards,

Philip Smyth, CFA
Senior Director

Fitch Ratings
212 908 0531

James.MCgill@pinn

aclewest.com

To

01/07/2010 01:17 PM

Philip.Smyth@fitchratings.com

cc

Subject

1/26 meeting

Phil,
Left you a voice message earlier - Jim will be on a panel discussion the in the morning of 1/26, so we'd like to meet with you early afternoon if possible.

Jim

Email Firewall made the following annotations

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McGill, James T(Z71171)

From: Philip.Smyth@fitchratings.com
Sent: Friday, January 15, 2010 7:35 AM
To: McGill, James T(Z71171)
Subject: RE: 1/26 meeting

Hi Jim,

Just to be clear, the latest communique indicates a 1PM start for our 1/26 meeting. Please confirm. The meeting with you and Jim Hatfield will be held at 33 - Whitehall Street (you will see the Fitch logo emblazoned on the building), which is across the street from our NYC HQ building (1 State Street Plaza). Proceed through lobby security to the 18th floor where a receptionist will receive you. Please let me know if you have any questions or need anything further. We look forward to meeting with you.

Best Regards,

Phil
212 908 0531

<James.MCgill@pin
naclewest.com>

01/12/2010 01:56 PM

To <Philip.Smyth@fitchratings.com>

cc

Subject RE: 1/26 meeting

Phil,
Can we make the time 1:00 - 2:00? It will be Jim H. and me from PNW. We will be providing updated projections ahead of the meeting.

Jim

From: Philip.Smyth@fitchratings.com [mailto:Philip.Smyth@fitchratings.com]
Sent: Friday, January 08, 2010 9:25 PM
To: McGill, James T(Z71171)
Subject: RE: 1/26 meeting

Jim,

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Will you provide updated models ahead of the meeting?

Thanks,

Phil

-----<James.MCgill@pinnaclewest.com> wrote: -----

To: <Philip.Smyth@fitchratings.com>
From: <James.MCgill@pinnaclewest.com>
Date: 01/08/2010 04:26PM
Subject: RE: 1/26 meeting

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Sent: Thursday, January 07, 2010 11:51 AM
To: McGill, James T(Z71171)
Subject: Re: 1/26 meeting

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Best Regards,

Philip Smyth, CFA
Senior Director
Fitch Ratings
212 908 0531

James.MCgill@pinnaclewest.com		
01/07/2010 01:17 PM	Philip.Smyth@fitchratings.com	To
		cc
	1/26 meeting	Subject

Phil,
Left you a voice message earlier - Jim will be on a panel discussion the in the morning of 1/26, so we'd like to meet with you early afternoon if possible.

Jim

Email Firewall made the following annotations

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McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Wednesday, January 20, 2010 3:15 PM
Subject: PNW: Dividend Declaration and Earnings Conference Call/Web Cast

Today, we issued a press release announcing our latest dividend declaration and our 2009 fourth-quarter earnings release, conference call and web cast. The text of the release is included below in this message.

As always, if you need any information about our company, please contact me.

Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

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PINNACLE WEST DECLARES QUARTERLY DIVIDEND;
ANNOUNCES FOURTH-QUARTER CONFERENCE CALL

PHOENIX – Pinnacle West Capital Corporation's (NYSE: PNW) Board of Directors today declared a quarterly dividend of $0.525 per share of common stock, payable on March 1, 2010, to shareholders of record on February 1, 2010.

In addition, Pinnacle West plans to release its 2009 fourth-quarter and year-end results on Friday, February 19, 2010. That same day at 11 a.m. (ET), the Company invites interested parties to listen to a live web cast of management's conference call to discuss results and recent developments.

The web cast can be accessed at www.pinnaclewest.com/presentations and will be available for replay on the web site for 30 days. To access the live conference call by telephone, dial (877) 356-3961 and enter Conference ID 49140974. A replay of the call also will be available until 11:55 p.m. (ET), Friday, February 26, 2010, by calling (800) 642-1687 in the U.S. and Canada or (706) 645-9291 internationally and entering the same Conference ID number as above.

Pinnacle West is a Phoenix-based company with consolidated assets of about $11.8 billion. Through its subsidiaries, the Company generates, sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

-30-

McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Thursday, January 21, 2010 11:20 AM
Subject: PNW/APS: EXECUTIVE AND SENIOR MANAGEMENT CHANGES

Today, we issued a press release announcing some executive and senior management changes. The text of the release is included below in this message.

As always, if you have any question about this announcement or need other information about our company, please contact me.

Sincerely ~
Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

---

APS ANNOUNCES OFFICER, SENIOR MANAGEMENT CHANGES

PHOENIX – Pinnacle West Capital Corp. Chairman and Chief Executive Officer Don Brandt today announced promotions at Pinnacle West and its principal subsidiary, Arizona Public Service Co. (APS).

Effective immediately, Barbara Gomez has been named Vice President of Supply Chain Management for APS, and Denise Danner has been named Vice President, Controller and Chief Accounting Officer for both APS and Pinnacle West. Gomez, who has been with the company since 1978, previously held the position of Vice President, Controller and Chief Accounting Officer for Pinnacle West. Danner, who joined APS in 2009, previously was Vice President and Controller for APS. Both Gomez and Danner will report to Jim Hatfield, Senior Vice President and Chief Financial Officer.

Brandt said the changes are an opportunity to provide greater management depth and experience, as well as improved efficiency and integration across operating lines.

In addition, David Hansen has been named Vice President of Fossil Operations and will report to Mark Schiavoni, Senior Vice President of Fossil. Hansen, who began with the company in 1980, was previously APS's Vice President of Power Marketing and Trading.

Pat Dinkel, who began his career with the company in 1986, has been promoted to Vice President of Power Marketing and Resource Planning. Dinkel's previous position of General Manager of Strategic Planning and Resource Acquisition will now be held by Brad Albert, a 25-year veteran of the company who previously served as Director of Resource Planning. Dinkel and Albert will both report to Don Robinson, APS President and Chief Operating Officer.

Pinnacle West is a Phoenix-based company with consolidated assets of about $11.8 billion. Through its subsidiaries, the Company generates, sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

# # #

McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, January 22, 2010 12:39 PM
To: 'Bettinelli, Antonio'
Subject: Visit

Tony,
Thanks for getting back to me. Let's just plan on meeting out in San Francisco. Let me know your availability (several dates would be helpful).

Jim

McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, January 22, 2010 12:53 PM
To: 'Bettinelli, Antonio'
Subject: FW: STANDARD & POOR'S REGULATORY SURVEY - JAN. 2010
Attachments: SPregulatorysurvey2010.doc; Decision No. 71435.pdf; Decision No. 71448.pdf; EIS.pdf; PSA-1.pdf

Tony,
Here is the completed survey and attachments. Let me know if you have any questions.

Jim

STANDARD & POOR'S
REGULATORY SURVEY

UPDATE - January 2010

Please fill out a separate update for each rated utility with new information since the 2008 survey.
If the utility is in more than one jurisdiction, please provide separate survey for each.
Attach additional materials (e.g. company documents) or explanations if necessary to completely answer any of the questions.
For assistance, contact your primary analyst or Todd Shipman (212.438.7676) or todd_shipman@sandp.com

IMPORTANT: CLEARLY INDICATE IF AN ANSWER CONTAINS CONFIDENTIAL, NON-PUBLIC INFORMATION THAT YOU WOULD NOT WANT DISCLOSED
***Thank you very much for your assistance*. Please send the completed survey(s) to your analyst by the end of January.**

COMPANY

Arizona Public Service Company

JURISDICTION

Arizona

REGULATORY BODY

Arizona Corporation Commission

1. RESOURCE PROCUREMENT PROCESS

If your utility has obligation-to-serve or POLR responsibilities, please note any new developments in the procurement process since 2008 (e.g. IRP, competitive procurement, regulatory oversight, or regulatory approval).

(If necessary, attach separate document):

APS is a vertically integrated utility that retains its obligation to serve. The ACC has developed a set of Integrated Resource Planning Rules (ACC Decision No. 71435 dated 12/15/09, attached) that is currently awaiting certification through the public process. These rules contain a section relating to competitive procurement of resources (R14-2-705). Certification through the Attorney General's Office is expected by the end of the second quarter of 2010.

2. RATE CASE INFORMATION

Provide the following information for base rate cases completed since 2008:

Date Filed	Originally filed 3/24/2008; updated test year filed 6/2/2008
Initiated By	APS
Interim Rate Increase Amount and Date	$65.2M eff. 1/1/2009
Amount and % of Requested Rate Increase	$448.2M or 16.99% ($278.2M increase to base rates - net of fuel - or 10.55%)
Amount and % Rate Increase Granted	$344.7M or 13.07% ($207.5M increase to base rates - net of fuel - or 7.9%)
Date Permanent Rates Went Into Effect	1/1/2010
Rate Base Amount	OCRB $5,582.1M
	Fair value $7,665.7M
Test Year Used	9/30/07
(If updated, through what date?)	12/30/07
Return on Equity Authorized	11.0%
Capital Structure (% debt, preferred, common)	46.21% debt, 53.79% equity
Settlement (Y, N, Partial)	Y

ACC Decision No. 71448 is attached.

3. LARGE CAPITAL EXPENDITURES

Please note changes to programs or riders authorized for significant capital projects (e.g. pre-approvals, separate rate mechanism, regulatory oversight, rate base treatment):

No change to information provided in 2008. The EIS rider tariff sheet was updated as part of the last rate case only to include new rate schedules that are excluded. The charge was not changed. The new EIS rider is attached.

4. TARIFF CLAUSES FOR SIGNIFICANT EXPENSES

Note significant changes (e.g. added, withdrawn, timing of rate adjustments, incentives) to any separate rate mechanisms for significant expenses such as purchased power or fuel:

No significant changes to the operation of the fuel clause. Adjustment rates did change concurrent with the last rate case order. The new PSA rider is attached.

Any amounts disallowed in 2009? (note % of total cost):

_No_____

5. RATE DESIGN

Any significant regulatory changes to the monthly fixed charge in any of your customer classes?

__No_____

6. FINANCIAL REPORTING

Please attach financial reports submitted to your regulator in 2009 (or, if applicable, a summary part of the report with financial data) or provide a website address where they can be found:

-
http://starpas.azcc.gov/scripts/cgiip.exe/WService=wsbroker1/connect.p?app=names-report.p

Please provide the actual, *jurisdictional* earned return on equity for 2008: __7.7%_____

7. NON-TRADITIONAL RATEMAKING PRACTICES

Please note if any of the following were added or withdrawn in 2009:

Incentive Ratemaking	_*___
Revenue Decoupling	____
Weather Normalization	____
Other	____

Describe changes:

* Performance incentives for demand-side management programs changed as a result of the last rate case. The Company now earns a tiered performance incentive as a % of net benefits, capped at a tiered % of program costs. The incentive is described in detail in the attached Decision No. 71448.

8. OTHER

Describe any practices or policy changes made by your regulator in 2009 that you think affects credit quality.

The most recent rate case settlement contained several constructive regulatory mechanisms (albeit possibly on a one-time basis):

- post-test-year rate base (for capital projects with an in-service date to 6/30/09)
- 2-year rate case cycle through 2014
- deferral of pension and OPEB costs
- concurrent recovery of DSM costs
- movement of significant fuel cost recovery from adjustor to base rates

See the attached Decision No. 71448.

THANK YOU!

SURVEY COMPLETED BY:

NAME __James McGill_____

PHONE NUMBER __602-250-3315_____

E-MAIL __jim.mcgill@pinnaclewest.com__

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 22, 2010 12:58 PM
To: McGill, James T(Z71171)
Subject: RE: STANDARD & POOR'S REGULATORY SURVEY - JAN. 2010

Thanks.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
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To: Bettinelli, Antonio
Subject: FW: STANDARD & POOR'S REGULATORY SURVEY - JAN. 2010

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Monday, January 25, 2010 4:51 PM
To: 'laura.schumacher@moodys.com'
Subject: Fw: Moody's Presentation January 2010.xls

Attachments: Moody's Presentation January 2010.xls

Here are new projections. See you tomorrow.
Jim

----- Original Message -----
From: McGill, James T(Z71171)
To: McGill, James T(Z71171)
Sent: Fri Jan 22 15:40:01 2010
Subject: Moody's Presentation January 2010.xls

Moody's
esentation January 2

Assumptions

[redacted]

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case
and are not to be relied upon for purposes of trading any security.

Pinnacle West Capital Corporation
Financial Results
($ Millions)

		Forecast 2010	Forecast 2011
	Operating Revenues:		
1	Revenues		
2	Purchased Power & Fuel Cost		
3	Revenues Less Fuel Expenses		
	Operating Expenses:		
4	Operations & Maintenance		
5	Depreciation & Amortization		
6	Other Taxes		
7	Total Operating Expenses		
8	Operating Income		
	Interest and Other Expenses		
9	Interest Expense		
10	AFUDC Debt		
11	AFUDC Equity		
12	Other (Income)/Expense		
13			
14	Income Before Taxes		
15	Income Taxes		
16	Earnings for Common		

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Pinnacle West Capital Corporation
Capital Structure
($ Millions)

		Forecast 2010	Forecast 2011
	Capitalization - End of Period		
1	Total Debt	[redacted]	[redacted]
2	Common Equity	[redacted]	[redacted]
3	Total	[redacted]	[redacted]
	Capitalization Ratio - End of Period		
4	Total Debt	[redacted]%	[redacted]%
5	Common Equity	[redacted]	[redacted]%
6	Total	[redacted]	[redacted]
7	Imputed Operating Leases Debt	$ [redacted]	[redacted]
8	Imputed Pension Debt	[redacted]	[redacted]
9	Total	$ [redacted]	[redacted]
	Adjusted Capitalization Ratios:		
10	Total Debt	[redacted]%	[redacted]
11	Common Equity	[redacted]	[redacted]%
12	Total	[redacted]	[redacted]

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Pinnacle West Capital Corporation
Funds From Operations & Net Cash Flow
($ Millions)

		Forecast	
		2010	2011
	Funds From Operations		
1	Net Income	$ [redacted]	[redacted]
2	Depreciation & Amortization	[redacted]	[redacted]
3	Nuclear Fuel Amortization	[redacted]	[redacted]
4	Deferred Taxes	[redacted]	[redacted]
5	Deferred PSAC	[redacted]	[redacted]
6	AFUDC Debt	[redacted]	[redacted]
7	AFUDC Equity	[redacted]	[redacted]
8	O&M Pension/OPEB/DSM Deferral	[redacted]	[redacted]
9	Imputed Depreciation - Leases	[redacted]	[redacted]
10	**FFO**	[redacted]	[redacted]
11	Common Dividends	[redacted]	[redacted]
12	**Net Cash Flow**	$ [redacted]	[redacted]
	Capital Expenditures		
13	APS Delivery	[redacted]	[redacted]
14	APS Generation	[redacted]	[redacted]
15	Other	[redacted]	[redacted]
16	Total Capital Expenditures	$ [redacted]	[redacted]

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case and are not to be relied upon for purposes of trading any security.

Pinnacle West Capital Corporation
Financial Indicators

	Forecast	
	2010	2011
1 Adjusted FFO Interest Coverage	[redacted]	[redacted]
2 Adjusted FFO / Adjusted Total Debt	[redacted]	[redacted]
3 Net Cash Flow % Capital Expenditures	[redacted]	[redacted]
Adjusted Capitalization Ratios:		
4 Total Debt	[redacted]	[redacted]
5 Common Equity	[redacted]	[redacted]
6 Total	[redacted]	[redacted]

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case and are not to be relied upon for purposes of trading any security.

Arizona Public Service Company
Financial Results
($ Millions)

		Forecast 2010	Forecast 2011
	Operating Revenues:		
1	Base Revenues	$ [redacted]	[redacted]
2	DSM Adjustor	[redacted]	[redacted]
3	Renewable Energy Surcharge	[redacted]	[redacted]
4	Schedule 3 Revenues	[redacted]	[redacted]
5	Total Electric Revenues	[redacted]	[redacted]
6	Purchased Power & Fuel Cost	[redacted]	[redacted]
7	Revenues Less Fuel Expenses	[redacted]	[redacted]
	Operating Expenses:		
8	Operations & Maintenance	[redacted]	[redacted]
9	Depreciation & Amortization	[redacted]	[redacted]
10	Other Taxes	[redacted]	[redacted]
11	Total Operating Expenses	[redacted]	[redacted]
12	Operating Income	[redacted]	[redacted]
	Interest and Other Expenses		
13	Interest Expense	[redacted]	[redacted]
14	AFUDC Debt	[redacted]	[redacted]
15	AFUDC Equity	[redacted]	[redacted]
16	Other (Income)/Expense	[redacted]	[redacted]
17		[redacted]	[redacted]
18	Income Before Taxes	[redacted]	[redacted]
19	Income Taxes	[redacted]	[redacted]
20	Earnings for Common	$ [redacted]	[redacted]

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Arizona Public Service Company
Capital Structure
($ Millions)

		Forecast 2010	Forecast 2011
	Capitalization - End of Period		
1	Total Debt	[redacted]	[redacted]
2	Common Equity	[redacted]	[redacted]
3	Total	[redacted]	[redacted]
	Capitalization Ratio - End of Period		
4	Total Debt	[redacted]%	[redacted]%
5	Common Equity	[redacted]%	[redacted]
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7	Imputed Operating Leases Debt	[redacted]	[redacted]
8	Imputed Pension Debt	[redacted]	[redacted]
	Total	[redacted]	[redacted]
	Adjusted Capitalization Ratios:		
9	Total Debt	[redacted]%	[redacted]
10	Common Equity	[redacted]	[redacted]
11	Total	[redacted]	[redacted]

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Arizona Public Service Company
Funds From Operations & Net Cash Flow
($ Millions)

		Forecast 2010	Forecast 2011
	Funds from Operations		
1	Net Income	$ [redacted]	[redacted]
2	Depreciation & Amortization	[redacted]	[redacted]
3	Nuclear Fuel Amortization	[redacted]	[redacted]
4	Deferred Taxes	[redacted]	[redacted]
5	Deferred PSAC	[redacted]	[redacted]
6	AFUDC Debt	[redacted]	[redacted]
7	AFUDC Equity	[redacted]	[redacted]
8	O&M Pension/OPEB/DSM Deferral	[redacted]	[redacted]
9	Imputed Depreciation - Leases	[redacted]	[redacted]
10	**FFO**	[redacted]	[redacted]
11	Common Dividends	[redacted]	[redacted]
12	**Net Cash Flow**	$ [redacted]	[redacted]
	Capital Expenditures		
13	Delivery	[redacted]	[redacted]
14	Generation	[redacted]	[redacted]
15	Other	[redacted]	[redacted]
16	Total Capital Expenditures	[redacted]	[redacted]

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case and are not to be relied upon for purposes of trading any security.

Arizona Public Service Company
Financial Indicators

	Forecast 2010	Forecast 2011
1 Adjusted FFO Interest Coverage	[redacted]	[redacted]
2 Adjusted FFO / Adjusted Total Debt	[redacted]	[redacted]
3 Net Cash Flow % Capital Expenditures	[redacted]	[redacted]
Adjusted Capitalization Ratios:		
4 Total Debt	[redacted]	[redacted]%
5 Common Equity	[redacted]	[redacted]%
6 Total	[redacted]	[redacted]%

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case and are not to be relied upon for purposes of trading any security.

McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Monday, January 25, 2010 4:51 PM
To: 'philip.smyth@fitchratings.com'
Subject: Fw: Fitch Presentation January 2010.xls

Attachments: Fitch Presentation January 2010.xls

Here are the new projections. See you tomorrow.
Jim

----- Original Message -----
From: McGill, James T(Z71171)
To: McGill, James T(Z71171)
Sent: Fri Jan 22 15:39:16 2010
Subject: Fitch Presentation January 2010.xls

Fitch Presentation January 201...

Assumptions

[redacted]

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case
and are not to be relied upon for purposes of trading any security.

Pinnacle West Capital Corporation
Financial Results
($ Millions)

		Forecast 2010	Forecast 2011
	Operating Revenues:		
1	Revenues	[redacted]	[redacted]
2	Purchased Power & Fuel Cost	[redacted]	[redacted]
3	Revenues Less Fuel Expenses	[redacted]	[redacted]
	Operating Expenses:		
4	Operations & Maintenance	[redacted]	[redacted]
5	Depreciation & Amortization	[redacted]	[redacted]
6	Other Taxes	[redacted]	[redacted]
7	Total Operating Expenses	[redacted]	[redacted]
8	Operating Income	[redacted]	[redacted]
	Interest and Other Expenses		
9	Interest Expense	[redacted]	[redacted]
10	AFUDC Debt	[redacted]	[redacted]
11	AFUDC Equity	[redacted]	[redacted]
12	Other (Income)/Expense	[redacted]	[redacted]
13		[redacted]	[redacted]
14	Income Before Taxes	[redacted]	[redacted]
15	Income Taxes	[redacted]	[redacted]
16	Earnings for Common	[redacted]	[redacted]

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case and are not to be relied upon for purposes of trading any security.

Pinnacle West Capital Corporation
Capital Structure
($ Millions)

		Forecast 2010	Forecast 2011
	Capitalization - End of Period		
1	Total Debt	[redacted]	[redacted]
2	Common Equity		
3	Total		
	Capitalization Ratio - End of Period		
4	Total Debt	[redacted]	[redacted]
5	Common Equity		
6	Total		
7	Imputed Operating Leases Debt	[redacted]	[redacted]
8	Imputed Pension Debt		
9	Total		
	Adjusted Capitalization Ratios:		
10	Total Debt	[redacted]	[redacted]%
11	Common Equity		[redacted]%
12	Total	[redacted]%	

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case and are not to be relied upon for purposes of trading any security.

Pinnacle West Capital Corporation
Funds From Operations & Net Cash Flow
($ Millions)

		Forecast	
		2010	2011
	Funds From Operations		
1	Net Income	[redacted]	[redacted]
2	Depreciation & Amortization	[redacted]	[redacted]
3	Nuclear Fuel Amortization	[redacted]	[redacted]
4	Deferred Taxes	[redacted]	[redacted]
5	Deferred PSAC	[redacted]	[redacted]
6	AFUDC Debt	[redacted]	[redacted]
7	AFUDC Equity	[redacted]	[redacted]
8	O&M Pension/OPEB/DSM Deferral	[redacted]	[redacted]
9	Imputed Depreciation - Leases	[redacted]	[redacted]
10	**FFO**	[redacted]	[redacted]
11	Common Dividends	[redacted]	[redacted]
12	**Net Cash Flow**	[redacted]	[redacted]
	Capital Expenditures		
13	APS Delivery	[redacted]	[redacted]
14	APS Generation	[redacted]	[redacted]
15	Other	[redacted]	[redacted]
16	Total Capital Expenditures	[redacted]	[redacted]

These numbers are being provided solely for purposes of the APS 2008 Amended Rate Case and are not to be relied upon for purposes of trading any security.

Pinnacle West Capital Corporation
Financial Indicators

	Forecast	
	2010	2011
1 Adjusted FFO Interest Coverage	[redacted]	[redacted]
2 Adjusted FFO / Adjusted Total Debt	[redacted]	[redacted]
3 Net Cash Flow % Capital Expenditures	[redacted]%	[redacted]
Adjusted Capitalization Ratios:		
4 Total Debt	[redacted]	[redacted]
5 Common Equity	[redacted]	[redacted]
6 Total	[redacted]	[redacted]

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Arizona Public Service Company
Financial Results
($ Millions)

		Forecast 2010	Forecast 2011
	Operating Revenues:		
1	Base Revenues	[redacted]	[redacted]
2	DSM Adjustor	[redacted]	[redacted]
3	Renewable Energy Surcharge	[redacted]	[redacted]
4	Schedule 3 Revenues	[redacted]	[redacted]
5	Total Electric Revenues	[redacted]	[redacted]
6	Purchased Power & Fuel Cost	[redacted]	[redacted]
7	Revenues Less Fuel Expenses	[redacted]	[redacted]
	Operating Expenses:		
8	Operations & Maintenance	[redacted]	[redacted]
9	Depreciation & Amortization	[redacted]	[redacted]
10	Other Taxes	[redacted]	[redacted]
11	Total Operating Expenses	[redacted]	[redacted]
12	Operating Income	[redacted]	[redacted]
	Interest and Other Expenses		
13	Interest Expense	[redacted]	[redacted]
14	AFUDC Debt	[redacted]	[redacted]
15	AFUDC Equity	[redacted]	[redacted]
16	Other (Income)/Expense	[redacted]	11
17		[redacted]	[redacted]
18	Income Before Taxes	[redacted]	[redacted]
19	Income Taxes	[redacted]	[redacted]
20	Earnings for Common	$ [redacted]	[redacted]

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Arizona Public Service Company
Capital Structure
($ Millions)

		Forecast 2010	Forecast 2011
	Capitalization - End of Period		
1	Total Debt	[redacted]	[redacted]
2	Common Equity	[redacted]	[redacted]
3	Total	[redacted]	[redacted]
	Capitalization Ratio - End of Period		
4	Total Debt	[redacted]%	[redacted]
5	Common Equity	[redacted]	[redacted]
6	Total	[redacted]	[redacted]
7	Imputed Operating Leases Debt	[redacted]	[redacted]
8	Imputed Pension Debt	[redacted]	[redacted]
	Total	[redacted]	[redacted]
	Adjusted Capitalization Ratios:		
9	Total Debt	[redacted]	[redacted]
10	Common Equity	[redacted]%	[redacted]%
11	Total	[redacted]	[redacted]

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Arizona Public Service Company
Funds From Operations & Net Cash Flow
($ Millions)

		Forecast	
		2010	2011
	Funds from Operations		
1	Net Income	[redacted]	[redacted]
2	Depreciation & Amortization	[redacted]	[redacted]
3	Nuclear Fuel Amortization	[redacted]	[redacted]
4	Deferred Taxes	[redacted]	[redacted]
5	Deferred PSAC	[redacted]	[redacted]
6	AFUDC Debt	[redacted]	[redacted]
7	AFUDC Equity	[redacted]	[redacted]
8	O&M Pension/OPEB/DSM Deferral	[redacted]	[redacted]
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10	**FFO**	[redacted]	[redacted]
11	Common Dividends	[redacted]	[redacted]
12	**Net Cash Flow**	[redacted]	[redacted]
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14	Generation	[redacted]	[redacted]
15	Other	[redacted]	[redacted]
16	Total Capital Expenditures	[redacted]	[redacted]

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Arizona Public Service Company
Financial Indicators

	Forecast 2010	Forecast 2011
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Adjusted Capitalization Ratios:		
4 Total Debt	[redacted]	[redacted]
5 Common Equity	[redacted]	[redacted]
6 Total	[redacted]	[redacted]

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, January 29, 2010 10:52 AM
To: 'Bettinelli, Antonio'
Subject: Visit

Tony,
How does the week of 2/8 look for you? Probably don't need more than 1 hour.

Jim

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 29, 2010 12:13 PM
To: McGill, James T(Z71171)
Subject: RE: Visit

Monday at 9, 10, or 11am look to be the best options for us. Wed. at 1 pm may also be available but I can't immediately verify it.

Who will attend?

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Friday, January 29, 2010 9:52 AM
To: Bettinelli, Antonio
Subject: Visit

Tony,
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Email Firewall made the following annotations

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, January 29, 2010 4:16 PM
To: 'Bettinelli, Antonio'
Subject: RE: Visit

That week is now bad. Do you have availability on either the 24, 25 or 26th?

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 29, 2010 12:13 PM
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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 29, 2010 4:19 PM
To: McGill, James T(Z71171)
Subject: RE: Visit

The mornings of Feb. 25th and 26th look open.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
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To: Bettinelli, Antonio
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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, January 29, 2010 4:30 PM
To: 'Bettinelli, Antonio'
Subject: RE: Visit

Let's plan on the 26th. What time would you like to meet?

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 29, 2010 4:58 PM
To: McGill, James T(Z71171)
Subject: RE: Visit

9am looks best. We have a 2 hour commitment starting at 11am.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Friday, January 29, 2010 3:30 PM
To: Bettinelli, Antonio
Subject: RE: Visit

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, January 29, 2010 5:14 PM
To: 'Antonio_Bettinelli@standardandpoors.com'
Subject: Re: Visit

Great. Let's book it for nine.

From: Bettinelli, Antonio <Antonio_Bettinelli@standardandpoors.com>
To: McGill, James T(Z71171)
Sent: Fri Jan 29 16:58:26 2010
Subject: RE: Visit

9am looks best. We have a 2 hour commitment starting at 11am.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Friday, January 29, 2010 3:30 PM
To: Bettinelli, Antonio
Subject: RE: Visit

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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 29, 2010 5:18 PM
To: McGill, James T(Z71171)
Subject: RE: Visit

Who's coming?

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Friday, January 29, 2010 4:14 PM
To: Bettinelli, Antonio
Subject: Re: Visit

Great. Let's book it for nine.

From: Bettinelli, Antonio <Antonio_Bettinelli@standardandpoors.com>
To: McGill, James T(Z71171)
Sent: Fri Jan 29 16:58:26 2010
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Sent: Friday, January 29, 2010 3:30 PM
To: Bettinelli, Antonio
Subject: RE: Visit

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From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, January 29, 2010 4:19 PM
To: McGill, James T(Z71171)
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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, February 05, 2010 2:55 PM
Subject: Reaching S&P after hours

All,

Recently a company was unable to contact me in our San Francisco office at 5:30 a.m. PST on an urgent matter. It might be helpful to outline how to get in touch with S&P and what to do if you can't reach me.

1. After hours: Always try to reach the primary analyst first (e.g., me). Do not be shy. It's never too early or too late, if it is important. Below you will find my work cell and home phone numbers.

2. Send an email as well, as I carry my work blackberry and check it regularly after hours and on weekends.

3. During regular business hours: If it is during office hours and I don't answer my work or cell phone, press 0 for the receptionist. They can pull me out of meetings/calls. The receptionist also always knows where I am and when I am expected back.

4. If attempts to reach me don't work, call Anne Selting's cell at (415) 516-7938 in off hours, or (415) 371-5009 during business hours.

Work cell (415) 264-8373
Home (925) 465-4553

Thanks,
Tony

Tony Bettinelli
Associate
U.S. Utilities & Infrastructure
Standard & Poor's Corporate Ratings
San Francisco, CA
(415) 371-5067
tony_bettinelli@sandp.com

Register now for Standard & Poor's 17th Annual Utility Conference on March 18, 2010 in New York. The invitation can be accessed by clicking on www.events.standardandpoors.com/utility

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, February 11, 2010 3:29 PM
To: Laura Schumacher (laura.schumacher@moodys.com)
Subject: Quick call

Hi Laura,
Do you have a few minutes tomorrow for a quick call? Can do it next week if it works better for you. If tomorrow works, let me know when you're available.

Jim

McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, February 11, 2010 3:52 PM
To: 'Schumacher, Laura'
Subject: RE: Quick call

How about 10 am your time?

From: Schumacher, Laura [mailto:Laura.Schumacher@moodys.com]
Sent: Thursday, February 11, 2010 3:37 PM
To: McGill, James T(Z71171)
Subject: RE: Quick call

Jim,

I am available tomorrow. Pretty open all day, other than 1-2 eastern time, but that is also flexible. What works for you?

> -----Original Message-----
> **From:** James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
> **Sent:** Thursday, February 11, 2010 5:29 PM
> **To:** Schumacher, Laura
> **Subject:** Quick call
>
> Hi Laura,
> Do you have a few minutes tomorrow for a quick call? Can do it next week if it works better for you. If tomorrow works, let me know when you're available.
>
> Jim

Email Firewall made the following annotations

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, February 11, 2010 3:54 PM
To: 'Schumacher, Laura'
Subject: RE: Quick call

Great - we'll call your office (Rufad and I)

From: Schumacher, Laura [mailto:Laura.Schumacher@moodys.com]
Sent: Thursday, February 11, 2010 3:53 PM
To: McGill, James T(Z71171)
Subject: RE: Quick call

Sounds good.

> -----Original Message-----
> **From:** James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
> **Sent:** Thursday, February 11, 2010 5:52 PM
> **To:** Schumacher, Laura
> **Subject:** RE: Quick call
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>
> ---
>
> **From:** Schumacher, Laura [mailto:Laura.Schumacher@moodys.com]
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> **Subject:** RE: Quick call
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> > **Sent:** Thursday, February 11, 2010 5:29 PM
> > **To:** Schumacher, Laura
> > **Subject:** Quick call
> >
> > Hi Laura,
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> >
> > Jim
> >
> > Email Firewall made the following annotations
> > ---
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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, February 12, 2010 1:03 PM
To: 'Schumacher, Laura'
Subject: APS 2010 Credit Agreement

Attachments: APS%202010%20Credit%20Agreement%20%28Execution%20Version%29[1].pdf

APS%202010%20C
edit%20Agreemen..

McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, February 12, 2010 1:04 PM
To: 'Schumacher, Laura'
Subject: PNW 2010 Credit Agreement

Attachments: Pinnacle%20West%202010%20Credit%20Agreement%20%28Execution%20Version%29%20%282%29[1].pdf

Pinnacle%20West %202010%20Credi..

McGill, James T(Z71171)

From: Schumacher, Laura [Laura.Schumacher@moodys.com]
Sent: Thursday, February 18, 2010 9:41 AM
To: McGill, James T(Z71171)
Subject: Pinnacle CP program

Jim,

Is Pinnacle's CP program still sized at $250 million, or did you reduce it when you reduced the credit facility to $200 million?

Thanks,
Laura

Laura J.K. Schumacher
Vice President / Senior Analyst
Global Infrastructure Finance
Power / Utilities - Americas
212.553.3853 tel
212.298 6316 fax
laura.schumacher@moodys.com

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, February 18, 2010 9:44 AM
To: 'Schumacher, Laura'
Subject: RE: Pinnacle CP program

We reduced it to $200M

From: Schumacher, Laura [mailto:Laura.Schumacher@moodys.com]
Sent: Thursday, February 18, 2010 9:41 AM
To: McGill, James T(Z71171)
Subject: Pinnacle CP program

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Thanks,
Laura

Laura J.K. Schumacher
Vice President / Senior Analyst
Global Infrastructure Finance
Power / Utilities - Americas
212.553.3853 tel
212.298 6316 fax
laura.schumacher@moodys.com

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McGill, James T(Z71171)

From: Schumacher, Laura [Laura.Schumacher@moodys.com]
Sent: Thursday, February 18, 2010 9:53 AM
To: McGill, James T(Z71171)
Subject: RE: Pinnacle CP program

Thanks.

Do you have a document you could send me that shows the lower amount?

-----Original Message-----
From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Thursday, February 18, 2010 11:44 AM
To: Schumacher, Laura
Subject: RE: Pinnacle CP program

We reduced it to $200M

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Laura J.K. Schumacher
Vice President / Senior Analyst
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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, February 18, 2010 10:27 AM
To: 'Schumacher, Laura'
Subject: RE: Pinnacle CP program

Here you go.

From: Schumacher, Laura [mailto:Laura.Schumacher@moodys.com]
Sent: Thursday, February 18, 2010 9:53 AM
To: McGill, James T(Z71171)
Subject: RE: Pinnacle CP program

Thanks.

Do you have a document you could send me that shows the lower amount?

> -----Original Message-----
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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, February 18, 2010 10:29 AM
To: 'Schumacher, Laura'
Subject: PNW CP Docs

Attachments: Pinnacle West BAML PPM 1.10 Clean.pdf; PNW Final 1-10.DOC; Pinnacle West Capital Corporation 0110 4(2).DOC; PW-Goldman Private Placement Memo CP Notes_10724418_5_5_.pdf

Pinnacle West BAML PPM 1.10 Cl... | PNW Final 1-10.DOC (74 KB) | Pinnacle West Capital Corporat... | PW-Goldman rivate Placement M.

I'm not sure the other e-mail worked.

PINNACLE WEST CAPITAL CORPORATION

$200,000,000

Private Placement of
Commercial Paper Notes

THE NOTES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY OTHER APPLICABLE SECURITIES LAW, AND OFFERS AND SALES THEREOF MAY BE MADE ONLY IN COMPLIANCE WITH AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER WILL BE DEEMED TO REPRESENT THAT IT HAS BEEN AFFORDED AN OPPORTUNITY TO INVESTIGATE MATTERS RELATING TO THE ISSUER AND THE NOTES, THAT IT IS NOT ACQUIRING SUCH NOTE WITH A VIEW TO ANY DISTRIBUTION THEREOF AND THAT IT IS EITHER (A) AN INSTITUTIONAL INVESTOR OR SOPHISTICATED INDIVIDUAL INVESTOR THAT IS AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(a) UNDER THE ACT AND WHICH, IN THE CASE OF AN INDIVIDUAL, (i) POSSESSES SUCH KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT HE OR SHE IS CAPABLE OF EVALUATING AND BEARING THE ECONOMIC RISK OF AN INVESTMENT IN THE NOTES AND (ii) HAS A NET WORTH OF AT LEAST $5 MILLION (AN "INSTITUTIONAL ACCREDITED INVESTOR" OR "SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR", RESPECTIVELY) AND THAT EITHER IS PURCHASING NOTES FOR ITS OWN ACCOUNT, IS A U.S. BANK (AS DEFINED IN SECTION 3(a)(2) OF THE ACT) OR A SAVINGS AND LOAN ASSOCIATION OR OTHER INSTITUTION (AS DEFINED IN SECTION 3(a)(5)(A) OF THE ACT) ACTING IN ITS INDIVIDUAL OR FIDUCIARY CAPACITY OR IS A FIDUCIARY OR AGENT (OTHER THAN A U.S. BANK OR SAVINGS AND LOAN ASSOCIATION) PURCHASING NOTES FOR ONE OR MORE ACCOUNTS EACH OF WHICH IS SUCH AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR (i) WHICH ITSELF POSSESSES SUCH KNOWLEDGE AND EXPERIENCE OR (ii) WITH RESPECT TO WHICH SUCH PURCHASER HAS SOLE INVESTMENT DISCRETION; OR (B) A QUALIFIED INSTITUTIONAL BUYER ("QIB") WITHIN THE MEANING OF RULE 144A UNDER THE ACT WHICH IS ACQUIRING NOTES FOR ITS OWN ACCOUNT OR FOR ONE OR MORE ACCOUNTS, EACH OF WHICH IS A QIB AND WITH RESPECT TO EACH OF WHICH THE PURCHASER HAS SOLE INVESTMENT DISCRETION; AND THE PURCHASER ACKNOWLEDGES THAT IT IS AWARE THAT THE SELLER MAY RELY UPON THE EXEMPTION FROM THE REGISTRATION PROVISIONS OF SECTION 5 OF THE ACT PROVIDED BY RULE 144A. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER THEREOF SHALL ALSO BE DEEMED TO AGREE THAT ANY RESALE OR OTHER TRANSFER THEREOF WILL BE MADE ONLY (A) IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE ACT, EITHER (1) TO THE ISSUER OR TO BANC OF AMERICA SECURITIES LLC OR ANOTHER PERSON DESIGNATED BY THE ISSUER AS A PLACEMENT AGENT FOR THE NOTES (COLLECTIVELY, THE "PLACEMENT AGENTS"), NONE OF WHICH SHALL HAVE ANY OBLIGATION TO ACQUIRE SUCH NOTE, (2) THROUGH A PLACEMENT AGENT TO AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR OR A QIB BY A PLACEMENT AGENT, OR (3) TO A QIB IN A TRANSACTION THAT MEETS THE REQUIREMENTS OF RULE 144A AND (B) IN MINIMUM AMOUNTS OF $250,000.

By its purchase of a Note, the purchaser further represents and agrees that (i) it has knowledge and experience (or is a fiduciary or agent with sole investment discretion having such knowledge and experience) in financial and business matters and it (or such fiduciary or agent) is capable of evaluating the merits and risks of investing in the Notes; (ii) it has had access to such information as the purchaser deems necessary in order to make an informed investment decision; (iii) although a Placement Agent may repurchase Notes, the Placement Agent is not obligated to do so, and accordingly, the purchaser should be prepared to hold such Note until maturity; (iv) it has had the opportunity to ask questions of, and receive answers from Pinnacle West Capital Corporation; (v) it acknowledges that the Placement Agent has not verified any of the information contained or referred to in this Private Placement Memorandum and makes no representation of any kind as to the accuracy or completeness of such information; and (vi) it understands that each Note will bear a legend substantially as set forth in capital letters above.

The information set forth herein was obtained from sources, which we believe reliable, but we do not guarantee its accuracy. Neither the information, nor any opinion expressed, constitutes a solicitation by us of the purchase or sale of any instruments. The information contained herein will not typically be distributed or updated upon each new sale of commercial paper notes, although the information may be updated from time to time. Further, the information herein is not intended as substitution for the investor's own inquiry into the creditworthiness of the issuer and investors are encouraged to make such inquiry.

ISSUER

Pinnacle West Capital Corporation ("Pinnacle West" or the "Issuer") is a Phoenix-based company incorporated in 1985 under the laws of the State of Arizona. Pinnacle West owns all of the outstanding equity securities of Arizona Public Service Company ("APS"), its major subsidiary. APS is a vertically-integrated electric utility that provides retail and wholesale electric service to most of the state of Arizona, with the major exceptions of about one-half of the Phoenix metropolitan area, the Tucson metropolitan area and Mohave County in northwestern Arizona. See "Available Information" below for additional information about Pinnacle West, APS and Pinnacle West's other first-tier subsidiaries: SunCor Development Company, APS Energy Services Company, Inc. and El Dorado Investment Company.

Pinnacle West's executive offices are headquartered at 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000.

PROGRAM SIZE

Maximum amount outstanding at any one time of $200 million.

TERMS OF COMMERCIAL PAPER NOTES

Issuer: Pinnacle West Capital Corporation

Incorporation: Arizona

Securities: Unsecured Notes ranking pari passu with Pinnacle West's other unsubordinated and unsecured indebtedness.

Exemption: The Notes are exempt from registration under the Securities Act of 1933 pursuant to Section 4(2).

Offering Price: Par less a discount representing an interest factor or, if interest bearing, at par.

Denominations: Minimum of $250,000.

Maturities: Up to 365 days from date of issue.

Redemption: The Notes will not be redeemed prior to maturity or be subject to voluntary prepayment.

Form: Each Note will be evidenced by a master Note (the "Book-Entry Note") registered in the name of the nominee of the Depository Trust Company ("DTC"). The Book-Entry Note will bear a legend substantially in the form of the legend set forth above in capital letters. The Book-Entry Note will be deposited with the Issuing and Paying Agent as subcustodian for DTC or its successor.

Placement Agent: Banc of America Securities LLC

Settlement: The face amount of each Note and, if applicable, interest installments on each Note will be paid when due in immediately available funds. Payment will be made to DTC. The Issuer has been advised by DTC that upon receipt of such payment, DTC will credit, on its book-entry registration and transfer system, the accounts of the DTC participants through whom Notes are directly or indirectly owned. Payments by DTC to its participants and by such participants to owners of the Notes or their representatives will be governed by customary

practices and standing instructions and will be the sole responsibility of DTC, such DTC participants or such representatives, respectively.

Issuing & Paying Agent: JPMorgan Chase Bank, National Association.

RATINGS INFORMATION

Ratings are not a recommendation to purchase, hold or sell Notes, inasmuch as the ratings do not comment as to market price or suitability for a particular investor. The ratings are based on current information furnished to the rating agencies by the Issuer and information obtained by the rating agencies from other sources. The ratings are only accurate as of the date obtained and may be changed, superseded or withdrawn as a result of change in, or unavailability of, such information, and therefore, a prospective purchaser should check the current ratings before purchasing Notes.

AVAILABLE INFORMATION

Pinnacle West files annual, quarterly, and current reports, and other information with the Securities and Exchange Commission ("SEC"). Its SEC filings are available to the public over the Internet at the SEC's web site: http://www.sec.gov. Investors may also read and copy any materials Pinnacle West files with the SEC at the SEC's public reference room, at 100 F Street, N.E., Washington, D.C. 20549. Investors may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. Reports and other information concerning Pinnacle West can also be inspected and copied at the offices of the New York Stock Exchange at 20 Broad Street, New York, New York 10005. Pinnacle West's filings with the SEC are also available on its own web site at http://www.pinnaclewest.com. The other information on its web site is not part of this memorandum.

Pinnacle West will provide without charge to each purchaser of the Notes, upon oral or written request, a copy of any and all documents filed with the SEC that are publicly available, other than the exhibits to such documents. In addition, Pinnacle West is offering an opportunity to each prospective purchaser, prior to purchasing any Notes, to ask questions of, and receive answers from, Pinnacle West and to obtain relevant information to the extent Pinnacle West possesses the same or can acquire it without unreasonable effort or expense. Any such requests and other questions about Pinnacle West should be directed to: Pinnacle West Capital Corporation, 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000, Attention: Investor Relations. Any further questions and/or requests should be sent to Banc of America Securities LLC, Global Investor Marketing, One Bryant Park, 3rd Floor, Mail Code: NY1-100-03-01, New York, NY 10036, Telephone: (646) 855-3019, Facsimile: (646) 855-0107.

Purchasers will be required to maintain the confidentiality of any such information that is not public.

Pinnacle West hereby incorporates by reference its most recent Annual Report on Form 10-K and any quarterly reports on Form 10-Q and Current Reports on Form 8-K filed since the end of the fiscal year covered by that Form 10-K report, excluding information deemed furnished and not filed. All documents filed by Pinnacle West pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date of this memorandum and prior to the termination of this offering shall be deemed to be incorporated by reference herein, except for information deemed furnished and not filed. Information that is contained in subsequently filed documents will automatically update and, where applicable, supersede information in previously filed documents.

The information contained in this memorandum has been obtained from sources which the Placement Agent believes to be reliable; however, the Placement Agent makes no representation as to either the completeness or accuracy of this information.

In making an investment decision, investors must rely on their own examination of Pinnacle West and the terms of this offering, including the merits and risks involved. This examination should include a review of Pinnacle West's SEC filings that explain the nature of Pinnacle West's business, including various risks of investing in Pinnacle West and its securities. Your investment decision should not be based solely on this memorandum since it is not intended to be a complete explanation of the nature and risks of investing in Pinnacle West and its Notes.

This memorandum is for your private information only and it may not be reproduced or disseminated by anyone other than Banc of America Securities LLC ("BAS"). This document should not be considered as an offer to sell or a solicitation of any offer to buy the securities mentioned in it in any jurisdiction except where an offer or solicitation is permitted. Such securities accordingly may not be eligible for sale in certain jurisdictions. Persons who receive this document should inform themselves about, and observe any laws or regulations applicable to them.

These securities have not been recommended by any federal or state securities commission or regulatory authority. Furthermore the foregoing authorities have not confirmed the accuracy or determined the adequacy of this memorandum. Any representation to the contrary is a criminal offense.

BAS or its affiliates may have positions in, and may effect transactions in, securities mentioned herein or other securities issued by the Issuer or its affiliates. The Issuer and its affiliates maintain normal commercial and banking relationships with BAS and certain of its affiliates. In the future, BAS or its affiliates and their respective directors, officers and employees may perform or seek to perform other banking, investment and other services for the Issuer or its affiliates.

CREDIT SUISSE

Private Placement Memorandum

Pinnacle West Capital Corporation

$200,000,000

Private Placement of Notes

THE NOTES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY OTHER APPLICABLE SECURITIES LAW, AND OFFERS AND SALES THEREOF MAY BE MADE ONLY IN COMPLIANCE WITH AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER WILL BE DEEMED TO REPRESENT THAT IT HAS BEEN AFFORDED AN OPPORTUNITY TO INVESTIGATE MATTERS RELATING TO THE ISSUER AND THE NOTES, THAT IT IS NOT ACQUIRING SUCH NOTE WITH A VIEW TO ANY DISTRIBUTION THEREOF AND THAT IT IS EITHER (A) AN INSTITUTIONAL INVESTOR OR SOPHISTICATED INDIVIDUAL INVESTOR THAT IS AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(a) UNDER THE ACT AND WHICH, IN THE CASE OF AN INDIVIDUAL, (i) POSSESSES SUCH KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT HE OR SHE IS CAPABLE OF EVALUATING AND BEARING THE ECONOMIC RISK OF AN INVESTMENT IN THE NOTES AND (ii) HAS A NET WORTH OF AT LEAST $5 MILLION (AN "INSTITUTIONAL ACCREDITED INVESTOR" OR "SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR", RESPECTIVELY) AND THAT EITHER IS PURCHASING NOTES FOR ITS OWN ACCOUNT, IS A U.S. BANK (AS DEFINED IN SECTION 3(a)(2) OF THE ACT) OR A SAVINGS AND LOAN ASSOCIATION OR OTHER INSTITUTION (AS DEFINED IN SECTION 3(a)(5)(A) OF THE ACT) ACTING IN ITS INDIVIDUAL OR FIDUCIARY CAPACITY OR IS A FIDUCIARY OR AGENT (OTHER THAN A U.S. BANK OR SAVINGS AND LOAN ASSOCIATION) PURCHASING NOTES FOR ONE OR MORE ACCOUNTS EACH OF WHICH IS SUCH AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR (i) WHICH ITSELF POSSESSES SUCH KNOWLEDGE AND EXPERIENCE OR (ii) WITH RESPECT TO WHICH SUCH PURCHASER HAS SOLE INVESTMENT DISCRETION; OR (B) A QUALIFIED INSTITUTIONAL BUYER ("QIB") WITHIN THE MEANING OF RULE 144A UNDER THE ACT WHICH IS ACQUIRING NOTES FOR ITS OWN ACCOUNT OR FOR ONE OR MORE ACCOUNTS, EACH OF WHICH IS A QIB AND WITH RESPECT TO EACH OF WHICH THE PURCHASER HAS SOLE INVESTMENT DISCRETION; AND THE PURCHASER ACKNOWLEDGES THAT IT IS AWARE THAT THE SELLER MAY RELY UPON THE EXEMPTION FROM THE REGISTRATION PROVISIONS OF SECTION 5 OF THE ACT PROVIDED BY RULE 144A. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER THEREOF SHALL ALSO BE DEEMED TO AGREE THAT ANY RESALE OR OTHER TRANSFER THEREOF WILL BE MADE ONLY (A) IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE ACT, EITHER (1) TO THE ISSUER OR TO CREDIT SUISSE SECURITIES (USA) LLC OR ANOTHER PERSON DESIGNATED BY THE ISSUER AS A PLACEMENT AGENT FOR THE NOTES (COLLECTIVELY, THE "PLACEMENT AGENTS"), NONE OF WHICH SHALL HAVE ANY OBLIGATION TO ACQUIRE SUCH NOTE, (2) THROUGH A PLACEMENT AGENT TO AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR OR A QIB BY A PLACEMENT AGENT, OR (3) TO A QIB IN A TRANSACTION THAT MEETS THE REQUIREMENTS OF RULE 144A AND (B) IN MINIMUM AMOUNTS OF $250,000.

Credit Suisse
January 19, 2010

By its purchase of a Note, the purchaser further represents and agrees that (i) it has knowledge and experience (or is a fiduciary or agent with sole investment discretion having such knowledge and experience) in financial and business matters and it (or such fiduciary or agent) is capable of evaluating the merits and risks of investing in the Notes; (ii) it has had access to such information as the purchaser deems necessary in order to make an informed investment decision; (iii) although a Placement Agent may repurchase Notes, the Placement Agent is not obligated to do so, and accordingly, the purchaser should be prepared to hold such Note until maturity; (iv) it has had the opportunity to ask questions of, and receive answers from Pinnacle West Capital Corporation; (v) it acknowledges that the Placement Agent has not verified any of the information contained or referred to in this private placement memorandum and makes no representation of any kind as to the accuracy or completeness of such information; and (vi) it understands that each Note will bear a legend substantially as set forth in capital letters above.

Terms of Commercial Paper Notes

Issuer:	Pinnacle West Capital Corporation ("Pinnacle West" or the "Issuer").
Incorporation:	Arizona.
Program Size:	Authorized to a maximum amount outstanding at any one time of $200,000,000.
Securities:	Unsecured Notes (the "Notes") ranking *pari passu* with the Issuer's other unsubordinated and unsecured liabilities.
Exemption:	The Notes are exempt from registration pursuant to Section 4(2) under the Securities Act of 1933.
Offering Price:	Par less a discount representing an interest factor or, if interest bearing, at par.
Denominations:	Minimum of $250,000.
Maturities:	Up to 365 days from the date of issue.
Redemption:	The Notes will not be redeemed prior to maturity or be subject to voluntary prepayment.
Form:	Each Note will be evidenced by a master Note (the "Book-Entry Note") registered in the name of the nominee of the Depository Trust Company ("DTC"). The Book-Entry Note will bear a legend substantially in the form of the legend set forth above in capital letters. The Book-Entry Note will be deposited with the Issuing and Paying Agent as subcustodian for DTC or its successor.
Placement Agent:	Credit Suisse Securities (USA) LLC.
Settlement:	The face amount of each Note and, if applicable, interest installments on each Note will be paid when due in immediately available funds. Payment will be made to DTC. The Issuer has been advised by DTC that upon receipt of such payment, DTC will credit, on its book-entry registration and transfer system, the accounts of the DTC participants through whom Notes are directly or indirectly owned. Payments by DTC to its participants and by such participants to owners of the Notes

or their representatives will be governed by customary practices and standing instructions and will be the sole responsibility of DTC, such DTC participants or such representatives, respectively.

Issuing and Paying Agent: JPMorgan Chase Bank, National Association.

ISSUER

Pinnacle West is a Phoenix-based company incorporated in 1985 under the laws of the State of Arizona. Pinnacle West owns all of the outstanding equity securities of Arizona Public Service Company ("APS"), its major subsidiary. APS is a vertically-integrated electric utility that provides retail and wholesale electric service to most of the state of Arizona, with the major exceptions of about one-half of the Phoenix metropolitan area, the Tucson metropolitan area and Mohave County in northwestern Arizona. See "Available Information" below for additional information about Pinnacle West, APS and Pinnacle West's other first-tier subsidiaries: SunCor Development Company, APS Energy Services Company, Inc. and El Dorado Investment Company.

Pinnacle West's executive offices are headquartered at 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000.

Ratings Information

Ratings are not a recommendation to purchase, hold or sell Notes, inasmuch as the ratings do not comment as to market price or suitability for a particular investor. The ratings are based on current information furnished to the rating agencies by the Issuer and information obtained by the rating agencies from other sources. The ratings are only accurate as of the date obtained and may be changed, superseded or withdrawn as a result of change in, or unavailability of, such information, and therefore, a prospective purchaser should check the current ratings before purchasing Notes.

Available Information

Pinnacle West files annual, quarterly, and current reports, and other information with the Securities and Exchange Commission ("SEC"). Its SEC filings are available to the public over the Internet at the SEC's web site: http://www.sec.gov. Investors may also read and copy any materials Pinnacle West files with the SEC at the SEC's public reference room, at 100 F Street, N.E., Washington, D.C. 20549. Investors may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. Reports and other information concerning Pinnacle West can also be inspected and copied at the offices of the New York Stock Exchange at 20 Broad Street, New York, New York 10005. Pinnacle West's filings with the SEC are also available on its own web site at http://www.pinnaclewest.com. The other information on its web site is not part of this memorandum.

Pinnacle West will provide without charge to each purchaser of the Notes, upon oral or written request, a copy of any and all documents filed with the SEC that are publicly available, other than the exhibits to such documents. In addition, Pinnacle West is offering an opportunity to each prospective purchaser, prior to purchasing any Notes, to ask questions of, and receive answers from, Pinnacle West and to obtain relevant information to the extent Pinnacle West possesses the same or can acquire it without unreasonable effort or expense. Any such requests and other questions about Pinnacle West should be directed to: Pinnacle West Capital Corporation, 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000, Attention: Investor Relations. Any further questions and/or requests should be sent to Credit Suisse Securities (USA) LLC, Commercial Paper Trading Desk, 11 Madison Avenue, 5th Floor, New York, New York 10010, the telephone number is (212) 325-3358.

Purchasers will be required to maintain the confidentiality of any such information that is not public.

Pinnacle West hereby incorporates by reference its most recent Annual Report on Form 10-K and any quarterly reports on Form 10-Q and Current Reports on Form 8-K filed since the end of the fiscal year covered by that Form 10-K report, excluding information deemed furnished and not filed. All documents filed by Pinnacle West pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date of this memorandum and prior to the termination of this offering shall be deemed to be incorporated by reference herein, except for information deemed furnished and not filed. Information that is contained in subsequently filed documents will automatically update and, where applicable, supersede information in previously filed documents.

In making an investment decision, investors must rely on their own examination of Pinnacle West and the terms of this offering, including the merits and risks involved. This examination should include a review of Pinnacle West's SEC filings that explain the nature of Pinnacle West's business, including various risks of investing in Pinnacle West and its securities. Your investment decision should not be based solely on this memorandum since it is not intended to be a complete explanation of the nature and risks of investing in Pinnacle West and its Notes.

THE INFORMATION CONTAINED HEREIN HAS BEEN OBTAINED FROM DOCUMENTS FILED WITH GOVERNMENT AGENCIES, PUBLISHED SOURCES AND OTHER DATA FURNISHED BY THE ISSUER. CREDIT SUISSE SECURITIES (USA) LLC MAKES NO REPRESENTATION AS TO EITHER THE ACCURACY OR COMPLETENESS OF THE INFORMATION HEREIN OR REFERRED TO AS AVAILABLE. COPIES OF THE DOCUMENTS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION OR OTHER PUBLICLY AVAILABLE FINANCIAL DATA PROVIDED BY THE ISSUER MAY BE REQUESTED FROM YOUR CREDIT SUISSE SECURITIES (USA) LLC REPRESENTATIVE OR INVESTOR MARKETING, SHORT TERM PRODUCTS GROUP, (212) 325-3358.

CREDIT SUISSE SECURITIES (USA) LLC MAY FROM TIME TO TIME ACT AS AN UNDERWRITER FOR PUBLIC OFFERINGS OF, OR MAKE A MARKET FOR, SECURITIES OF THE ISSUER OR ITS AFFILIATES AND MAY HAVE A LONG OR SHORT POSITION IN SUCH SECURITIES. The Issuer and its affiliates maintain normal commercial and banking relationships with Credit Suisse Securities (USA) LLC and certain of its affiliates. In the future, Credit Suisse Securities (USA) LLC or its affiliates and their respective directors, officers and employees may perform or seek to perform other banking, investment and other services for the Issuer or its affiliates. ALTHOUGH CREDIT SUISSE SECURITIES (USA) LLC MAY PURCHASE AND SELL, AS PRINCIPAL OR AGENT, OUTSTANDING COMMERCIAL PAPER OF THE ISSUER, CREDIT SUISSE SECURITIES (USA) LLC ASSUMES NO OBLIGATION TO PURCHASE OR MAKE A MARKET IN ANY SUCH OUTSTANDING COMMERCIAL PAPER.

This memorandum is for your private information only and it may not be reproduced or disseminated by anyone other than Credit Suisse Securities (USA) LLC. This document should not be considered as an offer to sell or a solicitation of any offer to buy the securities mentioned in it in any jurisdiction except where an offer or solicitation is permitted. Such securities accordingly may not be eligible for sale in certain jurisdictions. Persons who receive this document should inform themselves about, and observe any laws or regulations applicable to them.

These securities have not been recommended by any federal or state securities commission or regulatory authority. Furthermore the foregoing authorities have not confirmed the accuracy or determined the adequacy of this memorandum. Any representation to the contrary is a criminal offense.

BARCLAYS CAPITAL

Private Placement Memorandum

PINNACLE WEST CAPITAL CORPORATION
$200,000,000

Private Placement of
Commercial Paper Notes

THE NOTES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY OTHER APPLICABLE SECURITIES LAW, AND OFFERS AND SALES THEREOF MAY BE MADE ONLY IN COMPLIANCE WITH AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER WILL BE DEEMED TO REPRESENT THAT IT HAS BEEN AFFORDED AN OPPORTUNITY TO INVESTIGATE MATTERS RELATING TO THE ISSUER AND THE NOTES, THAT IT IS NOT ACQUIRING SUCH NOTE WITH A VIEW TO ANY DISTRIBUTION THEREOF AND THAT IT IS EITHER (A) AN INSTITUTIONAL INVESTOR OR SOPHISTICATED INDIVIDUAL INVESTOR THAT IS AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(a) UNDER THE ACT AND WHICH, IN THE CASE OF AN INDIVIDUAL, (i) POSSESSES SUCH KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT HE OR SHE IS CAPABLE OF EVALUATING AND BEARING THE ECONOMIC RISK OF AN INVESTMENT IN THE NOTES AND (ii) HAS A NET WORTH OF AT LEAST $5 MILLION (AN "INSTITUTIONAL ACCREDITED INVESTOR" OR "SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR", RESPECTIVELY) AND THAT EITHER IS PURCHASING NOTES FOR ITS OWN ACCOUNT, IS A U.S. BANK (AS DEFINED IN SECTION 3(a)(2) OF THE ACT) OR A SAVINGS AND LOAN ASSOCIATION OR OTHER INSTITUTION (AS DEFINED IN SECTION 3(a)(5)(A) OF THE ACT) ACTING IN ITS INDIVIDUAL OR FIDUCIARY CAPACITY OR IS A FIDUCIARY OR AGENT (OTHER THAN A U.S. BANK OR SAVINGS AND LOAN ASSOCIATION) PURCHASING NOTES FOR ONE OR MORE ACCOUNTS EACH OF WHICH IS SUCH AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR (i) WHICH ITSELF POSSESSES SUCH KNOWLEDGE AND EXPERIENCE OR (ii) WITH RESPECT TO WHICH SUCH PURCHASER HAS SOLE INVESTMENT DISCRETION; OR (B) A QUALIFIED INSTITUTIONAL BUYER ("QIB") WITHIN THE MEANING OF RULE 144A UNDER THE ACT WHICH IS ACQUIRING NOTES FOR ITS OWN ACCOUNT OR FOR ONE OR MORE ACCOUNTS, EACH OF WHICH IS A QIB AND WITH RESPECT TO EACH OF WHICH THE PURCHASER HAS SOLE INVESTMENT DISCRETION; AND THE PURCHASER ACKNOWLEDGES THAT IT IS AWARE THAT THE SELLER MAY RELY UPON THE EXEMPTION FROM THE REGISTRATION PROVISIONS OF SECTION 5 OF THE ACT PROVIDED BY RULE 144A. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER THEREOF SHALL ALSO BE DEEMED TO AGREE THAT ANY RESALE OR OTHER TRANSFER THEREOF WILL BE MADE ONLY (A) IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE ACT, EITHER (1) TO THE ISSUER OR TO BARCLAYS CAPITAL INC. OR ANOTHER PERSON DESIGNATED BY THE ISSUER AS A PLACEMENT AGENT FOR THE NOTES (COLLECTIVELY, THE "PLACEMENT AGENTS"), NONE OF WHICH SHALL HAVE ANY OBLIGATION TO ACQUIRE SUCH NOTE, (2) THROUGH A PLACEMENT AGENT TO AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR OR A QIB BY A PLACEMENT AGENT, OR (3) TO A QIB IN A TRANSACTION THAT MEETS THE REQUIREMENTS OF RULE 144A AND (B) IN MINIMUM AMOUNTS OF $250,000.

By its purchase of a Note, the purchaser further represents and agrees that (i) it has knowledge and experience (or is a fiduciary or agent with sole investment discretion having such knowledge and experience) in financial and business matters and it (or such fiduciary or agent) is capable of evaluating the merits and risks of investing in the Notes; (ii) it has had access to such information as the purchaser deems necessary in order to make an informed investment decision; (iii) although a Placement Agent may repurchase Notes, the Placement Agent is not obligated to do so, and accordingly, the purchaser should be prepared to hold such Note until maturity; (iv) it has had the opportunity to ask questions of, and receive answers from Pinnacle West Capital Corporation; (v) it acknowledges that the Placement Agent has not verified any of the information contained or referred to in this Private Placement Memorandum and makes no representation of any kind as to the accuracy or completeness of such information; and (vi) it understands that each Note will bear a legend substantially as set forth in capital letters above.

PLACEMENT AGENT:

Barclays Capital Inc.

The date of this Private Placement Memorandum is January, 2010.

The information set forth herein was obtained from sources, which we believe reliable, but we do not guarantee its accuracy. Neither the information, nor any opinion expressed, constitutes a solicitation by us of the purchase or sale of any instruments. The information contained herein will not typically be distributed or updated upon each new sale of commercial paper notes, although the information may be updated from time to time. Further, the information herein is not intended as substitution for the investor's own inquiry into the creditworthiness of the issuer and investors are encouraged to make such inquiry.

ISSUER

Pinnacle West Capital Corporation ("Pinnacle West" or the "Issuer") is a Phoenix-based company incorporated in 1985 under the laws of the State of Arizona. Pinnacle West owns all of the outstanding equity securities of Arizona Public Service Company ("APS"), its major subsidiary. APS is a vertically-integrated electric utility that provides retail and wholesale electric service to most of the state of Arizona, with the major exceptions of about one-half of the Phoenix metropolitan area, the Tucson metropolitan area and Mohave County in northwestern Arizona. See "Available Information" below for additional information about Pinnacle West, APS and Pinnacle West's other first-tier subsidiaries: SunCor Development Company, APS Energy Services Company, Inc. and El Dorado Investment Company.

Pinnacle West's executive offices are headquartered at 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000.

PROGRAM SIZE

Maximum amount outstanding at any one time of $200 million.

TERMS OF COMMERCIAL PAPER NOTES

Issuer:	Pinnacle West Capital Corporation
Incorporation:	Arizona
Securities:	Unsecured Notes ranking *pari passu* with Pinnacle West's other unsubordinated and unsecured indebtedness.
Exemption:	The Notes are exempt from registration under the Securities Act of 1933 pursuant to Section 4(2).
Offering Price:	Par less a discount representing an interest factor or, if interest bearing, at par.
Denominations:	Minimum of $250,000.
Maturities:	Up to 365 days from date of issue.
Redemption:	The Notes will not be redeemed prior to maturity or be subject to voluntary prepayment.
Form:	Each Note will be evidenced by a master Note (the "Book-Entry Note") registered in the name of the nominee of the Depository Trust Company ("DTC"). The Book-Entry Note will bear a legend substantially in the form of the legend set forth above in capital letters. The Book-Entry Note will be deposited with the Issuing and Paying Agent as subcustodian for DTC or its successor.
Placement Agent:	Barclays Capital Inc.

Settlement: The face amount of each Note and, if applicable, interest installments on each Note will be paid when due in immediately available funds. Payment will be made to DTC. The Issuer has been advised by DTC that upon receipt of such payment, DTC will credit, on its book-entry registration and transfer system, the accounts of the DTC participants through whom Notes are directly or indirectly owned. Payments by DTC to its participants and by such participants to owners of the Notes or their representatives will be governed by customary practices and standing instructions and will be the sole responsibility of DTC, such DTC participants or such representatives, respectively.

Issuing & Paying Agent: **JPMorgan Chase Bank, National Association**

AVAILABLE INFORMATION

Pinnacle West files annual, quarterly, and current reports, and other information with the Securities and Exchange Commission ("SEC"). Its SEC filings are available to the public over the Internet at the SEC's web site: http://www.sec.gov. Investors may also read and copy any materials Pinnacle West files with the SEC at the SEC's public reference room, at 100 F Street, N.E., Washington, D.C. 20549. Investors may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. Reports and other information concerning Pinnacle West can also be inspected and copied at the offices of the New York Stock Exchange at 20 Broad Street, New York, New York 10005. Pinnacle West's filings with the SEC are also available on its own web site at http://www.pinnaclewest.com. The other information on its web site is not part of this memorandum.

Pinnacle West will provide without charge to each purchaser of the Notes, upon oral or written request, a copy of any and all documents filed with the SEC that are publicly available, other than the exhibits to such documents. In addition, Pinnacle West is offering an opportunity to each prospective purchaser, prior to purchasing any Notes, to ask questions of, and receive answers from, Pinnacle West and to obtain relevant information to the extent Pinnacle West possesses the same or can acquire it without unreasonable effort or expense. Any such requests and other questions about Pinnacle West should be directed to: Pinnacle West Capital Corporation, 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000, Attention: Investor Relations. To ask any other questions, contact: Barclays Capital Inc., 745 Seventh Avenue, New York, New York 10019, Attn: Commercial Paper Product Management, Phone: 212 526 0731.

Purchasers will be required to maintain the confidentiality of any such information that is not public.

Pinnacle West hereby incorporates by reference its most recent Annual Report on Form 10-K and any quarterly reports on Form 10-Q and Current Reports on Form 8-K filed since the end of the fiscal year covered by that Form 10-K report, excluding information deemed furnished and not filed. All documents filed by Pinnacle West pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date of this memorandum and prior to the termination of this offering shall be deemed to be incorporated by reference herein, except for information deemed furnished and not filed. Information that is contained in subsequently filed documents will automatically update and, where applicable, supersede information in previously filed documents.

The information contained in this memorandum has been obtained from sources which the Placement Agent believes to be reliable; however, the Placement Agent makes no representation as to either the completeness or accuracy of this information.

In making an investment decision, investors must rely on their own examination of Pinnacle West and the terms of this offering, including the merits and risks involved. This examination should include a review of Pinnacle West's SEC filings that explain the nature of Pinnacle West's business, including various risks of investing in Pinnacle West and its securities. Your investment decision should not be based solely on this memorandum since it is not intended to be a complete explanation of the nature and risks of investing in Pinnacle West and its Notes.

This memorandum is for your private information only and it may not be reproduced or disseminated by anyone other than Barclays Capital Inc. This document should not be considered as an offer to sell or a solicitation of any offer to buy the securities mentioned in it in any jurisdiction except where an offer or solicitation is permitted. Such securities accordingly may not be eligible for sale in certain jurisdictions. Persons who receive this document should inform themselves about, and observe any laws or regulations applicable to them.

These securities have not been recommended by any federal or state securities commission or regulatory authority. Furthermore the foregoing authorities have not confirmed the accuracy or determined the adequacy of this memorandum. Any representation to the contrary is a criminal offense.

Barclays Capital Inc. or its affiliates may have positions in, and may effect transactions in, securities mentioned herein or other securities issued by the Issuer or its affiliates. The Issuer and its affiliates maintain normal commercial and banking relationships with Barclays Capital Inc. and certain of its affiliates. In the future, Barclays Capital Inc. or its affiliates and their respective directors, officers and employees may perform or seek to perform other banking, investment and other services for the Issuer or its affiliates.

PRIVATE PLACEMENT MEMORANDUM APPROVAL

Approved: **Pinnacle West Capital Corporation**

By: _____

Name: _____

Title: _____

Date: _____

Commercial Paper Announcement

PINNACLE WEST
CAPITAL CORPORATION

$200,000,000

Private Placement

of

Commercial Paper Notes

THE NOTES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY OTHER APPLICABLE SECURITIES LAW, AND OFFERS AND SALES THEREOF MAY BE MADE ONLY IN COMPLIANCE WITH AN APPLICABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER WILL BE DEEMED TO REPRESENT THAT IT HAS BEEN AFFORDED AN OPPORTUNITY TO INVESTIGATE MATTERS RELATING TO THE ISSUER AND THE NOTES, THAT IT IS NOT ACQUIRING SUCH NOTE WITH A VIEW TO ANY DISTRIBUTION THEREOF AND THAT IT IS EITHER (A) AN INSTITUTIONAL INVESTOR OR SOPHISTICATED INDIVIDUAL INVESTOR THAT IS AN ACCREDITED INVESTOR WITHIN THE MEANING OF RULE 501(a) UNDER THE ACT AND WHICH, IN THE CASE OF AN INDIVIDUAL, (i) POSSESSES SUCH KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT HE OR SHE IS CAPABLE OF EVALUATING AND BEARING THE ECONOMIC RISK OF AN INVESTMENT IN THE NOTES AND (ii) HAS A NET WORTH OF AT LEAST $5 MILLION (AN "INSTITUTIONAL ACCREDITED INVESTOR" OR "SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR", RESPECTIVELY) AND THAT EITHER IS PURCHASING NOTES FOR ITS OWN ACCOUNT, IS A U.S. BANK (AS DEFINED IN SECTION 3(a)(2) OF THE ACT) OR A SAVINGS AND LOAN ASSOCIATION OR OTHER INSTITUTION (AS DEFINED IN SECTION 3(a)(5)(A) OF THE ACT) ACTING IN ITS INDIVIDUAL OR FIDUCIARY CAPACITY OR IS A FIDUCIARY OR AGENT (OTHER THAN A U.S. BANK OR SAVINGS AND LOAN ASSOCIATION) PURCHASING NOTES FOR ONE OR MORE ACCOUNTS EACH OF WHICH IS SUCH AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR (i) WHICH ITSELF POSSESSES SUCH KNOWLEDGE AND EXPERIENCE OR (ii) WITH RESPECT TO WHICH SUCH PURCHASER HAS SOLE INVESTMENT DISCRETION; OR (B) A QUALIFIED INSTITUTIONAL BUYER ("QIB") WITHIN THE MEANING OF RULE 144A UNDER THE ACT WHICH IS ACQUIRING NOTES FOR ITS OWN ACCOUNT OR FOR ONE OR MORE ACCOUNTS, EACH OF WHICH IS A QIB AND WITH RESPECT TO EACH OF WHICH THE PURCHASER HAS SOLE INVESTMENT DISCRETION; AND THE PURCHASER ACKNOWLEDGES THAT IT IS AWARE THAT THE SELLER MAY RELY UPON THE EXEMPTION FROM THE REGISTRATION PROVISIONS OF SECTION 5 OF THE ACT PROVIDED BY RULE 144A. BY ITS ACCEPTANCE OF A NOTE, THE PURCHASER THEREOF SHALL ALSO BE DEEMED TO AGREE THAT ANY RESALE OR OTHER TRANSFER THEREOF WILL BE MADE ONLY (A) IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE ACT, EITHER (1) TO THE ISSUER OR TO GOLDMAN, SACHS & CO. OR ANOTHER PERSON DESIGNATED BY THE ISSUER AS A PLACEMENT AGENT FOR THE NOTES (COLLECTIVELY, THE "PLACEMENT AGENTS"), NONE OF WHICH SHALL HAVE ANY OBLIGATION TO ACQUIRE SUCH NOTE, (2) THROUGH A PLACEMENT AGENT TO AN INSTITUTIONAL ACCREDITED INVESTOR OR SOPHISTICATED INDIVIDUAL ACCREDITED INVESTOR OR A QIB BY A PLACEMENT AGENT, OR (3) TO A QIB IN A TRANSACTION THAT MEETS THE REQUIREMENTS OF RULE 144A AND (B) IN MINIMUM AMOUNTS OF $250,000.

By its purchase of a Note, the purchaser further represents and agrees that (i) it has had access to such information as the purchaser deems necessary in order to make an informed investment decision; (ii) although a Placement Agent may repurchase Notes, the Placement Agent is not obligated to do so, and accordingly, the purchaser should be prepared to hold such Note until maturity; (iii) it has had the opportunity to ask questions of, and receive answers from Pinnacle West Capital Corporation; and (iv) it understands that each Note will bear a legend substantially as set forth in capital letters above.

Goldman, Sachs & Co.
January 19, 2010

Terms of Commercial Paper Notes

Issuer:	Pinnacle West Capital Corporation ("Pinnacle West" or the "Issuer").
Incorporated in:	Arizona.
Securities:	$200,000,000 of unsecured notes (the "Notes) ranking pari passu with the Issuer's other unsubordinated and unsecured indebtedness.
Exemption:	The Notes are exempt from registration under the Securities Act of 1933 pursuant to Section 4(2).
Offering Price	Par less a discount representing an interest factor or, if interest bearing, at par.
Minimum Purchase:	$250,000 minimum principal amount.
Maturities:	Up to 365 days from date of issue.
Redemption:	The Notes will not be redeemable prior to maturity or be subject to voluntary prepayment.
Form:	Each Note will be evidenced by a master Note (the "Book-Entry Note") registered in the name of the nominee of the Depository Trust Company ("DTC"). The Book-Entry Note will bear a legend substantially in the form of the legend set forth above in capital letters. The Book-Entry Note will be deposited with the Issuing and Paying Agent as subcustodian for DTC or its successor.
Settlement	Unless otherwise agreed to, same day basis, in immediately available funds. Payment will be made to DTC. The Issuer has been advised by DTC that upon receipt of such payment, DTC will credit, on its book-entry registration and transfer system, the accounts of the DTC participants through whom Notes are directly or indirectly owned. Payments by DTC to its participants and by such participants to owners of the Notes or their representatives will be governed by customary practices and standing instructions and will be the sole responsibility of DTC, such DTC participants or such representatives, respectively.
Issuing and Paying Agent:	JPMorgan Chase Bank, National Association.

Business Description

Pinnacle West is a Phoenix-based company incorporated in 1985 under the laws of the State of Arizona. Pinnacle West owns all of the outstanding equity securities of Arizona Public Service Company ("APS"), its major subsidiary. APS is a vertically-integrated electric utility that provides retail and wholesale electric service to most of the state of Arizona, with the major exceptions of about one-half of the Phoenix metropolitan area, the Tucson metropolitan area and Mohave County in northwestern Arizona. See "How to Get Information About the Issuer" below for additional information about Pinnacle West, APS and Pinnacle West's other first-tier subsidiaries: SunCor Development Company, APS Energy Services Company, Inc. and El Dorado Investment Company.

Pinnacle West's executive offices are headquartered at 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000.

Ratings

Ratings are based on current information furnished to the rating agencies by the Issuer and information obtained by the rating agencies from other sources. Because ratings may be changed, superseded or withdrawn as a result of changes in, or unavailability of, such information, **a prospective purchaser should verify the current long-term and commercial paper ratings of the Issuer before purchasing Notes. Ratings are not a recommendation to purchase, hold or sell Notes, inasmuch as the ratings do not comment as to market price or suitability for a particular investor.**

How to Get Information About the Issuer

Pinnacle West files annual, quarterly, and current reports, and other information with the Securities and Exchange Commission ("SEC"). Its SEC filings are available to the public over the Internet at the SEC's web site: http://www.sec.gov. Investors may also read and copy any materials Pinnacle West files with the SEC at the SEC's public reference room, at 100 F Street, N.E., Washington, D.C. 20549. Investors may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. Reports and other information concerning Pinnacle West can also be inspected and copied at the offices of the New York Stock Exchange at 20 Broad Street, New York, New York 10005. Pinnacle West's filings with the SEC are also available on its own web site at http://www.pinnaclewest.com. The other information on its web site is not part of this memorandum.

Pinnacle West will provide without charge to each purchaser of the Notes, upon oral or written request, a copy of any and all documents filed with the SEC that are publicly available, other than the exhibits to such documents. In addition, Pinnacle West is offering an opportunity to each prospective purchaser, prior to purchasing any Notes, to ask questions of, and receive answers from, Pinnacle West and to obtain relevant information to the extent Pinnacle West possesses the same or can acquire it without unreasonable effort or expense. Any such requests and other questions about Pinnacle West should be directed to: Pinnacle West Capital Corporation, 400 North Fifth Street, Phoenix, AZ 85004 and its telephone number is (602) 250-1000, Attention: Investor Relations. To ask any other questions, contact: Money Markets Investor Marketing Group, Goldman, Sachs & Co., (212) 902-8470. Purchasers will be required to maintain the confidentiality of any such information that is not public.

Pinnacle West hereby incorporates by reference its most recent Annual Report on Form 10-K and any quarterly reports on Form 10-Q and Current Reports on Form 8-K filed since the end of the fiscal year covered by that Form 10-K report, excluding information deemed furnished and not filed. All documents filed by Pinnacle West pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date of this memorandum and prior to the termination of this offering shall be deemed to be incorporated by reference herein, except for information deemed furnished and not filed. Information that is contained in subsequently filed documents will automatically update and, where applicable, supersede information in previously filed documents.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THIS EXAMINATION SHOULD INCLUDE A REVIEW OF THE ISSUER'S SEC FILINGS THAT EXPLAIN THE NATURE OF THE ISSUER'S BUSINESS, INCLUDING VARIOUS RISKS OF INVESTING IN THE ISSUER AND ITS SECURITIES. **YOUR INVESTMENT DECISION SHOULD NOT BE BASED SOLELY ON THIS ANNOUNCEMENT SINCE IT IS NOT INTENDED TO BE A COMPLETE EXPLANATION OF THE NATURE AND RISKS OF INVESTING IN THE ISSUER AND ITS NOTES.** THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY

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McGill, James T(Z71171)

From: Schumacher, Laura [Laura.Schumacher@moodys.com]
Sent: Thursday, February 18, 2010 10:33 AM
To: McGill, James T(Z71171)
Subject: RE: PNW CP Docs

Thanks, this one worked.

-----Original Message-----
From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Thursday, February 18, 2010 12:29 PM
To: Schumacher, Laura
Subject: PNW CP Docs

I'm not sure the other e-mail worked.

Email Firewall made the following annotations

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McGill, James T(Z71171)

From: Schumacher, Laura [Laura.Schumacher@moodys.com]
Sent: Monday, February 22, 2010 1:31 PM
To: McGill, James T(Z71171)
Cc: Moss, Mitchell
Subject: Credit Opinions
Attachments: APS CO for review 2.22.10.pdf; PNW CO for review 2.22.10.pdf

Hello Jim,

Attached for your review are drafts of updated credit opinions for Arizona Public Service and Pinnnacle West; financial metrics have been calculated based on your recent 10K, reflecting the full year of 2009. Would you please review the opinion text for factual accuracy and to be sure we are not disclosing any information that needs to remain confidential. If at all possible, we would like to post these on our website no later than Thursday, so if you could give us any comments you may have by Wednesday, we would be most appreciative.

Thanks,
Laura

<<APS CO for review 2.22.10.pdf>> <<PNW CO for review 2.22.10.pdf>>

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Arizona Public Service Company - DRAFT - In Progress or Approved Version

Phoenix, Arizona, United States

Ratings and Contacts

Category	Moody's Rating
Outlook	Stable
Issuer Rating	Baa2
Sr Unsec Bank Credit Facility	Baa2
Senior Unsecured	Baa2
Commercial Paper	P-2

Analyst	Phone
Laura Schumacher/New York	212.553.3853
William L. Hess/New York	212.553.3837

Key Indicators

Arizona Public Service Company

ACTUALS	2009	2008	2007	2006
(CFO Pre-W/C + Interest) / Interest Expense[1][2]	5.3x	4.9x	4.2x	4.4x
(CFO Pre-W/C) / Debt[2]	25.6%	22.8%	18.3%	19.0%
(CFO Pre-W/C - Dividends) / Debt[2]	21.7%	18.8%	14.0%	14.5%
Debt / Book Capitalization	46.5%	47.2%	45.9%	46.0%

[1] CFO pre-W/C, which is also referred to as FFO in the Global Regulated Electric Utilities Rating Methodology, is equal to net cash flow from operations less net changes in working capital items [2] Changes in risk management and trading assets and liabilities are excluded from CFO Pre-W/C

Opinion

Rating Drivers

Predominantly regulated operations

Regulatory supportiveness increasing, though lag persists

Slow recovery in service territory

Appropriate financial metrics

Corporate Profile

Arizona Public Service (APS: Baa2 senior unsecured, stable) is a vertically integrated electric utility that provides electric service to most of the state of Arizona with the major exceptions of about one-half of the Phoenix metropolitan area and the Tucson metropolitan area. APS is the primary subsidiary of Pinnacle West Capital Corporation (Pinnacle: Baa3 senior unsecured, stable), a holding company that through its other subsidiaries sells energy related products and services and develops real estate. Pinnacle is in the process of substantially exiting its real estate and other non-regulated businesses.

DETAILED RATING CONSIDERATIONS

Regulatory supportiveness increasing, though process still lengthy and lag persists

APS' operations are regulated by the Arizona Corporation Commission (ACC), an elected commission that has tended to render its decisions after prolonged consideration. APS has generally been awarded relatively reasonable ROEs and equity ratios, including an ROE of 11% and an equity ratio of 53.8% as part of its $207.5 million net base rate increase in its December 2009 order (75% of its request). However, APS' ability to earn reasonable returns has been limited due to significant regulatory lag.

The ACC has generally taken a year and a half to two years to render decisions in APS' rate cases. In its most recent case, which was filed in March 2008 and revised in June 2008 to include a December 31, 2007 test year, a settlement was reached in June 2009; however, the ACC did not render its decision until late December 2009 after receiving the recommendation of its administrative law judge and conducting a full set of hearings. Although, in its December 2009 order, the ACC did allow the inclusion of certain post-test-year investments made through June 30, 2009, generally the length of time required by the rate decision process coupled with the use of a historic test year means that rates may reflect a rate base that is more than two years old.

APS had intended to continue to file frequent rate cases in an effort to minimize regulatory lag; however, the ACC's recent decision included approval of a rate case filing plan in which APS is prohibited from filing its next two general rate cases until on or before June 2011 and June 2013. The plan also includes an agreement to use good faith to process these subsequent rate cases within twelve months of sufficiency findings from the ACC staff, which is generally expected to occur within 30 days after filing.

The significant regulatory lag, continued uncertain timing of rate case resolutions, and the tendency for rate cases to become platforms for political agendas, causes APS to map to a factor in the Ba range for its Regulatory Framework within Moody's Rating Methodology for Regulated Electric and Gas Utilities (the Methodology) which is below the Baa average for the regulated utility industry in the U.S.

Improved cost recovery

Although regulatory lag continues, APS' currently benefits from several mechanisms that allow its rates to be adjusted outside of a general rate case. Moody's generally views these mechanisms as being supportive of credit quality as they tend to result in a more timely recovery of costs. APS' rates are adjusted annually to provide recovery of 90% of the amount its costs for fuel and purchased power exceeded the amounts included in base rates. This leaves APS with some exposure to volatility in power prices. However, the fuel recovery factor does include a forward estimate of power costs, which helps to limit cost deferrals.

APS also has adjustment mechanisms that allow the utility to recover its costs for renewable energy, efficiency and demand side management programs. Transmission costs are recovered through a transmission cost adjustor which resets annually based on changes in APS' Federal Energy Regulatory Commission (FERC) approved formula based tariffs. APS is also able to recover its costs for new customer hookups via line extension payments from customers through revenue.

Due to APS' adequate ability to recover most non-base costs, APS maps to a factor in the Baa range for Factor 2: Ability to Recover Costs and Earn Returns within the Methodology.

Low customer growth in service territory

APS' service territory incorporates a majority of Arizona including significant parts of metropolitan Phoenix. As such, within the framework of the Methodology, for Factor 3: Diversification - Market Position, APS maps to a factor in the Baa range. Customer growth is expected to remain at 1-1.5% over the near-term. The slower customer growth, compared to 3% levels seen during 2006-2008, has reduced the growth in APS' capital expenditures which in turn reduces its financing requirements and regulatory lag.

Reasonably diverse generation capacity

APS has a fairly diverse, low-cost generation fleet including 1,747 MW of coal capacity and 1,146 MW of nuclear capacity which in 2009 provided approximately 36% and 26%, respectively, of its total energy needs. As a result, within the framework of the Methodology, APS maps to a factor within the Baa range for Factor 3: Diversification – Generation and Fuel.

Financial Metrics

Since 2006, APS' key financial metrics have remained reasonably consistent and generally fall within the mid-to-upper range of metrics for Baa rated electric utilities. In 2008 and 2009, cash flow metrics were very strong, reflecting the impact of cash collected for fuel and purchased power expenses incurred in prior years that had previously been deferred. This performance is not expected to be sustained. Going forward and based on its recent rate decision, APS' credit metrics are expected to weaken modestly reflecting a more sustainable level of cash flow, a continuation of significant capital expenditures and higher interest expense, though APS has also committed to modestly reduce operating expenses as part of its rate settlement. APS' metrics are expected continue to map to the mid-to-upper Baa rating range. In general, Moody's would look for APS to have financial metrics that are somewhat stronger than comparably rated utility operating companies that operate in regulatory environments that have historically been more supportive of credit quality.

Primary subsidiary of Pinnacle West

Pinnacle, APS' parent company, conducts a modest amount of non-regulated activities including sales of energy related services and real estate development through subsidiaries including SunCor Development Company (SunCor). Almost all of Pinnacle's cash from operations is generated by APS and Pinnacle is in the process of exiting its non-regulated businesses, which will moderately reduce Pinnacle's business risk. The parent company also maintains a modest amount of leverage with holding company debt equaling approximately 5% of consolidated debt.

Liquidity Profile

APS' cash flows and credit facilities generally are a stable source of liquidity. In 2009, APS' cash from operations covered all of its $711 million of capital expenditures and $170 million of dividends to Pinnacle. Capital expenditures are expected to be in the range of $900 million - $1 billion annually over the near-term. Capital expenditures are expected to be financed with a combination of internal and external sources including periodic equity injections from Pinnacle.

APS has historically paid $170 million per year in dividends to Pinnacle. Moody's expects APS' future dividends to increase somewhat, but to generally remain in line with its current payout ratio.

APS' short-term liquidity sources include a commercial paper program sized at $250 million. The program is currently supported by two committed lines of credit totaling $1 billion; a $500 million line that expires in December 2011 and a $500 million line that expires February 2013 (commitments totaling about $11 million from Lehman Brothers are no longer available). As of December 31, 2009, APS had no borrowings or letters of credit outstanding under its credit facilities and $121 million of cash on hand.

APS' credit agreements both have one financial covenant that requires the ratio of debt to total capitalization not exceed 65%. As of December 31, 2009, APS' debt to total capitalization ratio, calculated in accordance with the credit documents, was approximately 48%. The credit agreements do not require a Material Adverse Change (MAC) representation for revolver borrowings. No rating triggers exist in any APS credit facilities though interest costs may increase under various financing agreements if a downgrade occurs. APS' nearest long term debt maturity is $400 million of unsecured notes due October 2011. APS' near term financing needs also include approximately $200 million of variable rate pollution control bonds supported by letters of credit that expire in August ($50 million) and October ($150 million) 2010.

Within the framework of the Methodology, APS maps to a factor within the Baa range for Factor 4 – Liquidity.

Rating Outlook

The stable outlook reflects APS' predominately regulated cash flows and Moody's view that its credit metrics are likely to be sustainable at a level appropriate for the current ratings. The outlook assumes APS' will be reasonably successful in managing its regulatory relationships and that capital expenditures will be financed in a balanced manner with a goal of maintaining or improving APS' current position of financial strength.

What Could Change the Rating - Up

APS' rating is not likely to be revised upward in the near-to-medium term. Longer term, an upgrade could be possible if there is an increase in supportive regulatory treatment resulting in material, timely rate increases, or if there are material reductions in costs or leverage such that Moody's could anticipate key financial ratios improving significantly from their current levels, if for example, a ratio of CFO pre -WC / debt could be maintained in the mid-twenty percent range, there could be upward pressure on the rating..

What Could Change the Rating - Down

A downgrade could result if regulatory lag for capital spending becomes more pronounced, or if Palo Verde experiences an extended outage and APS is unable to recover, in a timely manner, higher maintenance and purchased power costs as a result. A downgrade could result if Moody's expects a sustained weakening of financial metrics, if for example, the ratio of CFO pre -WC / debt would remain in the mid-teens for an extended period.

Rating Factors

Arizona Public Service Company

Regulated Electric and Gas Utilities	Aaa	Aa	A	Baa	Ba	B
Factor 1: Regulatory Framework (25%)					X	
Factor 2: Ability to Recover Costs and Earn Returns (25%)				X		
Factor 3: Diversification (10%)						
a) Market Position (5%)				X		
b) Generation and Fuel Diversity (5%)				X		
Factor 4: Financial Strength, Liquidity & Financial Metrics (40%)						
a) Liquidity (10%)				X		
b) CFO pre-WC + Interest / Interest (7.5%) (3yr Avg)			X			
c) CFO pre-WC / Debt (7.5%) (3yr Avg)			X			
d) CFO pre-WC - Dividends / Debt (7.5%) (3yr Avg)			X			
e) Debt / Capitalization or Debt / RAV (7.5%) (3yr Avg)				X		
Rating:						
a) Methodology Implied Senior Unsecured Rating				Baa2		
b) Actual Senior Unsecured Rating				Baa2		

Pinnacle West Capital Corporation - DRAFT - In Progress or Approved Version

United States

Ratings and Contacts

Category	Moody's Rating		
Outlook	Stable	Preferred Shelf	(P)Ba2
Issuer Rating	Baa3	Commercial Paper	P-3
Sr Unsec Bank Credit Facility	Baa3	**Analyst**	**Phone**
Senior Unsecured Shelf	(P)Baa3	Laura Schumacher/New York	212.553.3853
Subordinate Shelf	(P)Ba1	William L. Hess/New York	212.553.3837

Key Indicators

Pinnacle West Capital Corporation

ACTUALS	2009	2008	2007	2006
(CFO Pre-W/C + Interest) / Interest Expense[1][2]	5.1x	4.9x	4.1x	4.2x
(CFO Pre-W/C) / Debt[2]	24.1%	22.8%	17.7%	18.9%
(CFO Pre-W/C - Dividends) / Debt[2]	19.9%	18.5%	13.0%	14.1%
Debt / Book Capitalization	50.1%	49.5%	48.5%	47.4%

[1] CFO pre-W/C, which is also referred to as FFO in the Global Regulated Electric Utilities Rating Methodology, is equal to net cash flow from operations less net changes in working capital items [2] Changes in risk management and trading assets and liabilities are excluded from CFO Pre-W/C

Opinion

Rating Drivers

Predominantly regulated operations of subsidiaries

Regulatory supportiveness increasing, though lag persists

Reduced business risk with planned exit from unregulated businesses

Appropriate financial metrics

Corporate Profile

Pinnacle West Capital Corporation (Pinnacle: Baa3 senior unsecured, stable) is a holding company whose principal subsidiary, Arizona Public Service Corporation (APS: Baa2 senior unsecured, stable), is a vertically integrated electric utility that provides electric service to most of the state of Arizona with the major exceptions of about one-half of the Phoenix metropolitan area and the Tucson metropolitan area. Pinnacle is currently in the process of substantially exiting its real estate and other non-regulated businesses.

DETAILED RATING CONSIDERATIONS

Predominantly regulated operations at subsidiaries

Pinnacle currently derives almost all of its operating cash flow from its regulated electric utility subsidiary APS. Historically, Pinnacle engaged in a modest amount of non-regulated activity including sales of energy-related products and services and commercial and residential real estate development primarily in Arizona and the western U.S. Pinnacle is in the process of substantially exiting its real estate development business and intends to focus on its regulated operations at APS.

Regulatory supportiveness increasing but regulatory process still lengthy and lag persists

APS' operations are regulated by the Arizona Corporation Commission (ACC), an elected commission that has tended to render its decisions after prolonged consideration. APS has generally been awarded relatively reasonable ROEs and equity ratios including an 11% ROE and a 53.8% equity ratio as part of its $207.5 million net base rate increase in its December 2009 order (75% of its request). However, APS' ability to earn reasonable returns has been limited due to significant regulatory lag.

The ACC has generally taken a year and a half to two years to render decisions in APS' rate cases. In its most recent case, which was filed in March 2008 and revised in June 2008 to include a December 31, 2007 test year, a settlement was reached in June 2009; however, the ACC did not render its decision until late December 2009 after receiving the recommendation of its administrative law judge and conducting a full set of hearings. Although, in its December 2009 order, the ACC did allow the inclusion of certain post-test-year investments made through June 30, 2009, generally the length of time required by the rate decision process coupled with the use of a historic test year means that rates may reflect a rate base that is more than two years old.

APS had intended to continue to file frequent rate cases in an effort to minimize regulatory lag; however the ACC's recent decision included approval of a rate case filing plan in which APS is prohibited from filing its next two general rate cases until on or before June 2011 and June 2013. The plan also includes an agreement to use good faith to process these subsequent rate cases within twelve months of sufficiency findings from the ACC staff, which is generally expected to occur within 30 days after filing.

The significant regulatory lag, continued uncertain timing of rate case resolutions, and the tendency for rate cases to become platforms for political agendas, causes Pinnacle to map to a rating factor in the Ba range for its Regulatory Framework within Moody's Rating Methodology for Regulated Electric and Gas Utilities (the Methodology) which is below the Baa average for the regulated utility industry in the U.S.

Improved cost recovery

Although regulatory lag continues, APS' currently benefits from several mechanisms that allow its rates to be adjusted outside of a general rate case. Moody's generally views these mechanisms as being supportive of credit quality as they tend to result in a more timely recovery of costs. APS' rates are adjusted annually for its projected fuel and purchased power costs and it has adjustment mechanisms that allow the utility to recover its costs for renewable energy, efficiency and demand side management programs. Transmission costs are recovered through a transmission cost adjustor which resets

annually based on changes in APS' Federal Energy Regulatory Commission (FERC) approved formula based tariffs. APS is also able to recover its costs for new customer hookups via line extension payments from customers through revenue.

Within the framework of the Methodology, Pinnacle maps to a rating factor in the Baa range for Factor 2: Ability to Recover Costs and Earn Returns.

Low customer growth in service territory

Pinnacle's utility operations are conducted throughout a majority of Arizona including significant parts of metropolitan Phoenix. As such, within the framework of the Methodology, for Factor 3: Diversification - Market Position, Pinnacle maps to a rating factor in the Baa range. Customer growth is expected to remain at 1-1.5% over the near-term. The slower customer growth, compared to 3% levels seen during 2006-2008, has reduced the growth in APS' capital expenditures which in turn reduces its financing requirements and regulatory lag.

Reasonably diverse regulated generation capacity

Pinnacle's utility operations benefit from a fairly diverse, low-cost generation fleet including 1,747 MW of coal capacity and 1,146 MW of nuclear capacity which in 2009 provided approximately 36% and 26% respectively its total energy needs. Pinnacle maps to a factor within the Baa range for Factor 3: Diversification – Generation and Fuel.

Financial Metrics

Since 2006, Pinnacle's financial metrics have been reasonably consistent and generally fall within the mid-to-upper range of the credit metrics for Baa rated electric utilities. In 2008 and 2009, cash flow metrics were very strong, reflecting the impact of cash collected for fuel and purchased power expenses incurred in prior years that had previously been deferred. This performance is not expected to be sustained. Going forward and based on APS' recent rate decision, Pinnacle's metrics are expected to weaken modestly, reflecting a more sustainable level of cash flow, a continuation of significant capital expenditures and higher interest costs. Pinnacle's metrics are expected to map within the mid-Baa rating range. The Baa3 rating for Pinnacle's senior unsecured debt also reflects its structurally subordinate position vis-à-vis debt at APS. In general, Moody's would look for Pinnacle to have financial metrics that are somewhat stronger than comparably rated utility parent companies that operate in more supportive regulatory environments.

Exiting non-regulated businesses

SunCor Development Company (SunCor), Pinnacle's real estate development subsidiary, has been significantly impacted to the real estate markets in the western real estate markets. Pinnacle is in the process of exiting the real estate development business and has already divested several of SunCor's properties. This moderately reduces Pinnacle's overall business risk. After pre-tax 2009 impairment charges of approximately $266 million, the book value of Pinnacle's investment in SunCor as of December 31, 2009 was approximately $123 million; also as of December, SunCor had approximately $100 million of debt outstanding under its credit facilities which is secured by its properties and is non-recourse to Pinnacle. Pinnacle generated approximately $43 million of proceeds from real estate investments in 2009.

Liquidity Profile

As a holding company, Pinnacle's primary source of liquidity is the dividends it receives from its operating subsidiaries. Recently dividends have come almost entirely from its utility subsidiary, APS. In 2009 APS' dividends of $170 million covered approximately 90% of Pinnacle's parent level interest expenses of approximately $14 million and common stock dividends of approximately $205 million. The shortfall was funded primarily via a combination of DRIP equity and short-term financing. Over the last several years, APS has paid dividends to Pinnacle of $170 million annually. Going forward, Moody's anticipates APS' annual dividends will increase somewhat, but will generally remain in line with its current payout ratio.

Pinnacle's short-term liquidity sources include a commercial paper program sized at $200 million. The program is supported by a $200 million revolving credit facility that expires February 2013. As of December 31, 2009, Pinnacle had approximately $149 million of short-term borrowings and approximately $17 million of cash on hand.

APS also has its own $250 million commercial paper program that is supported by two of its own committed lines of credit totaling $1 billion, a $500 million line that expires in December 2011 and a $500 million line that expires in February 2013 (commitments totaling about $11 million from Lehman Brothers are no longer available). As of December 31, 2009, APS had no borrowing borrowings under its credit facilities and $121 million of cash on hand.

The credit agreements for both Pinnacle and APS have one financial covenant that requires the ratio of debt to total capitalization not exceed 65%. On December 31, 2009, total debt to total capitalization was approximately 52% for Pinnacle. None of the credit agreements for Pinnacle or APS require a Material Adverse Change (MAC) representation for revolver borrowings or rating triggers for early repayment though interest costs may increase under various financing agreements if a downgrade occurs.

SunCor's primary credit facility is a $125 million secured revolving facility that was scheduled to terminate February 1, 2010. The balance of loans outstanding under this facility has been reduced to approximately $60 million and SunCor continues to work with its lenders on an agreement to extend the time for repayment of the outstanding loans. The SunCor loans are secured by specific interests in land, commercial properties, land contracts and/or homes under construction and are non-recourse to Pinnacle.

APS is expected to finance its capital expenditures from internal and external sources, including equity infusions from Pinnacle. As part of APS recent rate case settlement, Pinnacle agreed to infuse $700 million of equity into APS from June 1, 2009 through December 31, 2014.

Pinnacle's nearest long term debt maturity is $175 million of 5.91% senior unsecured notes at the parent level that mature February 2011. Within the framework of the Methodology, Pinnacle maps to a factor within the Baa range for Factor 4 – Liquidity.

Rating Outlook

The stable outlook for Pinnacle reflects the nature of APS' predominately regulated cash flows and Moody's view that Pinnacle's cash flow financial metrics are likely to be sustainable at a level appropriate for the current ratings. The outlook assumes APS will be reasonably successful in managing its

regulatory relationships and that capital expenditures will be financed in a balanced manner with a goal of maintaining or improving Pinnacle's current position of financial strength.

What Could Change the Rating - Up

Pinnacle's rating is not likely to be revised upward in the near-to-medium term. Longer term, if there is an increase in supportive regulatory treatment at APS resulting in material, timely rate increases, or if there were to be material reductions in costs or leverage such that Moody's could anticipate key financial ratios improving significantly from their current levels, if for example, a ratio of CFO pre -WC / debt could be maintained in the low twenty percent range, there could be upward pressure on the rating.

What Could Change the Rating - Down

A downgrade could result if APS' regulatory lag for capital spending becomes more pronounced, or if Palo Verde experiences an extended outage and APS is unable to recover, in a timely manner, higher maintenance and purchased power costs as a result. A downgrade could result if Moody's expects a sustained weakening of financial metrics, if for example, the ratio of CFO pre -WC / debt would remain in the low-teens for an extended period. A downgrade could also result if there were to be an increase in Pinnacle's consolidated business risk profile; if for example, it were to materially resume its non-regulated investment or commitments.

Rating Factors

Pinnacle West Capital Corporation

Regulated Electric and Gas Utilities	**Aaa**	**Aa**	**A**	**Baa**	**Ba**	**B**
Factor 1: Regulatory Framework (25%)					X	
Factor 2: Ability to Recover Costs and Earn Returns (25%)				X		
Factor 3: Diversification (10%)						
a) Market Position (5%)				X		
b) Generation and Fuel Diversity (5%)				X		
Factor 4: Financial Strength, Liquidity & Financial Metrics (40%)						
a) Liquidity (10%)				X		
b) CFO pre-WC + Interest / Interest (7.5%) (3yr Avg)			X			
c) CFO pre-WC / Debt (7.5%) (3yr Avg)				X		
d) CFO pre-WC - Dividends / Debt (7.5%) (3yr Avg)			X			
e) Debt / Capitalization or Debt / RAV (7.5%) (3yr Avg)				X		
Rating:						
a) Methodology Implied Senior Unsecured Rating				**Baa2**		
b) Actual Senior Unsecured Rating				**Baa3**		

McGill, James T(Z71171)

From: Schumacher, Laura [Laura.Schumacher@moodys.com]
Sent: Wednesday, February 24, 2010 8:59 AM
To: McGill, James T(Z71171)
Subject: Credit Opinions

Hello Jim, just checking in. Did you receive the draft credit opinions I sent on Monday...or did they perhaps get stuck in your firewall? Do you think you may have comments to us today?

Thanks,
Laura

Laura J.K. Schumacher
Vice President / Senior Analyst
Global Infrastructure Finance
Power / Utilities - Americas
212.553.3853 tel
212.298 6316 fax
laura.schumacher@moodys.com

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7 World Trade Center
250 Greenwich Street
New York, NY 10007
www.moodys.com

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Wednesday, February 24, 2010 9:18 AM
To: 'Schumacher, Laura'
Subject: RE: Credit Opinions

Laura,
I did receive them. We will get back to you today.

Jim

From: Schumacher, Laura [mailto:Laura.Schumacher@moodys.com]
Sent: Wednesday, February 24, 2010 8:59 AM
To: McGill, James T(Z71171)
Subject: Credit Opinions

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McGill, James T(Z71171)

From: Schumacher, Laura [Laura.Schumacher@moodys.com]
Sent: Wednesday, February 24, 2010 11:07 AM
To: McGill, James T(Z71171)
Subject: RE: Credit Opinions

Thank you.

-----Original Message-----
From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Wednesday, February 24, 2010 11:18 AM
To: Schumacher, Laura
Subject: RE: Credit Opinions

Laura,
I did receive them. We will get back to you today.

Jim

From: Schumacher, Laura [mailto:Laura.Schumacher@moodys.com]
Sent: Wednesday, February 24, 2010 8:59 AM
To: McGill, James T(Z71171)
Subject: Credit Opinions

Hello Jim, just checking in. Did you receive the draft credit opinions I sent on Monday...or did they perhaps get stuck in your firewall? Do you think you may have comments to us today?

Thanks,
Laura

Laura J.K. Schumacher
Vice President / Senior Analyst
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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, February 25, 2010 9:45 AM
To: 'Bettinelli, Antonio'
Subject: S&P Presentation February 2010

S&P Presentation February 2010...

Assumptions

[redacted]

Pinnacle West Capital Corporation
Financial Results
($ Millions)

		Forecast 2010	Forecast 2011
	Operating Revenues:		
1	Electric Revenues		
2	Purchased Power & Fuel Cost		
3	Revenues Less Fuel Expenses		
	Operating Expenses:		
4	Operations & Maintenance		
5	Depreciation & Amortization		
6	Other Taxes		
7	Total Operating Expenses		
8	Operating Income		
	Interest and Other Expenses		
9	Interest Expense		
10	AFUDC Debt & Equity		
11	Other (Income)/Expense		
12			
13	Income Before Taxes		
14	Income Taxes		
15	Earnings for Common		

Pinnacle West Capital Corporation
Capital Structure
($ Millions)

		Forecast 2010	Forecast 2011
	Capitalization - End of Period		
1	Total Debt	[redacted]	[redacted]
2	Common Equity		
3	Total		
	Capitalization Ratio - End of Period		
4	Total Debt	[redacted]	[redacted]
5	Common Equity		
6	Total		
7	Imputed Operating Leases Debt	[redacted]	[redacted]
8	Imputed PPA Debt		
9	Imputed Pension & OPEB Debt		
10	Total		
	Adjusted Capitalization Ratios:		
11	Total Debt	[redacted]	[redacted]
12	Common Equity		
13	Total		

Pinnacle West Capital Corporation
Funds From Operations & Net Cash Flow
($ Millions)

		Forecast	
		2010	2011
	Funds from Operations		
1	Net Income	[redacted]	[redacted]
2	Depreciation & Amortization	[redacted]	[redacted]
3	Nuclear Fuel Amortization	[redacted]	[redacted]
4	Deferred Taxes	[redacted]	[redacted]
5	Nuclear Decommissioning Contributions	[redacted]	[redacted]
6	Deferred PSAC	[redacted]	[redacted]
7	AFUDC Debt & Equity	[redacted]	[redacted]
8	O&M Pension/OPEB/DSM Deferral	[redacted]	[redacted]
9	Imputed Depreciation - Leases & PPAs	[redacted]	[redacted]
10	**FFO**	[redacted]	$ [redacted]
11	Common Dividends	[redacted]	[redacted]
12	**Net Cash Flow**	[redacted]	[redacted]
	Capital Expenditures		
13	APS Delivery	[redacted]	[redacted]
14	APS Generation	[redacted]	[redacted]
15	Other	[redacted]	[redacted]
16	Total Capital Expenditures	[redacted]	$ [redacted]

Pinnacle West Capital Corporation
Financial Indicators

	Forecast	
	2010	2011
1 Adjusted FFO Interest Coverage	[redacted]	[redacted]
2 Adjusted FFO / Adjusted Total Debt	[redacted]	[redacted]
3 Net Cash Flow % Capital Expenditures	[redacted]	[redacted]
Adjusted Capitalization Ratios:		
4 Total Debt	[redacted]	[redacted]
5 Common Equity	[redacted]	[redacted]
6 Total	[redacted]	[redacted]

Arizona Public Service Company
Financial Results
($ Millions)

		Forecast 2010	Forecast 2011
	Operating Revenues:		
1	Base Revenues	[redacted]	[redacted]
2	DSM Adjustor	[redacted]	[redacted]
3	Renewable Energy Surcharge	[redacted]	[redacted]
4	Schedule 3 Revenues	[redacted]	[redacted]
5	Total Electric Revenues	[redacted]	[redacted]
6	Purchased Power & Fuel Cost	[redacted]	[redacted]
7	Revenues Less Fuel Expenses	[redacted]	[redacted]
	Operating Expenses:		
8	Operations & Maintenance	[redacted]	[redacted]
9	Depreciation & Amortization	[redacted]	[redacted]
10	Other Taxes	[redacted]	[redacted]
11	Total Operating Expenses	[redacted]	$ [redacted]
12	Operating Income	[redacted]	[redacted]
	Interest and Other Expenses		
13	Interest Expense	[redacted]	[redacted]
14	AFUDC Debt & Equity	[redacted]	[redacted]
15	Other (Income)/Expense	[redacted]	[redacted]
16			
17	Income Before Taxes	[redacted]	[redacted]
18	Income Taxes	[redacted]	[redacted]
19	Earnings for Common	[redacted]	[redacted]

Arizona Public Service Company
Capital Structure
($ Millions)

		Forecast 2010	Forecast 2011
	Capitalization - End of Period		
1	Total Debt	[redacted]	[redacted]
2	Common Equity	[redacted]	[redacted]
3	Total	[redacted]	[redacted]
	Capitalization Ratio - End of Period		
4	Total Debt	[redacted]	[redacted]
5	Common Equity	[redacted]	[redacted]
6	Total	[redacted]	[redacted]
7	Imputed Operating Leases Debt	[redacted]	[redacted]
8	Imputed PPA Debt	[redacted]	[redacted]
9	Imputed Pension & OPEB Debt	[redacted]	[redacted]
10	Total	[redacted]	[redacted]
	Adjusted Capitalization Ratios:		
11	Total Debt	[redacted]	[redacted]
12	Common Equity	[redacted]	[redacted]
13	Total	[redacted]	[redacted]

Arizona Public Service Company
Funds From Operations & Net Cash Flow
($ Millions)

		Forecast	
		2010	2011
	Funds from Operations		
1	Net Income	[redacted]	[redacted]
2	Depreciation & Amortization	[redacted]	
3	Nuclear Fuel Amortization		
4	Deferred Taxes		
5	Nuclear Decommissioning Contributions		
6	Deferred PSAC		
7	AFUDC Debt & Equity		
8	O&M Pension/OPEB/DSM Deferral		
9	Imputed Depreciation - Leases & PPAs		
10	**FFO**		
11	Common Dividends		
12	**Net Cash Flow**		
	Capital Expenditures		
13	Delivery		
14	Generation		
15	Other		
16	Total Capital Expenditures		

Arizona Public Service Company
Financial Indicators

	Forecast	
	2010	2011
1 Adjusted FFO Interest Coverage	[redacted]	
2 Adjusted FFO / Adjusted Total Debt		
3 Net Cash Flow % Capital Expenditures		
Adjusted Capitalization Ratios:		
4 Total Debt		
5 Common Equity		
6 Total		

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Thursday, February 25, 2010 11:13 AM
Cc: Selting, Anne
Subject: S&P Purchased Power Information Request
Attachments: S&P PPA Request FEB2010.xls

I am currently in the process of updating annual off balance sheet debt adjustments and need your current purchased power contract information. This year I've packaged the request into a standardized template to avoid follow up calls for additional information and potential errors derived from data being presented in a non-standard format. Please complete the attached template with your updated purchased power contract information. If you have already send your information in a different format, I hope you won't mind converting it to template format. Let me know if you have any questions. Thank you.

Tony Bettinelli
Associate
U.S. Utilities & Infrastructure
Standard & Poor's Corporate Ratings
San Francisco, CA
(415) 371-5067
tony_bettinelli@sandp.com

Register now for Standard & Poor's 17th Annual Utility Conference on March 18, 2010 in New York. The invitation can be accessed by clicking on www.events.standardandpoors.com/utility

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Purchased Power Update Request for Standard & Poor's
Please express payment amounts in nominal annual total ($) millions.
Please provide minimum annual capacity payments , or expected annual payments if no capacity payment exist
Please exclude all contract of less than one year in total duration
We require information on signed contract even if they are not currently delivering
For renewables, it is permissible to use your own market price capacity payment if it exists
Please include PPA's accounted for as operating leases in financial statements

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Contract Name	ABC CCGT	Wind Alley	XYZ On Peak																								
Counterparty	Merchant A	Utility B	Bbc Bank C																								
Contract Delivery Date	1/1/2005	1/1/2012	1/1/2003																								
Term (years)	25 Years	30 Years	10 Years																								
Extension or Renewal of Existing PPA	No	Yes	Yes																								
Power Type (if resource specific)	Natural Gas	Wind	Non-specific firm peaking																								
Capacity or Estimated Payments?	Capacity	Estimated Annual	Capacity																								
2009	$125		$25																								
2010	$125		$25																								
2011	$125		$25																								
2012	$125	$48	$25																								
2013	$125	$49																									
2014	$125	$50																									
2015	$125	$51																									
2016	$125	$52																									
2017	$125	$53																									
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2020	$125	$56																									
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McGill, James T(Z71171)

From: Hickman, Rebecca (Z46875)
Sent: Wednesday, March 03, 2010 7:52 PM
Subject: PNW/APS: News Release Regarding AZ Sun Program Approval

We issued a press release regarding approval of the AZ Sun Program today by the Arizona Corporation Commission. The text of the release is included below in this e-mail.

As always, if you have any questions about this development or need any other information about our company, please contact me.

Sincerely ~
Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

ARIZONA CORPORATION COMMISSION APPROVES AZ SUN PROGRAM

PHOENIX – With the approval today by the Arizona Corporation Commission of the AZ Sun program, Arizona Public Service took a major step forward in increasing its ability to deliver solar energy to customers.

Through the expected four-year life of the program, APS plans to invest up to $500 million for 100 megawatts of turn-key photovoltaic power plants across Arizona. Developers will be selected to build the plants, which APS will own. The plants will be selected through competitive procurement processes.

"AZ Sun is good for customers and good for solar power in Arizona," said APS President Don Robinson. "To meet the growing energy needs of customers, we continue to seek the most effective ways to add renewable energy to our energy supply portfolio." APS's renewable portfolio is expanding rapidly, growing from less than one MW in 2001 to more than 245 MW today. This is enough energy to meet the needs of more than 60,000 homes.

The Company's Jan. 27, 2010, Request for Proposal for new sources of solar energy will seek to secure projects that could fulfill the initial phase of this program. Proposals are due April 7. APS will be developing a separate plan to procure 25 MW of solar energy from independent power providers.

Until the time that the costs of the first 50 MW of the AZ Sun program are recovered in base rates, the costs will be recovered through the existing Renewable Energy Surcharge. Costs for the remaining 50 MW will be recovered through an adjustment mechanism to be determined in APS's next retail rate case. APS expects to file this case in June 2011.

The ACC deferred a decision on the Company's Community Power Project – Flagstaff Pilot until its next regular open meeting March 31 and April 1.

APS, Arizona's largest and longest-serving electricity utility, serves about 1.1 million customers in 11 of the state's 15 counties. With headquarters in Phoenix, APS is the principal subsidiary of Pinnacle West Capital Corp. (NYSE: PNW)

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, March 05, 2010 10:55 AM
To: McGill, James T(Z71171)
Subject: question

Was the AZ Sun program incorporated into your recent forecast?

Tony Bettinelli
Associate
U.S. Utilities & Infrastructure
Standard & Poor's Corporate Ratings
San Francisco, CA
(415) 371-5067
tony_bettinelli@sandp.com

Register now for Standard & Poor's 17th Annual Utility Conference on March 18, 2010 in New York. The invitation can be accessed by clicking on www.events.standardandpoors.com/utility

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Friday, March 05, 2010 11:08 AM
To: 'Bettinelli, Antonio'
Subject: RE: question

Yes it was.

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, March 05, 2010 10:55 AM
To: McGill, James T(Z71171)
Subject: question

Was the AZ Sun program incorporated into your recent forecast?

Tony Bettinelli
Associate
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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, March 05, 2010 11:14 AM
To: McGill, James T(Z71171)
Subject: RE: question

Thanks. Just checking.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Friday, March 05, 2010 10:08 AM
To: Bettinelli, Antonio
Subject: RE: question

Yes it was.

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, March 05, 2010 10:55 AM
To: McGill, James T(Z71171)
Subject: question

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the contents which result from e-mail transmission.

McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Monday, March 08, 2010 9:56 AM
Subject: PNW/APS: News Release Announcing New Treasurer

Today, we issued a news release announcing the appointment of our new treasurer. The text of the release is included below in this message.

As always, if you have any questions about this appointment or need other information about our company, please contact me.

Sincerely,
Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

PINNACLE WEST CAPITAL APPOINTS NEW TREASURER

PHOENIX – Pinnacle West Capital Corporation (NYSE: PNW) today announced the appointment of Lee R. Nickloy as Vice President and Treasurer of Pinnacle West and its principal subsidiary, Arizona Public Service Company, effective April 1, 2010.

With more than 20 years of energy industry experience, Nickloy, 43, comes to Pinnacle West from St. Louis-based Ameren Corporation, a utility holding company serving more than 2.4 million electricity and almost 1 million natural gas customers in Missouri and Illinois. Nickloy joined Ameren in 1998 and most recently served as Assistant Treasurer and Director of Corporate Finance. Prior to that time, he worked in a number of progressively responsible positions with other energy-related companies.

Nickloy will report to Pinnacle West Senior Vice President and Chief Financial Officer Jim Hatfield.

"We are pleased to bring aboard a professional of Lee's caliber. He brings to our organization extensive knowledge and experience in the financial markets and will be a key contributor in supporting our corporate objectives," Hatfield said. "Lee's experience in developing and maintaining key relationships in the financial community will help Pinnacle West successfully navigate today's challenging business and financial conditions on behalf of our shareholders and customers."

Nickloy has a B.S. degree from Christian Brothers University in Memphis, Tenn., with an emphasis in economics and finance.

Pinnacle West is a Phoenix-based company with consolidated assets of about $12 billion. Through its subsidiaries, the Company generates, sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

-30-

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, March 09, 2010 4:58 PM
To: McGill, James T(Z71171)
Subject: RE: S&P Purchased Power Information Request

Jim,
Did your team have a chance to update our PPA request? Be sure to indicate which payments are capacity and which are estimated energy (or proxy capacity)? I've noticed that some of the survey responses have omitted this. Thanks.

Tony

From: Bettinelli, Antonio
Sent: Thursday, February 25, 2010 10:13 AM
Cc: Selting, Anne
Subject: S&P Purchased Power Information Request

I am currently in the process of updating annual off balance sheet debt adjustments and need your current purchased power contract information. This year I've packaged the request into a standardized template to avoid follow up calls for additional information and potential errors derived from data being presented in a non-standard format. Please complete the attached template with your updated purchased power contract information. If you have already send your information in a different format, I hope you won't mind converting it to template format. Let me know if you have any questions. Thank you.

Tony Bettinelli
Associate
U.S. Utilities & Infrastructure
Standard & Poor's Corporate Ratings
San Francisco, CA
(415) 371-5067
tony_bettinelli@sandp.com

Register now for Standard & Poor's 17th Annual Utility Conference on March 18, 2010 in New York. The invitation can be accessed by clicking on www.events.standardandpoors.com/utility

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Wednesday, March 10, 2010 8:10 AM
To: 'Bettinelli, Antonio'
Subject: RE: S&P Purchased Power Information Request
Attachments: SP PPA Request FEB2010.xls

Here you go.

Jim

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, March 09, 2010 4:58 PM
To: McGill, James T(Z71171)
Subject: RE: S&P Purchased Power Information Request

Jim,
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Cc: Selting, Anne
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Purchased Power Update Request for Standard & Poor's

Please express payment amounts in nominal annual total ($) millions.
Please provide minimum annual capacity payments , or expected annual payments if no capacity payment exist.
Please exclude all contract of less than one year in total duration.
We require information on signed contract even if they are not currently delivering
For renewables, it is permissible to use your own market proxy capacity payment if it exists.
Please include PPA's accounted for as operating leases in financial statements.

CONFIDENTIAL

	1	2	3	4	5	6	7	8	9	10	11	12	13	14
Contract Name	ABC CCGT	Wind Alley	XYZ On Peak	SRP T&C Salt River	Morgan Stanley Call	Shell Energy Call Royal Dutch	Gila River Toll	Arlington	Aragonne - Mesa	CE Turbo - Salton Sea	Abitibi - Snowflake White Mountain	High Lonesome Wind Ranch	Sexton City of Glendale Landfill	Solana
Counterparty	[redacted]													
Contract Delivery Date														
Term (years)														
Extension or Renewal of Existing PPA														
Power Type (if resource specific)														
Capacity or Estimated Payments?														
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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Wednesday, March 10, 2010 9:45 AM
To: McGill, James T(Z71171)
Subject: RE: S&P Purchased Power Information Request

Thanks Jim!

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Wednesday, March 10, 2010 7:10 AM
To: Bettinelli, Antonio
Subject: RE: S&P Purchased Power Information Request

Here you go.

Jim

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, March 09, 2010 4:58 PM
To: McGill, James T(Z71171)
Subject: RE: S&P Purchased Power Information Request

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Cc: Selting, Anne
Subject: S&P Purchased Power Information Request

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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Wednesday, March 31, 2010 10:53 AM
To: McGill, James T(Z71171)
Subject: Question

Do you have any senior secured debt issues at APS? We have some pollution control bonds appearing as secured in our system.

Tony Bettinelli
Associate
U.S. Utilities & Infrastructure
Standard & Poor's Corporate Ratings
San Francisco, CA
(415) 371-5067
tony_bettinelli@sandp.com

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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Wednesday, March 31, 2010 10:55 AM
To: McGill, James T(Z71171)
Subject: RE: Question

Thanks.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Wednesday, March 31, 2010 10:54 AM
To: Bettinelli, Antonio
Subject: RE: Question

We do not. We used to have some pc bonds that had fall-away security – they became unsecured when we retired the last of our FMBs.

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Wednesday, March 31, 2010 10:53 AM
To: McGill, James T(Z71171)
Subject: Question

Do you have any senior secured debt issues at APS? We have some pollution control bonds appearing as secured in our system.

Tony Bettinelli
Associate
U.S. Utilities & Infrastructure
Standard & Poor's Corporate Ratings
San Francisco, CA
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McGill, James T(Z71171)

From: McCallister, Bobbe S(Z99772) on behalf of Hickman, Rebecca (Z46875)
Sent: Wednesday, March 31, 2010 2:46 PM
Subject: PNW/APS: 2009 Statistical Report Available On-Line

Pinnacle West's 2009 Statistical Report for Financial Analysis is now available on our website, http://www.pinnaclewest.com/main/pnw/investors/default.html, in PDF and Excel versions. This report contains data for 2004 through 2009 to facilitate analysis. As a cost savings measure, we're only providing an electronic version of the Statistical Report.

As always, if you have any questions or need other information about our company, please contact me.

Sincerely,

Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

McGill, James T(Z71171)

From: McCallister, Bobbe S(Z99772) on behalf of Hickman, Rebecca (Z46875)
Sent: Wednesday, April 07, 2010 1:07 PM
Subject: PNW: Press Release Announcing Common Stock Offering

Today, we issued a press release announcing our plans for a common stock offering. The text of our press release is included below in this message. During the offering period, our comments will be limited to the points contained in the press release. For additional information, please refer to the offering prospectus.

As always, if you have any general questions regarding our company, please contact me.

Sincerely ~
Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

PINNACLE WEST ANNOUNCES PUBLIC OFFERING OF COMMON STOCK

PHOENIX – Pinnacle West Capital Corporation (NYSE: PNW) announced today that it has commenced a public offering o 6 million shares of its common stock. The offering price of the shares will be determined by market conditions at the time o pricing, in consultation with the underwriters.

In connection with the offering, the Company has granted the underwriters an option for a period of 30 days to purchase up to an additional 900,000 shares of the Company's common stock.

Barclays Capital, Credit Suisse, BofA Merrill Lynch, and Wells Fargo Securities are acting as joint book-running managers for the transaction.

A shelf registration statement relating to the securities in this offering was previously filed with the Securities and Exchange Commission and is effective.

This press release does not constitute an offer to sell or a solicitation of an offer to buy, nor shall there be any sale of these securities in any state in which such an offer, solicitation or sale would be unlawful prior to registration or qualification unde the securities laws of any such state. The offering may be made only by means of a prospectus and a related prospectus supplement, copies of which may be obtained when available from:

- Barclays Capital Inc., c/o Broadridge Integrated Distribution Services, 1155 Long Island Ave., Edgewood, NY 11717, telephone: (888) 603-5847, fax: (631) 254-7140 or by e-mail at Barclaysprospectus@broadridge.com;
- Credit Suisse Securities (USA) LLC, Prospectus Department, One Madison Ave., New York, NY 10010, telephone (800) 221-1037;
- BofA Merrill Lynch, Attn: Prospectus Department, 4 World Financial Center, New York, NY 10080, or by e-mail at Prospectus.Requests@ml.com; or
- Wells Fargo Securities, Attn: Equity Syndicate Dept., 375 Park Ave., New York, NY 10152, telephone: (800) 326-5897 or by e-mail at equity.syndicate@wachovia.com.

Pinnacle West is a Phoenix, Arizona-based company. Through its subsidiaries, the Company generates, sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

-30-

McGill, James T(Z71171)

From: McCallister, Bobbe S(Z99772) on behalf of Hickman, Rebecca (Z46875)
Sent: Thursday, April 08, 2010 9:20 AM
Subject: PNW/APS: 2009 Annual Report Available On-Line

Pinnacle West's 2009 Annual Report is now available on our website, http://www.pinnaclewest.com/main/pnw/investors/default.html.

As always, if you have any questions or need other information about our company, please contact me.

Sincerely,

Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

McGill, James T(Z71171)

From: McCallister, Bobbe S(Z99772) on behalf of Hickman, Rebecca (Z46875)
Sent: Thursday, April 08, 2010 3:45 PM
Subject: PNW: Common Stock Offering Price Announcement

Today, we issued a press release announcing the pricing of our common stock offering that was launched earlier this week. The text of the press release is included below in this message.

As always, if you have any questions about this announcement or need any other information about our company, please contact me.

Sincerely ~
Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

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PINNACLE WEST ANNOUNCES PRICING OF COMMON STOCK OFFERING

PHOENIX – Pinnacle West Capital Corporation (NYSE: PNW) announced today the pricing of its previously announced public offering of six million shares of common stock at $38.00 per share.

These securities will be issued under a shelf registration statement previously filed with the Securities and Exchange Commission. The transaction is expected to close on April 14, 2010, subject to customary closing conditions.

In connection with the offering, the Company has granted the underwriters an option for a period of 30 days to purchase up to an additional 900,000 shares of the Company's common stock.

Barclays Capital, Credit Suisse, BofA Merrill Lynch, and Wells Fargo Securities are acting as joint book-running managers for the transaction. Investors can obtain a copy of the final prospectus supplement relating to the offering from:

- Barclays Capital Inc., c/o Broadridge Integrated Distribution Services, 1155 Long Island Ave., Edgewood, NY 11717, telephone: (888) 603-5847, fax: (631) 254-7140 or by e-mail at Barclaysprospectus@broadridge.com;
- Credit Suisse Securities (USA) LLC, Prospectus Department, One Madison Ave., New York, NY 10010, telephone (800) 221-1037;
- BofA Merrill Lynch, Attn: Prospectus Department, 4 World Financial Center, New York, NY 10080, or by e-mail at Prospectus.Requests@ml.com; or
- Wells Fargo Securities, Attn: Equity Syndicate Dept., 375 Park Ave., New York, NY 10152, telephone: (800) 326-5897 or by e-mail at equity.syndicate@wachovia.com.

Pinnacle West is a Phoenix-based company. Through its subsidiaries, the Company generates, sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

-30-

McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Wednesday, April 21, 2010 3:39 PM
Subject: PNW: Dividend Declaration and Earnings Conference Call/Web Cast

Today, we issued a press release announcing our latest dividend declaration and our 2010 first-quarter earnings release, conference call and web cast. The text of the release is included below in this message.

As always, if you need any information about our company, please contact me.

Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

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**PINNACLE WEST DECLARES QUARTERLY DIVIDEND;
ANNOUNCES FIRST-QUARTER CONFERENCE CALL**

PHOENIX – Pinnacle West Capital Corporation's (NYSE: PNW) Board of Directors today declared a quarterly dividend of $0.525 per share of common stock, payable on June 1, 2010, to shareholders of record on May 3, 2010.

In addition, Pinnacle West plans to release its 2010 first-quarter results on Thursday, May 6, 2010. That same day at 12 noon (ET), the Company invites interested parties to listen to a live web cast of management's conference call to discuss results and recent developments.

The web cast can be accessed at www.pinnaclewest.com/presentations and will be available for replay on the web site for 30 days. To access the live conference call by telephone, dial (877) 356-3961 and enter Conference ID 66015030. A replay of the call also will be available until 11:55 p.m. (ET), Thursday, May 13, 2010, by calling (800) 642-1687 in the U.S. and Canada or (706) 645-9291 internationally and entering the same Conference ID number as above.

Pinnacle West is a Phoenix-based company with consolidated assets of about $12 billion. Through its subsidiaries, the Company generates, sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

-30-

McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Thursday, May 06, 2010 5:19 AM
Subject: PNW/APS: First-Quarter 2010 Earnings Release

This morning, we released our first-quarter 2010 earnings. The text of our earnings release is included below in this message.

For your convenience, we've attached PDF files of our Earnings Release Kit (which contains supplemental information) and the slides we will use during our conference call and web cast. This information is also available on our web site, www.pinnaclewest.com/investors.

Conference Call and Web Cast Access

Pinnacle West invites interested parties to listen to the live web cast of management's conference call to discuss the Company's 2010 first-quarter results, as well as recent developments at 12:00 noon (ET) today, May 6. The web cast can be accessed at www.pinnaclewest.com/presentations and will be available for replay on the web site for 30 days. To access the live conference call by telephone, dial (877) 356-3961 and enter Conference ID 66015030. A replay of the call also will be available until 11:55 p.m. (ET), Thursday, May 13, 2010, by calling (800) 642-1687 in the U.S. and Canada or (706) 645-9291 internationally and entering the same Conference ID number as above.

As always, please contact me if you have any questions or need information about our company.

Sincerely,

Becky
Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

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PINNACLE WEST REPORTS FIRST-QUARTER RESULTS

- *Quarterly earnings aided by retail regulatory settlement*
- *Company remains focused on renewable resources, cost management and efficient performance*

PHOENIX – Pinnacle West Capital Corp. (NYSE: PNW) today reported a consolidated net loss attributable to common shareholders of $6.0 million, or $0.06 per diluted share of common stock, for the quarter ended March 31, 2010. This result compares with a net loss attributable to common shareholders of $156.5 million, or $1.55 per diluted share, for the same quarter in 2009.

Excluding results of the Company's real estate segment, the restructuring of which was announced last year, Pinnacle West's on-going consolidated earnings in the 2010 first quarter were $7.2 million, or $0.07 per share, compared with an on-going loss of $24.8 million or $0.25 per share, in the same period a year ago. A reconciliation of reported earnings to on-going earnings is provided at the end of this release.

"Our first quarter results support our full-year earnings guidance," said Pinnacle West Chairman, President and Chief Executive Officer Don Brandt. "We are focused on executing our renewables program, actively managing our costs and identifying additional efficiencies and savings throughout our organization."

The 2010 first-quarter on-going results were positively impacted by the following factors:

- *Higher revenues resulting from retail rate increases* improved earnings by $0.20 per share. Of this amount, $0.14 is related to retail base rates and $0.03 is related to line extension revenue, both implemented in January as a result of the Company's regulatory settlement. The balance is attributable to a retail transmission rate increase implemented in the 2009 third quarter.
- *A reduction of the Company's 2010 effective income tax rate* improved earnings by $0.08 per share.
- *Improved mark-to-market* valuations of fuel contracts as a result of changes in commodity prices contributed $0.02 per share to the quarterly earnings comparison.

These positive factors were offset by increased operations and maintenance expenses, which decreased earnings by $0.04 per share. This increase was primarily related to higher labor expenses, offset in part by lower generation costs, including the timing of fossil-plant planned maintenance. The variance excludes costs associated with renewable energy and demand-side management programs, which are offset by comparable amounts of operating revenues.

A net decrease in weather-normalized kilowatt-hour sales reduced earnings by $0.02 per share. However, this decrease was offset by the effects of more favorable weather versus last year's quarter. The sales decrease was primarily related to the impacts of APS's energy efficiency programs and lower electricity consumption by commercial and industrial customers due to the current economic slowdown. Total retail electricity sales, excluding the effects of weather, decreased 1.7 percent in the 2010 first quarter compared to the corresponding 2009 period.

Arizona Public Service Co. (APS), the Company's principal subsidiary, reported 2010 first quarter net income attributable to common shareholder of $11.0 million, compared with a net loss of $15.5 million for the comparable 2009 quarter.

2010 and 2011 On-going Earnings Outlook
The Company continues to estimate its 2010 on-going consolidated earnings will be in the range of $2.95 to $3.10 per diluted share. Key factors and assumptions underlying the outlook remain unchanged, except for the following:

- Weather-normalized retail electricity sales volumes are expected to be slightly below the prior year, in part due to the Company's energy efficiency initiatives and reflecting first-quarter results; and
- The on-going effective income tax rate is expected to be about 35 percent.

For 2011, the Company continues to estimate its on-going consolidated earnings will be within the guidance range provided for 2010 on-going consolidated earnings, with some opportunity for modestly exceeding that range.

General Information
Pinnacle West is a Phoenix-based company with consolidated assets of about $12 billion. Through its subsidiaries, the Company generates, sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

Dollar amounts in this news release are after income taxes. Earnings per share amounts are based on average diluted common shares outstanding. For more information on Pinnacle West's operating statistics and earnings, please visit www.pinnaclewest.com/investors.

PINNACLE WEST CAPITAL CORPORATION
NON-GAAP FINANCIAL MEASURE RECONCILIATION

NET LOSS ATTRIBUTABLE TO COMMON SHAREHOLDERS (GAAP MEASURE) TO ON-GOING EARNINGS (NON-GAAP FINANCIAL MEASURE)

	Three Months Ended March 31, 2010		Three Months Ended March 31, 2009	
	Dollars in Millions	Diluted EPS	Dollars in Millions	Diluted EPS
Net Loss Attributable to Common Shareholders	$ (6.0)	$ (0.06)	$ (156.5)	$ (1.55)
Adjustment:				
Real estate segment	13.2	0.13	131.7	1.30

On-going Earnings (Loss)	$ 7.2	$ 0.07	$ (24.8)	$ (0.25)

NON-GAAP FINANCIAL INFORMATION

In this press release, we refer to "on-going earnings." On-going earnings is a "non-GAAP financial measure," as defined in accordance with SEC rules. We believe on-going earnings provide investors with a useful indicator of our results that is comparable among periods because it excludes the effects of unusual items that may occur on an irregular basis. Investors should note that these non-GAAP financial measures involve judgments by management, including whether an item is classified as an unusual item. We use on-going earnings, or similar concepts, to measure our performance internally in reports for management.

FORWARD-LOOKING STATEMENTS

This press release contains forward-looking statements regarding our 2010 and 2011 earnings outlook, and neither Pinnacle West nor APS assumes any obligation to update these statements, even if our internal estimates change, except as required by applicable law. These forward-looking statements are often identified by words such as "estimate," "predict," "may," "believe," "plan," "expect," "require," "intend," "assume" and similar words. Because actual results may differ materially from expectations, we caution you not to place undue reliance on these statements. A number of factors could cause future results to differ materially from historical results, or from outcomes currently expected or sought by Pinnacle West or APS. These factors include, but are not limited to:

- regulatory and judicial decisions, developments and proceedings;
- our ability to achieve timely and adequate rate recovery of our costs;
- our ability to reduce capital expenditures and other costs while maintaining reliability and customer service levels;
- variations in demand for electricity, including those due to weather, the general economy, customer and sales growth (or decline), and the effects of energy conservation measures;
- power plant performance and outages;
- volatile fuel and purchased power costs;
- fuel and water supply availability;
- new legislation or regulation relating to greenhouse gas emissions, renewable energy mandates and energy efficiency standards;
- our ability to meet renewable energy requirements and recover related costs;
- risks inherent in the operation of nuclear facilities, including spent fuel disposal uncertainty;
- competition in retail and wholesale power markets;
- the duration and severity of the economic decline in Arizona and current credit, financial and real estate market conditions;
- the cost of debt and equity capital and the ability to access capital markets when required;
- restrictions on dividends or other burdensome provisions in our credit agreements and Arizona Corporation Commission orders;
- our ability, or the ability of our subsidiaries, to meet debt service obligations;
- changes to our credit ratings;
- the investment performance of the assets of our nuclear decommissioning trust, pension, and other postretirement benefit plans and the resulting impact on future funding requirements;
- liquidity of wholesale power markets and the use of derivative contracts in our business;
- potential shortfalls in insurance coverage;
- new accounting requirements or new interpretations of existing requirements;
- transmission and distribution system conditions and operating costs;
- the ability to meet the anticipated future need for additional baseload generation and associated transmission facilities in our region;
- the ability of our counterparties and power plant participants to meet contractual or other obligations;
- technological developments in the electric industry; and
- economic and other conditions affecting the real estate market in SunCor Development Company's market areas.

These and other factors are discussed in Risk Factors described in Item 1A of the Pinnacle West/APS Annual Report on Form 10-K for the fiscal year ended December 31, 2009, which readers should review carefully before placing any reliance on our financial statements, disclosures or our earnings outlook.

###

PNW 1Q 2010 Earnings Release K..

1Q2010 PNW Earnings Slides.pdf..

McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Thursday, May 06, 2010 5:19 AM
Subject: PNW/APS: First-Quarter 2010 Form 10-Q

The PDF file of the combined Pinnacle West and APS first-quarter 2010 Form 10-Q is attached for your use. If you would like to receive a printed copy of the report, please let me know and we will be happy to mail it to you.

As always, please contact me if you need information about our company.

Sincerely,

Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

1Q10 PNW Form 10-Q.pdf

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, May 11, 2010 8:36 AM
To: McGill, James T(Z71171)
Subject: Shelf Registrations

Jim,

Would you let me know what PNW/APS shelf registrations remain open?

Tony Bettinelli
Associate
Corporate & Government Ratings
Standard & Poor's
One Market, Steuart Tower, 15th Floor, San Francisco, CA 94105
(415) 371-5067
tony_bettinelli@sandp.com

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Tuesday, May 11, 2010 4:15 PM
To: 'Bettinelli, Antonio'
Subject: RE: Shelf Registrations

Just the one filed 4/2009 (will be effective until 4/2012).

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, May 11, 2010 8:36 AM
To: McGill, James T(Z71171)
Subject: Shelf Registrations

Jim,

Would you let me know what PNW/APS shelf registrations remain open?

Tony Bettinelli
Associate
Corporate & Government Ratings
Standard & Poor's
One Market, Steuart Tower, 15th Floor, San Francisco, CA 94105
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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, May 11, 2010 4:32 PM
To: McGill, James T(Z71171)
Subject: RE: Shelf Registrations

Thanks.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Tuesday, May 11, 2010 4:15 PM
To: Bettinelli, Antonio
Subject: RE: Shelf Registrations

Just the one filed 4/2009 (will be effective until 4/2012).

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, May 11, 2010 8:36 AM
To: McGill, James T(Z71171)
Subject: Shelf Registrations

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McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Thursday, May 13, 2010 1:32 PM
Subject: PNW: Press Release Announcing Sale of District Cooling Business

Today, we issued a press release announcing the sale of its district cooling business by our competitive energy services subsidiary, APS Energy Services. The text of the press release is included below in this message.

As always, if you have any questions about this announcement or need other information about our company, please contact me.

Sincerely,

Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

---

PINNACLE WEST AGREES TO SELL DISTRICT COOLING BUSINESS AT ENERGY SERVICES SUBSIDIARY

PHOENIX – Pinnacle West Capital Corporation's (NYSE: PNW) subsidiary, APS Energy Services Company Inc., has entered into an agreement to sell its district cooling business to NRG Thermal LLC, a subsidiary of NRG Energy Inc., a wholesale electricity provider that owns and operates power generation facilities nationwide, including combined heat and power plants.

District cooling systems use centrally-located condensers to create chilled water, which is distributed to air condition clusters of buildings.

APS Energy Services owns and operates two cooling districts, Northwind Phoenix and Tucson District Energy. The Northwind central district cooling operation in downtown Phoenix serves 33 customers including Chase Field, US Airways Center and the Phoenix Convention Center. Northwind also operates combined heat and power plants owned by Arizona State University that provide chilled water, steam and electricity to portions of ASU's campuses in Tempe and Mesa. The Tucson business includes two site-specific district cooling facilities at the midtown Police/Fire Station and at the Tucson Convention Center.

"We are pleased that Northwind's customers will now be served by NRG's established and large-scale district energy business," said Pinnacle West Chairman, President and Chief Executive Officer Don Brandt. "Going forward, APS Energy Services plans to focus on its core business of energy conservation and renewable energy contracting services."

The transaction is expected to close in June 2010, subject to customary closing conditions. Pinnacle West expects to record a net after-tax gain related to the transaction in the second quarter of this year.

Pinnacle West is a Phoenix-based company with consolidated assets of about $12 billion. Through its subsidiaries, the Company generates sells and delivers electricity and sells energy-related products and services to retail and wholesale customers in the western United States.

Safe Harbor Disclosure

This press release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Pinnacle West does not assume any obligation to update these statements, even if our internal estimates change, except as required by applicable law. These forward-looking statements are often identified by words such as "estimate," "predict," "may," "believe," "plan," "expect," "require," "intend," "assume" and similar words. Because actual results may differ materially from expectations, we caution you not to place undue reliance on these statements. A number of factors could cause future results to differ materially from historical results, or from outcomes currently expected or sought by Pinnacle West. These and other factors are discussed in Risk Factors described in Item 1A of the Pinnacle West/APS Annual Report on Form 10-K for the fiscal year ended December 31, 2009, which readers should review carefully before placing any reliance on our disclosures.

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Monday, May 17, 2010 4:03 PM
To: McGill, James T(Z71171)
Subject: Update

Jim,

Hope all is well. Would it be possible to set-up a one hour update meeting with Hatfield sometime in the first two weeks of June?

Tony Bettinelli
Associate
Corporate & Government Ratings
Standard & Poor's
One Market, Steuart Tower, 15th Floor, San Francisco, CA 94105
(415) 371-5067
tony_bettinelli@sandp.com

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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Monday, May 17, 2010 4:03 PM
To: McGill, James T(Z71171)
Subject: RE: Update

By phone, not in person..

From: Bettinelli, Antonio
Sent: Monday, May 17, 2010 4:03 PM
To: 'James.MCgill@pinnaclewest.com'
Subject: Update

Jim,

Hope all is well. Would it be possible to set-up a one hour update meeting with Hatfield sometime in the first two weeks of June?

Tony Bettinelli
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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Tuesday, May 18, 2010 7:51 AM
To: 'Moss, Mitchell'
Subject: Adjustments

Hi Mitchell,

Can you please send me APS and PNW 2009 adjustments that Moody's makes? If you have updated operating leases adjustment now that Palo Verde Sale Leaseback is on the balance sheet, that would be useful.

Thank you,

Jim

McGill, James T(Z71171)

From: Moss, Mitchell [Mitchell.Moss@moodys.com]
Sent: Tuesday, May 18, 2010 9:00 AM
To: McGill, James T(Z71171)
Subject: RE: Adjustments
Attachments: KeyIndicatorRpt for Arizona Public Service Company 2009.xls; KeyIndicatorRpt for Pinnacle West Capital Corporation 2009.xls

See attached. The lease adjustment has been changed. Let me know if you have any questions.

Mitchell

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Tuesday, May 18, 2010 10:51 AM
To: Moss, Mitchell
Subject: Adjustments

Hi Mitchell,

Can you please send me APS and PNW 2009 adjustments that Moody's makes? If you have updated operating leases adjustment now that Palo Verde Sale Leaseback is on the balance sheet, that would be useful.

Thank you,

Jim

Email Firewall made the following annotations

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responsibility and have no liability for any computer virus which may be transferred via this e-mail message.

Attachment Intentionally Omitted -- Contains Confidential Information

McGill, James T(Z71171)

From: Philip.Smyth@fitchratings.com
Sent: Tuesday, May 18, 2010 1:01 PM
To: McGill, James T(Z71171)
Subject: Lease debt and other questions

Hi Jim,

Would you please send detail regarding the PVNGS (and other) lease debt for the past five years, 2010 and 2011? I assume you have spreads with imputed interest, depreciation and the present value for each of those years for the relevant leases at APS and PNW. Very much appreciated. I would also like to speak with you about the change in accounting for VIEs and its impact regarding the PVNGS sale/leaseback.

I have some additional questions, some of which we discussed briefly yesterday regarding SunCor. First, I would like to understand where SunCor is in the restructuring process? That is, what properties have been sold?
What properties have agreements to sell and are expected to close in the near future? And what properties are still in negotiations and/or unlikely to be sold in the near term? If properties are to remain unsold, what are they and what is the ultimate plan for them? How much value resides in the remaining assets relative to the $96MM of SunCor debt? Has PNW booked significant tax benefits from charges taken at SunCor? How much of the decline in asset value at SunCor is a function of charges and asset sales?
Is there any scenario in which PNW would repay SunCor debt or that PNW could be harmed financially by a bankruptcy filing at SunCor?

The disclosure in the 10-k discusses planned investment in environmental remediation and improvements to existing coal and nuclear plant. I want to verify that planned $500MM investment in PV solar (recently approved by the
ACC) is not included the estimated capex called out in the March 10-Q for 2010 - 2012 and will be incremental. I also would like to discuss the RES surcharge, recent ACC approval of the AZ Sun Program and DSM adjustor.

Best Regards,

Phil

Philip W. Smyth, CFA
Senior Director
Fitch Ratings
telephone: 212 908 0531

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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, May 18, 2010 8:18 PM
To: McGill, James T(Z71171)
Subject: meeting

Jim,

Jun. 3rd at 12pm works for us. Just confirming this. Thanks.

Tony

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Tuesday, May 18, 2010 8:41 PM
To: 'Antonio_Bettinelli@standardandpoors.com'
Subject: Re: meeting

It's on our calendar.

From: Bettinelli, Antonio <Antonio_Bettinelli@standardandpoors.com>
To: McGill, James T(Z71171)
Sent: Tue May 18 20:18:24 2010
Subject: meeting

Jim,

Jun. 3rd at 12pm works for us. Just confirming this. Thanks.

Tony

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Wednesday, May 19, 2010 2:03 PM
To: Smyth, Philip T(Z99477)
Subject: lease info

PV_OperatingLease ImputedDebt.x...

Attachment Intentionally Omitted -- Contains Confidential Information

McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Wednesday, May 19, 2010 2:57 PM
To: 'Philip.Smyth@fitchratings.com'
Subject: enviro spending

Phil,
The $220M is related to projects to reduce nitrous oxide (pending BART requirements) and mercury emissions pending Maximum Achievable Control Technology (MACT) for our fossil plants.

Jim

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Friday, May 21, 2010 10:29 AM
To: McGill, James T(Z71171)
Subject: Liquidity Survey

Jim,

Would you mind sending me a liquidity survey for March?

Tony Bettinelli
Associate
Corporate & Government Ratings
Standard & Poor's
One Market, Steuart Tower, 15th Floor, San Francisco, CA 94105
(415) 371-5067
tony_bettinelli@sandp.com

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McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Tuesday, May 25, 2010 12:13 PM
To: McGill, James T(Z71171)
Subject: Management Call

Jim,

Does it look there is availability on Friday June 4th for an update call?

Tony Bettinelli
Associate
Corporate & Government Ratings
Standard & Poor's
One Market, Steuart Tower, 15th Floor, San Francisco, CA 94105
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tony_bettinelli@sandp.com

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Nickloy, Lee R(Z08122)

From: Philip.Smyth@fitchratings.com
Sent: Tuesday, May 25, 2010 2:29 PM
To: Nickloy, Lee R(Z08122)
Subject: Bank agreements...

Lee,

Would you please send me the renegotiated bank facility documents at your convenience.

Thanks,

Phil

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Nickloy, Lee R(Z08122)

From: Philip.Smyth@fitchratings.com
Sent: Tuesday, May 25, 2010 12:32 PM
To: Nickloy, Lee R(Z08122)
Subject: Fitch press release attached for your review...
Attachments: PNW_APS_press release(draft)_5.25.2010.doc

Lee,

Please review the attached press release to ensure factual accuracy and that confidential information is not mistakenly included.

Best Regards,

Phil

Philip W. Smyth, CFA
Senior Director
Fitch Ratings
One State Street Plaza
New York, NY 10004
Telephone: 212 908 0531
Fax: 212 635 0469

(See attached file: PNW_APS_press release(draft)_5.25.2010.doc)

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Draft Press Release

PNW's Ratings Affirmed; Outlook Revised to Stable

Fitch Ratings-NY-May 25, 2010: Fitch has revised Pinnacle West Capital Corporation's (PNW) Rating Outlook to Stable from Negative. At the same time, Fitch has affirmed the long- and short-term issuer default ratings (IDR) of PNW and its core operating utility subsidiary, Arizona Public Service Company (APS), at 'BBB-'. Fitch has also affirmed the companies' instrument ratings as summarized in the table below:

Pinnacle West Capital:	
--Long-term IDR	'BBB-';
--Short-term IDR	'F3';
--Commercial paper	'F3'.
Arizona Public Service Co.:	
--Long-term IDR	'BBB-';
--Short-term IDR	'F3';
--Senior unsecured	'BBB';
--Commercial paper	'F3'.
PVNGS II Funding Corp.	
--Secured lease obligation bonds	'BBB'.

The Rating Outlook for APS is Stable. Approximately $4 billion of debt is affected by the rating action.

The ratings and Stable Rating Outlook for PNW are primarily a function of the earnings and cash flow contribution of APS, which accounts for 96% of consolidated revenue, and Fitch's expectation of solid credit ratios in 2010 and 2011.

The revision to PNW's Rating Outlook to Stable from Negative reflects progress made in restructuring SunCor's assets with an eye toward exiting the business and its relatively small size compared to PNW. Fitch believes it is unlikely the SunCor restructuring will have an adverse impact on PNW's creditworthiness.

The ratings and outlook of APS consider the balanced Arizona Corporation Commission (ACC) final order issued December 2009 in APS' 2008 general rate case. New rates went into effect January 1, 2010. Regulatory lag remains Fitch's primary credit concern, notwithstanding language in the ACC-approved settlement agreement indicating a willingness of the ACC Staff and other intervenors to process future rate cases more quickly.

For the 12-months ended March 31, 2010, APS accounted for 96% of total revenue and all of PNW's consolidated operating and net income. Total APS assets were $11.7 billion representing 98% of total PNW consolidated assets as of March 31, 2010. PNW and APS' FFO coverage ratios were 4.5x and 4.9x, respectively, for the 12-months ended March 31, 2010. Fitch estimates PNW's FFO-to-interest ratio will remain in a narrow range, approximating 4.2x - 4.3x in 2010 and 2011. Similarly, APS' FFO coverage ratios in both 2010 and 2011 are estimated at 4.5x. These credit metrics are consistent with PNW and APS' current 'BBB-' IDRs.

In the longer-term, further rate increases will be required to support the current ratings and Fitch assumes that future changes to authorized rates will support reasonable returns on invested capital. Adverse outcomes in future rate case proceedings would likely trigger credit rating downgrades. The regulatory compact in Arizona is expected by Fitch to be the central driver of PNW and APS' future creditworthiness and the primary risk for investors.

The ratings also consider PNW and APS' solid liquidity position, manageable maturities and the recent issuance of 6.9 million shares of common stock, with net proceeds of approximately $253 million. Proceeds from the equity offering were transferred to APS to use to repay short-term debt, finance corporate expenditures and other general corporate purposes.

Management recently renegotiated PNW and APS $283 million and $377 million bank facilities, which were scheduled to mature in December 2010. The PNW revolver was reduced to $200 million while the APS facility was increased to $500 million. Both revolvers are scheduled to mature in February 2013. Under certain condition, the PNW and APS bank agreements may be upsized to $300 million and $700 million, respectively.

Fitch expects management to renegotiate APS' $489 million credit facility which is scheduled to expire in September 2011. PNW had total available liquidity under these facilities of $904 million as of March 31, 2010. Substantial liquidity is required at APS to meet its margin and collateral requirements related to volatility of and the utility's reliance on natural gas-fired resources to meet its load requirements and other working capital needs.

Total long-term 2010 - 2014 debt maturities include $175 million of parent company debt due February 2011 and $1.1 billion of APS debt maturities. Of the $1.1 billion of scheduled APS maturities, $400 million, $375 million and $302 million of senior unsecured debt is due 2011, 2012 and 2014, respectively.

APS' earned return-on-equity (ROE) has been below its authorized ROE in recent years driven primarily by timing differences between when costs are incurred and recovered in rates, adversely impacting the utility's credit quality. Fitch believes ACC approval of interim rate relief during and the final order in APS' recently concluded 2008 GRC were constructive developments from an investor point-of-view. Fitch expects APS' 2010 earned ROE to improve to 9% - 10% from the 7% - 8% levels of 2008 and 2009.

In affirming APS' ratings in April 2009, Fitch assumed a final order generally consistent with the proposed settlement agreement filed with the commission in its 2008 GRC. On December 16, 2009, the ACC approved the proposed settlement agreement with relatively minor modifications.

Under the terms of the ACC-authorized settlement APS' rates were increased $208 million effective January 1, 2010, based on an 11.0% ROE. The approved rate increase represents 75% of APS' requested amount. Line extension fees will be recorded as revenue instead of contribution-in-aid-of-construction. In addition, APS agreed, among other things, not to file its next two rate cases until June 1, 2011 and June 1, 2013, respectively.

The parties to the ACC-approved settlement also agreed on a best efforts basis to process future GRCs within 12-months of a sufficiency finding, potentially mitigating regulatory lag in the future. Fitch notes that the

agreement to process future rate cases more timely does not bind the ACC.

The ratings and outlook also consider the recent default at SunCor Development Company (SunCor) under certain outstanding debt agreements. There are no cross-defaults between SunCor and either PNW or APS. Fitch believes that SunCor's restructuring, either in bankruptcy or outside of it, will not have a significant adverse impact on PNW or APS.

As of March 31, 2010, SunCor had total debt outstanding of $96 million and has negotiated forbearance agreements to its $54 million secured revolver, which matured January 2010. In addition, $26 million of debt under SunCor's other credit facilities have matured and remain outstanding. Thusfar, lenders have taken no enforcement action, but the outcome of negotiations with lenders and the ability of SunCor to sell assets and repay its outstanding debt remains unclear. In April 2009, PNW announced a plan to exit the real estate business using proceeds from asset divestitures to repay debt. It is unclear whether asset values realized in a restructuring will be sufficient to repay SunCor's remaining debt and a bankruptcy filing cannot be ruled out, in Fitch's opinion.

On the operating front, APS'generating facilities continue to operate relatively effectively, in Fitch's opinion. PVNGS continues to operate under routine NRC inspection oversight since Unit 3's removal from the "multiple degraded cornerstone column" in March 2009. PVNGS logged an 89% capacity factor in 2009, in-line with the industry average. APS' coal facilities have consistently operated at top-quartile levels relative to the industry, booking capacity factors of 84% - 88% 2004 - 2008 and 82% in 2009.

PNW and APS' revolving credit facilities contain cross default provisions with each other. PNW provides a relatively small amount of credit support to APS and APSES through guarantees and surety bonds. As of March 31, 2010, guarantees were $12 million and surety bonds $37 million.

The rating action reflects the application of Fitch's current criteria which are available at 'www.fitchratings.com' and specifically incorporate criteria in the following reports:

- 'Recovery Ratings and Notching Criteria for Non-financial Corporate Issuers' (Nov. 24, 2009;
- 'Corporate Rating Methodology' (Nov. 24, 2009);
- ~~'Credit Rating Guidelines for Regulated Utility~~ Companies' (July 31, 2007).
- ~~'U.S. Power and Gas Comparative Operating Risk (COR)~~ Evaluation and Financial Guidelines'(Aug. 22, 2007);

Contact: Philip Smyth, CFA +1-212-908-0531 or Robert Hornick +1-212-908-0523, New York.

Fitch's rating definitions and the terms of use of such ratings are available on the agency's public site, 'www.fitchratings.com'. Published ratings, criteria and methodologies are available from this site, at all times. Fitch's code of conduct, confidentiality, conflicts of interest, affiliate firewall, compliance and other relevant policies and procedures are also available from the 'Code of Conduct' section of this site.

Nickloy, Lee R(Z08122)

From: Nickloy, Lee R(Z08122)
Sent: Tuesday, May 25, 2010 5:33 PM
To: 'Philip.Smyth@fitchratings.com'
Subject: RE: Bank agreements...
Attachments: APS_Credit_Agreement-Final.DOC

Phil,

See the APS credit agreement attached. Will send the PNW agreement separately.

Lee

-----Original Message-----
From: Philip.Smyth@fitchratings.com [mailto:Philip.Smyth@fitchratings.com]
Sent: Tuesday, May 25, 2010 2:29 PM
To: Nickloy, Lee R(Z08122)
Subject: Bank agreements...

Lee,

Would you please send me the renegotiated bank facility documents at your convenience.

Thanks,

Phil

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CUSIP Number: 040556AH5

U.S. $500,000,000

THREE-YEAR CREDIT AGREEMENT

Dated as of February 12, 2010

among

ARIZONA PUBLIC SERVICE COMPANY,

as Borrower,

THE LENDERS PARTY HERETO,

WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Agent and Issuing Bank,

BANK OF AMERICA, N.A.,

as Co-Syndication Agent and Issuing Bank,

BARCLAYS CAPITAL

and

CREDIT SUISSE, CAYMAN ISLANDS BRANCH,

as Co-Syndication Agents,

WELLS FARGO SECURITIES, LLC,

BANC OF AMERICA SECURITIES LLC,

BARCLAYS CAPITAL

and

CREDIT SUISSE SECURITIES (USA) LLC

as Joint Lead Arrangers

and

WELLS FARGO SECURITIES, LLC,

and

BANC OF AMERICA SECURITIES LLC

as Joint Book Runners

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Exhibit C Form of Assignment and Assumption

THREE-YEAR CREDIT AGREEMENT

Dated as of February 12, 2010

ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation (the "Borrower"), the banks, financial institutions and other institutional lenders (the "Initial Lenders") and initial issuing banks (the "Initial Issuing Banks") listed on the signature pages hereof, Wells Fargo Securities, LLC, Banc of America Securities LLC, Barclays Capital, the investment banking division of Barclays Bank PLC, and Credit Suisse Securities (USA) LLC, as Joint Lead Arrangers (the "Arrangers"), Bank of America, N.A., Barclays Capital, the investment banking division of Barclays Bank PLC and Credit Suisse Securities (USA) LLC, as Co-Syndication Agents and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Agent for the Lenders (as hereinafter defined), agree as follows:

The Borrower has requested that the Lenders provide a revolving credit facility for the purposes set forth herein, and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"2007 Order" means Decision No. 69947, dated October 30, 2007, of the Arizona Corporation Commission.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Agent.

"Advance" means an advance by a Lender to the Borrower as part of a Borrowing, including a Base Rate Advance made pursuant to Section 2.03(c), but excluding any L/C Advance made as part of an L/C Borrowing, and refers to a Base Rate Advance or a Eurodollar Rate Advance (each of which shall be a "Type" of Advance).

"Affected Lender" means any Lender, as reasonably determined by the Agent or if the Agent is the Affected Lender, by the Required Lenders, that (a) has defaulted in its obligation to fund any Advance or any of its other funding obligations under this Agreement, (b) has notified the Borrower, the Agent, any Issuing Bank or any Lender in writing of its intention not to fund any Advance or any of its other funding obligations under this Agreement, (c) has otherwise failed to pay over to the Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute, (d) has failed, within three Business Days after written request by the Agent, or if the

Agent is the Affected Lender, by the Required Lenders, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Advances or (e) shall (or whose parent company shall) generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or shall have had any proceeding instituted by or against such Lender (or its parent company) seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 30 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian for, it or for any substantial part of its property) shall occur, or shall take (or whose parent company shall take) any corporate action to authorize any of the actions set forth above in this subsection (e), provided that a Lender shall not be deemed to be an Affected Lender solely by virtue of the ownership or acquisition of any equity interest in any Lender or any Person that directly or indirectly controls such Lender by a Governmental Authority or an instrumentality thereof.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director or officer of such Person. For purposes of this definition, the term "control" (including the terms "controlling", "controlled by" and "under common control with") of a Person means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by contract or otherwise.

"Agent" means Wells Fargo in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Agent's Account" means the account of the Agent designated on Schedule 8.02 under the heading "Agent's Account" or such other account as the Agent may designate to the Lenders and the Borrower from time to time.

"Agent's Office" means the Agent's address and, as appropriate, the Agent's Account, or such other address or account as the Agent may from time to time notify to the Borrower and the Lenders.

"Applicable Lending Office" means, with respect to each Lender, such Lender's Domestic Lending Office in the case of a Base Rate Advance and such Lender's Eurodollar Lending Office in the case of a Eurodollar Rate Advance.

"Applicable Rate" means, from time to time, the following percentages per annum determined by reference to the Public Debt Rating as set forth below:

Public Debt Rating S&P/Moody's	Base Rate Advances	Eurodollar Rate Advances	Commitment Fee
Level 1 ≥ A-/A3	1.000%	2.000%	0.250%
Level 2 < Level 1 but > BBB+/Baa1	1.500%	2.500%	0.375%
Level 3 < Level 2 but > BBB/Baa2	1.750%	2.750%	0.500%
Level 4 < Level 3 but ≥ BBB-/Baa3	2.000%	3.000%	0.625%
Level 5 < Level 4	2.500%	3.500%	0.750%

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of any entity that administers or manages a Lender.

"Arrangers" has the meaning given to such term in the introductory paragraph hereof.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee, and accepted by the Agent, in substantially the form of Exhibit C hereto.

"Assuming Lender" has the meaning specified in Section 2.18(d).

"Assumption Agreement" has the meaning specified in Section 2.18(d)(ii).

"Authorized Officer" means the chairman of the board, chief executive officer, chief operating officer, chief financial officer, chief accounting officer, president, any vice president, treasurer, controller or any assistant treasurer of the Borrower.

"Available Amount" of any Letter of Credit means, at any time, the maximum amount available to be drawn under such Letter of Credit at such time (assuming compliance at such time with all conditions to drawing).

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of:

(a) the rate of interest in effect for such day as publicly announced from time to time by the Agent as its "prime rate";

(b) the Federal Funds Rate plus 0.50%; and

(c) an amount equal to (i) the Eurodollar Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus (ii) 1%.

"Prime rate" means the rate of interest in effect for such day as publicly announced from time to time by the Agent as its "prime rate." The "prime rate" is a rate set by the Agent based upon various factors including the Agent's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in the "prime rate" announced by the Agent shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Advance" means an Advance that bears interest as provided in Section 2.07(a)(i).

"Borrower" has the meaning given to such term in the introductory paragraph hereof.

"Borrower Information" has the meaning specified in Section 8.08.

"Borrowing" means a borrowing consisting of simultaneous Advances of the same Type made by each of the Lenders pursuant to Section 2.01(a).

"Business Day" means a day of the year on which banks are not required or authorized by Law to close in New York City, Phoenix, Arizona or San Francisco, California and, if the applicable Business Day relates to any Advance in which interest is calculated by reference to the Eurodollar Rate, on which dealings are carried on in the London interbank market.

"Capital Lease Obligations" means as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal property, which obligations are required to be classified and accounted for as a capital lease on the balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption of any Law, (b) any change in any Law or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

"Commitment" means a Revolving Credit Commitment or a Letter of Credit Commitment.

"Commitment Date" has the meaning specified in Section 2.18(b).

"Commitment Increase" has the meaning specified in Section 2.18(a).

"Consolidated" refers to the consolidation of accounts in accordance with GAAP.

"Consolidated Indebtedness" means, at any date, the Indebtedness of the Borrower and its Consolidated Subsidiaries determined on a Consolidated basis as of such date.

"Consolidated Net Worth" means, at any date, the sum as of such date of (a) the par value (or value stated on the books of the Borrower) of all classes of capital stock of the Borrower and its Subsidiaries, excluding the Borrower's capital stock owned by the Borrower and/or its Subsidiaries, *plus* (or *minus* in the case of a surplus deficit) (b) the amount of the Consolidated surplus, whether capital or earned, of the Borrower, determined in accordance with GAAP as of the end of the most recent calendar month (excluding the effect on the Borrower's accumulated other comprehensive income/loss of the ongoing application of Accounting Standards Codification Topic 815).

"Consolidated Subsidiary" means, at any date, any Subsidiary or other entity the accounts of which would be consolidated with those of the Borrower on its Consolidated financial statements if such financial statements were prepared as of such date.

"Convert", "Conversion" and "Converted" each refers to a conversion of Advances of one Type into Advances of the other Type pursuant to Section 2.08, Section 2.09 or Section 2.12.

"Credit Extension" means each of the following: (a) a Borrowing and (b) the issuance of a Letter of Credit.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any Event of Default or any event that would constitute an Event of Default but for the requirement that notice be given or time elapse or both.

"Dollars" or "$" means dollars of the United States of America.

"Domestic Lending Office" means, with respect to any Lender, the office of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"Effective Date" has the meaning specified in Section 3.01.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 8.07(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 8.07(b)(iii)).

"Environmental Action" means any action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment and relating to any Environmental Law, including, without

limitation, (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages and (b) by any Governmental Authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

"Environmental Law" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, code, order, judgment, decree or judicial or agency interpretation, policy or guidance relating to pollution or protection of the environment, natural resources or, to the extent relating to exposure to Hazardous Materials, human health or safety, including, without limitation, those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

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

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"Eurodollar Lending Office" means, with respect to any Lender, the office of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"Eurodollar Rate" means:

(a) for any Interest Period with respect to a Eurodollar Rate Advance, the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the "Eurodollar Rate" for such

Interest Period shall be the rate per annum determined by the Agent to be the rate at which deposits in dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Rate Advance being made, continued or converted by the Agent and with a term equivalent to such Interest Period would be offered by the Agent to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period; and

(b) for any interest rate calculation with respect to a Base Rate Advance, the rate per annum equal to (i) BBA LIBOR, at approximately 11:00 a.m. two Business Days prior to, London time on the date of determination (provided that if such day is not a Business Day in London, the next preceding Business Day in London) for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate determined by the Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Advance being made, continued or converted by the Agent and with a term equal to one month would be offered by the Agent's London Branch to major banks in the London interbank Eurodollar market at their request at the date and time of determination.

"Eurodollar Rate Advance" means an Advance that bears interest at a rate based on the Eurodollar Rate (other than a Base Rate Advance bearing interest at a rate based on the Eurodollar Rate).

"Events of Default" has the meaning specified in Section 6.01.

"Excluded Taxes" means, with respect to the Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the United States or the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or does business or in which its principal office is located or, in the case of any Lender, in which its Applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located, (c) any backup withholding tax that is required by the Internal Revenue Code to be withheld from amounts payable to a Lender that has failed to comply with clause (A) of Section 2.14(e)(ii), and (d) in the case of a Foreign Lender (other than as agreed to between any assignee and the Borrower pursuant to a request by the Borrower under Section 2.20), any United States withholding tax that (i) is required to be imposed on amounts payable to such Foreign Lender pursuant to the Laws in force at the time such Foreign Lender becomes a party hereto (or designates a new Applicable Lending Office) or (ii) is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with clause (B) of Section 2.14(e)(ii), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Applicable Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.14(a)(i) or (ii).

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Agent on such day on such transactions as determined by the Agent.

"Fee Letters" means (a) each of the following letters to the Borrower dated December 24, 2009: (i) the letter from Bank of America, N.A., Banc of America Securities LLC, Wells Fargo and Wells Fargo Securities, LLC, (ii) the letter from Credit Suisse AG, Cayman Islands Branch and Credit Suisse Securities (USA) LLC, and (iii) the letter from Barclays Bank PLC, each relating to certain fees payable by the Borrower to such parties in respect of the transactions contemplated by this Agreement and (b) any letter between the Borrower and any Issuing Bank other than an Initial Issuing Bank relating to certain fees payable to such Issuing Bank in its capacity as such, each as amended, modified, restated or supplemented from time to time.

"Foreign Lender" means any Lender that is organized under the Laws of a jurisdiction other than that in which the Borrower is resident for tax purposes (including such a Lender when acting in the capacity of an Issuing Bank). For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" has the meaning specified in Section 1.03.

"Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" means as to any Person, any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Indebtedness of any other Person or in any manner providing for the payment of any Indebtedness of any other Person or otherwise protecting the holder of such Indebtedness against loss (whether by virtue of partnership arrangements, agreements to keep well, to purchase assets, goods, securities or services, or to take-or-pay or otherwise), provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Hazardous Materials" means (a) petroleum and petroleum products, byproducts or breakdown products, radioactive materials, asbestos-containing materials, polychlorinated biphenyls and radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any Environmental Law.

"Hedge Agreement" means any interest rate swap, cap or collar agreement, interest rate future or option contract, currency swap agreement, currency future or option contract, commodity future or option contract, commodity forward contract or other similar agreement.

"Increase Date" has the meaning specified in Section 2.18(a).

"Increasing Lender" has the meaning specified in Section 2.18(b).

"Indebtedness" means as to any Person at any date (without duplication): (a) indebtedness created, issued, incurred or assumed by such Person for borrowed money or evidenced by bonds, debentures, notes or similar instruments; (b) all obligations of such Person to pay the deferred purchase price of property or services, excluding, however, trade accounts payable (other than for borrowed money) arising in, and accrued expenses incurred in, the ordinary course of business of such Person so long as such trade accounts payable are paid within 180 days of the date incurred; (c) all Indebtedness secured by a lien on any asset of such Person, to the extent such Indebtedness has been assumed by, or is a recourse obligation of, such Person; (d) all Guarantees by such Person; (e) all Capital Lease Obligations of such Person; and (f) the amount of all reimbursement obligations of such Person (whether contingent or otherwise) in respect of letters of credit, bankers' acceptances, surety or other bonds and similar instruments in support of Indebtedness.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Initial Issuing Banks" has the meaning given to such term in the introductory paragraph hereof.

"Initial Lenders" has the meaning given to such term in the introductory paragraph hereof.

"Interest Period" means, for each Eurodollar Rate Advance comprising part of the same Borrowing, the period commencing on the date such Eurodollar Rate Advance is disbursed or the date of the Conversion of any Base Rate Advance into such Eurodollar Rate Advance and ending on the last day of the period selected by the Borrower pursuant to the provisions below and, thereafter, each subsequent period commencing on the last day of the immediately preceding Interest Period and ending on the last day of the period selected by the Borrower pursuant to the provisions below. The duration of each such Interest Period shall be one, two, three or six months, as the Borrower may, upon notice received by the Agent not later than 12:00 noon on the third Business Day prior to the first day of such Interest Period, select; provided, however, that:

(a) the Borrower may not select any Interest Period that ends after the Termination Date;

(b) Interest Periods commencing on the same date for Eurodollar Rate Advances comprising part of the same Borrowing shall be of the same duration;

(c) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day, provided, however, that, if such extension would cause the last day of such Interest Period to occur in the next following calendar month, the last day of such Interest Period shall occur on the next preceding Business Day; and

(d) whenever the first day of any Interest Period occurs on a day of an initial calendar month for which there is no numerically corresponding day in the calendar month that succeeds such initial calendar month by the number of months equal to the number of months in such Interest Period, such Interest Period shall end on the last Business Day of such succeeding calendar month.

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

"IRS" means the United States Internal Revenue Service.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

"Issuing Bank" means the Initial Issuing Banks or any other Lender approved by the Borrower that may agree to issue Letters of Credit pursuant to an Assignment and Assumption or other agreement in form satisfactory to the Borrower and the Agent, so long as such Lender expressly agrees to perform in accordance with their terms all of the obligations that by the terms of this Agreement are required to be performed by it as an Issuing Bank and notifies the Agent of its Applicable Lending Office (which information shall be recorded by the Agent in the Register), for so long as such Initial Issuing Bank or Lender, as the case may be, shall have a Letter of Credit Commitment.

"L/C Advance" means, with respect to each Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Ratable Share.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made nor refinanced as a Base Rate Advance.

"L/C Cash Deposit Account" means an interest bearing cash deposit account to be established and maintained by the Agent, over which the Agent shall have sole dominion and control, upon terms as may be satisfactory to the Agent.

"L/C Obligations" means, as at any date of determination, the aggregate Available Amount of all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For all purposes of this Agreement, if on any date of

determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"L/C Related Documents" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by any Issuing Bank and the Borrower or in favor of any Issuing Bank and relating to such Letter of Credit.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

"Lenders" means the Initial Lenders, each Issuing Bank, each Assuming Lender that shall become a party hereto pursuant to Section 2.18 and each Person that shall become a party hereto pursuant to Section 8.07.

"Letter of Credit" has the meaning specified in Section 2.01(b).

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by any Issuing Bank.

"Letter of Credit Commitment" means, with respect to each Issuing Bank, the obligation of such Issuing Bank to issue Letters of Credit for the account of the Borrower from time to time in an aggregate amount equal to (a) for each of the Initial Issuing Banks, $250,000,000 and (b) for any other Issuing Bank, as separately agreed to by such Issuing Bank and the Borrower. The Letter of Credit Commitment is part of, and not in addition to, the Revolving Credit Commitments.

"Letter of Credit Expiration Date" means the day that is five Business Days prior to the Termination Date.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge or other security interest or preferential arrangement that has the practical effect of creating a security interest, including, without limitation, the lien or retained security title of a conditional vendor and any easement, right of way or other encumbrance on title to real property, and any Capital Lease having substantially the same economic effect as any of the foregoing.

"Loan Documents" mean this Agreement, each Note, each L/C Related Document and the Fee Letters.

"Material Adverse Effect" means a material adverse effect on (a) the financial condition or financial prospects of the Borrower and its Subsidiaries taken as a whole, (b) the rights and remedies of the Agent or any Lender under this Agreement or any Note or (c) the ability of the Borrower to perform its obligations under this Agreement or any Note.

"Material Subsidiary" means, at any time, a Subsidiary of the Borrower which as of such time meets the definition of a "significant subsidiary" in Regulation S-X of the Securities and Exchange Commission or whose assets at such time exceed 10% of the assets of the Borrower and the Subsidiaries (on a consolidated basis).

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Note" means a promissory note of the Borrower payable to the order of any Lender, delivered pursuant to a request made under Section 2.16 in substantially the form of Exhibit A hereto.

"Notice of Borrowing" has the meaning specified in Section 2.02(a).

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower arising under any Loan Document or otherwise with respect to any Advance or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue under any Loan Document after the commencement by or against the Borrower of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"Other Taxes" means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Plan" means any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

"Permitted Lien" of the Borrower or any Material Subsidiary means any of the following:

(i) Liens for taxes, assessments or other governmental charges or levies not at the time delinquent or thereafter payable without penalty or being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been made;

(ii) Liens imposed by or arising by operation of law, such as Liens of carriers, warehousemen, mechanics, materialmen and landlords incurred in the ordinary course of business, including, without limitation, landlord's liens arising under Arizona Law under leases entered into by the Borrower in the 1986 sale and leaseback transactions with respect to Palo Verde Unit 2 and securing the payment of rent under such leases, in each case, for sums not overdue for a period of more than 30 days or being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been made;

(iii) Liens incurred in the ordinary course of business in connection with worker's compensation, unemployment insurance or other forms of governmental insurance or benefits or other similar statutory obligations;

(iv) Liens to secure obligations on surety or appeal bonds;

(v) Liens on cash deposits in the nature of a right of setoff, banker's lien, counterclaim or netting of cash amounts owed arising in the ordinary course of business on deposit accounts, commodity accounts or securities accounts;

(vi) easements, restrictions, reservations, licenses, covenants, and other defects of title that are not, in the aggregate, materially adverse to the use of such property for the purpose for which it is used;

(vii) Liens securing claims against or other obligations of any Person other than the Borrower or any Subsidiary of the Borrower neither assumed nor guaranteed by the Borrower or any Subsidiary of the Borrower nor on which the Borrower or any Subsidiary of the Borrower customarily pays interest, existing upon real estate or rights in or relating to real estate acquired by the Borrower or any Subsidiary of the Borrower for use in the operation of the business of the Borrower or any Subsidiary of the Borrower, including, without limitation, for the generation, transmission or distribution of electric energy, transportation, telephonic, telegraphic, radio, wireless or other electronic communication or any other purpose;

(viii) rights reserved to or vested in and Liens on assets arising out of obligations or duties to any municipality or public authority with respect to any right, power, franchise, grant, license or permit, or by any provision of Law;

(ix) rights reserved to or vested in others to take or receive any part of the power pursuant to firm power commitment contracts, purchased power contracts, tolling agreements and similar agreements, coal, gas, oil or other minerals, timber or other products generated, developed, manufactured or produced by, or grown on, or acquired with, any property of the Borrower;

(x) rights reserved to or vested in any municipality or public authority to control or regulate any property of the Borrower, or to use such property in a manner that does not materially impair the use of such property for the purposes for which it is held by the Borrower;

(xi) security interests granted in favor of the lessors in the Borrower's Decommissioning Trust Agreement (PVNGS Unit 2) dated as of January 31, 1992 (such agreement, as amended or otherwise modified from time to time, being the "Unit 2 Trust Agreement") entered into in connection with the Unit 2 sale leaseback transaction to secure the Borrower's obligations in respect of the decommissioning of PVNGS Unit 2 or related facilities;

(xii) Liens that may exist with respect to the Unit 2 Trust Agreement (other than as described in paragraph (xi) above) or with respect to either of the Borrower's Decommissioning Trust Agreement (PVNGS Unit 1) or Decommissioning Trust Agreement (PVNGS Unit 3), each dated as of July 1, 1991, as amended or otherwise modified from time to time, relating to the Borrower's obligation to set aside funds for the decommissioning and retirement from service of such Units;

(xiii) pledges of pollution control bonds and related rights to secure the Borrower's reimbursement obligations in respect of letters of credit, bond insurance, and other credit or liquidity enhancements supporting pollution control bond transactions, provided that such pollution control bonds are not secured by any other assets of the Borrower or any Material Subsidiary;

(xiv) rights and interests of Persons other than the Borrower or any Material Subsidiary (including, without limitation, acquisition rights), related obligations of the Borrower or any Material Subsidiary and restrictions on it or its property arising out of contracts, agreements and other instruments to which the Borrower or any Material Subsidiary is a party that relate to the common ownership or joint use of property or other use of property for the benefit of one or more third parties or that allow a third party to purchase property of the Borrower or any Material Subsidiary and all Liens on the interests of Persons other than the Borrower or any Material Subsidiary in such property;

(xv) transfers of operational or other control of facilities to a regional transmission organization or other similar body and Liens on such facilities to cover expenses, fees and other costs of such an organization or body;

(xvi) Liens established on specified bank accounts of the Borrower to secure the Borrower's reimbursement obligations in respect of letters of credit supporting commercial paper issued by the Borrower and similar arrangements for collateral security with respect to refinancings or replacements of the same;

(xvii) rights of transmission users or any regional transmission organizations or similar entities in transmission facilities;

(xviii) Liens on property of the Borrower sold to another Person pursuant to a conditional sales agreement where the Borrower retains title;

(xix) Liens created under this Agreement;

(xx) Liens on cash or cash equivalents not to exceed $200,000,000 (A) deposited in margin accounts with or on behalf of futures contract brokers or paid over to

other contract counterparties or (B) pledged or deposited as collateral to a contract counterparty to secure obligations with respect to (1) contracts (other than for Indebtedness) for commercial and trading activities in the ordinary course of business for the purchase, transmission, distribution, sale, storage, lease or hedge of any energy or energy related commodity or (2) Hedge Agreements;

(xxi) Liens granted on cash or cash equivalents to defease Indebtedness of the Borrower or any of its Subsidiaries;

(xxii) Liens granted on cash or cash equivalents constituting proceeds from any sale or disposition of assets that is not prohibited by Section 5.02(c) deposited in escrow accounts or otherwise withheld or set aside to secure obligations of the Borrower or any Subsidiary providing for indemnification, adjustment of purchase price or any similar obligations, in each case, in an amount not to exceed the amount of gross proceeds received by the Borrower or any Subsidiary in connection with such sale or disposition;

(xxiii) Liens, deposits and similar arrangements to secure the performance of bids, tenders or contracts (other than contracts for borrowed money), public or statutory obligations, performance bonds and other obligations of a like nature incurred in the ordinary course of business by the Borrower or any of its Subsidiaries;

(xxiv) rights of lessees arising under leases entered into by the Borrower or any of its Subsidiaries as lessor, in the ordinary course of business;

(xxv) any Liens on or reservations with respect to governmental and other licenses, permits, franchises, consents and allowances;

(xxvi) Liens on property which is the subject of a Capital Lease Obligation designating the Borrower or any of its Subsidiaries as lessee and all right, title and interest of the Borrower or any of its Subsidiaries in and to such property and in, to and under such lease agreement, whether or not such lease agreement is intended as a security;

(xxvii) licenses of intellectual property entered into in the ordinary course of business;

(xxviii) Liens solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(xxix) Deposits or funds established for the removal from service of operating facilities and coal mines and related facilities or other similar facilities used in connection therewith; and

(xxx) Liens on cash deposits used to secure letters of credit under defaulting lender provisions in credit or reimbursement facilities.

provided, however, that no lien in favor of the PBGC shall, in any event, be a Permitted Lien.

"Person" means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

"Plan" means any "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) established by the Borrower or, with respect to any such plan that is subject to Section 412 of the Internal Revenue Code or Title IV of ERISA, any ERISA Affiliate.

"Public Debt Rating" means, as of any date, the rating that has been most recently announced by either S&P or Moody's, as the case may be, for any class of non-credit enhanced long-term senior unsecured debt issued by the Borrower or, if any such rating agency shall have issued more than one such rating, the lowest such rating issued by such rating agency. For purposes of the foregoing, (a) if only one of S&P and Moody's shall have in effect a Public Debt Rating, the Applicable Rate shall be determined by reference to the available rating; (b) if neither S&P nor Moody's shall have in effect a Public Debt Rating, the Applicable Rate will be set in accordance with Level 5 under the definition of "Applicable Rate"; (c) if the ratings established by S&P and Moody's shall fall within different levels, the Applicable Rate shall be based upon the higher rating unless such ratings differ by two or more levels, in which case the applicable level will be deemed to be one level below the higher of such levels; (d) if any rating established by S&P or Moody's shall be changed (other than as a result of a change in the basis on which ratings are established), such change shall be effective as of the date on which such change is first announced publicly by the rating agency making such change; and (e) if S&P or Moody's shall change the basis on which ratings are established, each reference to the Public Debt Rating announced by S&P or Moody's, as the case may be, shall refer to the then equivalent rating by S&P or Moody's, as the case may be.

"PWCC" means Pinnacle West Capital Corporation, an Arizona corporation.

"Ratable Share" of any amount means, with respect to any Lender at any time but subject to the provisions of Section 2.19, the product of such amount times a fraction the numerator of which is the amount of such Lender's Revolving Credit Commitment at such time (or, if the Revolving Credit Commitments shall have been terminated pursuant to Section 2.05 or 6.01, such Lender's Revolving Credit Commitment as in effect immediately prior to such termination) and the denominator of which is the aggregate amount of all Revolving Credit Commitments at such time (or, if the Revolving Credit Commitments shall have been terminated pursuant to Section 2.05 or 6.01, the aggregate amount of all Revolving Credit Commitments as in effect immediately prior to such termination).

"Register" has the meaning specified in Section 8.07(c).

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person's Affiliates.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived under the final regulations issued under Section 4043, as in effect as of the date of this Agreement (the "Section 4043 Regulations"). Any changes made to the Section 4043 Regulations that become effective after the Effective Date shall have no impact on the definition of Reportable Event as used herein unless otherwise amended by the Borrower and the Required Lenders.

"Required Lenders" means, at any time, but subject to Section 2.19, Lenders holding in the aggregate more than 50% of (a) the Revolving Credit Commitments or (b) if the Revolving Credit Commitments have been terminated, the Total Outstandings.

"Revolving Credit Commitment" means, as to any Lender, its obligation to (a) make Advances to the Borrower pursuant to Section 2.01 and 2.03(c), and (b) purchase participations in L/C Obligations, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 1.01 under the column "Revolving Credit Commitment" or if such Lender has become a Lender hereunder pursuant to an Assumption Agreement or if such Lender has entered into any Assignment and Assumption, the amount set forth for such Lender in the Register, in each case as such amount may be reduced pursuant to Section 2.05 or increased pursuant to Section 2.18.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.

"Sale Leaseback Obligation Bonds" means PVNGS II Funding Corp.'s (a) 8.00% Secured Lease Obligation Bonds, Series 1993, due 2015; (b) any other bonds issued by or on behalf of the Borrower in connection with a sale/leaseback transaction; and (c) any refinancing or refunding of the obligations specified in subclauses (a) and (b) above.

"SEC Reports" means the Borrower's (i) Form 10-K Report for the year ended December 31, 2008, (ii) Form 10-Q Reports for the quarters ended March 31, 2009, June 30, 2009 and September 30, 2009 and (iii) Form 8-K Reports filed on January 26, 2009, February 20, 2009, February 25, 2009, March 3, 2009, March 24, 2009, March 24, 2009, April 22, 2009, May 4, 2009, May 5, 2009, June 2, 2009, June 15, 2009, July 1, 2009, August 4, 2009, September 25, 2009, October 29, 2009, November 2, 2009, November 18, 2009, December 17, 2009, December 21, 2009, January 25, 2010 and February 1, 2010.

"Subsequent Order" means any decision, order or ruling of the Arizona Corporation Commission issued after the Effective Date relating to the incurrence or maintenance of Indebtedness by the Borrower and that amends, supersedes or otherwise modifies the 2007 Order or any successor decision, order or ruling.

"Subsidiary" of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding Voting Stock, (b) the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Termination Date" means the earlier of (a) February 12, 2013 and (b) the date of termination in whole of the Commitments pursuant to Section 2.05 or 6.01.

"Total Outstandings" means the sum of (a) the aggregate principal amount of all Advances plus (b) all L/C Obligations outstanding.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

"Unissued Letter of Credit Commitment" means, with respect to any Issuing Bank, the obligation of such Issuing Bank to issue Letters of Credit for the account of the Borrower in an amount equal to the excess of (a) the amount of its Letter of Credit Commitment over (b) the aggregate Available Amount of all Letters of Credit issued by such Issuing Bank.

"Unused Commitment" means, with respect to each Lender at any time, (a) such Lender's Revolving Credit Commitment at such time minus (b) the sum of (i) the aggregate principal amount of all Advances made by such Lender (in its capacity as a Lender) and outstanding at such time and (ii) such Lender's Ratable Share of the aggregate L/C Obligations outstanding at such time.

"Voting Stock" means capital stock issued by a corporation, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even if the right so to vote has been suspended by the happening of such a contingency.

"Wells Fargo" means Wells Fargo Bank, National Association.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's permitted successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such

references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 Accounting Terms. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with generally accepted accounting principles as in effect from time to time, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants) with the most recent audited Consolidated financial statements of the Borrower delivered to the Agent ("GAAP"). If at any time any change in GAAP or in the interpretation thereof would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP or in the interpretation thereof (subject to the approval of the Required Lenders); provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein.

Section 1.04 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

ARTICLE II

AMOUNTS AND TERMS OF THE ADVANCES AND LETTERS OF CREDIT

Section 2.01 The Advances and Letters of Credit.

(a) The Advances. Each Lender severally agrees, on the terms and conditions hereinafter set forth, to make Advances in Dollars to the Borrower from time to time on any Business Day during the period from the Effective Date until the Termination Date in an amount

not to exceed such Lender's Unused Commitment. Each Borrowing shall be in an aggregate amount of $10,000,000 or an integral multiple of $1,000,000 in excess thereof and shall consist of Advances of the same Type made on the same day by the Lenders ratably according to their respective Revolving Credit Commitments. Within the limits of each Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(a), prepay pursuant to Section 2.10 and reborrow under this Section 2.01(a).

(b) Letters of Credit. Each Issuing Bank agrees, on the terms and conditions hereinafter set forth, in reliance upon the agreements of the other Lenders set forth in this Agreement, to issue letters of credit (each, a "Letter of Credit") for the account of the Borrower from time to time on any Business Day during the period from the Effective Date until 30 days before the Termination Date in an aggregate Available Amount for all Letters of Credit issued by each Issuing Bank not to exceed at any time such Issuing Bank's Letter of Credit Commitment, provided that after giving effect to the issuance of any Letter of Credit, (i) the Total Outstandings shall not exceed the aggregate Revolving Credit Commitments and (ii) each Lender's Ratable Share of the Total Outstandings shall not exceed such Lender's Revolving Credit Commitment. No Letter of Credit shall have an expiration date (including all rights of the Borrower or the beneficiary to require renewal) later than the Letter of Credit Expiration Date. Within the limits referred to above, the Borrower may from time to time request the issuance of Letters of Credit under this Section 2.01(b). The terms "issue", "issued", "issuance" and all similar terms, when applied to a Letter of Credit, shall include any renewal, extension or amendment thereof.

Section 2.02 Making the Advances.

(a) Except as otherwise provided in Section 2.03(c), each Borrowing shall be made on notice, given not later than (x) 12:00 noon on the third Business Day prior to the date of the proposed Borrowing in the case of a Borrowing consisting of Eurodollar Rate Advances or (y) 12:00 noon on the date of the proposed Borrowing in the case of a Borrowing consisting of Base Rate Advances, by the Borrower to the Agent, which shall give to each Lender prompt notice thereof by facsimile. Each such notice of a Borrowing (a "Notice of Borrowing") shall be in writing or by facsimile in substantially the form of Exhibit B hereto, specifying therein the requested (i) date of such Borrowing, (ii) Type of Advances comprising such Borrowing, (iii) aggregate amount of such Borrowing, and (iv) in the case of a Borrowing consisting of Eurodollar Rate Advances, initial Interest Period for each such Advance. Each Lender shall, in the case of a Borrowing consisting of Base Rate Advances, before 2:00 p.m. on the date of such Borrowing, and in the case of a Borrowing consisting of Eurodollar Rate Advances, before 11:00 a.m. on date of such Borrowing, make available for the account of its Applicable Lending Office to the Agent at the Agent's Account, in same day funds, such Lender's Ratable Share of such Borrowing. After the Agent's receipt of such funds and upon fulfillment of the applicable conditions set forth in Article III, the Agent will make such funds available to the Borrower at the Agent's address referred to in Section 8.02 or as requested by the Borrower in the applicable Notice of Borrowing.

(b) Anything in subsection (a) above to the contrary notwithstanding, (i) the Borrower may not select Eurodollar Rate Advances for any Borrowing if the aggregate amount of such Borrowing is less than $10,000,000 or if the obligation of the Lenders to make

Eurodollar Rate Advances shall then be suspended pursuant to Section 2.08 or 2.12 and (ii) at no time shall there be more than fifteen different Interest Periods outstanding for Eurodollar Rate Advances.

(c) Each Notice of Borrowing shall be irrevocable and binding on the Borrower. In the case of any Borrowing that the related Notice of Borrowing specifies is to be comprised of Eurodollar Rate Advances, the Borrower shall indemnify each Lender against any loss, cost or expense reasonably incurred by such Lender as a result of any failure to fulfill on or before the date specified in such Notice of Borrowing for such Borrowing the applicable conditions set forth in Article III, including, without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund the Advance to be made by such Lender as part of such Borrowing when such Advance, as a result of such failure, is not made on such date.

(d) Unless the Agent shall have received notice from a Lender prior to the time of the applicable Borrowing that such Lender will not make available to the Agent such Lender's Ratable Share of such Borrowing, the Agent may assume that such Lender has made such portion available to the Agent on the date of such Borrowing in accordance with subsection (a) of this Section 2.02 and the Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Lender shall not have so made such Ratable Share available to the Agent, such Lender and the Borrower severally agree to repay to the Agent within one Business Day after demand for such Lender and within three Business Days after demand for the Borrower such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Agent, at (i) in the case of the Borrower, the interest rate applicable at the time to Advances comprising such Borrowing and (ii) in the case of such Lender, the Federal Funds Rate. If the Borrower and such Lender shall pay such interest to the Agent for the same or an overlapping period, the Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender shall repay to the Agent such corresponding amount, such amount so repaid shall constitute such Lender's Advance as part of such Borrowing for purposes of this Agreement.

(e) The failure of any Lender to make the Advance to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Advance on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Advance to be made by such other Lender on the date of any Borrowing.

Section 2.03 Letters of Credit.

(a) General.

(i) No Issuing Bank shall issue any Letter of Credit, if the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date.

(ii) No Issuing Bank shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any Law applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which, in each such case, such Issuing Bank in good faith deems material to it;

(B) except as otherwise agreed by the Borrower and such Issuing Bank, such Letter of Credit is in an initial stated amount less than $50,000, in the case of a commercial Letter of Credit, or $500,000, in the case of a standby Letter of Credit;

(C) such Letter of Credit is to be denominated in a currency other than Dollars;

(D) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder;

(E) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension; or

(F) any Lender is at such time an Affected Lender hereunder, unless the applicable Issuing Bank is satisfied that the related exposure will be 100% covered by the Commitments of the non-Affected Lenders or, if not so covered, until such Issuing Bank has entered into arrangements satisfactory to it in its sole discretion with the Borrower or such Affected Lender to eliminate such Issuing Bank's risk with respect to such Affected Lender, and participating interests in any such newly issued Letter of Credit shall be allocated among non-Affected Lenders in a manner consistent with Section 2.19(c)(i) (and Affected Lenders shall not participate therein);

(iii) No Issuing Bank shall amend any Letter of Credit if such Issuing Bank would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(iv) No Issuing Bank shall be under any obligation to amend any Letter of Credit if (A) such Issuing Bank would have no obligation at such time to issue such

Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable Issuing Bank (with a copy to the Agent) in the form of a Letter of Credit Application, appropriately completed and signed by an Authorized Officer of the Borrower. Such Letter of Credit Application must be received by such Issuing Bank and the Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Agent and such Issuing Bank may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable Issuing Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such Issuing Bank may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable Issuing Bank (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such Issuing Bank may require. Additionally, the Borrower shall furnish to the applicable Issuing Bank and the Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any L/C Related Documents, as the applicable Issuing Bank or the Agent may require. In the event and to the extent that the provisions of any Letter of Credit Application or other L/C Related Document shall conflict with this Agreement, the provisions of this Agreement shall govern. Without limitation of the immediately preceding sentence, no such Letter of Credit Application or other L/C Related Document may impose any additional conditions on the issuance or maintenance of a Letter of Credit, any additional default provisions, collateral requirements or other obligations of the Borrower to any Issuing Bank, other than as stated in this Agreement.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable Issuing Bank will confirm with the Agent (by telephone or in writing) that the Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, such Issuing Bank will provide the Agent with a copy thereof. Unless the applicable Issuing Bank has received written notice from the Required Lenders, the Agent or the Borrower, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article III shall not then be satisfied, then, subject to the terms and conditions hereof, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower

or enter into the applicable amendment, as the case may be, in each case in accordance with such Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Ratable Share times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the applicable Issuing Bank may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such Issuing Bank to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Bank, the Borrower shall not be required to make a specific request to the applicable Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the applicable Issuing Bank to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the applicable Issuing Bank shall not permit any such extension (or may issue a Notice of Non-Extension) if (A) such Issuing Bank has determined that it would not be permitted at such time to issue such Letter of Credit in its revised form (as extended) by reason of the provisions of clause (i) of Section 2.03(a) (or would have no obligation to issue such Letter of Credit by reason of the provisions of clause (ii) of Section 2.03(a)), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Agent that the Required Lenders have elected not to permit such extension pursuant to Section 6.02 or (2) from the Agent, the Required Lenders or the Borrower that one or more of the applicable conditions specified in Section 3.02 is not then satisfied, and in each such case directing such Issuing Bank not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Borrower and the Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Subject to the provisions below, not later than 2:30 p.m. on the date (the "Honor Date") that any Issuing Bank makes any payment on a drawing on any Letter of Credit, if the Borrower shall have received notice of such payment prior to 11:30 a.m. on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 2:30 p.m. on the next Business Day, the Borrower shall reimburse such Issuing Bank through the Agent in an amount equal to the amount of such drawing together with interest thereon. If the Borrower fails to so reimburse such Issuing

Bank by such time, unless the Borrower shall have advised the Agent that it does not meet the conditions specified in either clause (B) or (C) below, the Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Lender's Ratable Share thereof. In such event, the Borrower shall be deemed to have requested a Base Rate Advance to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.01(a) or the delivery of a Notice of Borrowing, but subject to (A) the amount of the aggregate Unused Commitments, (B) no Event of Default having occurred and be continuing, or resulting therefrom, and (C) the conditions specified in Sections 3.02(c) through (i) being satisfied on and as of the date of the applicable Base Rate Advance and, to the extent so financed, the Borrower's obligation to satisfy the reimbursement obligation created by such payment by the Issuing Bank on the Honor Date shall be discharged and replaced by the resulting Base Rate Advance. Any notice given by any Issuing Bank or the Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available to the Agent for the account of the applicable Issuing Bank at the Agent's Office in an amount equal to its Ratable Share of the Unreimbursed Amount not later than 4:00 p.m. on the Business Day specified in such notice by the Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Advance to the Borrower in such amount. The Agent shall remit the funds so received to the applicable Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Base Rate Advance because any of the conditions set forth in clauses (A), (B) or (C) of Section 2.03(c)(i) cannot be satisfied or for any other reason, then not later than 2:30 p.m. on the next Business Day after the day notice of the drawing is given to the Borrower, in the case of a failure to meet any such condition, or in any other case, after notice of the event resulting in the outstanding Unreimbursed Amount, the Borrower shall reimburse such Issuing Bank through the Agent in an amount equal to the amount of such outstanding Unreimbursed Amount with interest thereon. If the Borrower fails to so reimburse such Issuing Bank by such time, the Borrower shall be deemed to have incurred from the applicable Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Base Rate in effect from time to time plus the Applicable Rate for Base Rate Advances in effect from time to time plus 2% per annum. In such event, each Lender's payment to the Agent for the account of the applicable Issuing Bank pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Lender funds its Base Rate Advance or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable Issuing Bank for any amount drawn

under any Letter of Credit, interest in respect of such Lender's Ratable Share of such amount shall be solely for the account of the applicable Issuing Bank.

(v) Each Lender's obligation to make Base Rate Advances or L/C Advances to reimburse the applicable Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such Issuing Bank, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Base Rate Advances pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 2.03(c)(i). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the applicable Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Agent for the account of the applicable Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), such Issuing Bank shall be entitled to recover from such Lender (acting through the Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such Issuing Bank in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Base Rate Advance included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the applicable Issuing Bank submitted to any Lender (through the Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the applicable Issuing Bank has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Agent receives for the account of such Issuing Bank any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral (as defined in Section 2.03(h)) applied thereto by the Agent), the Agent will distribute to such Lender its Ratable Share thereof in the same funds as those received by the Agent.

(ii) If any payment received by the Agent for the account of the applicable Issuing Bank pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 8.12 (including pursuant to any settlement entered

into by such Issuing Bank in its discretion), each Lender shall pay to the Agent for the account of such Issuing Bank its Ratable Share thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Failure to Make Advances. The failure of any Lender to make the Advance to be made by it on the date specified in Section 2.03(c) or any L/C Advance shall not relieve any other Lender of its obligation hereunder to make its Advance or L/C Advance, as the case may be, to be made by such other Lender on such date.

(f) Obligations Absolute. The obligation of the Borrower to reimburse the applicable Issuing Bank for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), any Issuing Bank or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the applicable Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the applicable Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

provided, however, that nothing in this Section 2.03(f) shall limit the rights of the Borrower under Section 2.03(g).

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity that is known to the Borrower in connection with any draw under such Letter of Credit of which the Borrower has reasonable notice, the Borrower will immediately notify the applicable Issuing Bank. To the extent allowed by applicable Law, Borrower shall be conclusively deemed to have waived any such claim against the applicable Issuing Bank and its correspondents unless such notice is given as aforesaid. Nothing herein shall require the Borrower to make any determination as to whether the drawing is in accordance with the requirements of the Letter of Credit, provided that the Borrower may waive any discrepancies in the drawing on any such Letter of Credit.

(g) Role of Issuing Bank. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the applicable Issuing Bank shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the applicable Issuing Bank, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of such Issuing Bank shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or L/C Related Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at Law or under any other agreement. None of the applicable Issuing Bank, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of such Issuing Bank shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.03(f); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the applicable Issuing Bank, and such Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such Issuing Bank's willful misconduct or gross negligence or such Issuing Bank's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the applicable Issuing Bank may accept documents that appear on its face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and such Issuing Bank shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a 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.

(h) Cash Collateral. Upon the request of the Agent, if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then outstanding L/C Obligations. Section 6.02 sets forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of

this Section 2.03 and Section 6.02, "Cash Collateralize" means to pledge and deposit with or deliver to the Agent, for the benefit of the Issuing Banks and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Agent and each Issuing Bank (which documents are hereby consented to by the Lenders). Derivatives of such term have corresponding meanings. The Borrower hereby grants to the Agent, for the benefit of the Issuing Banks and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, non-interest bearing deposit accounts with the Agent.

(i) Applicability of ISP and UCP. Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance shall apply to each commercial Letter of Credit.

(j) Letter of Credit Reports. Each Issuing Bank shall furnish (A) to the Agent on the first Business Day of each month a written report summarizing issuance and expiration dates of Letters of Credit issued by such Issuing Bank during the preceding month and drawings during such month under all such Letters of Credit and (B) to the Agent on the first Business Day of each calendar quarter a written report setting forth the average daily aggregate Available Amount during the preceding calendar quarter of all Letters of Credit issued by such Issuing Bank.

(k) Interim Interest. Except as provided in Section 2.03(c)(ii) with respect to Unreimbursed Amounts refinanced as Base Rate Advances and Section 2.03(c)(iii) with respect to L/C Borrowings, unless the Borrower shall reimburse each payment by an Issuing Bank pursuant to a Letter of Credit in full on the Honor Date, the Unreimbursed Amount thereof shall bear interest, for each day from and including the Honor Date to but excluding the date that the Borrower reimburses such Issuing Bank for the Unreimbursed Amount in full, at the rate per annum equal to (i) the Base Rate in effect from time to time plus the Applicable Rate for Base Rate Advances in effect from time to time, to but excluding the next Business Day after the Honor Date and (ii) from and including the next Business Day after the Honor Date, the Base Rate in effect from time to time plus the Applicable Rate for Base Rate Advances in effect from time to time plus 2% per annum.

Section 2.04 Fees.

(a) Commitment Fee. The Borrower agrees to pay to the Agent for the account of each Lender a commitment fee on such Lender's Unused Commitment from the Effective Date in the case of each Initial Lender and from the effective date specified in the Assumption Agreement or in the Assignment and Assumption pursuant to which it became a Lender in the case of each other Lender until the Termination Date at a rate per annum equal to the Applicable Rate for Commitment Fees in effect from time to time, payable in arrears quarterly on the last day of each March, June, September and December, commencing March 31, 2010, and on the Termination Date, provided that no commitment fee shall accrue with respect to the Unused Commitment of an Affected Lender so long as such Lender shall be an Affected Lender.

(b) Letter of Credit Fees.

(i) The Borrower shall pay to the Agent for the account of each Lender a commission on such Lender's Ratable Share of the average daily aggregate Available Amount of all Letters of Credit outstanding from time to time at a rate per annum equal to the Applicable Rate for Eurodollar Rate Advances in effect from time to time, during such calendar quarter, payable in arrears quarterly on the last day of each March, June, September and December, commencing with the quarter ended March 31, 2010, and on the Termination Date; provided that the Applicable Rate for Eurodollar Rate Advances shall be 2% above such Applicable Rate in effect upon the occurrence and during the continuation of an Event of Default if the Borrower is required to pay default interest pursuant to Section 2.07(b).

(ii) The Borrower shall pay to each Issuing Bank, for its own account, a fronting fee with respect to each Letter of Credit issued by such Issuing Bank, payable in the amounts and at the times specified in the applicable Fee Letter between the Borrower and such Issuing Bank, and such other commissions, issuance fees, transfer fees and other fees and charges in connection with the issuance or administration of each Letter of Credit as the Borrower and such Issuing Bank shall agree promptly following receipt of an invoice therefor.

(c) Agent's Fees. The Borrower shall pay to the Agent for its own account such fees as are agreed between the Borrower and the Agent pursuant to the Fee Letter between the Borrower and the Agent.

Section 2.05 Optional Termination or Reduction of the Commitments.

(a) The Borrower shall have the right, upon at least three Business Days' notice to the Agent, to terminate in whole or permanently reduce ratably in part the Unused Commitments or the Unissued Letter of Credit Commitments, provided that each partial reduction shall be in the aggregate amount of $10,000,000 or an integral multiple of $1,000,000 in excess thereof.

(b) So long as no Default or Event of Default shall be continuing, the Borrower shall have the right, at any time, upon at least ten Business Days' notice to an Affected Lender (with a copy to the Agent), to terminate in whole such Lender's Revolving Credit Commitment and, if applicable, its Letter of Credit Commitment, without affecting the Commitments of any other Lender. Such termination shall be effective, (x) with respect to such Lender's Unused Commitment, on the date set forth in such notice, provided, however, that such date shall be no earlier than ten Business Days after receipt of such notice and (y) with respect to each Advance outstanding to such Lender, in the case of Base Rate Advances, on the date set forth in such notice and, in the case of Eurodollar Rate Advances, on the last day of the then current Interest Period relating to such Advance. Upon termination of a Lender's Commitments under this Section 2.05(b), the Borrower will pay or cause to be paid all principal of, and interest accrued to the date of such payment on, Advances owing to such Lender and, subject to Section 2.19, pay any accrued commitment fees or Letter of Credit fees payable to such Lender pursuant to the provisions of Section 2.04, and all other amounts payable to such Lender hereunder (including, but not limited to, any increased costs or other amounts owing under Section 2.11 and any

indemnification for Taxes under Section 2.14); and, if such Lender is an Issuing Bank, shall pay to such Issuing Bank for deposit in an escrow account an amount equal to the Available Amount of all Letters of Credit issued by such Issuing Bank, whereupon all Letters of Credit issued by such Issuing Bank shall be deemed to have been issued outside of this Agreement on a bilateral basis and shall cease for all purposes to constitute a Letter of Credit issued under this Agreement, and upon such payments, except as otherwise provided below, the obligations of such Lender hereunder shall, by the provisions hereof, be released and discharged; provided, however, that (i) such Lender's rights under Sections 2.11, 2.14 and 8.04, and, in the case of an Issuing Bank, Section 8.04(c), and its obligations under Section 8.04 and 8.08, in each case in accordance with the terms thereof, shall survive such release and discharge as to matters occurring prior to such date and (ii) such escrow agreement shall be in a form reasonably agreed to by the Borrower and such Issuing Bank, but in no event shall either the Borrower or such Issuing Bank require any waivers, covenants, events of default or other provisions that are more restrictive than or inconsistent with the provisions of this Agreement. Subject to Section 2.18, the aggregate amount of the Commitments of the Lenders once reduced pursuant to this Section 2.05(b) may not be reinstated. The termination of the Commitments of an Affected Lender pursuant to this Section 2.05(b) will not be deemed to be a waiver of any right that the Borrower, the Agent, any Issuing Bank or any other Lender may have against the Affected Lender that arose prior to the date of such termination. Upon any such termination, the Ratable Share of each remaining Lender will be revised.

Section 2.06 Repayment of Advances. The Borrower shall repay to the Agent for the ratable account of the Lenders on the Termination Date the aggregate principal amount of the Advances made by such Lender and then outstanding.

Section 2.07 Interest on Advances.

(a) Scheduled Interest. The Borrower shall pay interest on the unpaid principal amount of each Advance owing to each Lender from the date of such Advance until such principal amount shall be paid in full, at the following rates per annum:

(i) Base Rate Advances. During such periods as such Advance is a Base Rate Advance, a rate per annum equal at all times to the sum of (x) the Base Rate in effect from time to time plus (y) the Applicable Rate for Base Rate Advances in effect from time to time, payable in arrears quarterly on the last day of each March, June, September and December during such periods and on the date such Base Rate Advance shall be Converted or paid in full.

(ii) Eurodollar Rate Advances. During such periods as such Advance is a Eurodollar Rate Advance, a rate per annum equal at all times during each Interest Period for such Advance to the sum of (x) the Eurodollar Rate for such Interest Period for such Advance plus (y) the Applicable Rate for Eurodollar Rate Advances in effect from time to time, payable in arrears on the last day of such Interest Period and, if such Interest Period has a duration of more than three months, on each day that occurs during such Interest Period every three months from the first day of such Interest Period and on the date such Eurodollar Rate Advance shall be Converted or paid in full.

(b) Default Interest. Upon the occurrence and during the continuance of an Event of Default under Section 6.01(a), the Agent may, and upon the request of the Required Lenders shall, require the Borrower to pay interest ("Default Interest") on (i) the unpaid principal amount of each Advance owing to each Lender, payable in arrears on the dates referred to in clause (a)(i) or (a)(ii) above, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on such Advance pursuant to clause (a)(i) or (a)(ii) above and (ii) to the fullest extent permitted by Law, the amount of any interest, fee or other amount payable hereunder that is not paid when due, from the date such amount shall be due until such amount shall be paid in full, payable in arrears on the date such amount shall be paid in full and on demand, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on Base Rate Advances pursuant to clause (a)(i) above, provided, however, that following acceleration of the Advances pursuant to Section 6.01, Default Interest shall accrue and be payable hereunder whether or not previously required by the Agent.

(c) Interest Rate Limitation. Nothing contained in this Agreement or in any other Loan Document shall be deemed to establish or require the payment of interest to any Lender at a rate in excess of the maximum rate permitted by applicable Law. If the amount of interest payable for the account of any Lender on any interest payment date would exceed the maximum amount permitted by applicable Law to be charged by such Lender, the amount of interest payable for its account on such interest payment date shall be automatically reduced to such maximum permissible amount. In the event of any such reduction affecting any Lender, if from time to time thereafter the amount of interest payable for the account of such Lender on any interest payment date would be less than the maximum amount permitted by applicable Law to be charged by such Lender, then the amount of interest payable for its account on such subsequent interest payment date shall be automatically increased to such maximum permissible amount, provided that at no time shall the aggregate amount by which interest paid for the account of any Lender has been increased pursuant to this sentence exceed the aggregate amount by which interest paid for its account has theretofore been reduced pursuant to the previous sentence.

Section 2.08 Interest Rate Determination.

(a) The Agent shall give prompt notice to the Borrower and the Lenders of the applicable interest rate determined by the Agent for purposes of Section 2.07(a).

(b) If the Required Lenders determine that for any reason in connection with any request for a Eurodollar Rate Advance or a Conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Advance, (b) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance, or (c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance does not adequately and fairly reflect the cost to such Lenders of funding such Advance, the Agent will promptly so notify the Borrower and each Lender, whereupon each Eurodollar Rate Advance will automatically on the last day of the then existing Interest Period therefor Convert into a Base Rate Advance. Thereafter, the obligation of the Lenders to make or maintain Eurodollar Rate Advances shall be suspended until the Agent (upon the instruction of the Required Lenders)

revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, Conversion to or continuation of Eurodollar Rate Advances or, failing that, will be deemed to have Converted such request into a request for a Base Rate Advance in the amount specified therein.

(c) If the Borrower shall fail to select the duration of any Interest Period for any Eurodollar Rate Advances in accordance with the provisions contained in the definition of "Interest Period" in Section 1.01, the Agent will forthwith so notify the Borrower and the Lenders and such Advances will automatically, on the last day of the then existing Interest Period therefor, Convert into Base Rate Advances.

(d) On the date on which the aggregate unpaid principal amount of Eurodollar Rate Advances comprising any Borrowing shall be reduced, by payment or prepayment or otherwise, to less than $10,000,000, such Advances shall automatically Convert into Base Rate Advances.

(e) Upon the occurrence and during the continuance of any Event of Default,

(i) with respect to Eurodollar Rate Advances, each such Advance will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Advance (or if such Advance is then a Base Rate Advance, will continue as a Base Rate Advance); and

(ii) the obligation of the Lenders to make Eurodollar Rate Advances or to Convert Advances into Eurodollar Rate Advances shall be suspended until the Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist.

Section 2.09 Optional Conversion of Advances. The Borrower may on any Business Day, upon notice given to the Agent not later than 12:00 noon on the third Business Day prior to the date of the proposed Conversion and subject to the provisions of Sections 2.08 and 2.12, Convert all Advances of one Type comprising the same Borrowing into Advances of the other Type; provided, however, that (a) any Conversion of Eurodollar Rate Advances into Base Rate Advances shall be made only on the last day of an Interest Period for such Eurodollar Rate Advances, (b) any Conversion of Base Rate Advances into Eurodollar Rate Advances shall be in an amount not less than the minimum amount specified in Section 2.02(b) and (c) no Conversion of any Advances shall result in more separate Borrowings than permitted under Section 2.02(b). Each such notice of a Conversion shall, within the restrictions specified above, specify (i) the date of such Conversion, (ii) the Advances to be Converted, and (iii) if such Conversion is into Eurodollar Rate Advances, the duration of the initial Interest Period for each such Advance. Each notice of Conversion shall be irrevocable and binding on the Borrower.

Section 2.10 Prepayments of Advances.

(a) Optional. At any time and from time to time, the Borrower shall have the right to prepay the Advances, in whole or in part, without premium or penalty (except as provided in clause (y) below), upon notice at least two Business Days' prior to the date of such prepayment, in the case of Eurodollar Rate Advances, and not later than 11:00 a.m. on the date of such prepayment, in the case of Base Rate Advances, to the Agent specifying the proposed date of

such prepayment and the aggregate principal amount and Type of the Advances to be prepaid (and, in the case of Eurodollar Rate Advances, the Interest Period of the Borrowing pursuant to which made); provided, however, that (x) each partial prepayment shall be in an aggregate principal amount of $10,000,000 or an integral multiple of $1,000,000 in excess thereof and (y) in the event of any such prepayment of a Eurodollar Rate Advance, the Borrower shall be obligated to reimburse the Lenders in respect thereof pursuant to Section 8.04(e).

(b) Mandatory.

(i) The Borrower shall prepay the aggregate principal amount of the Advances, together with accrued interest to the date of prepayment on the principal amount prepaid, without requirement of demand therefor, or shall pay or prepay any other Indebtedness then outstanding at any time, when and to the extent required to comply with applicable Laws of any Governmental Authority, including the 2007 Order, or applicable resolutions of the Board of Directors of the Borrower.

(ii) If for any reason the Total Outstandings at any time exceed the aggregate Commitments then in effect, the Borrower shall, within one Business Day after notice thereof, prepay Advances and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.10(b) unless, after the prepayment in full of the Advances, the Total Outstandings exceed the aggregate Commitments then in effect.

Section 2.11 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 2.11(e)) or any Issuing Bank; or

(ii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Rate Advance (or of maintaining its obligation to make any such Advance), or to increase the cost to such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such Issuing Bank, the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any Issuing Bank determines that any Change in Law affecting such Lender or such Issuing Bank or any Applicable Lending Office of such Lender or such Lender's or such Issuing Bank's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital or on the capital of such Lender's or such Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Advances made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Bank, as the case may be, the amount shown as due on any such certificate within 30 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than three months prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the three-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on Eurodollar Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Advance equal to the actual costs of such reserves allocated to such Advance by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 30 days' prior notice (with a copy to the Agent) of such additional interest from such Lender. If a Lender fails to give notice 30 days prior to the relevant interest payment date, such additional interest shall be due and payable 30 days from receipt of such notice.

Section 2.12 Illegality. If any Lender shall have determined in good faith that the introduction of or any change in any applicable Law or in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance with any guideline or request from any such Governmental Authority (whether or not having the force of law), for any Lender or its Applicable Lending Office to make, maintain or fund Eurodollar Rate Advances, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Agent, any obligation of such Lender to make or continue Eurodollar Rate Advances or to convert Base Rate Advances to Eurodollar Rate Advances shall be suspended until such Lender notifies the Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Agent), prepay or, if applicable, convert all Eurodollar Rate Advances of such Lender to Base Rate Advances, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Advances to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Advances. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

Section 2.13 Payments and Computations.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. The Borrower shall make each payment hereunder not later than 1:00 p.m. on the day when due in U.S. dollars to the Agent at the Agent's Account in same day funds. The Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal, interest, fees or commissions ratably (other than amounts payable pursuant to Section 2.05(b), 2.11, 2.12, 2.14, 2.20 or 8.04(e)) to the Lenders for the account of their respective Applicable Lending Offices, and like funds relating to the payment of any other amount payable to any Lender to such Lender for the account of its Applicable Lending Office, in each case to be applied in accordance with the terms of this Agreement. Upon any Assuming Lender becoming a Lender hereunder as a result of a Commitment Increase pursuant to Section 2.18, and upon the Agent's receipt of such Lender's Assumption Agreement and recording of the information contained therein in the Register, from and after the applicable Increase Date, the Agent shall make all payments hereunder and under any Notes issued in connection therewith in respect of the interest assumed thereby to the Assuming Lender. Upon its acceptance of an Assignment and Assumption and recording of the information contained therein in the Register pursuant to Section 8.07(c), from and after the effective date specified in such Assignment and Assumption, the Agent shall make all payments hereunder and under the Notes in respect of the interest assigned thereby to the Lender assignee thereunder, and the parties to such Assignment and Assumption shall make all appropriate adjustments in such payments for periods prior to such effective date directly between themselves.

(b) All computations of interest based on the Base Rate or the Federal Funds Rate shall be made by the Agent on the basis of a year of 365 or 366 days, as the case may be, and all computations of interest based on the Eurodollar Rate and of fees and Letter of Credit

commissions shall be made by the Agent on the basis of a year of 360 days, in each case for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest, fees or commissions are payable. Each determination by the Agent of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

(c) Whenever any payment hereunder or under the Notes shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest, fees or commissions, as the case may be; provided, however, that, if such extension would cause payment of interest on or principal of Eurodollar Rate Advances to be made in the next following calendar month, such payment shall be made on the next preceding Business Day.

(d) Unless the Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Lenders hereunder that the Borrower will not make such payment in full, the Agent may assume that the Borrower has made such payment in full to the Agent on such date and the Agent may, in reliance upon such assumption, cause to be distributed to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent the Borrower shall not have so made such payment in full to the Agent, each Lender shall repay to the Agent forthwith on demand such amount distributed to such Lender together with interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Agent, at the Federal Funds Rate.

Section 2.14 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall to the extent permitted by applicable Laws be made free and clear of and without reduction or withholding for any Taxes. If, however, applicable Laws require the Borrower or the Agent to withhold or deduct any Tax, such Tax shall be withheld or deducted in accordance with such Laws as determined by the Borrower or the Agent, as the case may be, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If the Borrower or the Agent shall be required by the Internal Revenue Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Agent shall withhold or make such deductions as are determined by the Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Internal Revenue Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section) the Agent, Lender or Issuing Bank, as the case may be, receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Laws.

(c) Tax Indemnifications.

(i) Without limiting the provisions of subsection (a) or (b) above, the Borrower shall, and does hereby, indemnify the Agent, each Lender and each Issuing Bank, and shall make payment in respect thereof within 30 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) withheld or deducted by the Borrower or the Agent or paid by the Agent, such Lender or such Issuing Bank, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The Borrower shall also, and does hereby, indemnify the Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or an Issuing Bank for any reason fails to pay indefeasibly to the Agent as required by clause (ii) of this subsection. A certificate as to the amount of any such payment or liability delivered to the Borrower by a Lender or an Issuing Bank (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender or an Issuing Bank, shall be conclusive absent manifest error.

(ii) Without limiting the provisions of subsection (a) or (b) above, each Lender and each Issuing Bank shall, and does hereby, indemnify the Borrower and the Agent, and shall make payment in respect thereof within 30 days after demand therefor, against any and all Taxes and any and all related losses, claims, liabilities, penalties, interest and expenses (including the fees, charges and disbursements of any counsel for the Borrower or the Agent) incurred by or asserted against the Borrower or the Agent by any Governmental Authority as a result of the failure by such Lender or such Issuing Bank, as the case may be, to deliver, or as a result of the inaccuracy, inadequacy or deficiency of, any documentation required to be delivered by such Lender or such Issuing Bank, as the case may be, to the Borrower or the Agent pursuant to subsection (e). Each Lender and each Issuing Bank hereby authorizes the Agent to set off and apply any and all amounts at any time owing to such Lender or such Issuing Bank, as the case may be, under this Agreement or any other Loan Document against any amount due to the Agent under this clause (ii). The agreements in this clause (ii) shall survive the resignation and/or replacement of the Agent, any assignment of rights by, or the replacement of, a Lender or an Issuing Bank, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

(d) Evidence of Payments. Upon request by the Borrower or the Agent, as the case may be, after any payment of Taxes by the Borrower or by the Agent to a Governmental Authority as provided in this 2.14, the Borrower shall deliver to the Agent or the Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws

to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Agent, as the case may be.

(e) Status of Lenders; Tax Documentation.

(i) Each Lender shall deliver to the Borrower and to the Agent, at the time or times prescribed by applicable Laws or when reasonably requested by the Borrower or the Agent, such properly completed and executed documentation prescribed by applicable Laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Agent, as the case may be, to determine (A) whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to such Lender by the Borrower pursuant to this Agreement or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction.

(ii) Without limiting the generality of the foregoing, if the Borrower is resident for tax purposes in the United States,

(A) any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code shall deliver to the Borrower and the Agent executed originals of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable Laws or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements; and

(B) each Foreign Lender that is entitled under the Internal Revenue Code or any applicable treaty to an exemption from or reduction of withholding tax with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower and the Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(1) executed originals of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(2) executed originals of Internal Revenue Service Form W-8ECI,

(3) executed originals of Internal Revenue Service Form W-8IMY and all required supporting documentation,

(4) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Internal Revenue Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Internal Revenue Code, (B) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Internal Revenue Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Internal Revenue Code and (y) executed originals of Internal Revenue Service Form W-8BEN, or

(5) executed originals of any other form prescribed by applicable Laws as a basis for claiming exemption from or a reduction in United States Federal withholding tax together with such supplementary documentation as may be prescribed by applicable Laws to permit the Borrower or the Agent to determine the withholding or deduction required to be made.

(iii) Each Lender shall promptly (A) notify the Borrower and the Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (B) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Applicable Lending Office) to avoid any requirement of applicable Laws of any jurisdiction that the Borrower or the Agent make any withholding or deduction for taxes from amounts payable to such Lender.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an Issuing Bank, or have any obligation to pay to any Lender or any Issuing Bank, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or such Issuing Bank, as the case may be. If the Agent, any Lender or any Issuing Bank determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses incurred by the Agent, such Lender or such Issuing Bank, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Agent, such Lender or such Issuing Bank, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent, such Lender or such Issuing Bank in the event the Agent, such Lender or such Issuing Bank is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Agent, any Lender or any Issuing Bank to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

(g) Payments. Failure or delay on the part of the Agent, any Lender or any Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section 2.14 shall not constitute a waiver of the Agent's, such Lender's or such Issuing Bank's right to demand such compensation, provided that the Borrower shall not be required to compensate the Agent, a Lender or an Issuing Bank pursuant to the foregoing provisions of this Section 2.14 for any Indemnified Taxes or Other Taxes imposed or asserted by the relevant Governmental Authority more than three months prior to the date that the Agent, such Lender or such Issuing Bank, as the case may be, claims compensation with respect thereto (except that, if a Change in Law giving rise to such Indemnified Taxes or Other Taxes is retroactive, then the three-month period referred to above shall be extended to include the period of retroactive effect thereof).

(h) Each of the Agent, any Issuing Bank or any Lender agrees to cooperate with any reasonable request made by the Borrower in respect of a claim of a refund in respect of Indemnified Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.14 if (i) the Borrower has agreed in writing to pay all of the Agent's or such Issuing Bank's or such Lender's reasonable out-of-pocket costs and expenses relating to such claim, (ii) the Agent or such Issuing Bank or such Lender determines, in its good faith judgment, that it would not be disadvantaged, unduly burdened or prejudiced as a result of such claim and (iii) the Borrower furnishes, upon request of the Agent, or such Issuing Bank or such Lender, an opinion of tax counsel (such opinion, which can be reasoned, and such counsel to be reasonably acceptable to such Lender, or such Issuing Bank or the Agent) that the Borrower is likely to receive a refund or credit.

Section 2.15 Sharing of Payments, Etc. If any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of the Advances or L/C Advances owing to it (other than pursuant to Section 2.05(b), 2.11, 2.12, 2.14, 2.20 or 8.04(e) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Advances or participations in Letters of Credit to any assignee or participant, other than to the Borrower or any Subsidiary thereof if permitted hereby (as to which the provisions of this Section 2.15 shall apply) in excess of its Ratable Share of payments on account of the Advances obtained by all the Lenders, such Lender shall forthwith purchase from the other Lenders (for cash at face value) such participations in the Advances owing to them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from such purchasing Lender, such purchase from each Lender shall be rescinded and such Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery together with an amount equal to such Lender's Ratable Share (according to the proportion of (i) the amount of such Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 2.15 may, to the fullest extent permitted by Law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

Section 2.16 Evidence of Debt.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Advance owing to such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder in respect of Advances. The Borrower agrees that upon notice by any Lender to the Borrower (with a copy of such notice to the Agent) to the effect that a Note is required or appropriate in order for such Lender to evidence (whether for purposes of pledge, enforcement or otherwise) the Advances owing to, or to be made by, such Lender, the Borrower shall promptly execute and deliver to such Lender a Note payable to the order of such Lender in a principal amount up to the Revolving Credit Commitment of such Lender.

(b) The Register maintained by the Agent pursuant to Section 8.07(c) shall include a control account, and a subsidiary account for each Lender, in which accounts (taken together) shall be recorded (i) the date and amount of each Borrowing made hereunder, the Type of Advances comprising such Borrowing and, if appropriate, the Interest Period applicable thereto, (ii) the terms of each Assumption Agreement and each Assignment and Assumption delivered to and accepted by it, (iii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iv) the amount of any sum received by the Agent from the Borrower hereunder and each Lender's share thereof.

(c) Entries made in good faith by the Agent in the Register pursuant to subsection (b) above, and by each Lender in its account or accounts pursuant to subsection (a) above, shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement, absent manifest error; provided, however, that the failure of the Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement.

Section 2.17 Use of Proceeds. The proceeds of the Advances shall be available (and the Borrower agrees that it shall use such proceeds) solely to refinance Indebtedness of the Borrower from time to time and for other general corporate purposes of the Borrower, subject to such restrictions that are imposed in the 2007 Order.

Section 2.18 Increase in the Aggregate Revolving Credit Commitments.

(a) The Borrower may, at any time prior to the Termination Date, by notice to the Agent, request that the aggregate amount of the Revolving Credit Commitments be increased by an amount of $10,000,000 or an integral multiple thereof (each a "Commitment Increase") to be effective as of a date that is at least 90 days prior to the Termination Date (the "Increase Date") as specified in the related notice to the Agent; provided, however that (i) in no event shall the aggregate amount of the Revolving Credit Commitments at any time exceed $700,000,000 or the aggregate amount of Commitment Increases exceed $200,000,000 and (ii) on the date of any request by the Borrower for a Commitment Increase and on the related Increase Date, the applicable conditions set forth in this Section 2.18 shall be satisfied.

(b) The Agent shall promptly notify the Lenders of a request by the Borrower for a Commitment Increase, which notice shall include (i) the proposed amount of such requested Commitment Increase, (ii) the proposed Increase Date and (iii) the date by which Lenders wishing to participate in the Commitment Increase must commit to an increase in the amount of their respective Revolving Credit Commitments (the "Commitment Date"). Each Lender that is willing to participate in such requested Commitment Increase (each an "Increasing Lender") shall, in its sole discretion, give written notice to the Agent on or prior to the Commitment Date of the amount by which it is willing to increase its Revolving Credit Commitment. If the Lenders notify the Agent that they are willing to increase the amount of their respective Revolving Credit Commitments by an aggregate amount that exceeds the amount of the requested Commitment Increase, the requested Commitment Increase shall be allocated among the Lenders willing to participate therein in such amounts as are agreed between the Borrower and the Agent.

(c) Promptly following each Commitment Date, the Agent shall notify the Borrower as to the amount, if any, by which the Lenders are willing to participate in the requested Commitment Increase. If the aggregate amount by which the Lenders are willing to participate in any requested Commitment Increase on any such Commitment Date is less than the requested Commitment Increase, then the Borrower may extend offers to one or more Eligible Assignees to participate in any portion of the requested Commitment Increase that has not been committed to by the Lenders as of the applicable Commitment Date; provided, however, that the Revolving Credit Commitment of each such Eligible Assignee shall be in an amount of not less than $10,000,000.

(d) On each Increase Date, each Eligible Assignee that accepts an offer to participate in a requested Commitment Increase in accordance with Section 2.18(b) (each such Eligible Assignee, an "Assuming Lender") shall become a Lender party to this Agreement as of such Increase Date and the Revolving Credit Commitment of each Increasing Lender for such requested Commitment Increase shall be so increased by the amount by which the Increasing Lender agreed to increase its Revolving Credit Commitment (or by the amount allocated to such Lender pursuant to the last sentence of Section 2.18(b)) as of such Increase Date; provided, however, that the Agent shall have received on or before such Increase Date the following, each dated such date:

(i) (A) certified copies of resolutions of the Board of Directors of the Borrower approving the Commitment Increase and the corresponding modifications to this Agreement, (B) an opinion of counsel for the Borrower (which may be in-house counsel), in form and substance reasonably acceptable to the Required Lenders and (C) a certificate from a duly authorized officer of the Borrower, stating that the conditions set forth in Section 3.02(a) and (b) are satisfied;

(ii) an assumption agreement from each Assuming Lender, if any, in form and substance satisfactory to the Borrower and the Agent (each an "Assumption Agreement"), duly executed by such Assuming Lender, the Agent and the Borrower; and

(iii) confirmation from each Increasing Lender of the increase in the amount of its Revolving Credit Commitment in a writing satisfactory to the Borrower and the Agent.

On each Increase Date, upon fulfillment of the conditions set forth in the immediately preceding sentence of this Section 2.18(d), the Agent shall notify the Lenders (including, without limitation, each Assuming Lender) and the Borrower, on or before 1:00 p.m., by telecopier, of the occurrence of the Commitment Increase to be effected on such Increase Date and shall record in the Register the relevant information with respect to each Increasing Lender and each Assuming Lender on such date. Each Increasing Lender and each Assuming Lender shall, before 2:00 p.m. on the Increase Date, make available for the account of its Applicable Lending Office to the Agent at the Agent's Account, in same day funds, in the case of such Assuming Lender, an amount equal to such Assuming Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment as a percentage of the aggregate Revolving Credit Commitments outstanding after giving effect to the relevant Commitment Increase) and, in the case of such Increasing Lender, an amount equal to the excess of (i) such Increasing Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment as a percentage of the aggregate Revolving Credit Commitments outstanding after giving effect to the relevant Commitment Increase) over (ii) such Increasing Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment (without giving effect to the relevant Commitment Increase) as a percentage of the aggregate Revolving Credit Commitments (without giving effect to the relevant Commitment Increase). After the Agent's receipt of such funds from each such Increasing Lender and each such Assuming Lender, the Agent will promptly thereafter cause to be distributed like funds to the other Lenders for the account of their respective Applicable Lending Offices in an amount to each other Lender such that the aggregate amount of the outstanding Advances owing to each Lender after giving effect to such distribution equals such Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment as a percentage of the aggregate Revolving Credit Commitments outstanding after giving effect to the relevant Commitment Increase).

Section 2.19 Affected Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes an Affected Lender, then the following provisions shall apply for so long as such Lender is an Affected Lender:

(a) fees shall cease to accrue on the Unused Commitment of such Affected Lender pursuant to Section 2.04(a);

(b) the Revolving Credit Commitment and Advances of such Affected Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 8.01), other than any waiver, amendment or modification requiring the consent of all Lenders or of each Lender affected;

(c) if there shall be any Available Amount under any outstanding Letter of Credit during any time a Lender is an Affected Lender, then:

(i) all or any part of the Available Amount of all such Letters of Credit shall be reallocated among the non-Affected Lenders in accordance with their respective Ratable Shares (disregarding any Affected Lender's Revolving Credit Commitment) but only to the extent that with respect to each non-Affected Lender the sum of (A) the aggregate principal amount of all Advances made by such non-Affected Lender (in its capacity as a Lender) and outstanding at such time plus (B) such non-Affected Lender's Ratable Share (after giving effect to the reallocation contemplated in this Section 2.19(c)(i)) of the outstanding L/C Obligations, does not exceed such non-Affected Lender's Revolving Credit Commitment;

(ii) if the Ratable Share of the Available Amount of outstanding Letters of Credit of the non-Affected Lenders is reallocated pursuant to Section 2.19(c), then the fees payable to the Lenders pursuant to Section 2.04(a) and Section 2.04(b) shall be adjusted in accordance with such non-Affected Lenders' Ratable Shares; and

(iii) if the Affected Lender's Ratable Share (the "Affected Lender Share") of the Available Amount of all outstanding Letters of Credit is not reallocated pursuant to Section 2.19(c), then, without prejudice to any rights or remedies of any Issuing Bank or any Lender hereunder, the fee payable under Section 2.04(b) with respect to such Affected Lender Share shall be payable to the Issuing Bank until such Affected Lender Share is reallocated;

(d) to the extent the Agent receives any payments or other amounts for the account of an Affected Lender under this Agreement, such Affected Lender shall be deemed to have requested that the Agent use such payment or other amount to fulfill such Affected Lender's previously unsatisfied obligations to fund an Advance under Section 2.03(c) or L/C Advance or any other unfunded payment obligation of such Affected Lender under this Agreement; and

(e) for the avoidance of doubt, the Borrower, each Issuing Bank, the Agent and each other Lender shall retain and reserve its other rights and remedies respecting each Affected Lender.

In the event that the Agent, the Borrower and the Issuing Banks each agrees that an Affected Lender has adequately remedied all matters that caused such Lender to be an Affected Lender, then the Ratable Shares of the Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Credit Commitment and on such date such Lender shall purchase at par such of the Advances of the other Lenders as the Agent shall determine may be necessary in order for such Lender to hold such Advances in accordance with its Ratable Share. In addition, at such time as the Affected Lender is replaced by another Lender pursuant to Section 2.20, the Ratable Shares of the Lenders will be readjusted to reflect the inclusion of the replacing Lender's Commitment in accordance with Section 2.20. In either such case, this Section 2.19 will no longer apply.

Section 2.20 Replacement of Lenders. If any Lender requests compensation under Section 2.11, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, or if any Lender is an Affected Lender, then the Borrower may, at its sole expense and effort, upon notice to such

Lender and the Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 8.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents to one or more assignees that shall assume such obligations (which any such assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Agent the assignment fee specified in Section 8.07(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Advances and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 8.04(e)) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 2.11 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01 Conditions Precedent to Effectiveness . This Agreement shall become effective on and as of the first date (the "Effective Date") on which the following conditions precedent have been satisfied:

(a) The Lenders shall have been given such access to the management, records, books of account, contracts and properties of the Borrower and its Subsidiaries as they shall have requested.

(b) The Borrower shall have paid all accrued fees and agreed expenses of the Agent, the Arrangers and the Lenders and the reasonable accrued fees and expenses of counsel to the Agent that have been invoiced at least one Business Day prior to the Effective Date.

(c) On the Effective Date, the following statements shall be true and the Agent shall have received a certificate signed by a duly authorized officer of the Borrower, dated the Effective Date, stating that:

(i) The representations and warranties contained in Section 4.01 are true and correct on and as of the Effective Date, and

(ii) No event has occurred and is continuing that constitutes a Default.

(d) The Agent shall have received on or before the Effective Date the following, each dated such day, in form and substance satisfactory to the Agent and the Lenders:

(i) Receipt by the Agent of executed counterparts of this Agreement properly executed by a duly authorized officer of the Borrower and by each Lender.

(ii) The Notes, payable to the order of the Lenders to the extent requested by any Lender pursuant to Section 2.16.

(iii) The articles of incorporation of the Borrower certified to be true and complete as of a recent date by the appropriate governmental authority of the state or other jurisdiction of its incorporation and certified by a secretary, assistant secretary or associate secretary of the Borrower to be true and correct as of the Effective Date.

(iv) The bylaws of the Borrower certified by a secretary, assistant secretary or associate secretary of the Borrower to be true and correct as of the Effective Date.

(v) Certified copies of the resolutions of the Board of Directors of the Borrower approving this Agreement and the Notes, and of all documents evidencing other necessary corporate action and governmental approvals, if any, with respect to this Agreement and the Notes.

(vi) A certificate of the secretary, assistant secretary or associate secretary of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to sign this Agreement and the Notes and the other documents to be delivered hereunder.

(vii) A certificate as of a recent date from the Borrower's state of incorporation evidencing that the Borrower is in good standing in its state of organization or formation.

(viii) A favorable opinion of Snell & Wilmer L.L.P., counsel for the Borrower, in form and substance reasonably acceptable to the Lenders.

(e) Concurrently with or before the Effective Date, (i) all principal, interest and other amounts outstanding under the Borrower's existing Amended and Restated Five–Year Credit Agreement dated as of December 9, 2005 (the "Existing Senior Credit Agreement") shall be repaid and satisfied in full, (ii) all commitments to extend credit under the Existing Senior Credit Agreement shall be terminated and (iii) any letters of credit outstanding under the Existing Senior Credit Agreement shall have been terminated, canceled or replaced; and the Agent shall have received evidence of the foregoing satisfactory to it, including an escrow agreement or payoff letter executed by the lenders or the agent under the Existing Senior Credit Agreement.

Section 3.02 Conditions Precedent to Each Credit Extension and Commitment Increase. The obligation of each Lender to make an Advance (other than an L/C Advance or a Base Rate Advance made pursuant to Section 2.03(c)) on the occasion of each Borrowing, the obligation of each Issuing Bank to issue a Letter of Credit, and each Commitment Increase shall be subject to

the conditions precedent that the Effective Date shall have occurred and on the date of such Borrowing or such issuance (as the case may be), or the applicable Increase Date, the following statements shall be true (and each of the giving of the applicable Notice of Borrowing or request for issuance and the acceptance by the Borrower of the proceeds of such Borrowing shall constitute a representation and warranty by the Borrower that on the date of such Borrowing or date of such issuance such statements are true):

(a) the representations and warranties contained in Section 4.01 (other than Section 4.01(k), and in the case of a Borrowing or issuance, Section 4.01(e)(ii) and 4.01(f)(ii)) are correct on and as of such date, before and after giving effect to such Borrowing or issuance, or such Commitment Increase and to the application of the proceeds therefrom, as though made on and as of such date;

(b) no event has occurred and is continuing, or would result from such Borrowing or issuance, or such Commitment Increase or from the application of the proceeds therefrom, that constitutes a Default;

(c) before and after giving effect to such Borrowing or such issuance and to the application of the proceeds therefrom, as though made on and as of such date, to the extent that the applicable Credit Extension is required to be treated as short-term debt pursuant to the 2007 Order, the aggregate amount of Continuing Short-Term Debt (as such term is defined in the 2007 Order), including the aggregate principal amount of all outstanding Advances that are required to be treated by the Borrower as short-term debt pursuant to the 2007 Order, does not exceed 7% of the Borrower's total capitalization, plus up to an additional $500 million to be used for purchases of natural gas and power (the "$500 million Basket");

(d) to the extent that the applicable Credit Extension is required to be treated as short term debt within the $500 million Basket, either (x) the Borrower has an Arizona Corporation Commission authorized adjustor mechanism for recovery of natural gas or power purchases; or (y) such adjustor mechanism was terminated and the Borrower will repay the Borrowing and all other Advances under the Credit Agreement that are within the $500 million Basket within twelve months of the date of termination, unless prior to such date additional authority is obtained from the Arizona Corporation Commission with respect to the Borrowing and such Advances;

(e) to the extent that the applicable Credit Extension is required to be treated as long-term debt pursuant to the 2007 Order, the aggregate amount of Continuing Long-Term Debt (as such term is defined in the 2007 Order), including the aggregate principal amount of all outstanding Advances and Letters of Credit that are required to be treated by the Borrower as long-term debt pursuant to the 2007 Order, has not exceeded, during any period of more than 30 days immediately prior to and including the date of the Borrowing, and will not exceed, during any period of more than 30 days at any time such Borrowing is outstanding, $4,200,000,000;

(f) to the extent that the applicable Credit Extension is required to be treated as Continuing Long-Term Debt, the Borrower has a minimum common equity ratio of forty percent and its debt service coverage ratio is equal to or greater than 2.0, in each case calculated as provided in the 2007 Order;

(g) to the extent that the applicable Credit Extension is required to be treated as Continuing Long-Term Debt, the Borrower will use the proceeds thereof to augment the funds available from all sources to finance its construction, resource acquisition and maintenance programs, to redeem or retire outstanding securities, or to repay or refund other outstanding long-term or short-term debt, and such use will not be for a purpose that is, wholly or in part, reasonably chargeable to operating expense or to income;

(h) after December 31, 2012, the Borrower may not make further Borrowings under this Agreement and no additional Letters of Credit may be issued hereunder, in each case pursuant to the 2007 Order, except that after December 31, 2012, the Borrower may make additional Borrowings under this Agreement and additional Letters of Credit may be issued hereunder, in each case pursuant to the 2007 Order, if such Borrowings and such Letters of Credit are treated as Continuing Short-Term Debt (as defined in the 2007 Order) and (x) the Borrower had filed an application for a new financing order with the Arizona Corporation Commission on or before December 31, 2011 and (y) the Arizona Corporation Commission has not issued an order pursuant to such application on or before December 31, 2012; and;

(i) before and after giving effect to such Credit Extension and to the application of the proceeds therefrom, as though made on and as of such date, the Indebtedness of the Borrower does not exceed that permitted by (i) applicable resolutions of the Board of Directors of the Borrower or (ii) applicable Arizona Law;

provided, however, that if the 2007 Order is superseded or modified by any Subsequent Order, the Borrower may, in consultation with the Lenders, revise the Notices of Borrowing or request for issuance to the extent necessary to take into account any applicable limitations on the incurrence or maintenance of Indebtedness, so long as any revised Notice of Borrowing or request for issuance (x) demonstrates that such Borrowing or issuance is authorized by the Subsequent Order and (y) is accompanied by a favorable opinion of Snell & Wilmer L.L.P. or such other counsel to the Borrower as the Borrower may select and the Agent and the Required Lenders may approve, concerning such Subsequent Order, in form and substance satisfactory to the Lenders.

Each request for Credit Extension (which shall not include a Conversion or a continuation of Eurodollar Rate Advances) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 3.02(a) through (i) have been satisfied on and as of the date of the applicable Credit Extension.

Section 3.03 Determinations Under Section 3.01. For purposes of determining compliance with the conditions specified in Section 3.01 and the satisfaction of each Lender with respect to letters delivered to it from the Borrower as set forth in Sections 4.01(a), 4.01(e) and 4.01(f), each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lenders unless an officer of the Agent responsible for the transactions contemplated by this Agreement shall have received notice from such Lender prior to the date that the Borrower designates as the proposed Effective Date, specifying its objection thereto. The Agent shall promptly notify the Lenders and the Borrower of the occurrence of the Effective Date.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.01 Representations and Warranties of the Borrower. The Borrower represents and warrants as follows:

(a) Each of the Borrower and each Material Subsidiary: (i) is a corporation or other entity duly organized and validly existing under the Laws of the jurisdiction of its incorporation or organization; (ii) has all requisite corporate or if the Material Subsidiary is not a corporation, other comparable power necessary to own its assets and carry on its business as presently conducted; (iii) has all governmental licenses, authorizations, consents and approvals necessary to own its assets and carry on its business as presently conducted, if the failure to have any such license, authorization, consent or approval is reasonably likely to have a Material Adverse Effect and except as disclosed to the Agent in the SEC Reports or by means of a letter from the Borrower to the Lenders (such letter, if any, to be delivered to the Agent for prompt distribution to the Lenders) delivered prior to the execution and delivery of this Agreement (which, in each case, shall be satisfactory to each Lender in its sole discretion) and except that (A) the Borrower from time to time may make minor extensions of its lines, plants, services or systems prior to the time a related franchise, certificate of convenience and necessity, license or permit is procured, (B) from time to time communities served by the Borrower may become incorporated and considerable time may elapse before such a franchise is procured, (C) certain such franchises may have expired prior to the renegotiation thereof, (D) certain minor defects and exceptions may exist which, individually and in the aggregate, are not material and (E) certain franchises, certificates, licenses and permits may not be specific as to their geographical scope); and (iv) is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify is reasonably likely to have a Material Adverse Effect.

(b) The execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents, and the consummation of the transactions contemplated hereby, are within the Borrower's corporate powers, have been duly authorized by all necessary corporate action, and do not (i) contravene the Borrower's articles of incorporation or by-laws, (ii) contravene any Law (including without limitation the 2007 Order), decree, writ, injunction or determination of any Governmental Authority, in each case applicable to or binding upon the Borrower or any of its properties, (iii) contravene any contractual restriction binding on or affecting the Borrower or (iv) cause the creation or imposition of any Lien upon the assets of the Borrower or any Material Subsidiary, except for Liens created under this Agreement and except where such contravention or creation or imposition of such Lien is not reasonable likely to have a Material Adverse Effect.

(c) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required for the due execution, delivery and performance by the Borrower of this Agreement or the Notes to be delivered by it, except for the 2007 Order, which has been duly obtained and is in full force and effect; provided that (i) the Borrower is required to make a compliance filing with the Arizona Corporation Commission under the 2007 Order with respect to this Agreement on or prior to ninety (90) days after the Effective Date and (ii)

after December 31, 2012, the Borrower may not make further Borrowings under this Agreement and no additional Letters of Credit may be issued hereunder, in each case pursuant to the 2007 Order, except that after December 31, 2012, the Borrower may make additional Borrowings under this Agreement and additional Letters of Credit may be issued hereunder, in each case pursuant to the 2007 Order, if such Borrowings and such Letters of Credit are treated as Continuing Short-Term Debt (as defined in the 2007 Order) and (x) the Borrower had filed an application for a new financing order with the Arizona Corporation Commission on or before December 31, 2011 and (y) the Arizona Corporation Commission has not issued an order pursuant to such application on or before December 31, 2012. In the event that any Subsequent Order supersedes or modifies the 2007 Order and the Borrower provides the documents required in the proviso to Section 3.02 hereof, the reference to the 2007 Order in this Section 4.01(c) will be revised to the extent provided in such documents.

(d) This Agreement has been, and each of the other Loan Documents upon execution and delivery will have been, duly executed and delivered by the Borrower. This Agreement is, and each of the other Loan Documents upon execution and delivery will be, the legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with their respective terms, subject, however, to the application by a court of general principles of equity and to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally.

(e) (i) The Consolidated balance sheet of the Borrower as of December 31, 2008, and the related Consolidated statements of income and cash flows of the Borrower for the fiscal year then ended, accompanied by an opinion thereon of Deloitte & Touche LLP, independent registered public accountants, and the Consolidated balance sheet of the Borrower as of September 30, 2009, and the related Consolidated statements of income and cash flows of the Borrower for the nine months then ended, duly certified by the chief financial officer of the Borrower, copies of which have been furnished to the Agent, fairly present in all material respects, subject, in the case of said balance sheet as of September 30, 2009, and said statements of income and cash flows for the nine months then ended, to year-end audit adjustments, the Consolidated financial condition of the Borrower as at such dates and the Consolidated results of the operations of the Borrower for the periods ended on such dates, all in accordance with GAAP (except as disclosed therein). (ii) Except as disclosed to the Agent in the SEC Reports or by means of a letter from the Borrower to the Lenders (such letter, if any, to be delivered to the Agent for prompt distribution to the Lenders) delivered prior to the execution and delivery of this Agreement (which, in each case, shall be satisfactory to each Lender in its sole discretion), since December 31, 2008, there has been no Material Adverse Effect.

(f) There is no pending or, to the knowledge of an Authorized Officer of the Borrower, threatened action, suit, investigation, litigation or proceeding, including, without limitation, any Environmental Action, affecting the Borrower or any of its Subsidiaries before any court, governmental agency or arbitrator that (i) purports to affect the legality, validity or enforceability of this Agreement or any other Loan Document or the consummation of the transactions contemplated hereby or (ii) would be reasonably likely to have a Material Adverse Effect (except as disclosed to the Agent in the SEC Reports or by means of a letter from the Borrower to the Lenders (such letter, if any, to be delivered to the Agent for prompt distribution to the Lenders) delivered prior to the execution and delivery of this Agreement (which, in each

case, shall be satisfactory to each Lender in its sole discretion) delivered prior to the execution and delivery of this Agreement) and there has been no adverse change in the status, or financial effect on the Borrower or any of its Subsidiaries, of such disclosed litigation that would be reasonably likely to have a Material Adverse Effect.

(g) No proceeds of any Advance will be used to acquire any equity security not issued by the Borrower of a class that is registered pursuant to Section 12 of the Securities Exchange Act of 1934.

(h) The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System), and no proceeds of any Advance will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock, in any case in violation of Regulation U.

(i) The Borrower and its Subsidiaries have filed all United States Federal income tax returns and all other material tax returns which are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by the Borrower or any of its Subsidiaries, except to the extent that (i) such taxes are being contested in good faith and by appropriate proceedings and that appropriate reserves for the payment thereof have been maintained by the Borrower and its Subsidiaries in accordance with GAAP or (ii) the failure to make such filings or such payments is not reasonably likely to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Borrower and its Material Subsidiaries as set forth in the most recent financial statements of the Borrower delivered to the Agent pursuant to Section 4.01(e) or Section 5.01(h)(i) or (ii) hereof in respect of taxes and other governmental charges are, in the opinion of the Borrower, adequate.

(j) Set forth on Schedule 4.01(j) hereto (as such schedule may be modified from time to time by the Borrower by written notice to the Agent) is a complete and accurate list of all the Subsidiaries of the Borrower and, as of the Effective Date, no such Subsidiary of the Borrower is a Material Subsidiary.

(k) Set forth on Schedule 4.01(k) hereto is a complete and accurate list identifying any Indebtedness of the Borrower outstanding in a principal amount equal to or exceeding $5,000,000 and which is not described in the financial statements referred to in Section 4.01(e).

(l) The Borrower is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

(m) No report, certificate or other written information furnished by the Borrower or any of its Subsidiaries to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) at the time so furnished, when taken together as a whole with all such written information so furnished, contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made,

not misleading, except as would not reasonably be expected to result in a Material Adverse Effect; provided that with respect to any projected financial information, forecasts, estimates or forward-looking information, the Borrower represents only that such information and materials have been prepared in good faith on the basis of assumptions believed to be reasonable at the time of preparation of such forecasts, and no representation or warranty is made as to the actual attainability of any such projections, forecasts, estimates or forward-looking information.

ARTICLE V

COVENANTS OF THE BORROWER

Section 5.01 Affirmative Covenants. So long as any Advance shall remain unpaid, any Letter of Credit shall remain outstanding or any Lender shall have any Commitment hereunder, the Borrower shall:

(a) Compliance with Laws, Etc. (i) Comply, and cause each of its Material Subsidiaries to comply, in all material respects, with all applicable Laws of Governmental Authorities, such compliance to include, without limitation, compliance with ERISA and Environmental Laws, unless the failure to so comply is not reasonably likely to have a Material Adverse Effect and (ii) comply at all times with the 2007 Order, any Subsequent Order, Arizona Revised Statutes, Section 40-302 and all similar or comparable Laws, orders, decrees, writs, injunctions or determinations of any Governmental Authority relating to the incurrence or maintenance of Indebtedness by the Borrower, unless the failure to so comply is not reasonably likely to have a Material Adverse Effect.

(b) Payment of Taxes, Etc. Pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, all taxes, assessments and governmental charges or levies imposed upon it or upon its property; provided, however, that neither the Borrower nor any of its Subsidiaries shall be required to pay or discharge any such tax, assessment, charge or levy (i) that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained in accordance with GAAP or (ii) if the failure to pay such tax, assessment, charge or levy is not reasonably likely to have a Material Adverse Effect.

(c) Maintenance of Insurance. Maintain, and cause each of its Material Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies engaged in similar businesses and owning similar properties in the same general areas in which the Borrower or such Subsidiary operates; provided, however, that the Borrower and its Subsidiaries may self-insure to the same extent as other companies engaged in similar businesses and owning similar properties in the same general areas in which the Borrower or such Subsidiary operates and to the extent consistent with prudent business practice.

(d) Preservation of Corporate Existence, Etc. Preserve and maintain, and cause each of its Material Subsidiaries to preserve and maintain, its corporate existence, rights (charter and statutory) and franchises (other than "franchises" as described in Arizona Revised Statutes, Section 40-283 or any successor provision) reasonably necessary in the normal conduct of its

business, if the failure to maintain such rights or privileges is reasonably likely to have a Material Adverse Effect, and use its commercially reasonable efforts to preserve and maintain such franchises reasonably necessary in the normal conduct of its business, except that (i) the Borrower from time to time may make minor extensions of its lines, plants, services or systems prior to the time a related franchise, certificate of convenience and necessity, license or permit is procured, (ii) from time to time communities served by the Borrower may become incorporated and considerable time may elapse before such a franchise is procured, (iii) certain such franchises may have expired prior to the renegotiation thereof, (iv) certain minor defects and exceptions may exist which, individually and in the aggregate, are not material and (v) certain franchises, certificates, licenses and permits may not be specific as to their geographical scope; provided, however, that the Borrower and its Subsidiaries may consummate any merger or consolidation permitted under Section 5.02(b).

(e) Visitation Rights. At any reasonable time and from time to time, permit and cause each of its Subsidiaries to permit the Agent or any of the Lenders or any agents or representatives thereof, to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, the Borrower and any of its Subsidiaries, and to discuss the affairs, finances and accounts of the Borrower and any of its Subsidiaries with any of their officers or directors; provided, however, that the Borrower and its Subsidiaries reserve the right to restrict access to any of its properties in accordance with reasonably adopted procedures relating to safety and security; and provided further that the costs and expenses incurred by such Lender or agents or representatives in connection with any such examinations, copies, abstracts, visits or discussions shall be, upon the occurrence and during the continuation of a Default, for the account of the Borrower and, in all other circumstances, for the account of such Lender.

(f) Keeping of Books. Keep, and cause each of its Material Subsidiaries to keep, proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Borrower and each such Subsidiary in a manner that permits the preparation of financial statements in accordance with GAAP.

(g) Maintenance of Properties, Etc. Keep, and cause each Material Subsidiary to keep, all property useful and necessary in its business in good working order and condition (ordinary wear and tear excepted), if the failure to do so is reasonably likely to have a Material Adverse Effect, it being understood that this covenant relates only to the working order and condition of such properties and shall not be construed as a covenant not to dispose of properties.

(h) Reporting Requirements. Furnish to the Agent:

(i) as soon as available and in any event within 50 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, (A) for each such fiscal quarter of the Borrower, statements of income and cash flows of the Borrower and its Consolidated Subsidiaries for such fiscal quarter setting forth in each case in comparative form the corresponding figures for the corresponding fiscal quarter in the preceding fiscal year and (B) for the period commencing at the end of the previous fiscal year and ending with the end of each fiscal quarter, statements of income and cash flows of the Borrower and its Consolidated Subsidiaries for such period setting forth in each case in comparative form the corresponding figures for the corresponding period in the

preceding fiscal year; provided that so long as the Borrower remains subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, the Borrower may provide, in satisfaction of the requirements of this first sentence of this Section 5.01(h)(i), its report on Form 10-Q for such fiscal quarter. Each set of financial statements provided under this Section 5.01(h)(i) shall be accompanied by a certificate of an Authorized Officer, which certificate shall state that said financial statements fairly present in all material respects the financial condition and results of operations of the Borrower and its Consolidated Subsidiaries in accordance with GAAP (except as disclosed therein) as at the end of, and for, such period (subject to normal year-end audit adjustments) and shall set forth reasonably detailed calculations demonstrating compliance with Section 5.03;

(ii) as soon as available and in any event within 90 days after the end of each fiscal year of the Borrower, statements of income and cash flows of the Borrower and its Consolidated Subsidiaries for such year and the related balance sheet of the Borrower and its Consolidated Subsidiaries as at the end of such year, setting forth in each case in comparative form the corresponding figures for the preceding fiscal year; provided that, so long as the Borrower remains subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, the Borrower may provide, in satisfaction of the requirements of this first sentence of this Section 5.01(h)(ii), its report on Form 10-K for such fiscal year. Each set of financial statements provided pursuant to this Section 5.01(h)(ii) shall be accompanied by (A) an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall state that said financial statements fairly present in all material respects the financial condition and results of operations of the Borrower and its Consolidated Subsidiaries as at the end of, and for, such fiscal year, in accordance with GAAP (except as disclosed therein) and (B) a certificate of an Authorized Officer, which certificate shall set forth reasonably detailed calculations demonstrating compliance with Section 5.03;

(iii) as soon as possible and in any event within five days after any Authorized Officer of the Borrower knows of the occurrence of each Default continuing on the date of such statement, a statement of an Authorized Officer of the Borrower setting forth details of such Default and the action that the Borrower has taken and proposes to take with respect thereto;

(iv) promptly after the sending or filing thereof, copies of all reports and registration statements (other than exhibits thereto and registration statements on Form S-8 or its equivalent) that the Borrower or any Subsidiary files with the Securities and Exchange Commission;

(v) promptly after an Authorized Officer becomes aware of the commencement thereof, notice of all actions and proceedings before any court, governmental agency or arbitrator affecting the Borrower or any of its Subsidiaries of the type described in Section 4.01(f), except with respect to any matter referred to in Section 4.01(f)(ii), to the extent disclosed in a report on Form 8-K, Form 10-Q or Form 10-K of the Borrower;

(vi) promptly after (A) any amendment or modification of the 2007 Order, (B) any amendment or modification of Arizona Revised Statutes, Section 40-302, or the promulgation, amendment or modification of any successor or similar statute, or (C) the promulgation, amendment or modification of any Subsequent Order by the Arizona Corporation Commission or any successor thereto, in any case if such amendment, modification or promulgation could affect the validity or enforceability of the indebtedness of the Borrower pursuant to this Agreement, a copy thereof;

(vii) promptly after an Authorized Officer becomes aware of the occurrence thereof, notice of any change by Moody's or S&P of their respective Public Debt Rating or of the cessation (or subsequent commencement) by Moody's or S&P of publication of their respective Public Debt Rating;

(viii) the occurrence of any ERISA Event, together with (x) a written statement of an Authorized Officer of the Borrower specifying the details of such ERISA Event and the action that the Borrower has taken and proposes to take with respect thereto, (y) a copy of any notice with respect to such ERISA Event that may be required to be filed with the PBGC and (z) a copy of any notice delivered by the PBGC to the Borrower or an ERISA Affiliate with respect to such ERISA Event; and

(ix) such other information respecting the Borrower or any of its Subsidiaries as any Lender through the Agent may from time to time reasonably request.

Information required to be delivered pursuant to Sections 5.01(h)(i), (ii) and (iv) above shall be deemed to have been delivered on the date on which the Borrower provides notice to the Agent that such information has been posted on the Borrower's parent's website on the Internet at www.pinnaclewest.com, at sec.gov/edaux/searches.htm or at another website identified in such notice and accessible by the Lenders without charge; provided that (i) such notice may be included in a certificate delivered pursuant to Section 5.01(h)(i) or (ii) and (ii) the Borrower shall deliver paper copies of the information referred to in Section 5.01(h)(i), (ii), and (iv) to any Lender which requests such delivery.

(i) Change in Nature of Business. Conduct the same general type of business conducted on the date hereof.

Section 5.02 Negative Covenants. So long as any Advance shall remain unpaid, any Letter of Credit shall remain outstanding or any Lender shall have any Commitment hereunder, the Borrower shall not:

(a) Liens, Etc. Create or suffer to exist, or permit any of its Material Subsidiaries to create or suffer to exist, any Lien on or with respect to any of its properties, whether now owned or hereafter acquired, or assign, or permit any of its Material Subsidiaries to assign, any right to receive income, other than:

(i) Permitted Liens,

(ii) Liens upon or in, or conditional sales agreements or other title retention agreements with respect to, any real or personal property acquired or held by the

Borrower or any Subsidiary in the ordinary course of business to secure the purchase price of such property, or the construction of or improvements to such property, or to secure Indebtedness incurred solely for the purpose of financing the acquisition, construction or improvement of such property to be subject to such Liens (including any Liens placed on such property within 180 days after the latest of the acquisition, completion of construction or improvement of such property), or Liens existing on such property at the time of its acquisition (other than any such Liens created in contemplation of such acquisition that were not incurred to finance the acquisition of such property) or extensions, renewals, refundings or replacements of any of the foregoing for the same or a lesser amount, provided, however, that no such Lien shall extend to or cover any properties of any character other than the property being acquired, constructed or improved and proceeds, improvements and replacements thereof and no such extension, renewal, refunding or replacement shall extend to or cover any properties not theretofore subject to the Lien being extended, renewed, refunded or replaced,

(iii) assignments of the right to receive income, and Liens on property, of a Person existing at the time such Person is merged into or consolidated with the Borrower or any Subsidiary of the Borrower or becomes a Subsidiary of the Borrower,

(iv) Liens with respect to the leases and related documents entered into by the Borrower in connection with Unit 2 of the Palo Verde Nuclear Generating Station and Liens with respect to the leased interests and related rights if the Borrower reacquires ownership in any of those interests or acquires any of the equity or owner participants' interests in the trusts that hold title to such leased interests, whether or not it also directly assumes the Sale Leaseback Obligation Bonds, and Liens on the Borrower's interests in the trusts that hold title to such leased interests and related rights in the event that the Borrower acquires any of the equity or owner participants' interests in such trusts pursuant to a "special transfer" under the Borrower's existing Palo Verde Nuclear Generating Station Unit 2 sale and leaseback transactions and any Liens resulting or deemed to have resulted if the Unit 2 leases are required to be accounted for as capital leases in accordance with GAAP,

(v) other assignments of the right to receive income and Liens securing Indebtedness or claims in an aggregate principal amount not to exceed 20% of the Borrower's total assets as stated on the most recent balance sheet of the Borrower provided pursuant to Section 4.01(e)(i) or 5.01(h)(ii) hereof at any time outstanding, and

(vi) the replacement, extension or renewal of any Lien permitted by clause (iii) or (iv) above upon or in the same property theretofore subject thereto or the replacement, extension or renewal (without increase in the amount or change in any direct or contingent obligor) of the Indebtedness secured thereby.

(b) Mergers, Etc. Merge or consolidate with or into any Person, or permit any of its Material Subsidiaries to do so, except that (i) any Material Subsidiary of the Borrower may merge or consolidate with or into any other Material Subsidiary of the Borrower, (ii) any Subsidiary of the Borrower may merge into the Borrower or any Material Subsidiary of the Borrower and (iii) the Borrower or any Material Subsidiary may merge with any other Person so

long as the Borrower or such Material Subsidiary is the surviving corporation, provided, in each case, that no Default shall have occurred and be continuing at the time of such proposed transaction or would result therefrom.

(c) Sales, Etc. of Assets. Sell, lease, transfer or otherwise dispose of, or permit any of its Material Subsidiaries to sell, lease, transfer or otherwise dispose of, any assets, or grant any option or other right to purchase, lease or otherwise acquire any assets to any Person other than the Borrower or any Subsidiary of the Borrower, except (i) dispositions in the ordinary course of business, including, without limitation, sales or other dispositions of electricity and related and ancillary services, other commodities, emissions credits and similar mechanisms for reducing pollution, and damaged, obsolete, worn out or surplus property no longer required or useful in the business or operations of the Borrower or any of its Subsidiaries, (ii) sale or other disposition of patents, copyrights, trademarks or other intellectual property that are, in the Borrower's reasonable judgment, no longer economically practicable to maintain or necessary in the conduct of the business of the Borrower or its Subsidiaries and any license or sublicense of intellectual property that does not interfere with the business of the Borrower or any Material Subsidiary, (iii) in a transaction authorized by subsection (b) of this Section, (iv) individual dispositions occurring in the ordinary course of business which involve assets with a book value not exceeding $5,000,000, (v) sales of assets during the term of this Agreement having an aggregate book value not to exceed 30% of the total of all assets properly appearing on the most recent balance sheet of the Borrower provided pursuant to Section 4.01(e)(i) or 5.01(h)(ii) hereof and (vi) any Lien permitted under Section 5.02(a).

Section 5.03 Financial Covenant. So long as any Advance shall remain unpaid, any Letter of Credit shall remain outstanding or any Lender shall have any Commitment hereunder, the Borrower will maintain a ratio of (a) Consolidated Indebtedness to (b) the sum of Consolidated Indebtedness plus Consolidated Net Worth of not greater than 0.65 to 1.

ARTICLE VI

EVENTS OF DEFAULT

Section 6.01 Events of Default. If any of the following events ("Events of Default") shall occur and be continuing:

(a) The Borrower shall fail to pay when due (i) any principal of any Advance, (ii) any drawing under any Letter of Credit, or (iii) any interest on any Advance or any other fees or other amounts payable under this Agreement or any other Loan Documents, and (in the case of this clause (iii) only), such failure shall continue for a period of three Business Days; or

(b) Any representation or warranty made by the Borrower herein or by the Borrower (or any of its officers) in any certificate or other document delivered in connection with this Agreement or any other Loan Document shall prove to have been incorrect in any material respect when made or deemed made or furnished; or

(c) (i) The Borrower shall fail to perform or observe any term, covenant or agreement contained in Section 5.01(d) (as to the corporate existence of the Borrower), (h)(iii) or (h)(vi),

5.02 or 5.03, or (ii) the Borrower shall fail to perform or observe any other term, covenant or agreement contained in Section 5.01(e) if such failure shall remain unremedied for 15 days after written notice thereof shall have been given to the Borrower by the Agent or any Lender or (iii) the Borrower shall fail to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document on its part to be performed or observed if such failure shall remain unremedied for 30 days after written notice thereof shall have been given to the Borrower by the Agent or any Lender; or

(d) (i) The Borrower or any of its Material Subsidiaries shall fail to pay (A) any principal of or premium or interest on any Indebtedness that is outstanding in a principal amount of at least $35,000,000 in the aggregate (but excluding Indebtedness outstanding hereunder), or (B) an amount, or post collateral as contractually required in an amount, of at least $35,000,000 in respect of any Hedge Agreement, of the Borrower or such Material Subsidiary (as the case may be), in each case, when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness or Hedge Agreement; or (ii) any event of default shall exist under any agreement or instrument relating to any such Indebtedness and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event is to accelerate, or to permit the acceleration of, the maturity of such Indebtedness; or

(e) The Borrower or any of its Material Subsidiaries shall fail to pay any principal of or premium or interest in respect of any operating lease in respect of which the payment obligations of the Borrower have a present value of at least $35,000,000, when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in such operating lease, if the effect of such failure is to terminate, or to permit the termination of, such operating lease; or

(f) The Borrower or any of its Material Subsidiaries shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Borrower or any of its Material Subsidiaries seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any Debtor Relief Law, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 60 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Borrower or any of its Material Subsidiaries shall take any corporate action to authorize any of the actions set forth above in this subsection (f); or

(g) Judgments or orders for the payment of money that exceeds any applicable insurance coverage (the insurer of which shall be rated at least "A" by A.M. Best Company) by more than $35,000,000 in the aggregate shall be rendered against the Borrower or any Material

Subsidiary and such judgments or orders shall continue unsatisfied or unstayed for a period of 45 days; or

(h) (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of ~~the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or~~ its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of 30% or more of the equity securities of PWCC entitled to vote for members of the board of directors of PWCC; or (ii) during any period of 24 consecutive months, a majority of the members of the board of directors of PWCC cease (other than due to death or disability) to be composed of individuals (A) who were members of that board on the first day of such period, (B) whose election or nomination to that board was approved by individuals referred to in clause (A) above constituting at the time of such election or nomination at least a majority of that board or (C) whose election or nomination to that board was approved by individuals referred to in clauses (A) and (B) above constituting at the time of such election or nomination at least a majority of that board; or (iii) PWCC shall cease for any reason to own, directly or indirectly 80% of the Voting Stock of the Borrower; or

(i) (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of $35,000,000, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of $35,000,000;

then, and in any such event, the Agent shall at the request, or may with the consent, of the Required Lenders, by notice to the Borrower, (i) declare the obligation of each Lender to make Advances (other than L/C Advances) and of the Issuing Banks to issue Letters of Credit to be terminated, whereupon the same shall forthwith terminate, (ii) declare the Advances, all interest thereon and all other amounts payable under this Agreement to be forthwith due and payable, whereupon the Advances, all such interest and all such amounts shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower; provided, however, that in the event of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, (A) the obligation of each Lender to make Advances (other than L/C Advances) and of the Issuing Banks to issue Letters of Credit shall automatically be terminated and (B) the Advances, all such interest and all such amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower and (iii) exercise all rights and remedies available to it under this Agreement, the other Loan Documents and applicable Law.

Section 6.02 Actions in Respect of Letters of Credit upon Default. If any Event of Default shall have occurred and be continuing, the Agent may with the consent, or shall at the request, of the Required Lenders, irrespective of whether it is taking any of the actions described in Section 6.01 or otherwise, (a) make demand upon the Borrower to, and forthwith upon such

demand the Borrower will Cash Collateralize the aggregate Available Amount of all Letters of Credit then outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder) or (b) make such other arrangements in respect of the outstanding Letters of Credit as shall be acceptable to the Required Lenders, provided, however, that in the event of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the Borrower will Cash Collateralize the aggregate Available Amount of all Letters of Credit then outstanding, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower. If at any time the Agent determines that any funds held in the L/C Cash Deposit Account are subject to any right or interest of any Person other than the Agent, the Issuing Banks and the Lenders or that the total amount of such funds is less than the aggregate Available Amount of all Letters of Credit, the Borrower will, forthwith upon demand by the Agent, pay to the Agent, as additional funds to be deposited and held in the L/C Cash Deposit Account, an amount equal to the excess of (a) such aggregate Available Amount over (b) the total amount of funds, if any, then held in the L/C Cash Deposit Account that are free and clear of any such right and interest. Upon the drawing of any Letter of Credit, to the extent funds are on deposit in the L/C Cash Deposit Account, such funds shall be applied to reimburse the Issuing Banks to the extent permitted by applicable Law, or each Lender to the extent such Lender has funded an Advance in respect of such Letter of Credit. The Borrower hereby grants to the Agent, for the benefit of the Issuing Banks and the Lenders, a Lien upon and security interest in the L/C Cash Deposit Account and all amounts held therein from time to time as security for the L/C Obligations, and for application to the Borrower's reimbursement obligations as and when the same shall arise. The Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. After all such Letters of Credit shall have expired or been fully drawn upon and all other obligations of the Borrower hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such L/C Cash Deposit Account shall be promptly returned to the Borrower.

ARTICLE VII

THE AGENT

Section 7.01 Appointment and Authority. Each of the Lenders (for purposes of this Article, references to the Lenders shall also mean the Issuing Banks) hereby irrevocably appoints Wells Fargo to act on its behalf as the Agent hereunder and under the other Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Except as set forth in Section 7.06, the provisions of this Article are solely for the benefit of the Agent and the Lenders, and neither the Borrower nor any of its Affiliates shall have rights as a third party beneficiary of any of such provisions.

Section 7.02 Rights as a Lender. The Person serving as the Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits

from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders.

Section 7.03 Exculpatory Provisions. The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein), provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

The Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 6.01 and 8.01) or (ii) in the absence of its own gross negligence or willful misconduct. The Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Agent by the Borrower or a Lender.

The Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article III or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

Section 7.04 Reliance by Agent. The Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent

or otherwise authenticated by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of any Advance, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, the Agent may presume that such condition is satisfactory to such Lender or such Issuing Bank unless the Agent shall have received notice to the contrary from such Lender or such Issuing Bank prior to the making of such Advance or the issuance of such Letter of Credit. The Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in good faith in accordance with the advice of any such counsel, accountants or experts.

Section 7.05 Delegation of Duties. The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Agent. The Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent.

Section 7.06 Resignation of Agent. The Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Borrower so long as no Event of Default has occurred and is continuing, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 45 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above; provided that if the Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Agent shall be as agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 8.04 shall continue in effect for the benefit of such retiring

Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Agent.

Section 7.07 Non-Reliance on Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 7.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Arrangers, Syndication Agent, Documentation Agent or other agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Agent or a Lender hereunder.

Section 7.09 Issuing Banks. Each Issuing Bank shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each Issuing Bank shall have all of the benefits and immunities provided in this Article VII (other than Section 7.02) to the same extent as such provisions apply to the Agent.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Required Lenders, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall

(a) unless agreed to by each Lender directly affected thereby, (i) reduce or forgive the principal amount of any Advance or the Borrower's obligations to reimburse any drawing on a Letter of Credit, reduce the rate of or forgive any interest thereon (provided that only the consent of the Required Lenders shall be required to waive the applicability of any post-default increase in interest rates), or reduce or forgive any fees hereunder (other than fees payable to the Agent, the Arrangers or any Issuing Bank for their own respective accounts), (ii) extend the final scheduled maturity date or any other scheduled date for the payment of any principal of or interest on any Advance, extend the time of payment of any obligation of the Borrower to reimburse any drawing on any Letter of Credit or any interest thereon, extend the expiry date of any Letter of Credit beyond the fifth Business Day prior to the Termination Date, or extend the time of payment of any fees hereunder (other than fees payable to the Agent, the Arrangers or any Issuing Bank for their own respective accounts), or (iii) increase any Revolving Credit

Commitment of any such Lender over the amount thereof in effect or extend the maturity thereof (it being understood that a waiver of any condition precedent set forth in Section 3.02 or of any Default, if agreed to by the Required Lenders or all Lenders (as may be required hereunder with respect to such waiver), shall not constitute such an increase);

(b) unless agreed to by all of the Lenders, (i) reduce the percentage of the aggregate Revolving Credit Commitments or of the aggregate unpaid principal amount of the Advances, or the number or percentage of Lenders, that shall be required for the Lenders or any of them to take or approve, or direct the Agent to take, any action hereunder or under any other Loan Document (including as set forth in the definition of "Required Lenders"), (ii) change any other provision of this Agreement or any of the other Loan Documents requiring, by its terms, the consent or approval of all the Lenders for such amendment, modification, waiver, discharge, termination or consent, or (iii) change or waive any provision of Section 2.15, any other provision of this Agreement or any other Loan Document requiring pro rata treatment of any Lenders, or this Section 8.01 or Section 2.19(b); and

(c) unless agreed to by the Issuing Banks or the Agent in addition to the Lenders required as provided hereinabove to take such action, affect the respective rights or obligations of the Issuing Banks or the Agent, as applicable, hereunder or under any of the other Loan Documents.

Section 8.02 Notices, Etc.

(a) All notices and other communications provided for hereunder shall be either (x) in writing (including facsimile communication) and mailed, faxed or delivered or (y) as and to the extent set forth in Sections 8.02(b) and (c) and in the proviso to this Section 8.02(a), if to the Borrower, at the address specified on Schedule 8.02; if to any Lender, at its Domestic Lending Office; if to the Agent, at the address specified on Schedule 8.02; and if to any Issuing Bank, at the address specified on Schedule 8.02 or, as to the Borrower or the Agent, at such other address as shall be designated by such party in a written notice to the other parties and, as to each other party, at such other address as shall be designated by such party in a written notice to the Borrower and the Agent. All such notices and communications shall, when mailed or faxed, be effective when deposited in the mails or faxed, respectively, except that notices and communications to the Agent pursuant to Article II, III or VII shall not be effective until received by the Agent. Delivery by facsimile of an executed counterpart of any amendment or waiver of any provision of this Agreement or the Notes or of any Exhibit hereto to be executed and delivered hereunder shall be effective as delivery of a manually executed counterpart thereof. Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b). Upon request of the Borrower, the Agent will provide to the Borrower (i) copies of each Administrative Questionnaire or (ii) the address of each Lender.

(b) Notices and other communications to the Lenders, the Agent and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent and agreed to by the Borrower, provided that the foregoing shall not apply to notices to any Lender or the Issuing Banks pursuant to Article II if such Lender or the Issuing Banks, as applicable, has notified the

Agent and the Borrower that it is incapable of receiving notices under such Article by electronic communication. The Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Agent and the Borrower otherwise agree, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Borrower agrees that the Agent may make materials delivered to the Agent pursuant to Sections 5.01(h)(i), (ii) and (iv), as well as any other written information, documents, instruments and other material relating to the Borrower or any of its Subsidiaries and relating to this Agreement, the Notes or the transactions contemplated hereby, or any other materials or matters relating to this Agreement, the Notes or any of the transactions contemplated hereby (collectively, the "Communications") available to the Lenders by posting such notices on Intralinks or a substantially similar electronic system (the "Platform"). The Borrower acknowledges that (i) the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution, (ii) the Platform is provided "as is" and "as available" and (iii) neither the Agent nor any of its Affiliates warrants the accuracy, adequacy or completeness of the Communications or the Platform and each expressly disclaims liability for errors or omissions in the Communications or the Platform. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects, is made by the Agent or any of its Affiliates in connection with the Platform.

(d) Each Lender agrees that notice to it (as provided in the next sentence) (a "Notice") specifying that any Communications have been posted to the Platform shall constitute effective delivery of such information, documents or other materials to such Lender for purposes of this Agreement; provided that if requested by any Lender the Agent shall deliver a copy of the Communications to such Lender by e-mail, facsimile or mail. Each Lender agrees (i) to notify the Agent in writing of such Lender's e-mail address to which a Notice may be sent by electronic transmission (including by electronic communication) on or before the date such Lender becomes a party to this Agreement (and from time to time thereafter to ensure that the Agent has on record an effective e-mail address for such Lender) and (ii) that any Notice may be sent to such e-mail address.

(e) The Borrower hereby acknowledges that certain of the Lenders may be "public-side" Lenders (*i.e.,* Lenders that do not wish to receive material non-public information with respect to the Borrower or its securities) (each, a "Public Lender"). The Borrower hereby agrees that (w) all Communications that are to be made available to Public Lenders shall be clearly and

conspicuously marked "PUBLIC" which shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Communications "PUBLIC," the Borrower shall be deemed to have authorized the Agent, the Arranger and the Lenders to treat such Communications as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States federal and state securities laws; (y) all Communications marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor;" and (z) the Agent and the Arranger shall be entitled to treat any Communications that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Communications "PUBLIC." Notwithstanding anything to the contrary herein, the Borrower need not provide to any Public Lender any information, notice, or other document hereunder that is not public information, including without limitation, the Notice of Borrowing and any notice of Default.

Section 8.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, any Issuing Bank or the Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at Law in connection with such enforcement shall be instituted and maintained exclusively by, the Agent in accordance with Article VI for the benefit of all the Lenders and the Issuing Banks; provided, however, that the foregoing shall not prohibit (a) the Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (b) any Issuing Bank from exercising the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Bank) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 8.05 (subject to the terms of Section 2.15), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Agent pursuant to Article VI and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

Section 8.04 Costs and Expenses; Indemnity; Damage Waiver.

(a) The Borrower agrees to pay on demand all costs and expenses of the Agent in connection with the administration, modification and amendment of this Agreement, the Notes and the other Loan Documents to be delivered hereunder, including, without limitation, the reasonable fees and expenses of counsel for the Agent with respect thereto and with respect to

advising the Agent as to its rights and responsibilities under this Agreement. The Borrower further agrees to pay on demand all costs and expenses of the Agent and the Lenders, if any (including, without limitation, reasonable counsel fees and expenses), in connection with the enforcement (whether through negotiations, legal proceedings or otherwise) of this Agreement, the Notes and the other Loan Documents to be delivered hereunder, including, without limitation, reasonable fees and expenses of counsel for the Agent and each Lender in connection with the enforcement of rights under this Section 8.04(a).

(b) The Borrower agrees to indemnify and hold harmless the Agent (and any sub-agent thereof), each Lender, and each Related Party of any of the foregoing (each, an "Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, reasonable fees and expenses of counsel) incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith, whether based on contract, tort or any other theory,) (i) the Notes, this Agreement, any of the transactions contemplated herein or the actual or proposed use of the proceeds of any Advance or Letter of Credit (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), or (ii) the actual or alleged presence of Hazardous Materials on any property of the Borrower or any of its Subsidiaries or any Environmental Action relating in any way to the Borrower or any of its Subsidiaries, provided that such indemnity shall not, as to any Indemnified Party, be available to the extent (a) such fees and expenses are expressly stated in this Agreement to be payable by the Indemnified Party, included expenses payable under Section 2.14, Section 5.01(e) and Section 8.07(b) or (b) such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence, willful misconduct or material breach of its obligations under this Agreement, in which case any fees and expenses previously paid or advanced by the Borrower to such Indemnified Party in respect of such indemnified obligation will be returned by such Indemnified Party. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 8.04(b) applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, equityholders or creditors or an Indemnified Party or any other Person, whether or not any Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated, provided that if the Borrower and such Indemnified Party are adverse parties in any such litigation or proceeding, and the Borrower prevails in a final, non-appealable judgment by a court of competent jurisdiction, any fees or expenses previously paid or advanced by the Borrower to such Indemnified Party pursuant to this Section 8.04(b) will be returned by such Indemnified Party.

(c) To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing (and without limiting its obligation to do so), each Lender severally agrees to pay to the Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's Ratable Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss,

claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agent (or any such sub-agent) or such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent) or such Issuing Bank in connection with such capacity.

(d) Each party hereto also agrees not to assert any claim for special, indirect, consequential or punitive damages against the other parties hereto, or any Related Person any party hereto, on any theory of liability, arising out of or otherwise relating to the Notes, this Agreement, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Advances or the Letters of Credit. No Indemnified Party shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems (including Intralinks, SyndTrak or similar systems) in connection with this Agreement or the other Loan Documents, provided that such indemnity shall not, as to any Indemnified Party, be available to the extent such damages are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct.

(e) If any payment of principal of, or Conversion of, any Eurodollar Rate Advance is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Advance, as a result of a payment or Conversion pursuant to Section 2.08(d) or (e), 2.10 or 2.12, acceleration of the maturity of the Advances pursuant to Section 6.01 or for any other reason, or by an Eligible Assignee to a Lender other than on the last day of the Interest Period for such Advance upon an assignment of rights and obligations under this Agreement pursuant to Section 8.07 as a result of a demand by the Borrower pursuant to Section 8.07(a), the Borrower shall, upon demand by such Lender (with a copy of such demand to the Agent), pay to the Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that it may reasonably incur as a result of such payment or Conversion, including, without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such Advance.

(f) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in Sections 2.11, 2.14 and 8.04 shall survive the payment in full of principal, interest and all other amounts payable hereunder and under the Notes.

Section 8.05 Right of Set-off. Upon (i) the occurrence and during the continuance of any Event of Default and (ii) the making of the request or the granting of the consent specified by Section 6.01 to authorize the Agent to declare the Advances due and payable pursuant to the provisions of Section 6.01, each Lender, each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender, such Issuing Bank or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or Issuing Bank, whether or not such Lender or Issuing Bank

shall have made any demand under this Agreement or such Note and although such obligations may be contingent or unmatured or are owed to a branch or office of such Lender or such Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness. Each Lender and each Issuing Bank agrees promptly to notify the Borrower after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender and each Issuing Bank under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender may have.

Section 8.06 Binding Effect. Except as provided in Section 3.01, this Agreement shall become effective when it shall have been executed by the Borrower and the Agent and when the Agent shall have been notified by each Initial Lender that such Initial Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, the Agent and each Lender and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders.

Section 8.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Agent and each Lender (and any purported assignment or transfer without such consent shall be null and void) and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and the Advances (including for purposes of this subsection (b), participations in L/C Obligations) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Credit Commitment and the Advances at the time owing to it or in the case of an assignment to a Lender, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Revolving Credit Commitment (which for this purpose includes Advances outstanding thereunder) or, if the Revolving Credit Commitment is not then in effect, the principal outstanding balance of the Advances of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to which such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Advances, L/C Obligations or the Revolving Credit Commitment assigned, and each such assignment shall be of a constant, and not a varying, percentage of all rights and obligations under this Agreement;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund;

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(C) the consent of each Issuing Bank (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding);.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that no such fee shall be payable in the case of an assignment made at the request of the Borrower to an existing Lender. The assignee, if it is not a Lender, shall deliver to the Agent an Administrative Questionnaire.

(v) No Assignment to Borrower. No such assignment shall be made to the Borrower or any of the Borrower's Affiliates or Subsidiaries.

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section and notice thereof to the Borrower, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.11, 2.14 and 8.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Agent shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Credit Commitments of, and principal amounts of the Advances and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and/or the Advances (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the Borrower, the Agent, the Lenders and the Issuing Banks shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (iv) no participant under any such participation shall have any right to approve any amendment or waiver of any provision of this Agreement or any Note, or any consent to any departure by the Borrower therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, any Obligations or any fees or other amounts payable hereunder, in each case to the extent subject to such participation, or postpone any date fixed for any payment of principal of, or interest on, any Obligations or any fees or other amounts payable hereunder, in each case to the extent subject to such participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any

amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification addressing the matters set forth in clause (iv) above to the extent subject to such participation. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.11, 2.14 and 8.04(e) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 8.05 as though it were a Lender, provided such Participant agrees to be subject to Section 2.15 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 2.11 or 2.14 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.14 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.14(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Resignation as an Issuing Bank after Assignment. Notwithstanding anything to the contrary contained herein, if at any time any Issuing Bank assigns all of its Revolving Credit Commitment and Advances pursuant to subsection (b) above, such Issuing Bank may, upon 30 days' notice to the Borrower and the Lenders, resign as an Issuing Bank. If any Issuing Bank resigns, it shall retain all the rights, powers, privileges and duties of an Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Bank and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Advances or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)).

(h) The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state Laws based on the Uniform Electronic Transactions Act.

Section 8.08 Confidentiality. Neither the Agent nor any Lender may disclose to any Person any confidential, proprietary or non-public information of the Borrower furnished to the

Agent or the Lenders by the Borrower (such information being referred to collectively herein as the "Borrower Information"), except that each of the Agent and each of the Lenders may disclose Borrower Information (i) to its and its affiliates' employees, officers, directors, agents and advisors having a need to know in connection with this Agreement (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Borrower Information and instructed to keep such Borrower Information confidential on substantially the same terms as provided herein), (ii) to the extent requested by any regulatory authority, (iii) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (iv) to any other party to this Agreement, (v) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section 8.08, to any assignee or participant or prospective assignee or participant, (vii) to the extent such Borrower Information (A) is or becomes generally available to the public on a non-confidential basis other than as a result of a breach of this Section 8.08 by the Agent or such Lender or their Related Parties, or (B) is or becomes available to the Agent or such Lender on a nonconfidential basis from a source other than the Borrower (provided that the source of such information was not known by the recipient after inquiry to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Borrower or any other Person with respect to such information) and (viii) with the consent of the Borrower. The obligations under this Section 8.08 shall survive for two calendar years after the date of the termination of this Agreement.

Section 8.09 Governing Law. This Agreement and the Notes shall be governed by, and construed in accordance with, the Laws of the State of New York (including Sections 5-1401 and 5-1402 of the General Obligations Law but otherwise without regard to conflict of law principles).

Section 8.10 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 3.01, this Agreement shall become effective when it shall have been executed by the Agent and when the Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 8.11 Jurisdiction, Etc.

(a) Each of the parties hereto hereby submits to the non-exclusive jurisdiction of any New York State court or federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the

extent permitted by Law, in such federal court. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement or the Notes in the courts of any jurisdiction.

(b) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the Notes in any New York State or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 8.12 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Agent, any Issuing Bank or any Lender, or the Agent, any Issuing Bank or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Agent, such Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each Issuing Bank severally agrees to pay to the Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the Issuing Banks under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 8.13 Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each borrower, guarantor or grantor (the "Loan Parties"), which information includes the name and address of each Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the Act. The Borrower shall provide, to the extent commercially reasonable, such information and take such actions as are reasonably requested by the Agent or any Lender in order to assist the Agent and such Lender in maintaining compliance with the Act.

Section 8.14 Waiver of Jury Trial. EACH OF THE BORROWER, THE AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE NOTES OR ANY OTHER LOAN DOCUMENT OR THE ACTIONS OF THE BORROWER, THE AGENT OR ANY LENDER IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT THEREOF.

Section 8.15 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby, the Borrower acknowledges and agrees that: (i) the credit facilities provided for hereunder and any related arranging or other services in connection

therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower, on the one hand, and the Agent, each of the Lenders and each of the Arrangers, on the other hand, and the Borrower is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each of the Agent, the Lenders and the Arrangers is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower or any of its Affiliates, stockholders, creditors or employees or any other Person; (iii) neither the Agent nor any Lender or Arranger has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether the Agent or any Lender or Arranger has advised or is currently advising the Borrower or any of its Affiliates on other matters) and neither the Agent nor any Lender or Arranger has any obligation to the Borrower with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Agent, each of the Lenders and the Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Agent nor any Lender or Arranger has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Agent and each Lender and Arranger have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby waives and releases, to the fullest extent permitted by Law, any claims that it may have against the Agent and each Lender and Arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with the Loan Documents.

Section 8.16 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Agent and each Lender, regardless of any investigation made by the Agent or any Lender or on their behalf, and shall continue in full force and effect as long as any Advance or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 8.17 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

ARIZONA PUBLIC SERVICE COMPANY

By _____

Name: _____
Title: _____

ADMINISTRATIVE AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Agent, Issuing Bank and Lender

By _____

Name: _____
Title: _____

LENDERS: **[Lender]**

By _____

Name: _____
Title: _____

SCHEDULE 1.01
COMMITMENTS AND RATABLE SHARES

Bank	Revolving Credit Commitment	Ratable Share
Wells Fargo Bank, National Association	$25,000,000.00	5.000000000%
Bank of America, N.A.	$25,000,000.00	5.000000000%
Barclays Bank PLC	$25,000,000.00	5.000000000%
Credit Suisse AG, Cayman Islands Branch	$25,000,000.00	5.000000000%
Deutsche Bank AG New York Branch	$19,285,714.29	3.857142858%
Goldman Sachs Bank USA	$19,285,714.29	3.857142858%
KeyBank National Association	$19,285,714.29	3.857142858%
Mizuho Corporate Bank, Ltd.	$19,285,714.29	3.857142858%
The Bank of Nova Scotia	$19,285,714.29	3.857142858%
SunTrust Bank	$19,285,714.29	3.857142858%
The Royal Bank of Scotland plc	$19,285,714.29	3.857142858%
U.S. Bank National Association	$19,285,714.29	3.857142858%
UBS AG, Stamford Branch	$19,285,714.29	3.857142858%
Union Bank, N.A.	$19,285,714.29	3.857142858%
Citibank, N.A.	$16,428,571.42	3.285714284%
JPMorgan Chase Bank, N.A.	$16,428,571.42	3.285714284%
Morgan Stanley Bank, N.A.	$16,428,571.42	3.285714284%
National Bank of Arizona	$16,428,571.42	3.285714284%
The Bank of New York Mellon	$16,428,571.42	3.285714284%
Bank of Communications Co., Ltd., New York Branch	$12,500,000.00	2.500000000%
Bank of Taiwan, Los Angeles Branch	$12,500,000.00	2.500000000%
CIBC Inc.	$12,500,000.00	2.500000000%
First Commercial Bank, New York Agency	$12,500,000.00	2.500000000%
Sumitomo Mitsui Banking Corp., New York	$12,500,000.00	2.500000000%
Taiwan Business Bank	$12,500,000.00	2.500000000%
Taiwan Cooperative Bank, Los Angeles Branch	$12,500,000.00	2.500000000%
The Bank of East Asia, Limited, Los Angeles Branch	$12,500,000.00	2.500000000%
The Northern Trust Company	$12,500,000.00	2.500000000%
UMB Bank Arizona, N.A.	$12,500,000.00	2.500000000%
TOTAL	$500,000,000.00	100.000000000%

SCHEDULE 4.01(j)
SUBSIDIARIES[1]

APS Foundation, Inc.
Bixco, Inc.
Axiom Power Solutions, Inc.
PWE Newco, Inc.

[1] The Borrower's three nuclear decommissioning trusts relating to the Palo Verde plant may also be deemed to be subsidiaries under a literal reading of the definition.

SCHEDULE 4.01(k)
EXISTING INDEBTEDNESS

None.

SCHEDULE 8.02
CERTAIN ADDRESSES FOR NOTICES

BORROWER:

Arizona Public Service Company
400 North 5th Street
Mail Station 9036
Phoenix, AZ 85004
Attention: Treasurer
Telephone: (602) 250-3800
Telecopier: (602) 250-3303
Electronic james.hatfield@pinnaclewest.com

AGENT:

Agent's Office
(for payments and Requests for Credit Extensions):

Wells Fargo Bank, National Association
201 Third Street, 8th Floor
San Francisco, CA 94103
Attention: Agency Syndications Group
Telephone: (415) 477-5390
Telecopy: (415) 512-9408

Agent's Account/Wells Fargo Agency Service Wiring Information
Wells Fargo Bank
San Francisco, CA
ABA 121000248
Account Number: 01980 50720
Account Name: Denver Agency WIP
Ref: Arizona Public Service

Other Notices as Agent:

Wells Fargo Bank, National Association
Corporate Banking - Utility and Power Group
1300 SW 5th Avenue, 7th Floor
Mail Code: MAC P6101-076
Portland, OR 97201

Attention: Yann Blindert
Telephone: 503-886-2215
Telecopier: 503-886-2211
Email: yann.blindert@wellsfargo.com

ISSUING BANKS:

Bank of America

Bank of America, N.A.
Trade Operations
1000 West Temple Street, 7th Floor
Mail Code: CA9-705-07-05
Los Angeles, CA 90012-1514

Attention:	Hermann J. Schutterle
Telephone:	213-481-7826
Telecopier:	213-580-8441
Email:	hermann.schutterle@baml.com

Wells Fargo Bank, National Association

Wachovia Bank, National Association
401 Linden Street
Mail Code: MAC D4004-012
Winston-Salem, North Carolina 27101
Attention: Standby Letters of Credit
Telephone: (800) 776-3862 option 2
Telecopy: (336) 735-0950

EXHIBIT A — FORM OF PROMISSORY NOTE

_____, 200__

FOR VALUE RECEIVED, the undersigned, ARIZONA PUBLIC SERVICE COMPANY, an Arizona corporation (the "Borrower"), hereby promises to pay to the order of _____ or its registered assigns (the "Lender"), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of each Advance from time to time made by the Lender to the Borrower pursuant to the Three-Year Credit Agreement dated as of February 12, 2010 among the Borrower, the Lender and certain other lenders parties thereto, the Arrangers, and Wells Fargo Bank, National Association, as Agent for the Lender and such other lenders, and the issuing banks and other agents party thereto (as amended or modified from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined) outstanding on such date.

The Borrower promises to pay interest on the unpaid principal amount of each Advance from the date of such Advance until such principal amount is paid in full, at such interest rates, and payable at such times, as are specified in the Credit Agreement.

Both principal and interest are payable in lawful money of the United States of America to the Agent for the account of the Lender in same day funds at the address and account specified on Schedule 8.02. Each Advance owing to the Lender by the Borrower pursuant to the Credit Agreement, and all payments made on account of principal thereof, shall be recorded by the Lender and, prior to any transfer hereof, endorsed on the grid attached hereto which is part of this Promissory Note.

This Promissory Note is one of the Notes referred to in, and is entitled to the benefits of, the Credit Agreement. The Credit Agreement, among other things, (i) provides for the making of Advances by the Lender to the Borrower from time to time in an aggregate amount not to exceed at any time the Lender's Unused Commitment, the indebtedness of the Borrower resulting from each such Advance being evidenced by this Promissory Note and (ii) contains provisions for acceleration of the maturity hereof upon the happening of certain stated events and also for prepayments on account of principal hereof prior to the maturity hereof upon the terms and conditions therein specified.

THIS PROMISSORY NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

ARIZONA PUBLIC SERVICE COMPANY

By:

Name:

Title:

ADVANCES AND PAYMENTS OF PRINCIPAL

Date	Amount of Advance	Amount of Principal Paid or Prepaid	Unpaid Principal Balance	Notation Made By

EXHIBIT B — FORM OF NOTICE OF BORROWING

Wells Fargo Bank, National Association, as Agent
for the Lenders parties
to the Credit Agreement
referred to below

Attention: Bank Loan Syndications Department

[Date]

Ladies and Gentlemen:

The undersigned, Arizona Public Service Company, refers to the Three-Year Credit Agreement, dated as of February 12, 2010 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein being used herein as therein defined), among the undersigned, certain Lenders parties thereto, the Arrangers, Wells Fargo Bank, National Association, as Agent for said Lenders and the issuing banks and other agents party thereto, and hereby gives you notice, irrevocably, pursuant to Section 2.02 of the Credit Agreement that the undersigned hereby requests a Borrowing under the Credit Agreement, and in that connection sets forth below the information relating to such Borrowing (the "Proposed Borrowing") as required by Section 2.02(a) of the Credit Agreement:

(i) The Business Day of the Proposed Borrowing is _____, 20___.
(ii) The Type of Advances comprising the Proposed Borrowing is [Base Rate Advances] [Eurodollar Rate Advances].
(iii) The aggregate amount of the Proposed Borrowing is $_____.
[(iv) The initial Interest Period for each Eurodollar Rate Advance made as part of the Proposed Borrowing is ___month[s].]

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Borrowing:

(A) the representations and warranties contained in Section 4.01 (other than Sections 4.01(k), 4.01(e)(ii) and 4.01(f)(ii)) of the Credit Agreement are correct, before and after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom, as though made on and as of such date;

(B) no event has occurred and is continuing, or would result from such Proposed Borrowing or from the application of the proceeds therefrom, that constitutes a Default;

(C) after giving effect to the Proposed Borrowing:

(i) to the extent that the Proposed Borrowing is required to be treated as short-term debt pursuant to the 2007 Order, the aggregate amount of Continuing Short-

Term Debt (as such term is defined in the 2007 Order), including the aggregate principal amount of all outstanding Advances that are required to be treated by the Borrower as short-term debt pursuant to the 2007 Order, does not exceed 7% of the Borrower's total capitalization, plus up to an additional $500 million to be used for purchases of natural gas and power (the "$500 million Basket");

(ii) to the extent that the Proposed Borrowing is required to be treated as short term debt within the $500 million Basket, either (x) the Borrower has an Arizona Corporation Commission authorized adjustor mechanism for recovery of natural gas or power purchases; or (y) such adjustor mechanism was terminated and the Borrower will repay the Borrowing and all other Advances under the Credit Agreement that are within the $500 million Basket within twelve months of the date of termination, unless prior to such date additional authority is obtained from the Arizona Corporation Commission with respect to the Borrowing and such Advances;

(iii) to the extent that the Proposed Borrowing is required to be treated as long-term debt pursuant to the 2007 Order, the aggregate amount of Continuing Long-Term Debt (as such term is defined in the 2007 Order), including the aggregate principal amount of all outstanding Advances that are required to be treated by the Borrower as long-term debt pursuant to the 2007 Order, has not exceeded, during any period of more than 30 days immediately prior to and including the date of the Borrowing, and will not exceed, during any period of more than 30 days at any time such Borrowing is outstanding, $4,200,000,000;

(iv) to the extent that the Proposed Borrowing is required to be treated as Continuing Long-Term Debt, the Borrower has a minimum common equity ratio of forty percent and its debt service coverage ratio is equal to or greater than 2.0, in each case calculated as provided in the 2007 Order;

(v) to the extent that the Proposed Borrowing is required to be treated as Continuing Long-Term Debt, the Borrower will use the proceeds thereof to augment the funds available from all sources to finance its construction, resource acquisition and maintenance programs, to redeem or retire outstanding securities, or to repay or refund other outstanding long-term or short-term debt, and such use will not be for a purpose that is, wholly or in part, reasonably chargeable to operating expense or to income; and

(vi) before and after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom, as though made on and as of such date, the Indebtedness of the Borrower does not exceed that permitted by (i) applicable resolutions of the Board of Directors of the Borrower or (ii) applicable Arizona Laws.

Very truly yours,

ARIZONA PUBLIC SERVICE COMPANY

By

Title:

EXHIBIT C — FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between **[Insert name of Assignor]** (the "Assignor") and **[Insert name of Assignee]** (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. Annex 1 attached hereto (the "Standard Terms and Conditions") is hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date referred to below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including without limitation any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable Law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at Law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the "Assigned Interest"). Each such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor. Assignee shall deliver (if it is not already a Lender) to the Agent an Administrative Questionnaire.

1. Assignor: _____
2. Assignee: _____
   [and is an Affiliate of [identify Bank][1]]
3. Borrower: Arizona Public Service Company
4. Agent: Wells Fargo Bank, National Association, as the administrative agent under the Credit Agreement
5. Credit Agreement: The Three—Year Credit Agreement dated as of February 12, 2010, by and among the Borrower, the Lenders party thereto, the Arrangers, the Agent and the Issuing Banks and other agents party thereto.
6. Assigned Interest:

[1] Select as applicable.

Aggregate Amount of Commitment for all Lenders	Amount of Commitment Assigned	Percentage Assigned of Commitment[2]	CUSIP Number
$_____	$_____	_____%	

[7. Trade Date:][3]
Effective Date: ___, 20___**[TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]**
The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By:

Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By:

Title:

[Consented to and][4] Accepted:
WELLS FARGO BANK, NATIONAL ASSOCIATION as Agent

By
Title:

[2] Set forth, to at least 9 decimals, as a percentage of the Commitment of all Banks thereunder.
[3] To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.
[4] To be added only if the consent of the Agent is required by the terms of the Credit Agreement.

ANNEX 1 TO ASSIGNMENT AND ASSUMPTION
STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower of any of its obligations under any Loan Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an Eligible Assignee under Section 8.07 of the Credit Agreement (subject to such consents, if any, as may be required under Section 8.07 of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 4.01(e) or 5.01(h), as applicable, thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, and (vi) if it is a foreign lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by facsimile shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the Law of the State of New York.

Nickloy, Lee R(Z08122)

From: Nickloy, Lee R(Z08122)
Sent: Tuesday, May 25, 2010 5:34 PM
To: 'Philip.Smyth@fitchratings.com'
Subject: RE: Bank agreements...
Attachments: PNW Credit_Agreement-Final.DOC

Phil,

...and attached is the PNW credit agreement

-----Original Message-----
From: Philip.Smyth@fitchratings.com [mailto:Philip.Smyth@fitchratings.com]
Sent: Tuesday, May 25, 2010 2:29 PM
To: Nickloy, Lee R(Z08122)
Subject: Bank agreements...

Lee,

Would you please send me the renegotiated bank facility documents at your convenience.

Thanks,

Phil

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Execution Version

CUSIP Number: 723485AE8

U.S. $200,000,000
THREE-YEAR CREDIT AGREEMENT
Dated as of February 12, 2010
among
PINNACLE WEST CAPITAL CORPORATION,
as Borrower,

THE LENDERS PARTY HERETO,

BANK OF AMERICA, N.A.,
as Agent and Issuing Bank,
WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Co-Syndication Agent and Issuing Bank,
BARCLAYS CAPITAL
and
CREDIT SUISSE, CAYMAN ISLANDS BRANCH,
as Co-Syndication Agents,
BANC OF AMERICA SECURITIES LLC,
WELLS FARGO SECURITIES, LLC,
BARCLAYS CAPITAL
and
CREDIT SUISSE SECURITIES (USA) LLC
as Joint Lead Arrangers
and
BANC OF AMERICA SECURITIES LLC,
and
WELLS FARGO SECURITIES, LLC,
as Joint Book Runners

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THREE-YEAR CREDIT AGREEMENT

Dated as of February 12, 2010

PINNACLE WEST CAPITAL CORPORATION, an Arizona corporation (the "Borrower"), the banks, financial institutions and other institutional lenders (the "Initial Lenders") and initial issuing banks (the "Initial Issuing Banks") listed on the signature pages hereof, Banc of America Securities LLC, Wells Fargo Securities, LLC, Barclays Capital, the investment banking division of Barclays Bank PLC, and Credit Suisse Securities (USA) LLC, as Joint Lead Arrangers (the "Arrangers"), Wells Fargo Bank, National Association, Barclays Capital, the investment banking division of Barclays Bank PLC and Credit Suisse Securities (USA) LLC, as Co-Syndication Agents and BANK OF AMERICA, N.A., as Agent for the Lenders (as hereinafter defined), agree as follows:

The Borrower has requested that the Lenders provide a revolving credit facility for the purposes set forth herein, and the Lenders are willing to do so on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Agent.

"Advance" means an advance by a Lender to the Borrower as part of a Borrowing, including a Base Rate Advance made pursuant to Section 2.03(c), but excluding any L/C Advance made as part of an L/C Borrowing, and refers to a Base Rate Advance or a Eurodollar Rate Advance (each of which shall be a "Type" of Advance).

"Affected Lender" means any Lender, as reasonably determined by the Agent or if the Agent is the Affected Lender, by the Required Lenders, that (a) has defaulted in its obligation to fund any Advance or any of its other funding obligations under this Agreement, (b) has notified the Borrower, the Agent, any Issuing Bank or any Lender in writing of its intention not to fund any Advance or any of its other funding obligations under this Agreement, (c) has otherwise failed to pay over to the Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute, (d) has failed, within three Business Days after written request by the Agent, or if the Agent is the Affected Lender, by the Required Lenders, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Advances or (e) shall (or whose parent company shall) generally not pay its debts as such debts become due, or shall

admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or shall have had any proceeding instituted by or against such Lender (or its parent company) seeking to adjudicate it as bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 30 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian for, it or for any substantial part of its property) shall occur, or shall take (or whose parent company shall take) any corporate action to authorize any of the actions set forth above in this subsection (e), provided that a Lender shall not be deemed to be an Affected Lender solely by virtue of the ownership or acquisition of any equity interest in any Lender or any Person that directly or indirectly controls such Lender by a Governmental Authority or an instrumentality thereof.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director or officer of such Person. For purposes of this definition, the term "control" (including the terms "controlling", "controlled by" and "under common control with") of a Person means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by contract or otherwise.

"Agent" means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

"Agent's Account" means the account of the Agent designated on Schedule 8.02 under the heading "Agent's Account" or such other account as the Agent may designate to the Lenders and the Borrower from time to time.

"Agent's Office" means the Agent's address and, as appropriate, the Agent's Account, or such other address or account as the Agent may from time to time notify to the Borrower and the Lenders.

"Applicable Lending Office" means, with respect to each Lender, such Lender's Domestic Lending Office in the case of a Base Rate Advance and such Lender's Eurodollar Lending Office in the case of a Eurodollar Rate Advance.

"Applicable Rate" means, from time to time, the following percentages per annum determined by reference to the Public Debt Rating as set forth below:

Public Debt Rating S&P/Moody's	Base Rate Advances	Eurodollar Rate Advances	Commitment Fee
Level 1 ≥ BBB+/Baa1	1.500%	2.500%	0.375%
Level 2 < Level 1 but ≥ BBB/Baa2	1.750%	2.750%	0.500%
Level 3 < Level 2 but ≥ BBB-/Baa3	2.000%	3.000%	0.625%
Level 4 < Level 3 but ≥ BB+/Ba1	2.500%	3.500%	0.750%
Level 5 < Level 4	3.000%	4.000%	1.000%

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of any entity that administers or manages a Lender.

"APS" means Arizona Public Service Company, an Arizona corporation.

"Arrangers" has the meaning given to such term in the introductory paragraph hereof.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee, and accepted by the Agent, in substantially the form of Exhibit C hereto.

"Assuming Lender" has the meaning specified in Section 2.18(d).

"Assumption Agreement" has the meaning specified in Section 2.18(d)(ii).

"Authorized Officer" means the chairman of the board, chief executive officer, chief operating officer, chief financial officer, chief accounting officer, president, any vice president, treasurer, controller or any assistant treasurer of the Borrower.

"Available Amount" of any Letter of Credit means, at any time, the maximum amount available to be drawn under such Letter of Credit at such time (assuming compliance at such time with all conditions to drawing).

"Bank of America" means Bank of America, N.A.

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of:

(a) the rate of interest in effect for such day as publicly announced from time to time by the Agent as its "prime rate";

(b) the Federal Funds Rate plus 0.50%; and

(c) an amount equal to (i) the Eurodollar Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus (ii) 1%.

"Prime rate" means the rate of interest in effect for such day as publicly announced from time to time by the Agent as its "prime rate." The "prime rate" is a rate set by the Agent based upon various factors including the Agent's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in the "prime rate" announced by the Agent shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Advance" means an Advance that bears interest as provided in Section 2.07(a)(i).

"Borrower" has the meaning given to such term in the introductory paragraph hereof.

"Borrower Information" has the meaning specified in Section 8.08.

"Borrowing" means a borrowing consisting of simultaneous Advances of the same Type made by each of the Lenders pursuant to Section 2.01(a).

"Business Day" means a day of the year on which banks are not required or authorized by Law to close in New York City, Phoenix, Arizona or Charlotte, North Carolina and, if the applicable Business Day relates to any Advance in which interest is calculated by reference to the Eurodollar Rate, on which dealings are carried on in the London interbank market.

"Capital Lease Obligations" means as to any Person, the obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real and/or personal property, which obligations are required to be classified and accounted for as a capital lease on the balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption of any Law, (b) any change in any Law or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

"Commitment" means a Revolving Credit Commitment or a Letter of Credit Commitment.

"Commitment Date" has the meaning specified in Section 2.18(b).

"Commitment Increase" has the meaning specified in Section 2.18(a).

"Consolidated" refers to the consolidation of accounts in accordance with GAAP.

"Consolidated Indebtedness" means, at any date, the Indebtedness of the Borrower and its Consolidated Subsidiaries determined on a Consolidated basis as of such date.

"Consolidated Net Worth" means, at any date, the sum as of such date of (a) the par value (or value stated on the books of the Borrower) of all classes of capital stock of the Borrower and its Subsidiaries, excluding the Borrower's capital stock owned by the Borrower and/or its Subsidiaries, *plus* (or *minus* in the case of a surplus deficit) (b) the amount of the Consolidated surplus, whether capital or earned, of the Borrower, determined in accordance with GAAP as of the end of the most recent calendar month (excluding the effect on the Borrower's accumulated other comprehensive income/loss of the ongoing application of Accounting Standards Codification Topic 815).

"Consolidated Subsidiary" means, at any date, any Subsidiary or other entity the accounts of which would be consolidated with those of the Borrower on its Consolidated financial statements if such financial statements were prepared as of such date.

"Convert", "Conversion" and "Converted" each refers to a conversion of Advances of one Type into Advances of the other Type pursuant to Section 2.08, Section 2.09 or Section 2.12.

"Credit Extension" means each of the following: (a) a Borrowing and (b) the issuance of a Letter of Credit.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any Event of Default or any event that would constitute an Event of Default but for the requirement that notice be given or time elapse or both.

"Dollars" or "$" means dollars of the United States of America.

"Domestic Lending Office" means, with respect to any Lender, the office of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"Effective Date" has the meaning specified in Section 3.01.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 8.07(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 8.07(b)(iii)).

"Environmental Action" means any action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, Environmental Permit or Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment and relating to any Environmental Law, including, without limitation, (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages and (b) by any Governmental Authority or any third party for damages, contribution, indemnification, cost recovery, compensation or injunctive relief.

"Environmental Law" means any federal, state, local or foreign statute, law, ordinance, rule, regulation, code, order, judgment, decree or judicial or agency interpretation, policy or guidance relating to pollution or protection of the environment, natural resources or, to the extent relating to exposure to Hazardous Materials, human health or safety, including, without limitation, those relating to the use, handling, transportation, treatment, storage, disposal, release or discharge of Hazardous Materials.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

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

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

"Eurodollar Lending Office" means, with respect to any Lender, the office of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"Eurodollar Rate" means:

(a) for any Interest Period with respect to a Eurodollar Rate Advance, the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as designated by the Agent from time to time) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period. If such rate is not available at such time for any reason, then the "Eurodollar Rate" for such Interest Period shall be the rate per annum determined by the Agent to be the rate at which deposits in dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Rate Advance being made, continued or converted by the Agent and with a term equivalent to such Interest Period would be offered by the Agent to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period; and

(b) for any interest rate calculation with respect to a Base Rate Advance, the rate per annum equal to (i) BBA LIBOR, at approximately 11:00 a.m. two Business Days prior to, London time on the date of determination (provided that if such day is not a Business Day in London, the next preceding Business Day in London) for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day or (ii) if such published rate is not available at such time for any reason, the rate determined by the Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same day funds in the approximate amount of the Base Rate Advance being made, continued or converted by the Agent and with a term equal to one month would be offered by the Agent's London Branch to major banks in the London interbank Eurodollar market at their request at the date and time of determination.

"Eurodollar Rate Advance" means an Advance that bears interest at a rate based on the Eurodollar Rate (other than a Base Rate Advance bearing interest at a rate based on the Eurodollar Rate).

"Events of Default" has the meaning specified in Section 6.01.

"Excluded Taxes" means, with respect to the Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the United States or the jurisdiction (or any political subdivision thereof) under the Laws of which such recipient is organized or does business or in which its principal office is located or, in the case of any Lender, in which its Applicable Lending Office is located, (b) any branch profits taxes imposed by the United States or any similar tax imposed by any other jurisdiction in which the Borrower is located, (c) any backup withholding tax that is required by the Internal Revenue Code to be withheld from amounts payable to a Lender that has failed to comply with clause (A) of Section 2.14(e)(ii), and (d) in the case of a Foreign Lender (other than as agreed to between any assignee and the Borrower pursuant to a request by the Borrower under Section 2.20), any United States withholding tax that (i) is required to be imposed on amounts payable to such Foreign Lender

pursuant to the Laws in force at the time such Foreign Lender becomes a party hereto (or designates a new Applicable Lending Office) or (ii) is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with clause (B) of Section 2.14(e)(ii), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new Applicable Lending Office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.14(a)(i) or (ii).

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Agent on such day on such transactions as determined by the Agent.

"Fee Letters" means (a) each of the following letters to the Borrower dated December 24, 2009: (i) the letter from Bank of America, Banc of America Securities LLC, Wells Fargo Bank, National Association and Wells Fargo Securities, LLC, (ii) the letter from Credit Suisse AG, Cayman Islands Branch and Credit Suisse Securities (USA) LLC, and (iii) the letter from Barclays Bank PLC, each relating to certain fees payable by the Borrower to such parties in respect of the transactions contemplated by this Agreement and (b) any letter between the Borrower and any Issuing Bank other than an Initial Issuing Bank relating to certain fees payable to such Issuing Bank in its capacity as such, each as amended, modified, restated or supplemented from time to time.

"Foreign Lender" means any Lender that is organized under the Laws of a jurisdiction other than that in which the Borrower is resident for tax purposes (including such a Lender when acting in the capacity of an Issuing Bank). For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" has the meaning specified in Section 1.03.

"Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" means as to any Person, any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Indebtedness of any other Person or in any manner providing for the payment of any Indebtedness of any other Person or otherwise protecting the holder of such Indebtedness against loss (whether by virtue of partnership arrangements, agreements to keep well, to purchase assets, goods, securities or services, or to take-or-pay or otherwise), provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Hazardous Materials" means (a) petroleum and petroleum products, byproducts or breakdown products, radioactive materials, asbestos-containing materials, polychlorinated biphenyls and radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any Environmental Law.

"Hedge Agreement" means any interest rate swap, cap or collar agreement, interest rate future or option contract, currency swap agreement, currency future or option contract, commodity future or option contract, commodity forward contract or other similar agreement.

"Increase Date" has the meaning specified in Section 2.18(a).

"Increasing Lender" has the meaning specified in Section 2.18(b).

"Indebtedness" means as to any Person at any date (without duplication): (a) indebtedness created, issued, incurred or assumed by such Person for borrowed money or evidenced by bonds, debentures, notes or similar instruments; (b) all obligations of such Person to pay the deferred purchase price of property or services, excluding, however, trade accounts payable (other than for borrowed money) arising in, and accrued expenses incurred in, the ordinary course of business of such Person so long as such trade accounts payable are paid within 180 days of the date incurred; (c) all Indebtedness secured by a lien on any asset of such Person, to the extent such Indebtedness has been assumed by, or is a recourse obligation of, such Person; (d) all Guarantees by such Person; (e) all Capital Lease Obligations of such Person; and (f) the amount of all reimbursement obligations of such Person (whether contingent or otherwise) in respect of letters of credit, bankers' acceptances, surety or other bonds and similar instruments in support of Indebtedness.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Initial Issuing Banks" has the meaning given to such term in the introductory paragraph hereof.

"Initial Lenders" has the meaning given to such term in the introductory paragraph hereof.

"Interest Period" means, for each Eurodollar Rate Advance comprising part of the same Borrowing, the period commencing on the date such Eurodollar Rate Advance is disbursed or the date of the Conversion of any Base Rate Advance into such Eurodollar Rate Advance and ending on the last day of the period selected by the Borrower pursuant to the provisions below and,

thereafter, each subsequent period commencing on the last day of the immediately preceding Interest Period and ending on the last day of the period selected by the Borrower pursuant to the provisions below. The duration of each such Interest Period shall be one, two, three or six months, as the Borrower may, upon notice received by the Agent not later than 12:00 noon on the third Business Day prior to the first day of such Interest Period, select; provided, however, that:

(a) the Borrower may not select any Interest Period that ends after the Termination Date;

(b) Interest Periods commencing on the same date for Eurodollar Rate Advances comprising part of the same Borrowing shall be of the same duration;

(c) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day, provided, however, that, if such extension would cause the last day of such Interest Period to occur in the next following calendar month, the last day of such Interest Period shall occur on the next preceding Business Day; and

(d) whenever the first day of any Interest Period occurs on a day of an initial calendar month for which there is no numerically corresponding day in the calendar month that succeeds such initial calendar month by the number of months equal to the number of months in such Interest Period, such Interest Period shall end on the last Business Day of such succeeding calendar month.

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

"IRS" means the United States Internal Revenue Service.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

"Issuing Bank" means the Initial Issuing Banks or any other Lender approved by the Borrower that may agree to issue Letters of Credit pursuant to an Assignment and Assumption or other agreement in form satisfactory to the Borrower and the Agent, so long as such Lender expressly agrees to perform in accordance with their terms all of the obligations that by the terms of this Agreement are required to be performed by it as an Issuing Bank and notifies the Agent of its Applicable Lending Office (which information shall be recorded by the Agent in the Register), for so long as such Initial Issuing Bank or Lender, as the case may be, shall have a Letter of Credit Commitment.

"L/C Advance" means, with respect to each Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Ratable Share.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made nor refinanced as a Base Rate Advance.

"L/C Cash Deposit Account" means an interest bearing cash deposit account to be established and maintained by the Agent, over which the Agent shall have sole dominion and control, upon terms as may be satisfactory to the Agent.

"L/C Obligations" means, as at any date of determination, the aggregate Available Amount of all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"L/C Related Documents" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by any Issuing Bank and the Borrower or in favor of any Issuing Bank and relating to such Letter of Credit.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

"Lenders" means the Initial Lenders, each Issuing Bank, each Assuming Lender that shall become a party hereto pursuant to Section 2.18 and each Person that shall become a party hereto pursuant to Section 8.07.

"Letter of Credit" has the meaning specified in Section 2.01(b).

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by any Issuing Bank.

"Letter of Credit Commitment" means, with respect to each Issuing Bank, the obligation of such Issuing Bank to issue Letters of Credit for the account of the Borrower from time to time in an aggregate amount equal to (a) for each of the Initial Issuing Banks, $100,000,000 and (b) for any other Issuing Bank, as separately agreed to by such Issuing Bank and the Borrower. The Letter of Credit Commitment is part of, and not in addition to, the Revolving Credit Commitments.

"Letter of Credit Expiration Date" means the day that is five Business Days prior to the Termination Date.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge or other security interest or preferential arrangement that has the practical effect of creating a security interest, including, without

limitation, the lien or retained security title of a conditional vendor and any easement, right of way or other encumbrance on title to real property, and any Capital Lease having substantially the same economic effect as any of the foregoing.

"Loan Documents" mean this Agreement, each Note, each L/C Related Document and the Fee Letters.

"Material Adverse Effect" means a material adverse effect on (a) the financial condition or financial prospects of the Borrower and its Subsidiaries (excluding SunCor Development Company and its Subsidiaries) taken as a whole, (b) the rights and remedies of the Agent or any Lender under this Agreement or any Note or (c) the ability of the Borrower to perform its obligations under this Agreement or any Note.

"Material Subsidiary" means APS and, at any time, each other Subsidiary of the Borrower (excluding SunCor Development Company and its Subsidiaries) which as of such time meets the definition of a "significant subsidiary" in Regulation S-X of the Securities and Exchange Commission or whose assets at such time exceed 10% of the assets of the Borrower and the Subsidiaries (on a consolidated basis).

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Note" means a promissory note of the Borrower payable to the order of any Lender, delivered pursuant to a request made under Section 2.16 in substantially the form of Exhibit A hereto.

"Notice of Borrowing" has the meaning specified in Section 2.02(a).

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower arising under any Loan Document or otherwise with respect to any Advance or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue under any Loan Document after the commencement by or against the Borrower of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

"Other Taxes" means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Plan" means any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

"Person" means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

"Plan" means any "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) established by the Borrower or, with respect to any such plan that is subject to Section 412 of the Internal Revenue Code or Title IV of ERISA, any ERISA Affiliate.

"Public Debt Rating" means, as of any date, the rating that has been most recently announced by either S&P or Moody's, as the case may be, for any class of non-credit enhanced long-term senior unsecured debt issued by the Borrower or, if any such rating agency shall have issued more than one such rating, the lowest such rating issued by such rating agency. For purposes of the foregoing, (a) if only one of S&P and Moody's shall have in effect a Public Debt Rating, the Applicable Rate shall be determined by reference to the available rating; (b) if neither S&P nor Moody's shall have in effect a Public Debt Rating, the Applicable Rate will be set in accordance with Level 5 under the definition of "Applicable Rate"; (c) if the ratings established by S&P and Moody's shall fall within different levels, the Applicable Rate shall be based upon the higher rating unless such ratings differ by two or more levels, in which case the applicable level will be deemed to be one level below the higher of such levels; (d) if any rating established by S&P or Moody's shall be changed (other than as a result of a change in the basis on which ratings are established), such change shall be effective as of the date on which such change is first announced publicly by the rating agency making such change; and (e) if S&P or Moody's shall change the basis on which ratings are established, each reference to the Public Debt Rating announced by S&P or Moody's, as the case may be, shall refer to the then equivalent rating by S&P or Moody's, as the case may be.

"Ratable Share" of any amount means, with respect to any Lender at any time but subject to the provisions of Section 2.19, the product of such amount times a fraction the numerator of which is the amount of such Lender's Revolving Credit Commitment at such time (or, if the Revolving Credit Commitments shall have been terminated pursuant to Section 2.05 or 6.01, such Lender's Revolving Credit Commitment as in effect immediately prior to such termination) and the denominator of which is the aggregate amount of all Revolving Credit Commitments at such time (or, if the Revolving Credit Commitments shall have been terminated pursuant to Section 2.05 or 6.01, the aggregate amount of all Revolving Credit Commitments as in effect immediately prior to such termination).

"Register" has the meaning specified in Section 8.07(c).

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees and advisors of such Person and of such Person's Affiliates.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived under the final regulations issued under Section 4043, as in effect as of the date of this Agreement (the "Section 4043 Regulations"). Any changes made to the Section 4043 Regulations that become effective after the Effective Date shall have no impact on the definition of Reportable Event as used herein unless otherwise amended by the Borrower and the Required Lenders.

"Required Lenders" means, at any time, but subject to Section 2.19, Lenders holding in the aggregate more than 50% of (a) the Revolving Credit Commitments or (b) if the Revolving Credit Commitments have been terminated, the Total Outstandings.

"Revolving Credit Commitment" means, as to any Lender, its obligation to (a) make Advances to the Borrower pursuant to Section 2.01 and 2.03(c), and (b) purchase participations in L/C Obligations, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 1.01 under the column "Revolving Credit Commitment" or if such Lender has become a Lender hereunder pursuant to an Assumption Agreement or if such Lender has entered into any Assignment and Assumption, the amount set forth for such Lender in the Register, in each case as such amount may be reduced pursuant to Section 2.05 or increased pursuant to Section 2.18.

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.

"Sale Leaseback Obligation Bonds" means PVNGS II Funding Corp.'s (a) 8.00% Secured Lease Obligation Bonds, Series 1993, due 2015; (b) any other bonds issued by or on behalf of the Borrower in connection with a sale/leaseback transaction; and (c) any refinancing or refunding of the obligations specified in subclauses (a) and (b) above.

"SEC Reports" means the Borrower's (i) Form 10-K Report for the year ended December 31, 2008, (ii) Form 10-Q Reports for the quarters ended March 31, 2009, June 30, 2009 and September 30, 2009 and (iii) Form 8-K Reports filed on January 26, 2009, February 20, 2009, February 25, 2009, March 3, 2009, March 24, 2009, March 24, 2009, April 2, 2009, April 22, 2009, May 4, 2009, May 5, 2009, June 2, 2009, June 15, 2009, July 1, 2009, August 4, 2009, September 25, 2009, October 29, 2009, November 2, 2009, November 18, 2009, December 17, 2009, December 21, 2009, January 25, 2010 and February 1, 2010.

"Subsidiary" of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding Voting Stock, (b) the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Termination Date" means the earlier of (a) February 12, 2013 and (b) the date of termination in whole of the Commitments pursuant to Section 2.05 or 6.01.

"Total Outstandings" means the sum of (a) the aggregate principal amount of all Advances plus (b) all L/C Obligations outstanding.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

"Unissued Letter of Credit Commitment" means, with respect to any Issuing Bank, the obligation of such Issuing Bank to issue Letters of Credit for the account of the Borrower in an amount equal to the excess of (a) the amount of its Letter of Credit Commitment over (b) the aggregate Available Amount of all Letters of Credit issued by such Issuing Bank.

"Unused Commitment" means, with respect to each Lender at any time, (a) such Lender's Revolving Credit Commitment at such time minus (b) the sum of (i) the aggregate principal amount of all Advances made by such Lender (in its capacity as a Lender) and outstanding at such time and (ii) such Lender's Ratable Share of the aggregate L/C Obligations outstanding at such time.

"Voting Stock" means capital stock issued by a corporation, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even if the right so to vote has been suspended by the happening of such a contingency.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's permitted successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any

law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 Accounting Terms. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with generally accepted accounting principles as in effect from time to time, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants) with the most recent audited Consolidated financial statements of the Borrower delivered to the Agent ("GAAP"). If at any time any change in GAAP or in the interpretation thereof would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP or in the interpretation thereof (subject to the approval of the Required Lenders); provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein.

Section 1.04 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

ARTICLE II

AMOUNTS AND TERMS OF THE ADVANCES AND LETTERS OF CREDIT

Section 2.01 The Advances and Letters of Credit.

(a) The Advances. Each Lender severally agrees, on the terms and conditions hereinafter set forth, to make Advances in Dollars to the Borrower from time to time on any Business Day during the period from the Effective Date until the Termination Date in an amount not to exceed such Lender's Unused Commitment. Each Borrowing shall be in an aggregate amount of $10,000,000 or an integral multiple of $1,000,000 in excess thereof and shall consist

of Advances of the same Type made on the same day by the Lenders ratably according to their respective Revolving Credit Commitments. Within the limits of each Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(a), prepay pursuant to Section 2.10 and reborrow under this Section 2.01(a).

(b) Letters of Credit. Each Issuing Bank agrees, on the terms and conditions hereinafter set forth, in reliance upon the agreements of the other Lenders set forth in this Agreement, to issue letters of credit (each, a "Letter of Credit") for the account of the Borrower from time to time on any Business Day during the period from the Effective Date until 30 days before the Termination Date in an aggregate Available Amount for all Letters of Credit issued by each Issuing Bank not to exceed at any time such Issuing Bank's Letter of Credit Commitment, provided that after giving effect to the issuance of any Letter of Credit, (i) the Total Outstandings shall not exceed the aggregate Revolving Credit Commitments and (ii) each Lender's Ratable Share of the Total Outstandings shall not exceed such Lender's Revolving Credit Commitment. No Letter of Credit shall have an expiration date (including all rights of the Borrower or the beneficiary to require renewal) later than the Letter of Credit Expiration Date. Within the limits referred to above, the Borrower may from time to time request the issuance of Letters of Credit under this Section 2.01(b). The terms "issue", "issued", "issuance" and all similar terms, when applied to a Letter of Credit, shall include any renewal, extension or amendment thereof.

Section 2.02 Making the Advances.

(a) Except as otherwise provided in Section 2.03(c), each Borrowing shall be made on notice, given not later than (x) 12:00 noon on the third Business Day prior to the date of the proposed Borrowing in the case of a Borrowing consisting of Eurodollar Rate Advances or (y) 12:00 noon on the date of the proposed Borrowing in the case of a Borrowing consisting of Base Rate Advances, by the Borrower to the Agent, which shall give to each Lender prompt notice thereof by facsimile. Each such notice of a Borrowing (a "Notice of Borrowing") shall be in writing or by facsimile in substantially the form of Exhibit B hereto, specifying therein the requested (i) date of such Borrowing, (ii) Type of Advances comprising such Borrowing, (iii) aggregate amount of such Borrowing, and (iv) in the case of a Borrowing consisting of Eurodollar Rate Advances, initial Interest Period for each such Advance. Each Lender shall, in the case of a Borrowing consisting of Base Rate Advances, before 2:00 p.m. on the date of such Borrowing, and in the case of a Borrowing consisting of Eurodollar Rate Advances, before 11:00 a.m. on date of such Borrowing, make available for the account of its Applicable Lending Office to the Agent at the Agent's Account, in same day funds, such Lender's Ratable Share of such Borrowing. After the Agent's receipt of such funds and upon fulfillment of the applicable conditions set forth in Article III, the Agent will make such funds available to the Borrower at the Agent's address referred to in Section 8.02 or as requested by the Borrower in the applicable Notice of Borrowing.

(b) Anything in subsection (a) above to the contrary notwithstanding, (i) the Borrower may not select Eurodollar Rate Advances for any Borrowing if the aggregate amount of such Borrowing is less than $10,000,000 or if the obligation of the Lenders to make Eurodollar Rate Advances shall then be suspended pursuant to Section 2.08 or 2.12 and (ii) at no

time shall there be more than fifteen different Interest Periods outstanding for Eurodollar Rate Advances.

(c) Each Notice of Borrowing shall be irrevocable and binding on the Borrower. In the case of any Borrowing that the related Notice of Borrowing specifies is to be comprised of Eurodollar Rate Advances, the Borrower shall indemnify each Lender against any loss, cost or expense reasonably incurred by such Lender as a result of any failure to fulfill on or before the date specified in such Notice of Borrowing for such Borrowing the applicable conditions set forth in Article III, including, without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund the Advance to be made by such Lender as part of such Borrowing when such Advance, as a result of such failure, is not made on such date.

(d) Unless the Agent shall have received notice from a Lender prior to the time of the applicable Borrowing that such Lender will not make available to the Agent such Lender's Ratable Share of such Borrowing, the Agent may assume that such Lender has made such portion available to the Agent on the date of such Borrowing in accordance with subsection (a) of this Section 2.02 and the Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Lender shall not have so made such Ratable Share available to the Agent, such Lender and the Borrower severally agree to repay to the Agent within one Business Day after demand for such Lender and within three Business Days after demand for the Borrower such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Agent, at (i) in the case of the Borrower, the interest rate applicable at the time to Advances comprising such Borrowing and (ii) in the case of such Lender, the Federal Funds Rate. If the Borrower and such Lender shall pay such interest to the Agent for the same or an overlapping period, the Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender shall repay to the Agent such corresponding amount, such amount so repaid shall constitute such Lender's Advance as part of such Borrowing for purposes of this Agreement.

(e) The failure of any Lender to make the Advance to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Advance on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Advance to be made by such other Lender on the date of any Borrowing.

Section 2.03 Letters of Credit.

(a) General.

(i) No Issuing Bank shall issue any Letter of Credit, if the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Lenders have approved such expiry date.

(ii) No Issuing Bank shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any Law applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which, in each such case, such Issuing Bank in good faith deems material to it;

(B) except as otherwise agreed by the Borrower and such Issuing Bank, such Letter of Credit is in an initial stated amount less than $50,000, in the case of a commercial Letter of Credit, or $500,000, in the case of a standby Letter of Credit;

(C) such Letter of Credit is to be denominated in a currency other than Dollars;

(D) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder;

(E) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension; or

(F) any Lender is at such time an Affected Lender hereunder, unless the applicable Issuing Bank is satisfied that the related exposure will be 100% covered by the Commitments of the non-Affected Lenders or, if not so covered, until such Issuing Bank has entered into arrangements satisfactory to it in its sole discretion with the Borrower or such Affected Lender to eliminate such Issuing Bank's risk with respect to such Affected Lender, and participating interests in any such newly issued Letter of Credit shall be allocated among non-Affected Lenders in a manner consistent with Section 2.19(c)(i) (and Affected Lenders shall not participate therein);

(iii) No Issuing Bank shall amend any Letter of Credit if such Issuing Bank would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.

(iv) No Issuing Bank shall be under any obligation to amend any Letter of Credit if (A) such Issuing Bank would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable Issuing Bank (with a copy to the Agent) in the form of a Letter of Credit Application, appropriately completed and signed by an Authorized Officer of the Borrower. Such Letter of Credit Application must be received by such Issuing Bank and the Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Agent and such Issuing Bank may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable Issuing Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such Issuing Bank may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable Issuing Bank (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such Issuing Bank may require. Additionally, the Borrower shall furnish to the applicable Issuing Bank and the Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any L/C Related Documents, as the applicable Issuing Bank or the Agent may require. In the event and to the extent that the provisions of any Letter of Credit Application or other L/C Related Document shall conflict with this Agreement, the provisions of this Agreement shall govern. Without limitation of the immediately preceding sentence, no such Letter of Credit Application or other L/C Related Document may impose any additional conditions on the issuance or maintenance of a Letter of Credit, any additional default provisions, collateral requirements or other obligations of the Borrower to any Issuing Bank, other than as stated in this Agreement.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable Issuing Bank will confirm with the Agent (by telephone or in writing) that the Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, such Issuing Bank will provide the Agent with a copy thereof. Unless the applicable Issuing Bank has received written notice from the Required Lenders, the Agent or the Borrower, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article III shall not then be satisfied, then, subject to the terms and conditions hereof, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with such Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably

and unconditionally agrees to, purchase from such Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Ratable Share times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the applicable Issuing Bank may, in its sole and absolute discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such Issuing Bank to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Bank, the Borrower shall not be required to make a specific request to the applicable Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the applicable Issuing Bank to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the applicable Issuing Bank shall not permit any such extension (or may issue a Notice of Non-Extension) if (A) such Issuing Bank has determined that it would not be permitted at such time to issue such Letter of Credit in its revised form (as extended) by reason of the provisions of clause (i) of Section 2.03(a) (or would have no obligation to issue such Letter of Credit by reason of the provisions of clause (ii) of Section 2.03(a)), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Agent that the Required Lenders have elected not to permit such extension pursuant to Section 6.02 or (2) from the Agent, the Required Lenders or the Borrower that one or more of the applicable conditions specified in Section 3.02 is not then satisfied, and in each such case directing such Issuing Bank not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Borrower and the Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Subject to the provisions below, not later than 2:30 p.m. on the date (the "Honor Date") that any Issuing Bank makes any payment on a drawing on any Letter of Credit, if the Borrower shall have received notice of such payment prior to 11:30 a.m. on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 2:30 p.m. on the next Business Day, the Borrower shall reimburse such Issuing Bank through the Agent in an amount equal to the amount of such drawing together with interest thereon. If the Borrower fails to so reimburse such Issuing Bank by such time, unless the Borrower shall have advised the Agent that it does not meet the conditions specified in clause (B) below, the Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed

Amount"), and the amount of such Lender's Ratable Share thereof. In such event, the Borrower shall be deemed to have requested a Base Rate Advance to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.01(a) or the delivery of a Notice of Borrowing, but subject to (A) the amount of the aggregate Unused Commitments and (B) no Event of Default having occurred and be continuing, or resulting therefrom and, to the extent so financed, the Borrower's obligation to satisfy the reimbursement obligation created by such payment by the Issuing Bank on the Honor Date shall be discharged and replaced by the resulting Base Rate Advance. Any notice given by any Issuing Bank or the Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.03(c)(i) make funds available to the Agent for the account of the applicable Issuing Bank at the Agent's Office in an amount equal to its Ratable Share of the Unreimbursed Amount not later than 4:00 p.m. on the Business Day specified in such notice by the Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Advance to the Borrower in such amount. The Agent shall remit the funds so received to the applicable Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Base Rate Advance because any of the conditions set forth in clauses (A), (B) or (C) of Section 2.03(c)(i) cannot be satisfied or for any other reason, then not later than 2:30 p.m. on the next Business Day after the day notice of the drawing is given to the Borrower, in the case of a failure to meet any such condition, or in any other case, after notice of the event resulting in the outstanding Unreimbursed Amount, the Borrower shall reimburse such Issuing Bank through the Agent in an amount equal to the amount of such outstanding Unreimbursed Amount with interest thereon. If the Borrower fails to so reimburse such Issuing Bank by such time, the Borrower shall be deemed to have incurred from the applicable Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Base Rate in effect from time to time plus the Applicable Rate for Base Rate Advances in effect from time to time plus 2% per annum. In such event, each Lender's payment to the Agent for the account of the applicable Issuing Bank pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Lender funds its Base Rate Advance or L/C Advance pursuant to this Section 2.03(c) to reimburse the applicable Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Ratable Share of such amount shall be solely for the account of the applicable Issuing Bank.

(v) Each Lender's obligation to make Base Rate Advances or L/C Advances to reimburse the applicable Issuing Bank for amounts drawn under Letters of Credit, as

contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such Issuing Bank, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Base Rate Advances pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 2.03(c)(i). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the applicable Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Agent for the account of the applicable Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), such Issuing Bank shall be entitled to recover from such Lender (acting through the Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such Issuing Bank in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Base Rate Advance included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the applicable Issuing Bank submitted to any Lender (through the Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the applicable Issuing Bank has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), if the Agent receives for the account of such Issuing Bank any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral (as defined in Section 2.03(h)) applied thereto by the Agent), the Agent will distribute to such Lender its Ratable Share thereof in the same funds as those received by the Agent.

(ii) If any payment received by the Agent for the account of the applicable Issuing Bank pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 8.12 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Lender shall pay to the Agent for the account of such Issuing Bank its Ratable Share thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect.

The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Failure to Make Advances. The failure of any Lender to make the Advance to be made by it on the date specified in Section 2.03(c) or any L/C Advance shall not relieve any other Lender of its obligation hereunder to make its Advance or L/C Advance, as the case may be, to be made by such other Lender on such date.

(f) Obligations Absolute. The obligation of the Borrower to reimburse the applicable Issuing Bank for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), any Issuing Bank or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the applicable Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the applicable Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

provided, however, that nothing in this Section 2.03(f) shall limit the rights of the Borrower under Section 2.03(g).

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity that is known to the Borrower in connection with

any draw under such Letter of Credit of which the Borrower has reasonable notice, the Borrower will immediately notify the applicable Issuing Bank. To the extent allowed by applicable Law, Borrower shall be conclusively deemed to have waived any such claim against the applicable Issuing Bank and its correspondents unless such notice is given as aforesaid. Nothing herein shall require the Borrower to make any determination as to whether the drawing is in accordance with the requirements of the Letter of Credit, provided that the Borrower may waive any discrepancies in the drawing on any such Letter of Credit.

(g) Role of Issuing Bank. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the applicable Issuing Bank shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the applicable Issuing Bank, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of such Issuing Bank shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or L/C Related Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at Law or under any other agreement. None of the applicable Issuing Bank, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of such Issuing Bank shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.03(f); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the applicable Issuing Bank, and such Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such Issuing Bank's willful misconduct or gross negligence or such Issuing Bank's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the applicable Issuing Bank may accept documents that appear on its face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and such Issuing Bank shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a 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.

(h) Cash Collateral. Upon the request of the Agent, if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then outstanding L/C Obligations. Section 6.02 sets forth certain additional requirements to deliver Cash Collateral hereunder. For purposes of this Section 2.03 and Section 6.02, "Cash Collateralize" means to pledge and deposit with or deliver to the Agent, for the benefit of the Issuing Banks and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and

substance satisfactory to the Agent and each Issuing Bank (which documents are hereby consented to by the Lenders). Derivatives of such term have corresponding meanings. The Borrower hereby grants to the Agent, for the benefit of the Issuing Banks and the Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, non-interest bearing deposit accounts with the Agent.

(i) Applicability of ISP and UCP. Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance shall apply to each commercial Letter of Credit.

(j) Letter of Credit Reports. Each Issuing Bank shall furnish (A) to the Agent on the first Business Day of each month a written report summarizing issuance and expiration dates of Letters of Credit issued by such Issuing Bank during the preceding month and drawings during such month under all such Letters of Credit and (B) to the Agent on the first Business Day of each calendar quarter a written report setting forth the average daily aggregate Available Amount during the preceding calendar quarter of all Letters of Credit issued by such Issuing Bank.

(k) Interim Interest. Except as provided in Section 2.03(c)(ii) with respect to Unreimbursed Amounts refinanced as Base Rate Advances and Section 2.03(c)(iii) with respect to L/C Borrowings, unless the Borrower shall reimburse each payment by an Issuing Bank pursuant to a Letter of Credit in full on the Honor Date, the Unreimbursed Amount thereof shall bear interest, for each day from and including the Honor Date to but excluding the date that the Borrower reimburses such Issuing Bank for the Unreimbursed Amount in full, at the rate per annum equal to (i) the Base Rate in effect from time to time plus the Applicable Rate for Base Rate Advances in effect from time to time, to but excluding the next Business Day after the Honor Date and (ii) from and including the next Business Day after the Honor Date, the Base Rate in effect from time to time plus the Applicable Rate for Base Rate Advances in effect from time to time plus 2% per annum.

Section 2.04 Fees.

(a) Commitment Fee. The Borrower agrees to pay to the Agent for the account of each Lender a commitment fee on such Lender's Unused Commitment from the Effective Date in the case of each Initial Lender and from the effective date specified in the Assumption Agreement or in the Assignment and Assumption pursuant to which it became a Lender in the case of each other Lender until the Termination Date at a rate per annum equal to the Applicable Rate for Commitment Fees in effect from time to time, payable in arrears quarterly on the last day of each March, June, September and December, commencing March 31, 2010, and on the Termination Date, provided that no commitment fee shall accrue with respect to the Unused Commitment of an Affected Lender so long as such Lender shall be an Affected Lender.

(b) Letter of Credit Fees.

(i) The Borrower shall pay to the Agent for the account of each Lender a commission on such Lender's Ratable Share of the average daily aggregate Available Amount of all Letters of Credit outstanding from time to time at a rate per annum equal to the Applicable Rate for Eurodollar Rate Advances in effect from time to time, during such calendar quarter, payable in arrears quarterly on the last day of each March, June, September and December, commencing with the quarter ended March 31, 2010, and on the Termination Date; provided that the Applicable Rate for Eurodollar Rate Advances shall be 2% above such Applicable Rate in effect upon the occurrence and during the continuation of an Event of Default if the Borrower is required to pay default interest pursuant to Section 2.07(b).

(ii) The Borrower shall pay to each Issuing Bank, for its own account, a fronting fee with respect to each Letter of Credit issued by such Issuing Bank, payable in the amounts and at the times specified in the applicable Fee Letter between the Borrower and such Issuing Bank, and such other commissions, issuance fees, transfer fees and other fees and charges in connection with the issuance or administration of each Letter of Credit as the Borrower and such Issuing Bank shall agree promptly following receipt of an invoice therefor.

(c) Agent's Fees. The Borrower shall pay to the Agent for its own account such fees as are agreed between the Borrower and the Agent pursuant to the Fee Letter between the Borrower and the Agent.

Section 2.05 Optional Termination or Reduction of the Commitments.

(a) The Borrower shall have the right, upon at least three Business Days' notice to the Agent, to terminate in whole or permanently reduce ratably in part the Unused Commitments or the Unissued Letter of Credit Commitments, provided that each partial reduction shall be in the aggregate amount of $10,000,000 or an integral multiple of $1,000,000 in excess thereof.

(b) So long as no Default or Event of Default shall be continuing, the Borrower shall have the right, at any time, upon at least ten Business Days' notice to an Affected Lender (with a copy to the Agent), to terminate in whole such Lender's Revolving Credit Commitment and, if applicable, its Letter of Credit Commitment, without affecting the Commitments of any other Lender. Such termination shall be effective, (x) with respect to such Lender's Unused Commitment, on the date set forth in such notice, provided, however, that such date shall be no earlier than ten Business Days after receipt of such notice and (y) with respect to each Advance outstanding to such Lender, in the case of Base Rate Advances, on the date set forth in such notice and, in the case of Eurodollar Rate Advances, on the last day of the then current Interest Period relating to such Advance. Upon termination of a Lender's Commitments under this Section 2.05(b), the Borrower will pay or cause to be paid all principal of, and interest accrued to the date of such payment on, Advances owing to such Lender and, subject to Section 2.19, pay any accrued commitment fees or Letter of Credit fees payable to such Lender pursuant to the provisions of Section 2.04, and all other amounts payable to such Lender hereunder (including, but not limited to, any increased costs or other amounts owing under Section 2.11 and any

indemnification for Taxes under Section 2.14); and, if such Lender is an Issuing Bank, shall pay to such Issuing Bank for deposit in an escrow account an amount equal to the Available Amount of all Letters of Credit issued by such Issuing Bank, whereupon all Letters of Credit issued by such Issuing Bank shall be deemed to have been issued outside of this Agreement on a bilateral basis and shall cease for all purposes to constitute a Letter of Credit issued under this Agreement, and upon such payments, except as otherwise provided below, the obligations of such Lender hereunder shall, by the provisions hereof, be released and discharged; provided, however, that (i) such Lender's rights under Sections 2.11, 2.14 and 8.04, and, in the case of an Issuing Bank, Section 8.04(c), and its obligations under Section 8.04 and 8.08, in each case in accordance with the terms thereof, shall survive such release and discharge as to matters occurring prior to such date and (ii) such escrow agreement shall be in a form reasonably agreed to by the Borrower and such Issuing Bank, but in no event shall either the Borrower or such Issuing Bank require any waivers, covenants, events of default or other provisions that are more restrictive than or inconsistent with the provisions of this Agreement. Subject to Section 2.18, the aggregate amount of the Commitments of the Lenders once reduced pursuant to this Section 2.05(b) may not be reinstated. The termination of the Commitments of an Affected Lender pursuant to this Section 2.05(b) will not be deemed to be a waiver of any right that the Borrower, the Agent, any Issuing Bank or any other Lender may have against the Affected Lender that arose prior to the date of such termination. Upon any such termination, the Ratable Share of each remaining Lender will be revised.

Section 2.06 Repayment of Advances. The Borrower shall repay to the Agent for the ratable account of the Lenders on the Termination Date the aggregate principal amount of the Advances made by such Lender and then outstanding.

Section 2.07 Interest on Advances.

(a) Scheduled Interest. The Borrower shall pay interest on the unpaid principal amount of each Advance owing to each Lender from the date of such Advance until such principal amount shall be paid in full, at the following rates per annum:

(i) Base Rate Advances. During such periods as such Advance is a Base Rate Advance, a rate per annum equal at all times to the sum of (x) the Base Rate in effect from time to time plus (y) the Applicable Rate for Base Rate Advances in effect from time to time, payable in arrears quarterly on the last day of each March, June, September and December during such periods and on the date such Base Rate Advance shall be Converted or paid in full.

(ii) Eurodollar Rate Advances. During such periods as such Advance is a Eurodollar Rate Advance, a rate per annum equal at all times during each Interest Period for such Advance to the sum of (x) the Eurodollar Rate for such Interest Period for such Advance plus (y) the Applicable Rate for Eurodollar Rate Advances in effect from time to time, payable in arrears on the last day of such Interest Period and, if such Interest Period has a duration of more than three months, on each day that occurs during such Interest Period every three months from the first day of such Interest Period and on the date such Eurodollar Rate Advance shall be Converted or paid in full.

(b) Default Interest. Upon the occurrence and during the continuance of an Event of Default under Section 6.01(a), the Agent may, and upon the request of the Required Lenders shall, require the Borrower to pay interest ("Default Interest") on (i) the unpaid principal amount of each Advance owing to each Lender, payable in arrears on the dates referred to in clause (a)(i) or (a)(ii) above, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on such Advance pursuant to clause (a)(i) or (a)(ii) above and (ii) to the fullest extent permitted by Law, the amount of any interest, fee or other amount payable hereunder that is not paid when due, from the date such amount shall be due until such amount shall be paid in full, payable in arrears on the date such amount shall be paid in full and on demand, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on Base Rate Advances pursuant to clause (a)(i) above, provided, however, that following acceleration of the Advances pursuant to Section 6.01, Default Interest shall accrue and be payable hereunder whether or not previously required by the Agent.

(c) Interest Rate Limitation. Nothing contained in this Agreement or in any other Loan Document shall be deemed to establish or require the payment of interest to any Lender at a rate in excess of the maximum rate permitted by applicable Law. If the amount of interest payable for the account of any Lender on any interest payment date would exceed the maximum amount permitted by applicable Law to be charged by such Lender, the amount of interest payable for its account on such interest payment date shall be automatically reduced to such maximum permissible amount. In the event of any such reduction affecting any Lender, if from time to time thereafter the amount of interest payable for the account of such Lender on any interest payment date would be less than the maximum amount permitted by applicable Law to be charged by such Lender, then the amount of interest payable for its account on such subsequent interest payment date shall be automatically increased to such maximum permissible amount, provided that at no time shall the aggregate amount by which interest paid for the account of any Lender has been increased pursuant to this sentence exceed the aggregate amount by which interest paid for its account has theretofore been reduced pursuant to the previous sentence.

Section 2.08 Interest Rate Determination.

(a) The Agent shall give prompt notice to the Borrower and the Lenders of the applicable interest rate determined by the Agent for purposes of Section 2.07(a).

(b) If the Required Lenders determine that for any reason in connection with any request for a Eurodollar Rate Advance or a Conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Advance, (b) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance , or (c) the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance does not adequately and fairly reflect the cost to such Lenders of funding such Advance, the Agent will promptly so notify the Borrower and each Lender, whereupon each Eurodollar Rate Advance will automatically on the last day of the then existing Interest Period therefor Convert into a Base Rate Advance. Thereafter, the obligation of the Lenders to make or maintain Eurodollar Rate Advances shall be suspended until the Agent (upon the instruction of the Required Lenders)

revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, Conversion to or continuation of Eurodollar Rate Advances or, failing that, will be deemed to have Converted such request into a request for a Base Rate Advance in the amount specified therein.

(c) If the Borrower shall fail to select the duration of any Interest Period for any Eurodollar Rate Advances in accordance with the provisions contained in the definition of "Interest Period" in Section 1.01, the Agent will forthwith so notify the Borrower and the Lenders and such Advances will automatically, on the last day of the then existing Interest Period therefor, Convert into Base Rate Advances.

(d) On the date on which the aggregate unpaid principal amount of Eurodollar Rate Advances comprising any Borrowing shall be reduced, by payment or prepayment or otherwise, to less than $10,000,000, such Advances shall automatically Convert into Base Rate Advances.

(e) Upon the occurrence and during the continuance of any Event of Default,

(i) with respect to Eurodollar Rate Advances, each such Advance will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Advance (or if such Advance is then a Base Rate Advance, will continue as a Base Rate Advance); and

(ii) the obligation of the Lenders to make Eurodollar Rate Advances or to Convert Advances into Eurodollar Rate Advances shall be suspended until the Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist.

Section 2.09 Optional Conversion of Advances. The Borrower may on any Business Day, upon notice given to the Agent not later than 12:00 noon on the third Business Day prior to the date of the proposed Conversion and subject to the provisions of Sections 2.08 and 2.12, Convert all Advances of one Type comprising the same Borrowing into Advances of the other Type; provided, however, that (a) any Conversion of Eurodollar Rate Advances into Base Rate Advances shall be made only on the last day of an Interest Period for such Eurodollar Rate Advances, (b) any Conversion of Base Rate Advances into Eurodollar Rate Advances shall be in an amount not less than the minimum amount specified in Section 2.02(b) and (c) no Conversion of any Advances shall result in more separate Borrowings than permitted under Section 2.02(b). Each such notice of a Conversion shall, within the restrictions specified above, specify (i) the date of such Conversion, (ii) the Advances to be Converted, and (iii) if such Conversion is into Eurodollar Rate Advances, the duration of the initial Interest Period for each such Advance. Each notice of Conversion shall be irrevocable and binding on the Borrower.

Section 2.10 Prepayments of Advances.

(a) Optional. At any time and from time to time, the Borrower shall have the right to prepay the Advances, in whole or in part, without premium or penalty (except as provided in clause (y) below), upon notice at least two Business Days' prior to the date of such prepayment, in the case of Eurodollar Rate Advances, and not later than 11:00 a.m. on the date of such prepayment, in the case of Base Rate Advances, to the Agent specifying the proposed date of

such prepayment and the aggregate principal amount and Type of the Advances to be prepaid (and, in the case of Eurodollar Rate Advances, the Interest Period of the Borrowing pursuant to which made); provided, however, that (x) each partial prepayment shall be in an aggregate principal amount of $10,000,000 or an integral multiple of $1,000,000 in excess thereof and (y) in the event of any such prepayment of a Eurodollar Rate Advance, the Borrower shall be obligated to reimburse the Lenders in respect thereof pursuant to Section 8.04(e).

(b) Mandatory.

(i) The Borrower shall prepay the aggregate principal amount of the Advances, together with accrued interest to the date of prepayment on the principal amount prepaid, without requirement of demand therefor, or shall pay or prepay any other Indebtedness then outstanding at any time, when and to the extent required to comply with applicable Laws of any Governmental Authority or applicable resolutions of the Board of Directors of the Borrower.

(ii) If for any reason the Total Outstandings at any time exceed the aggregate Commitments then in effect, the Borrower shall, within one Business Day after notice thereof, prepay Advances and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.10(b) unless, after the prepayment in full of the Advances, the Total Outstandings exceed the aggregate Commitments then in effect.

Section 2.11 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 2.11(e)) or any Issuing Bank; or

(ii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Rate Advance (or of maintaining its obligation to make any such Advance), or to increase the cost to such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such Issuing Bank, the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any Issuing Bank determines that any Change in Law affecting such Lender or such Issuing Bank or any Applicable Lending Office of such Lender or such Lender's or such Issuing Bank's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital or on the capital of such Lender's or such Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Advances made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Bank, as the case may be, the amount shown as due on any such certificate within 30 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than three months prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the three-month period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on Eurodollar Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Advance equal to the actual costs of such reserves allocated to such Advance by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 30 days' prior notice (with a copy to the Agent) of such additional interest from such Lender. If a Lender fails to give notice 30 days prior to the relevant interest payment date, such additional interest shall be due and payable 30 days from receipt of such notice.

Section 2.12 Illegality. If any Lender shall have determined in good faith that the introduction of or any change in any applicable Law or in the interpretation or administration thereof by any Governmental Authority charged with the interpretation or administration thereof, or compliance with any guideline or request from any such Governmental Authority (whether or not having the force of law), for any Lender or its Applicable Lending Office to make, maintain or fund Eurodollar Rate Advances, or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Agent, any obligation of such Lender to make or continue Eurodollar Rate Advances or to convert Base Rate Advances to Eurodollar Rate Advances shall be suspended until such Lender notifies the Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Agent), prepay or, if applicable, convert all Eurodollar Rate Advances of such Lender to Base Rate Advances, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Advances to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Advances. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

Section 2.13 Payments and Computations.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. The Borrower shall make each payment hereunder not later than 1:00 p.m. on the day when due in U.S. dollars to the Agent at the Agent's Account in same day funds. The Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal, interest, fees or commissions ratably (other than amounts payable pursuant to Section 2.05(b), 2.11, 2.12, 2.14, 2.20 or 8.04(e)) to the Lenders for the account of their respective Applicable Lending Offices, and like funds relating to the payment of any other amount payable to any Lender to such Lender for the account of its Applicable Lending Office, in each case to be applied in accordance with the terms of this Agreement. Upon any Assuming Lender becoming a Lender hereunder as a result of a Commitment Increase pursuant to Section 2.18, and upon the Agent's receipt of such Lender's Assumption Agreement and recording of the information contained therein in the Register, from and after the applicable Increase Date, the Agent shall make all payments hereunder and under any Notes issued in connection therewith in respect of the interest assumed thereby to the Assuming Lender. Upon its acceptance of an Assignment and Assumption and recording of the information contained therein in the Register pursuant to Section 8.07(c), from and after the effective date specified in such Assignment and Assumption, the Agent shall make all payments hereunder and under the Notes in respect of the interest assigned thereby to the Lender assignee thereunder, and the parties to such Assignment and Assumption shall make all appropriate adjustments in such payments for periods prior to such effective date directly between themselves.

(b) All computations of interest based on the Base Rate or the Federal Funds Rate shall be made by the Agent on the basis of a year of 365 or 366 days, as the case may be, and all computations of interest based on the Eurodollar Rate and of fees and Letter of Credit

commissions shall be made by the Agent on the basis of a year of 360 days, in each case for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest, fees or commissions are payable. Each determination by the Agent of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

(c) Whenever any payment hereunder or under the Notes shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest, fees or commissions, as the case may be; provided, however, that, if such extension would cause payment of interest on or principal of Eurodollar Rate Advances to be made in the next following calendar month, such payment shall be made on the next preceding Business Day.

(d) Unless the Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Lenders hereunder that the Borrower will not make such payment in full, the Agent may assume that the Borrower has made such payment in full to the Agent on such date and the Agent may, in reliance upon such assumption, cause to be distributed to each Lender on such due date an amount equal to the amount then due such Lender. If and to the extent the Borrower shall not have so made such payment in full to the Agent, each Lender shall repay to the Agent forthwith on demand such amount distributed to such Lender together with interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Agent, at the Federal Funds Rate.

Section 2.14 Taxes.

(a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall to the extent permitted by applicable Laws be made free and clear of and without reduction or withholding for any Taxes. If, however, applicable Laws require the Borrower or the Agent to withhold or deduct any Tax, such Tax shall be withheld or deducted in accordance with such Laws as determined by the Borrower or the Agent, as the case may be, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If the Borrower or the Agent shall be required by the Internal Revenue Code to withhold or deduct any Taxes, including both United States Federal backup withholding and withholding taxes, from any payment, then (A) the Agent shall withhold or make such deductions as are determined by the Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Internal Revenue Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes or Other Taxes, the sum payable by the Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section) the Agent, Lender or Issuing Bank, as the case may be, receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(b) Payment of Other Taxes by the Borrower. Without limiting the provisions of subsection (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Laws.

(c) Tax Indemnifications.

(i) Without limiting the provisions of subsection (a) or (b) above, the Borrower shall, and does hereby, indemnify the Agent, each Lender and each Issuing Bank, and shall make payment in respect thereof within 30 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) withheld or deducted by the Borrower or the Agent or paid by the Agent, such Lender or such Issuing Bank, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The Borrower shall also, and does hereby, indemnify the Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or an Issuing Bank for any reason fails to pay indefeasibly to the Agent as required by clause (ii) of this subsection. A certificate as to the amount of any such payment or liability delivered to the Borrower by a Lender or an Issuing Bank (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender or an Issuing Bank, shall be conclusive absent manifest error.

(ii) Without limiting the provisions of subsection (a) or (b) above, each Lender and each Issuing Bank shall, and does hereby, indemnify the Borrower and the Agent, and shall make payment in respect thereof within 30 days after demand therefor, against any and all Taxes and any and all related losses, claims, liabilities, penalties, interest and expenses (including the fees, charges and disbursements of any counsel for the Borrower or the Agent) incurred by or asserted against the Borrower or the Agent by any Governmental Authority as a result of the failure by such Lender or such Issuing Bank, as the case may be, to deliver, or as a result of the inaccuracy, inadequacy or deficiency of, any documentation required to be delivered by such Lender or such Issuing Bank, as the case may be, to the Borrower or the Agent pursuant to subsection (e). Each Lender and each Issuing Bank hereby authorizes the Agent to set off and apply any and all amounts at any time owing to such Lender or such Issuing Bank, as the case may be, under this Agreement or any other Loan Document against any amount due to the Agent under this clause (ii). The agreements in this clause (ii) shall survive the resignation and/or replacement of the Agent, any assignment of rights by, or the replacement of, a Lender or an Issuing Bank, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

(d) Evidence of Payments. Upon request by the Borrower or the Agent, as the case may be, after any payment of Taxes by the Borrower or by the Agent to a Governmental Authority as provided in this 2.14, the Borrower shall deliver to the Agent or the Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws

to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Agent, as the case may be.

(e) Status of Lenders; Tax Documentation.

(i) Each Lender shall deliver to the Borrower and to the Agent, at the time or times prescribed by applicable Laws or when reasonably requested by the Borrower or the Agent, such properly completed and executed documentation prescribed by applicable Laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Agent, as the case may be, to determine (A) whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (B) if applicable, the required rate of withholding or deduction, and (C) such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to such Lender by the Borrower pursuant to this Agreement or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction.

(ii) Without limiting the generality of the foregoing, if the Borrower is resident for tax purposes in the United States,

(A) any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code shall deliver to the Borrower and the Agent executed originals of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable Laws or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements; and

(B) each Foreign Lender that is entitled under the Internal Revenue Code or any applicable treaty to an exemption from or reduction of withholding tax with respect to payments hereunder or under any other Loan Document shall deliver to the Borrower and the Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Borrower or the Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(1) executed originals of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(2) executed originals of Internal Revenue Service Form W-8ECI,

(3) executed originals of Internal Revenue Service Form W-8IMY and all required supporting documentation,

(4) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Internal Revenue Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Internal Revenue Code, (B) a "10 percent shareholder" of the Borrower within the meaning of section 881(c)(3)(B) of the Internal Revenue Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Internal Revenue Code and (y) executed originals of Internal Revenue Service Form W-8BEN, or

(5) executed originals of any other form prescribed by applicable Laws as a basis for claiming exemption from or a reduction in United States Federal withholding tax together with such supplementary documentation as may be prescribed by applicable Laws to permit the Borrower or the Agent to determine the withholding or deduction required to be made.

(iii) Each Lender shall promptly (A) notify the Borrower and the Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (B) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Applicable Lending Office) to avoid any requirement of applicable Laws of any jurisdiction that the Borrower or the Agent make any withholding or deduction for taxes from amounts payable to such Lender.

(f) Treatment of Certain Refunds. Unless required by applicable Laws, at no time shall the Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an Issuing Bank, or have any obligation to pay to any Lender or any Issuing Bank, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or such Issuing Bank, as the case may be. If the Agent, any Lender or any Issuing Bank determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses incurred by the Agent, such Lender or such Issuing Bank, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Agent, such Lender or such Issuing Bank, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent, such Lender or such Issuing Bank in the event the Agent, such Lender or such Issuing Bank is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require the Agent, any Lender or any Issuing Bank to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

(g) Payments. Failure or delay on the part of the Agent, any Lender or any Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section 2.14 shall not constitute a waiver of the Agent's, such Lender's or such Issuing Bank's right to demand such compensation, provided that the Borrower shall not be required to compensate the Agent, a Lender or an Issuing Bank pursuant to the foregoing provisions of this Section 2.14 for any Indemnified Taxes or Other Taxes imposed or asserted by the relevant Governmental Authority more than three months prior to the date that the Agent, such Lender or such Issuing Bank, as the case may be, claims compensation with respect thereto (except that, if a Change in Law giving rise to such Indemnified Taxes or Other Taxes is retroactive, then the three-month period referred to above shall be extended to include the period of retroactive effect thereof).

(h) Each of the Agent, any Issuing Bank or any Lender agrees to cooperate with any reasonable request made by the Borrower in respect of a claim of a refund in respect of Indemnified Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.14 if (i) the Borrower has agreed in writing to pay all of the Agent's or such Issuing Bank's or such Lender's reasonable out-of-pocket costs and expenses relating to such claim, (ii) the Agent or such Issuing Bank or such Lender determines, in its good faith judgment, that it would not be disadvantaged, unduly burdened or prejudiced as a result of such claim and (iii) the Borrower furnishes, upon request of the Agent, or such Issuing Bank or such Lender, an opinion of tax counsel (such opinion, which can be reasoned, and such counsel to be reasonably acceptable to such Lender, or such Issuing Bank or the Agent) that the Borrower is likely to receive a refund or credit.

Section 2.15 Sharing of Payments, Etc. If any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of the Advances or L/C Advances owing to it (other than pursuant to Section 2.05(b), 2.11, 2.12, 2.14, 2.20 or 8.04(e) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Advances or participations in Letters of Credit to any assignee or participant, other than to the Borrower or any Subsidiary thereof if permitted hereby (as to which the provisions of this Section 2.15 shall apply) in excess of its Ratable Share of payments on account of the Advances obtained by all the Lenders, such Lender shall forthwith purchase from the other Lenders (for cash at face value) such participations in the Advances owing to them as shall be necessary to cause such purchasing Lender to share the excess payment ratably with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from such purchasing Lender, such purchase from each Lender shall be rescinded and such Lender shall repay to the purchasing Lender the purchase price to the extent of such recovery together with an amount equal to such Lender's Ratable Share (according to the proportion of (i) the amount of such Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Borrower agrees that any Lender so purchasing a participation from another Lender pursuant to this Section 2.15 may, to the fullest extent permitted by Law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation.

Section 2.16 Evidence of Debt.

(a) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Advance owing to such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder in respect of Advances. The Borrower agrees that upon notice by any Lender to the Borrower (with a copy of such notice to the Agent) to the effect that a Note is required or appropriate in order for such Lender to evidence (whether for purposes of pledge, enforcement or otherwise) the Advances owing to, or to be made by, such Lender, the Borrower shall promptly execute and deliver to such Lender a Note payable to the order of such Lender in a principal amount up to the Revolving Credit Commitment of such Lender.

(b) The Register maintained by the Agent pursuant to Section 8.07(c) shall include a control account, and a subsidiary account for each Lender, in which accounts (taken together) shall be recorded (i) the date and amount of each Borrowing made hereunder, the Type of Advances comprising such Borrowing and, if appropriate, the Interest Period applicable thereto, (ii) the terms of each Assumption Agreement and each Assignment and Assumption delivered to and accepted by it, (iii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iv) the amount of any sum received by the Agent from the Borrower hereunder and each Lender's share thereof.

(c) Entries made in good faith by the Agent in the Register pursuant to subsection (b) above, and by each Lender in its account or accounts pursuant to subsection (a) above, shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement, absent manifest error; provided, however, that the failure of the Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement.

Section 2.17 Use of Proceeds. The proceeds of the Advances shall be available (and the Borrower agrees that it shall use such proceeds) solely to refinance Indebtedness of the Borrower from time to time and for other general corporate purposes of the Borrower.

Section 2.18 Increase in the Aggregate Revolving Credit Commitments.

(a) The Borrower may, at any time prior to the Termination Date, by notice to the Agent, request that the aggregate amount of the Revolving Credit Commitments be increased by an amount of $10,000,000 or an integral multiple thereof (each a "Commitment Increase") to be effective as of a date that is at least 90 days prior to the Termination Date (the "Increase Date") as specified in the related notice to the Agent; provided, however that (i) in no event shall the aggregate amount of the Revolving Credit Commitments at any time exceed $300,000,000 or the aggregate amount of Commitment Increases exceed $100,000,000 and (ii) on the date of any request by the Borrower for a Commitment Increase and on the related Increase Date, the applicable conditions set forth in this Section 2.18 shall be satisfied.

(b) The Agent shall promptly notify the Lenders of a request by the Borrower for a Commitment Increase, which notice shall include (i) the proposed amount of such requested Commitment Increase, (ii) the proposed Increase Date and (iii) the date by which Lenders wishing to participate in the Commitment Increase must commit to an increase in the amount of their respective Revolving Credit Commitments (the "Commitment Date"). Each Lender that is willing to participate in such requested Commitment Increase (each an "Increasing Lender") shall, in its sole discretion, give written notice to the Agent on or prior to the Commitment Date of the amount by which it is willing to increase its Revolving Credit Commitment. If the Lenders notify the Agent that they are willing to increase the amount of their respective Revolving Credit Commitments by an aggregate amount that exceeds the amount of the requested Commitment Increase, the requested Commitment Increase shall be allocated among the Lenders willing to participate therein in such amounts as are agreed between the Borrower and the Agent.

(c) Promptly following each Commitment Date, the Agent shall notify the Borrower as to the amount, if any, by which the Lenders are willing to participate in the requested Commitment Increase. If the aggregate amount by which the Lenders are willing to participate in any requested Commitment Increase on any such Commitment Date is less than the requested Commitment Increase, then the Borrower may extend offers to one or more Eligible Assignees to participate in any portion of the requested Commitment Increase that has not been committed to by the Lenders as of the applicable Commitment Date; provided, however, that the Revolving Credit Commitment of each such Eligible Assignee shall be in an amount of not less than $10,000,000.

(d) On each Increase Date, each Eligible Assignee that accepts an offer to participate in a requested Commitment Increase in accordance with Section 2.18(b) (each such Eligible Assignee, an "Assuming Lender") shall become a Lender party to this Agreement as of such Increase Date and the Revolving Credit Commitment of each Increasing Lender for such requested Commitment Increase shall be so increased by the amount by which the Increasing Lender agreed to increase its Revolving Credit Commitment (or by the amount allocated to such Lender pursuant to the last sentence of Section 2.18(b)) as of such Increase Date; provided, however, that the Agent shall have received on or before such Increase Date the following, each dated such date:

(i) (A) certified copies of resolutions of the Board of Directors of the Borrower approving the Commitment Increase and the corresponding modifications to this Agreement, (B) an opinion of counsel for the Borrower (which may be in-house counsel), in form and substance reasonably acceptable to the Required Lenders and (C) a certificate from a duly authorized officer of the Borrower, stating that the conditions set forth in Section 3.02(a) and (b) are satisfied;

(ii) an assumption agreement from each Assuming Lender, if any, in form and substance satisfactory to the Borrower and the Agent (each an "Assumption Agreement"), duly executed by such Assuming Lender, the Agent and the Borrower; and

(iii) confirmation from each Increasing Lender of the increase in the amount of its Revolving Credit Commitment in a writing satisfactory to the Borrower and the Agent.

On each Increase Date, upon fulfillment of the conditions set forth in the immediately preceding sentence of this Section 2.18(d), the Agent shall notify the Lenders (including, without limitation, each Assuming Lender) and the Borrower, on or before 1:00 p.m., by telecopier, of the occurrence of the Commitment Increase to be effected on such Increase Date and shall record in the Register the relevant information with respect to each Increasing Lender and each Assuming Lender on such date. Each Increasing Lender and each Assuming Lender shall, before 2:00 p.m. on the Increase Date, make available for the account of its Applicable Lending Office to the Agent at the Agent's Account, in same day funds, in the case of such Assuming Lender, an amount equal to such Assuming Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment as a percentage of the aggregate Revolving Credit Commitments outstanding after giving effect to the relevant Commitment Increase) and, in the case of such Increasing Lender, an amount equal to the excess of (i) such Increasing Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment as a percentage of the aggregate Revolving Credit Commitments outstanding after giving effect to the relevant Commitment Increase) over (ii) such Increasing Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment (without giving effect to the relevant Commitment Increase) as a percentage of the aggregate Revolving Credit Commitments (without giving effect to the relevant Commitment Increase). After the Agent's receipt of such funds from each such Increasing Lender and each such Assuming Lender, the Agent will promptly thereafter cause to be distributed like funds to the other Lenders for the account of their respective Applicable Lending Offices in an amount to each other Lender such that the aggregate amount of the outstanding Advances owing to each Lender after giving effect to such distribution equals such Lender's Ratable Share of the Borrowings then outstanding (calculated based on its Revolving Credit Commitment as a percentage of the aggregate Revolving Credit Commitments outstanding after giving effect to the relevant Commitment Increase).

Section 2.19 Affected Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes an Affected Lender, then the following provisions shall apply for so long as such Lender is an Affected Lender:

(a) fees shall cease to accrue on the Unused Commitment of such Affected Lender pursuant to Section 2.04(a);

(b) the Revolving Credit Commitment and Advances of such Affected Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 8.01), other than any waiver, amendment or modification requiring the consent of all Lenders or of each Lender affected;

(c) if there shall be any Available Amount under any outstanding Letter of Credit during any time a Lender is an Affected Lender, then:

(i) all or any part of the Available Amount of all such Letters of Credit shall be reallocated among the non-Affected Lenders in accordance with their respective Ratable Shares (disregarding any Affected Lender's Revolving Credit Commitment) but only to the extent that with respect to each non-Affected Lender the sum of (A) the aggregate principal amount of all Advances made by such non-Affected Lender (in its capacity as a Lender) and outstanding at such time plus (B) such non-Affected Lender's Ratable Share (after giving effect to the reallocation contemplated in this Section 2.19(c)(i)) of the outstanding L/C Obligations, does not exceed such non-Affected Lender's Revolving Credit Commitment;

(ii) if the Ratable Share of the Available Amount of outstanding Letters of Credit of the non-Affected Lenders is reallocated pursuant to Section 2.19(c), then the fees payable to the Lenders pursuant to Section 2.04(a) and Section 2.04(b) shall be adjusted in accordance with such non-Affected Lenders' Ratable Shares; and

(iii) if the Affected Lender's Ratable Share (the "Affected Lender Share") of the Available Amount of all outstanding Letters of Credit is not reallocated pursuant to Section 2.19(c), then, without prejudice to any rights or remedies of any Issuing Bank or any Lender hereunder, the fee payable under Section 2.04(b) with respect to such Affected Lender Share shall be payable to the Issuing Bank until such Affected Lender Share is reallocated;

(d) to the extent the Agent receives any payments or other amounts for the account of an Affected Lender under this Agreement, such Affected Lender shall be deemed to have requested that the Agent use such payment or other amount to fulfill such Affected Lender's previously unsatisfied obligations to fund an Advance under Section 2.03(c) or L/C Advance or any other unfunded payment obligation of such Affected Lender under this Agreement; and

(e) for the avoidance of doubt, the Borrower, each Issuing Bank, the Agent and each other Lender shall retain and reserve its other rights and remedies respecting each Affected Lender.

In the event that the Agent, the Borrower and the Issuing Banks each agrees that an Affected Lender has adequately remedied all matters that caused such Lender to be an Affected Lender, then the Ratable Shares of the Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Credit Commitment and on such date such Lender shall purchase at par such of the Advances of the other Lenders as the Agent shall determine may be necessary in order for such Lender to hold such Advances in accordance with its Ratable Share. In addition, at such time as the Affected Lender is replaced by another Lender pursuant to Section 2.20, the Ratable Shares of the Lenders will be readjusted to reflect the inclusion of the replacing Lender's Commitment in accordance with Section 2.20. In either such case, this Section 2.19 will no longer apply.

Section 2.20 Replacement of Lenders. If any Lender requests compensation under Section 2.11, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, or if any Lender is an Affected Lender, then the Borrower may, at its sole expense and effort, upon notice to such

Lender and the Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 8.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents to one or more assignees that shall assume such obligations (which any such assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Agent the assignment fee specified in Section 8.07(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Advances and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 8.04(e)) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 2.11 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable Laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

ARTICLE III

CONDITIONS PRECEDENT

Section 3.01 Conditions Precedent to Effectiveness. This Agreement shall become effective on and as of the first date (the "Effective Date") on which the following conditions precedent have been satisfied:

(a) The Lenders shall have been given such access to the management, records, books of account, contracts and properties of the Borrower and its Subsidiaries as they shall have requested.

(b) The Borrower shall have paid all accrued fees and agreed expenses of the Agent, the Arrangers and the Lenders and the reasonable accrued fees and expenses of counsel to the Agent that have been invoiced at least one Business Day prior to the Effective Date.

(c) On the Effective Date, the following statements shall be true and the Agent shall have received a certificate signed by a duly authorized officer of the Borrower, dated the Effective Date, stating that:

(i) The representations and warranties contained in Section 4.01 are true and correct on and as of the Effective Date, and

(ii) No event has occurred and is continuing that constitutes a Default.

(d) The Agent shall have received on or before the Effective Date the following, each dated such day, in form and substance satisfactory to the Agent and the Lenders:

(i) Receipt by the Agent of executed counterparts of this Agreement properly executed by a duly authorized officer of the Borrower and by each Lender.

(ii) The Notes, payable to the order of the Lenders to the extent requested by any Lender pursuant to Section 2.16.

(iii) The articles of incorporation of the Borrower certified to be true and complete as of a recent date by the appropriate governmental authority of the state or other jurisdiction of its incorporation and certified by a secretary, assistant secretary or associate secretary of the Borrower to be true and correct as of the Effective Date.

(iv) The bylaws of the Borrower certified by a secretary, assistant secretary or associate secretary of the Borrower to be true and correct as of the Effective Date.

(v) Certified copies of the resolutions of the Board of Directors of the Borrower approving this Agreement and the Notes, and of all documents evidencing other necessary corporate action and governmental approvals, if any, with respect to this Agreement and the Notes.

(vi) A certificate of the secretary, assistant secretary or associate secretary of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to sign this Agreement and the Notes and the other documents to be delivered hereunder.

(vii) A certificate as of a recent date from the Borrower's state of incorporation evidencing that the Borrower is in good standing in its state of organization or formation.

(viii) A favorable opinion of Snell & Wilmer L.L.P., counsel for the Borrower, in form and substance reasonably acceptable to the Lenders.

(e) Concurrently with or before the Effective Date, (i) all principal, interest and other amounts outstanding under the Borrower's existing Amended and Restated Credit Agreement dated as of December 9, 2005 (the "Existing Senior Credit Agreement") shall be repaid and satisfied in full, (ii) all commitments to extend credit under the Existing Senior Credit Agreement shall be terminated and (iii) any letters of credit outstanding under the Existing Senior Credit Agreement shall have been terminated, canceled or replaced; and the Agent shall have received evidence of the foregoing satisfactory to it, including an escrow agreement or payoff letter executed by the lenders or the agent under the Existing Senior Credit Agreement.

Section 3.02 Conditions Precedent to Each Credit Extension and Commitment Increase. The obligation of each Lender to make an Advance (other than an L/C Advance or a Base Rate Advance made pursuant to Section 2.03(c)) on the occasion of each Borrowing, the obligation of each Issuing Bank to issue a Letter of Credit, and each Commitment Increase shall be subject to

the conditions precedent that the Effective Date shall have occurred and on the date of such Borrowing or such issuance (as the case may be), or the applicable Increase Date, the following statements shall be true (and each of the giving of the applicable Notice of Borrowing or request for issuance and the acceptance by the Borrower of the proceeds of such Borrowing shall constitute a representation and warranty by the Borrower that on the date of such Borrowing or date of such issuance such statements are true):

(a) the representations and warranties contained in Section 4.01 (other than Section 4.01(k), and in the case of a Borrowing or issuance, Section 4.01(e)(ii) and 4.01(f)(ii)) are correct on and as of such date, before and after giving effect to such Borrowing or issuance, or such Commitment Increase and to the application of the proceeds therefrom, as though made on and as of such date; and

(b) no event has occurred and is continuing, or would result from such Borrowing or issuance, or such Commitment Increase or from the application of the proceeds therefrom, that constitutes a Default.

Each request for Credit Extension (which shall not include a Conversion or a continuation of Eurodollar Rate Advances) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 3.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

Section 3.03 Determinations Under Section 3.01. For purposes of determining compliance with the conditions specified in Section 3.01 and the satisfaction of each Lender with respect to letters delivered to it from the Borrower as set forth in Sections 4.01(a), 4.01(e) and 4.01(f), each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Lenders unless an officer of the Agent responsible for the transactions contemplated by this Agreement shall have received notice from such Lender prior to the date that the Borrower designates as the proposed Effective Date, specifying its objection thereto. The Agent shall promptly notify the Lenders and the Borrower of the occurrence of the Effective Date.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.01 Representations and Warranties of the Borrower. The Borrower represents and warrants as follows:

(a) Each of the Borrower and each Material Subsidiary: (i) is a corporation or other entity duly organized and validly existing under the Laws of the jurisdiction of its incorporation or organization; (ii) has all requisite corporate or if the Material Subsidiary is not a corporation, other comparable power necessary to own its assets and carry on its business as presently conducted; (iii) has all governmental licenses, authorizations, consents and approvals necessary to own its assets and carry on its business as presently conducted, if the failure to have any such license, authorization, consent or approval is reasonably likely to have a Material Adverse Effect

and except as disclosed to the Agent in the SEC Reports or by means of a letter from the Borrower to the Lenders (such letter, if any, to be delivered to the Agent for prompt distribution to the Lenders) delivered prior to the execution and delivery of this Agreement (which, in each case, shall be satisfactory to each Lender in its sole discretion) and except that (A) APS from time to time may make minor extensions of its lines, plants, services or systems prior to the time a related franchise, certificate of convenience and necessity, license or permit is procured, (B) from time to time communities served by APS may become incorporated and considerable time may elapse before such a franchise is procured, (C) certain such franchises may have expired prior to the renegotiation thereof, (D) certain minor defects and exceptions may exist which, individually and in the aggregate, are not material and (E) certain franchises, certificates, licenses and permits may not be specific as to their geographical scope); and (iv) is qualified to do business in all jurisdictions in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify is reasonably likely to have a Material Adverse Effect.

(b) The execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents, and the consummation of the transactions contemplated hereby, are within the Borrower's corporate powers, have been duly authorized by all necessary corporate action, and do not (i) contravene the Borrower's articles of incorporation or by-laws, (ii) contravene any Law, decree, writ, injunction or determination of any Governmental Authority, in each case applicable to or binding upon the Borrower or any of its properties, (iii) contravene any contractual restriction binding on or affecting the Borrower or (iv) cause the creation or imposition of any Lien upon the assets of the Borrower or any Material Subsidiary, except for Liens created under this Agreement and except where such contravention or creation or imposition of such Lien is not reasonable likely to have a Material Adverse Effect.

(c) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority is required for the due execution, delivery and performance by the Borrower of this Agreement or the Notes to be delivered by it.

(d) This Agreement has been, and each of the other Loan Documents upon execution and delivery will have been, duly executed and delivered by the Borrower. This Agreement is, and each of the other Loan Documents upon execution and delivery will be, the legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with their respective terms, subject, however, to the application by a court of general principles of equity and to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally.

(e) (i) The Consolidated balance sheet of the Borrower as of December 31, 2008, and the related Consolidated statements of income and cash flows of the Borrower for the fiscal year then ended, accompanied by an opinion thereon of Deloitte & Touche LLP, independent registered public accountants, and the Consolidated balance sheet of the Borrower as of September 30, 2009, and the related Consolidated statements of income and cash flows of the Borrower for the nine months then ended, duly certified by the chief financial officer of the Borrower, copies of which have been furnished to the Agent, fairly present in all material respects, subject, in the case of said balance sheet as of September 30, 2009, and said statements of income and cash flows for the nine months then ended, to year-end audit adjustments, the

Consolidated financial condition of the Borrower as at such dates and the Consolidated results of the operations of the Borrower for the periods ended on such dates, all in accordance with GAAP (except as disclosed therein). (ii) Except as disclosed to the Agent in the SEC Reports or by means of a letter from the Borrower to the Lenders (such letter, if any, to be delivered to the Agent for prompt distribution to the Lenders) delivered prior to the execution and delivery of this Agreement (which, in each case, shall be satisfactory to each Lender in its sole discretion), since December 31, 2008, there has been no Material Adverse Effect.

(f) There is no pending or, to the knowledge of an Authorized Officer of the Borrower, threatened action, suit, investigation, litigation or proceeding, including, without limitation, any Environmental Action, affecting the Borrower or any of its Subsidiaries before any court, governmental agency or arbitrator that (i) purports to affect the legality, validity or enforceability of this Agreement or any other Loan Document or the consummation of the transactions contemplated hereby or (ii) would be reasonably likely to have a Material Adverse Effect (except as disclosed to the Agent in the SEC Reports or by means of a letter from the Borrower to the Lenders (such letter, if any, to be delivered to the Agent for prompt distribution to the Lenders) delivered prior to the execution and delivery of this Agreement (which, in each case, shall be satisfactory to each Lender in its sole discretion) delivered prior to the execution and delivery of this Agreement) and there has been no adverse change in the status, or financial effect on the Borrower or any of its Subsidiaries, of such disclosed litigation that would be reasonably likely to have a Material Adverse Effect.

(g) No proceeds of any Advance will be used to acquire any equity security not issued by the Borrower of a class that is registered pursuant to Section 12 of the Securities Exchange Act of 1934.

(h) The Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System), and no proceeds of any Advance will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock, in any case in violation of Regulation U.

(i) The Borrower and its Material Subsidiaries have filed all United States Federal income tax returns and all other material tax returns which are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by the Borrower or any of its Subsidiaries, except to the extent that (i) such taxes are being contested in good faith and by appropriate proceedings and that appropriate reserves for the payment thereof have been maintained by the Borrower and its Subsidiaries in accordance with GAAP or (ii) the failure to make such filings or such payments is not reasonably likely to have a Material Adverse Effect. The charges, accruals and reserves on the books of the Borrower and its Material Subsidiaries as set forth in the most recent financial statements of the Borrower delivered to the Agent pursuant to Section 4.01(e) or Section 5.01(h)(i) or (ii) hereof in respect of taxes and other governmental charges are, in the opinion of the Borrower, adequate.

(j) Set forth on Schedule 4.01(j) hereto (as such schedule may be modified from time to time by the Borrower by written notice to the Agent) is a complete and accurate list of all the Material Subsidiaries of the Borrower.

(k) Set forth on Schedule 4.01(k) hereto is a complete and accurate list identifying any Indebtedness of the Borrower outstanding in a principal amount equal to or exceeding $5,000,000 and which is not described in the financial statements referred to in Section 4.01(e).

(l) The Borrower is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

(m) No report, certificate or other written information furnished by the Borrower or any of its Subsidiaries to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) at the time so furnished, when taken together as a whole with all such written information so furnished, contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, except as would not reasonably be expected to result in a Material Adverse Effect; provided that with respect to any projected financial information, forecasts, estimates or forward-looking information, the Borrower represents only that such information and materials have been prepared in good faith on the basis of assumptions believed to be reasonable at the time of preparation of such forecasts, and no representation or warranty is made as to the actual attainability of any such projections, forecasts, estimates or forward-looking information.

ARTICLE V

COVENANTS OF THE BORROWER

Section 5.01 Affirmative Covenants. So long as any Advance shall remain unpaid, any Letter of Credit shall remain outstanding or any Lender shall have any Commitment hereunder, the Borrower shall:

(a) Compliance with Laws, Etc. (i) Comply, and cause each of its Material Subsidiaries to comply, in all material respects, with all applicable Laws of Governmental Authorities, such compliance to include, without limitation, compliance with ERISA and Environmental Laws, unless the failure to so comply is not reasonably likely to have a Material Adverse Effect and (ii) comply at all times with all Laws, orders, decrees, writs, injunctions or determinations of any Governmental Authority relating to the incurrence or maintenance of Indebtedness by the Borrower, unless the failure to so comply is not reasonably likely to have a Material Adverse Effect.

(b) Payment of Taxes, Etc. Pay and discharge, and cause each of its Material Subsidiaries to pay and discharge, before the same shall become delinquent, all taxes, assessments and governmental charges or levies imposed upon it or upon its property; provided, however, that neither the Borrower nor any of its Subsidiaries shall be required to pay or discharge any such tax, assessment, charge or levy (i) that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained in accordance with GAAP or (ii) if the failure to pay such tax, assessment, charge or levy is not reasonably likely to have a Material Adverse Effect.

(c) Maintenance of Insurance. Maintain, and cause each of its Material Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations in such amounts and covering such risks as is usually carried by companies engaged in similar businesses and owning similar properties in the same general areas in which the Borrower or such Subsidiary operates; provided, however, that the Borrower and its Subsidiaries may self-insure to the same extent as other companies engaged in similar businesses and owning similar properties in the same general areas in which the Borrower or such Subsidiary operates and to the extent consistent with prudent business practice.

(d) Preservation of Corporate Existence, Etc. Preserve and maintain, and cause each of its Material Subsidiaries to preserve and maintain, its corporate existence, rights (charter and statutory) and franchises (other than "franchises" as described in Arizona Revised Statutes, Section 40-283 or any successor provision) reasonably necessary in the normal conduct of its business, if the failure to maintain such rights or privileges is reasonably likely to have a Material Adverse Effect, and, in the case of APS, will cause APS to use its commercially reasonable efforts to preserve and maintain such franchises reasonably necessary in the normal conduct of its business, except that (i) APS from time to time may make minor extensions of its lines, plants, services or systems prior to the time a related franchise, certificate of convenience and necessity, license or permit is procured, (ii) from time to time communities served by APS may become incorporated and considerable time may elapse before such a franchise is procured, (iii) certain such franchises may have expired prior to the renegotiation thereof, (iv) certain minor defects and exceptions may exist which, individually and in the aggregate, are not material and (v) certain franchises, certificates, licenses and permits may not be specific as to their geographical scope; provided, however, that the Borrower and its Subsidiaries may consummate any merger or consolidation permitted under Section 5.02(b).

(e) Visitation Rights. At any reasonable time and from time to time, permit and cause each of its Subsidiaries to permit the Agent or any of the Lenders or any agents or representatives thereof, to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, the Borrower and any of its Subsidiaries, and to discuss the affairs, finances and accounts of the Borrower and any of its Subsidiaries with any of their officers or directors; provided, however, that the Borrower and its Subsidiaries reserve the right to restrict access to any of its properties in accordance with reasonably adopted procedures relating to safety and security; and provided further that the costs and expenses incurred by such Lender or agents or representatives in connection with any such examinations, copies, abstracts, visits or discussions shall be, upon the occurrence and during the continuation of a Default, for the account of the Borrower and, in all other circumstances, for the account of such Lender.

(f) Keeping of Books. Keep, and cause each of its Material Subsidiaries to keep, proper books of record and account, in which full and correct entries shall be made of all financial transactions and the assets and business of the Borrower and each such Subsidiary in a manner that permits the preparation of financial statements in accordance with GAAP.

(g) Maintenance of Properties, Etc. Keep, and cause each Material Subsidiary to keep, all property useful and necessary in its business in good working order and condition (ordinary wear and tear excepted), if the failure to do so is reasonably likely to have a Material

Adverse Effect, it being understood that this covenant relates only to the working order and condition of such properties and shall not be construed as a covenant not to dispose of properties.

(h) Reporting Requirements. Furnish to the Agent:

(i) as soon as available and in any event within 50 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, (A) for each such fiscal quarter of the Borrower, statements of income and cash flows of the Borrower and its Consolidated Subsidiaries for such fiscal quarter setting forth in each case in comparative form the corresponding figures for the corresponding fiscal quarter in the preceding fiscal year and (B) for the period commencing at the end of the previous fiscal year and ending with the end of each fiscal quarter, statements of income and cash flows of the Borrower and its Consolidated Subsidiaries for such period setting forth in each case in comparative form the corresponding figures for the corresponding period in the preceding fiscal year; provided that so long as the Borrower remains subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, the Borrower may provide, in satisfaction of the requirements of this first sentence of this Section 5.01(h)(i), its report on Form 10-Q for such fiscal quarter. Each set of financial statements provided under this Section 5.01(h)(i) shall be accompanied by a certificate of an Authorized Officer, which certificate shall state that said financial statements fairly present in all material respects the financial condition and results of operations of the Borrower and its Consolidated Subsidiaries in accordance with GAAP (except as disclosed therein) as at the end of, and for, such period (subject to normal year-end audit adjustments) and shall set forth reasonably detailed calculations demonstrating compliance with Section 5.03;

(ii) as soon as available and in any event within 90 days after the end of each fiscal year of the Borrower, statements of income and cash flows of the Borrower and its Consolidated Subsidiaries for such year and the related balance sheet of the Borrower and its Consolidated Subsidiaries as at the end of such year, setting forth in each case in comparative form the corresponding figures for the preceding fiscal year; provided that, so long as the Borrower remains subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, the Borrower may provide, in satisfaction of the requirements of this first sentence of this Section 5.01(h)(ii), its report on Form 10-K for such fiscal year. Each set of financial statements provided pursuant to this Section 5.01(h)(ii) shall be accompanied by (A) an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall state that said financial statements fairly present in all material respects the financial condition and results of operations of the Borrower and its Consolidated Subsidiaries as at the end of, and for, such fiscal year, in accordance with GAAP (except as disclosed therein) and (B) a certificate of an Authorized Officer, which certificate shall set forth reasonably detailed calculations demonstrating compliance with Section 5.03;

(iii) as soon as possible and in any event within five days after any Authorized Officer of the Borrower knows of the occurrence of each Default continuing on the date of such statement, a statement of an Authorized Officer of the Borrower setting forth

details of such Default and the action that the Borrower has taken and proposes to take with respect thereto;

(iv) promptly after the sending or filing thereof, copies of all reports and registration statements (other than exhibits thereto and registration statements on Form S-8 or its equivalent) that the Borrower or any Subsidiary files with the Securities and Exchange Commission;

(v) promptly after an Authorized Officer becomes aware of the commencement thereof, notice of all actions and proceedings before any court, governmental agency or arbitrator affecting the Borrower or any of its Subsidiaries of the type described in Section 4.01(f), except, with respect to any matter referred to in Section 4.01(f)(ii), to the extent disclosed in a report on Form 8-K, Form 10-Q or Form 10-K of the Borrower;

(vi) promptly after an Authorized Officer becomes aware of the occurrence thereof, notice of any change by Moody's or S&P of their respective Public Debt Rating or of the cessation (or subsequent commencement) by Moody's or S&P of publication of their respective Public Debt Rating;

(vii) the occurrence of any ERISA Event, together with (x) a written statement of an Authorized Officer of the Borrower specifying the details of such ERISA Event and the action that the Borrower has taken and proposes to take with respect thereto, (y) a copy of any notice with respect to such ERISA Event that may be required to be filed with the PBGC and (z) a copy of any notice delivered by the PBGC to the Borrower or an ERISA Affiliate with respect to such ERISA Event; and

(viii) such other information respecting the Borrower or any of its Subsidiaries as any Lender through the Agent may from time to time reasonably request.

Information required to be delivered pursuant to Sections 5.01(h)(i), (ii) and (iv) above shall be deemed to have been delivered on the date on which the Borrower provides notice to the Agent that such information has been posted on the Borrower's website on the Internet at www.pinnaclewest.com, at sec.gov/edaux/searches.htm or at another website identified in such notice and accessible by the Lenders without charge; provided that (i) such notice may be included in a certificate delivered pursuant to Section 5.01(h)(i) or (ii) and (ii) the Borrower shall deliver paper copies of the information referred to in Section 5.01(h)(i), (ii), and (iv) to any Lender which requests such delivery.

(i) Change in Nature of Business. Conduct directly or through its Subsidiaries the same general type of business conducted by the Borrower and its Material Subsidiaries on the date hereof.

Section 5.02 Negative Covenants. So long as any Advance shall remain unpaid, any Letter of Credit shall remain outstanding or any Lender shall have any Commitment hereunder, the Borrower shall not:

(a) Liens, Etc. Directly or indirectly create, incur, assume or permit to exist any Lien securing Indebtedness for borrowed money on or with respect to any property or asset (including, without limitation, the capital stock of APS) of the Borrower, whether now owned or held or hereafter acquired (unless it makes, or causes to be made, effective provision whereby the Obligations will be equally and ratably secured with any and all other obligations thereby secured so long as such other Indebtedness shall be so secured, such security to be pursuant to an agreement reasonably satisfactory to the Required Lenders); provided, however, that this Section 5.02(a) shall not apply to Liens securing Indebtedness for borrowed money (other than Indebtedness for borrowed money secured by the capital stock of APS) which do not in the aggregate exceed at any time outstanding the principal amount of $50,000,000.

(b) Mergers, Etc. Merge or consolidate with or into any Person, or permit any of its Material Subsidiaries to do so, except that (i) any Material Subsidiary of the Borrower may merge or consolidate with or into any other Material Subsidiary of the Borrower, (ii) any Subsidiary of the Borrower may merge into the Borrower or any Material Subsidiary of the Borrower and (iii) the Borrower or any Material Subsidiary may merge with any other Person so long as the Borrower or such Material Subsidiary is the surviving corporation, provided, in each case, that no Default shall have occurred and be continuing at the time of such proposed transaction or would result therefrom.

(c) Sales, Etc. of Assets. Sell, lease, transfer or otherwise dispose of, or permit any of its Material Subsidiaries to sell, lease, transfer or otherwise dispose of, any assets, or grant any option or other right to purchase, lease or otherwise acquire any assets to any Person other than the Borrower or any Subsidiary of the Borrower, except (i) dispositions in the ordinary course of business, including, without limitation, sales or other dispositions of electricity and related and ancillary services, other commodities, emissions credits and similar mechanisms for reducing pollution, and damaged, obsolete, worn out or surplus property no longer required or useful in the business or operations of the Borrower or any of its Subsidiaries, (ii) sale or other disposition of patents, copyrights, trademarks or other intellectual property that are, in the Borrower's reasonable judgment, no longer economically practicable to maintain or necessary in the conduct of the business of the Borrower or its Subsidiaries and any license or sublicense of intellectual property that does not interfere with the business of the Borrower or any Material Subsidiary, (iii) in a transaction authorized by subsection (b) of this Section, (iv) individual dispositions occurring in the ordinary course of business which involve assets with a book value not exceeding $5,000,000, (v) sales of assets during the term of this Agreement having an aggregate book value not to exceed 30% of the total of all assets properly appearing on the most recent balance sheet of the Borrower provided pursuant to Section 4.01(e)(i) or 5.01(h)(ii) hereof and (vi) any Lien permitted under Section 5.02(a).

(d) Ownership of APS. Except to the extent permitted under Section 5.02(b), the Borrower will at all times continue to own directly or indirectly at least 80% of the outstanding capital stock of APS.

Section 5.03 Financial Covenant. So long as any Advance shall remain unpaid, any Letter of Credit shall remain outstanding or any Lender shall have any Commitment hereunder, the Borrower will maintain a ratio of (a) Consolidated Indebtedness to (b) the sum of Consolidated Indebtedness plus Consolidated Net Worth of not greater than 0.65 to 1.

ARTICLE VI

EVENTS OF DEFAULT

Section 6.01 Events of Default. If any of the following events ("Events of Default") shall occur and be continuing:

(a) The Borrower shall fail to pay when due (i) any principal of any Advance, (ii) any drawing under any Letter of Credit, or (iii) any interest on any Advance or any other fees or other amounts payable under this Agreement or any other Loan Documents, and (in the case of this clause (iii) only), such failure shall continue for a period of three Business Days; or

(b) Any representation or warranty made by the Borrower herein or by the Borrower (or any of its officers) in any certificate or other document delivered in connection with this Agreement or any other Loan Document shall prove to have been incorrect in any material respect when made or deemed made or furnished; or

(c) (i) The Borrower shall fail to perform or observe any term, covenant or agreement contained in Section 5.01(d) (as to the corporate existence of the Borrower), (h)(iii) or (h)(vi), 5.02 or 5.03, or (ii) the Borrower shall fail to perform or observe any other term, covenant or agreement contained in Section 5.01(e) if such failure shall remain unremedied for 15 days after written notice thereof shall have been given to the Borrower by the Agent or any Lender or (iii) the Borrower shall fail to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document on its part to be performed or observed if such failure shall remain unremedied for 30 days after written notice thereof shall have been given to the Borrower by the Agent or any Lender; or

(d) (i) The Borrower or any of its Material Subsidiaries shall fail to pay (A) any principal of or premium or interest on any Indebtedness that is outstanding in a principal amount of at least $35,000,000 in the aggregate (but excluding Indebtedness outstanding hereunder), or (B) an amount, or post collateral as contractually required in an amount, of at least $35,000,000 in respect of any Hedge Agreement, of the Borrower or such Material Subsidiary (as the case may be), in each case, when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Indebtedness or Hedge Agreement; or (ii) any event of default shall exist under any agreement or instrument relating to any such Indebtedness and shall continue after the applicable grace period, if any, specified in such agreement or instrument, if the effect of such event is to accelerate, or to permit the acceleration of, the maturity of such Indebtedness; or

(e) The Borrower or any of its Material Subsidiaries shall fail to pay any principal of or premium or interest in respect of any operating lease in respect of which the payment obligations of the Borrower have a present value of at least $35,000,000, when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in such operating lease, if the effect of such failure is to terminate, or to permit the termination of, such operating lease; or

(f) The Borrower or any of its Material Subsidiaries shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against the Borrower or any of its Material Subsidiaries seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any Debtor Relief Law, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of 60 days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Borrower or any of its Material Subsidiaries shall take any corporate action to authorize any of the actions set forth above in this subsection (f); or

(g) Judgments or orders for the payment of money that exceeds any applicable insurance coverage (the insurer of which shall be rated at least "A" by A.M. Best Company) by more than $35,000,000 in the aggregate shall be rendered against the Borrower or any Material Subsidiary and such judgments or orders shall continue unsatisfied or unstayed for a period of 45 days; or

(h) (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of 30% or more of the equity securities of the Borrower entitled to vote for members of the board of directors of the Borrower; or (ii) during any period of 24 consecutive months, a majority of the members of the board of directors of the Borrower cease (other than due to death or disability) to be composed of individuals (A) who were members of that board on the first day of such period, (B) whose election or nomination to that board was approved by individuals referred to in clause (A) above constituting at the time of such election or nomination at least a majority of that board or (C) whose election or nomination to that board was approved by individuals referred to in clauses (A) and (B) above constituting at the time of such election or nomination at least a majority of that board; or

(i) (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of the Borrower under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of $35,000,000, or (ii) the Borrower or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of $35,000,000;

then, and in any such event, the Agent shall at the request, or may with the consent, of the Required Lenders, by notice to the Borrower, (i) declare the obligation of each Lender to make Advances (other than L/C Advances) and of the Issuing Banks to issue Letters of Credit to be

terminated, whereupon the same shall forthwith terminate, (ii) declare the Advances, all interest thereon and all other amounts payable under this Agreement to be forthwith due and payable, whereupon the Advances, all such interest and all such amounts shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower; provided, however, that in the event of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, (A) the obligation of each Lender to make Advances (other than L/C Advances) and of the Issuing Banks to issue Letters of Credit shall automatically be terminated and (B) the Advances, all such interest and all such amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower and (iii) exercise all rights and remedies available to it under this Agreement, the other Loan Documents and applicable Law.

Section 6.02 Actions in Respect of Letters of Credit upon Default. If any Event of Default shall have occurred and be continuing, the Agent may with the consent, or shall at the request, of the Required Lenders, irrespective of whether it is taking any of the actions described in Section 6.01 or otherwise, (a) make demand upon the Borrower to, and forthwith upon such demand the Borrower will Cash Collateralize the aggregate Available Amount of all Letters of Credit then outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder) or (b) make such other arrangements in respect of the outstanding Letters of Credit as shall be acceptable to the Required Lenders, provided, however, that in the event of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the Borrower will Cash Collateralize the aggregate Available Amount of all Letters of Credit then outstanding, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by the Borrower. If at any time the Agent determines that any funds held in the L/C Cash Deposit Account are subject to any right or interest of any Person other than the Agent, the Issuing Banks and the Lenders or that the total amount of such funds is less than the aggregate Available Amount of all Letters of Credit, the Borrower will, forthwith upon demand by the Agent, pay to the Agent, as additional funds to be deposited and held in the L/C Cash Deposit Account, an amount equal to the excess of (a) such aggregate Available Amount over (b) the total amount of funds, if any, then held in the L/C Cash Deposit Account that are free and clear of any such right and interest. Upon the drawing of any Letter of Credit, to the extent funds are on deposit in the L/C Cash Deposit Account, such funds shall be applied to reimburse the Issuing Banks to the extent permitted by applicable Law, or each Lender to the extent such Lender has funded an Advance in respect of such Letter of Credit. The Borrower hereby grants to the Agent, for the benefit of the Issuing Banks and the Lenders, a Lien upon and security interest in the L/C Cash Deposit Account and all amounts held therein from time to time as security for the L/C Obligations, and for application to the Borrower's reimbursement obligations as and when the same shall arise. The Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. After all such Letters of Credit shall have expired or been fully drawn upon and all other obligations of the Borrower hereunder and under the other Loan Documents shall have been paid in full, the balance, if any, in such L/C Cash Deposit Account shall be promptly returned to the Borrower.

ARTICLE VII

THE AGENT

Section 7.01 Appointment and Authority. Each of the Lenders (for purposes of this Article, references to the Lenders shall also mean the Issuing Banks) hereby irrevocably appoints Bank of America to act on its behalf as the Agent hereunder and under the other Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Except as set forth in Section 7.06, the provisions of this Article are solely for the benefit of the Agent and the Lenders, and neither the Borrower nor any of its Affiliates shall have rights as a third party beneficiary of any of such provisions.

Section 7.02 Rights as a Lender. The Person serving as the Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders.

Section 7.03 Exculpatory Provisions. The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein), provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

The Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 6.01 and 8.01) or (ii) in the absence of its own gross

negligence or willful misconduct. The Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Agent by the Borrower or a Lender.

The Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article III or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

Section 7.04 Reliance by Agent. The Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of any Advance, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, the Agent may presume that such condition is satisfactory to such Lender or such Issuing Bank unless the Agent shall have received notice to the contrary from such Lender or such Issuing Bank prior to the making of such Advance or the issuance of such Letter of Credit. The Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in good faith in accordance with the advice of any such counsel, accountants or experts.

Section 7.05 Delegation of Duties. The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Agent. The Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent.

Section 7.06 Resignation of Agent. The Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the consent of the Borrower so long as no Event of Default has occurred and is continuing, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 45 days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent meeting the

qualifications set forth above; provided that if the Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Agent shall be as agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 8.04 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Agent.

Section 7.07 Non-Reliance on Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 7.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Arrangers, Syndication Agent, Documentation Agent or other agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Agent or a Lender hereunder.

Section 7.09 Issuing Banks. Each Issuing Bank shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each Issuing Bank shall have all of the benefits and immunities provided in this Article VII (other than Section 7.02) to the same extent as such provisions apply to the Agent.

ARTICLE VIII

MISCELLANEOUS

Section 8.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any other Loan Document, nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Required Lenders, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall

(a) unless agreed to by each Lender directly affected thereby, (i) reduce or forgive the principal amount of any Advance or the Borrower's obligations to reimburse any drawing on a Letter of Credit, reduce the rate of or forgive any interest thereon (provided that only the consent of the Required Lenders shall be required to waive the applicability of any post-default increase in interest rates), or reduce or forgive any fees hereunder (other than fees payable to the Agent, the Arrangers or any Issuing Bank for their own respective accounts), (ii) extend the final scheduled maturity date or any other scheduled date for the payment of any principal of or interest on any Advance, extend the time of payment of any obligation of the Borrower to reimburse any drawing on any Letter of Credit or any interest thereon, extend the expiry date of any Letter of Credit beyond the fifth Business Day prior to the Termination Date, or extend the time of payment of any fees hereunder (other than fees payable to the Agent, the Arrangers or any Issuing Bank for their own respective accounts), or (iii) increase any Revolving Credit Commitment of any such Lender over the amount thereof in effect or extend the maturity thereof (it being understood that a waiver of any condition precedent set forth in Section 3.02 or of any Default, if agreed to by the Required Lenders or all Lenders (as may be required hereunder with respect to such waiver), shall not constitute such an increase);

(b) unless agreed to by all of the Lenders, (i) reduce the percentage of the aggregate Revolving Credit Commitments or of the aggregate unpaid principal amount of the Advances, or the number or percentage of Lenders, that shall be required for the Lenders or any of them to take or approve, or direct the Agent to take, any action hereunder or under any other Loan Document (including as set forth in the definition of "Required Lenders"), (ii) change any other provision of this Agreement or any of the other Loan Documents requiring, by its terms, the consent or approval of all the Lenders for such amendment, modification, waiver, discharge, termination or consent, or (iii) change or waive any provision of Section 2.15, any other provision of this Agreement or any other Loan Document requiring pro rata treatment of any Lenders, or this Section 8.01 or Section 2.19(b); and

(c) unless agreed to by the Issuing Banks or the Agent in addition to the Lenders required as provided hereinabove to take such action, affect the respective rights or obligations of the Issuing Banks or the Agent, as applicable, hereunder or under any of the other Loan Documents.

Section 8.02 Notices, Etc.

(a) All notices and other communications provided for hereunder shall be either (x) in writing (including facsimile communication) and mailed, faxed or delivered or (y) as and to the extent set forth in Sections 8.02(b) and (c) and in the proviso to this Section 8.02(a), if to the Borrower, at the address specified on Schedule 8.02; if to any Lender, at its Domestic Lending Office; if to the Agent, at the address specified on Schedule 8.02; and if to any Issuing Bank, at the address specified on Schedule 8.02 or, as to the Borrower or the Agent, at such other address as shall be designated by such party in a written notice to the other parties and, as to each other party, at such other address as shall be designated by such party in a written notice to the Borrower and the Agent. All such notices and communications shall, when mailed or faxed, be effective when deposited in the mails or faxed, respectively, except that notices and communications to the Agent pursuant to Article II, III or VII shall not be effective until received by the Agent. Delivery by facsimile of an executed counterpart of any amendment or waiver of any provision of this Agreement or the Notes or of any Exhibit hereto to be executed and delivered hereunder shall be effective as delivery of a manually executed counterpart thereof. Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b). Upon request of the Borrower, the Agent will provide to the Borrower (i) copies of each Administrative Questionnaire or (ii) the address of each Lender.

(b) Notices and other communications to the Lenders, the Agent and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent and agreed to by the Borrower, provided that the foregoing shall not apply to notices to any Lender or the Issuing Banks pursuant to Article II if such Lender or the Issuing Banks, as applicable, has notified the Agent and the Borrower that it is incapable of receiving notices under such Article by electronic communication. The Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Agent and the Borrower otherwise agree, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Borrower agrees that the Agent may make materials delivered to the Agent pursuant to Sections 5.01(h)(i), (ii) and (iv), as well as any other written information, documents, instruments and other material relating to the Borrower or any of its Subsidiaries and relating to this Agreement, the Notes or the transactions contemplated hereby, or any other materials or matters relating to this Agreement, the Notes or any of the transactions contemplated hereby (collectively, the "Communications") available to the Lenders by posting such notices on Intralinks or a substantially similar electronic system (the "Platform"). The Borrower acknowledges that (i) the distribution of material through an electronic medium is not necessarily

secure and that there are confidentiality and other risks associated with such distribution, (ii) the Platform is provided "as is" and "as available" and (iii) neither the Agent nor any of its Affiliates warrants the accuracy, adequacy or completeness of the Communications or the Platform and each expressly disclaims liability for errors or omissions in the Communications or the Platform. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects, is made by the Agent or any of its Affiliates in connection with the Platform.

(d) Each Lender agrees that notice to it (as provided in the next sentence) (a "Notice") specifying that any Communications have been posted to the Platform shall constitute effective delivery of such information, documents or other materials to such Lender for purposes of this Agreement; provided that if requested by any Lender the Agent shall deliver a copy of the Communications to such Lender by e-mail, facsimile or mail. Each Lender agrees (i) to notify the Agent in writing of such Lender's e-mail address to which a Notice may be sent by electronic transmission (including by electronic communication) on or before the date such Lender becomes a party to this Agreement (and from time to time thereafter to ensure that the Agent has on record an effective e-mail address for such Lender) and (ii) that any Notice may be sent to such e-mail address.

(e) The Borrower hereby acknowledges that certain of the Lenders may be "public-side" Lenders (*i.e.,* Lenders that do not wish to receive material non-public information with respect to the Borrower or its securities) (each, a "Public Lender"). The Borrower hereby agrees that (w) all Communications that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Communications "PUBLIC," the Borrower shall be deemed to have authorized the Agent, the Arranger and the Lenders to treat such Communications as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States federal and state securities laws; (y) all Communications marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor;" and (z) the Agent and the Arranger shall be entitled to treat any Communications that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Communications "PUBLIC." Notwithstanding anything to the contrary herein, the Borrower need not provide to any Public Lender any information, notice, or other document hereunder that is not public information, including without limitation, the Notice of Borrowing and any notice of Default.

Section 8.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, any Issuing Bank or the Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at Law in connection with such enforcement shall be instituted and maintained exclusively by, the Agent in accordance with Article VI for the benefit of all the Lenders and the Issuing Banks; provided, however, that the foregoing shall not prohibit (a) the Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (b) any Issuing Bank from exercising the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Bank) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 8.05 (subject to the terms of Section 2.15), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Agent pursuant to Article VI and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

Section 8.04 Costs and Expenses; Indemnity; Damage Waiver.

(a) The Borrower agrees to pay on demand all costs and expenses of the Agent in connection with the administration, modification and amendment of this Agreement, the Notes and the other Loan Documents to be delivered hereunder, including, without limitation, the reasonable fees and expenses of counsel for the Agent with respect thereto and with respect to advising the Agent as to its rights and responsibilities under this Agreement. The Borrower further agrees to pay on demand all costs and expenses of the Agent and the Lenders, if any (including, without limitation, reasonable counsel fees and expenses), in connection with the enforcement (whether through negotiations, legal proceedings or otherwise) of this Agreement, the Notes and the other Loan Documents to be delivered hereunder, including, without limitation, reasonable fees and expenses of counsel for the Agent and each Lender in connection with the enforcement of rights under this Section 8.04(a).

(b) The Borrower agrees to indemnify and hold harmless the Agent (and any sub-agent thereof), each Lender, and each Related Party of any of the foregoing (each, an "Indemnified Party") from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, reasonable fees and expenses of counsel) incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of (including, without limitation, in connection with any investigation, litigation or proceeding or preparation of a defense in connection therewith, whether based on contract, tort or any other theory,) (i) the Notes, this Agreement, any of the transactions contemplated herein or the actual or proposed use of the proceeds of any Advance or Letter of Credit (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), or (ii) the actual or alleged presence of Hazardous Materials on any property of the Borrower or any of its Subsidiaries or any Environmental Action relating in any way to the Borrower or any of its Subsidiaries, provided that such indemnity shall not, as

to any Indemnified Party, be available to the extent (a) such fees and expenses are expressly stated in this Agreement to be payable by the Indemnified Party, included expenses payable under Section 2.14, Section 5.01(e) and Section 8.07(b) or (b) such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence, willful misconduct or material breach of its obligations under this Agreement, in which case any fees and expenses previously paid or advanced by the Borrower to such Indemnified Party in respect of such indemnified obligation will be returned by such Indemnified Party. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 8.04(b) applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, equityholders or creditors or an Indemnified Party or any other Person, whether or not any Indemnified Party is otherwise a party thereto, and whether or not the transactions contemplated hereby are consummated, provided that if the Borrower and such Indemnified Party are adverse parties in any such litigation or proceeding, and the Borrower prevails in a final, non-appealable judgment by a court of competent jurisdiction, any fees or expenses previously paid or advanced by the Borrower to such Indemnified Party pursuant to this Section 8.04(b) will be returned by such Indemnified Party.

(c) To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing (and without limiting its obligation to do so), each Lender severally agrees to pay to the Agent (or any such sub-agent), such Issuing Bank or such Related Party, as the case may be, such Lender's Ratable Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agent (or any such sub-agent) or such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent) or such Issuing Bank in connection with such capacity.

(d) Each party hereto also agrees not to assert any claim for special, indirect, consequential or punitive damages against the other parties hereto, or any Related Person any party hereto, on any theory of liability, arising out of or otherwise relating to the Notes, this Agreement, any of the transactions contemplated herein or the actual or proposed use of the proceeds of the Advances or the Letters of Credit. No Indemnified Party shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems (including Intralinks, SyndTrak or similar systems) in connection with this Agreement or the other Loan Documents, provided that such indemnity shall not, as to any Indemnified Party, be available to the extent such damages are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's gross negligence or willful misconduct.

(e) If any payment of principal of, or Conversion of, any Eurodollar Rate Advance is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Advance, as a result of a payment or Conversion pursuant to Section 2.08(d) or (e), 2.10 or 2.12, acceleration of the maturity of the Advances pursuant to Section 6.01 or for any

other reason, or by an Eligible Assignee to a Lender other than on the last day of the Interest Period for such Advance upon an assignment of rights and obligations under this Agreement pursuant to Section 8.07 as a result of a demand by the Borrower pursuant to Section 8.07(a), the Borrower shall, upon demand by such Lender (with a copy of such demand to the Agent), pay to the Agent for the account of such Lender any amounts required to compensate such Lender for any additional losses, costs or expenses that it may reasonably incur as a result of such payment or Conversion, including, without limitation, any loss (excluding loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by any Lender to fund or maintain such Advance.

(f) Without prejudice to the survival of any other agreement of the Borrower hereunder, the agreements and obligations of the Borrower contained in Sections 2.11, 2.14 and 8.04 shall survive the payment in full of principal, interest and all other amounts payable hereunder and under the Notes.

Section 8.05 Right of Set-off. Upon (i) the occurrence and during the continuance of any Event of Default and (ii) the making of the request or the granting of the consent specified by Section 6.01 to authorize the Agent to declare the Advances due and payable pursuant to the provisions of Section 6.01, each Lender, each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender, such Issuing Bank or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or Issuing Bank, whether or not such Lender or Issuing Bank shall have made any demand under this Agreement or such Note and although such obligations may be contingent or unmatured or are owed to a branch or office of such Lender or such Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness. Each Lender and each Issuing Bank agrees promptly to notify the Borrower after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender and each Issuing Bank under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender may have.

Section 8.06 Binding Effect. Except as provided in Section 3.01, this Agreement shall become effective when it shall have been executed by the Borrower and the Agent and when the Agent shall have been notified by each Initial Lender that such Initial Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, the Agent and each Lender and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders.

Section 8.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without

the prior written consent of the Agent and each Lender (and any purported assignment or transfer without such consent shall be null and void) and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and the Advances (including for purposes of this subsection (b), participations in L/C Obligations) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Credit Commitment and the Advances at the time owing to it or in the case of an assignment to a Lender, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Revolving Credit Commitment (which for this purpose includes Advances outstanding thereunder) or, if the Revolving Credit Commitment is not then in effect, the principal outstanding balance of the Advances of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to which such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Advances, L/C Obligations or the Revolving Credit Commitment assigned, and each such assignment shall be of a constant, and not a varying, percentage of all rights and obligations under this Agreement;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund;

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(C) the consent of each Issuing Bank (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding);.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that no such fee shall be payable in the case of an assignment made at the request of the Borrower to an existing Lender. The assignee, if it is not a Lender, shall deliver to the Agent an Administrative Questionnaire.

(v) No Assignment to Borrower. No such assignment shall be made to the Borrower or any of the Borrower's Affiliates or Subsidiaries.

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section and notice thereof to the Borrower, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.11, 2.14 and 8.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Agent shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Revolving Credit Commitments of, and principal amounts of

the Advances and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolving Credit Commitment and/or the Advances (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the Borrower, the Agent, the Lenders and the Issuing Banks shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (iv) no participant under any such participation shall have any right to approve any amendment or waiver of any provision of this Agreement or any Note, or any consent to any departure by the Borrower therefrom, except to the extent that such amendment, waiver or consent would reduce the principal of, or interest on, any Obligations or any fees or other amounts payable hereunder, in each case to the extent subject to such participation, or postpone any date fixed for any payment of principal of, or interest on, any Obligations or any fees or other amounts payable hereunder, in each case to the extent subject to such participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification addressing the matters set forth in clause (iv) above to the extent subject to such participation. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.11, 2.14 and 8.04(e) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 8.05 as though it were a Lender, provided such Participant agrees to be subject to Section 2.15 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 2.11 or 2.14 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.14 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.14(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Resignation as an Issuing Bank after Assignment. Notwithstanding anything to the contrary contained herein, if at any time any Issuing Bank assigns all of its Revolving Credit Commitment and Advances pursuant to subsection (b) above, such Issuing Bank may, upon 30 days' notice to the Borrower and the Lenders, resign as an Issuing Bank. If any Issuing Bank resigns, it shall retain all the rights, powers, privileges and duties of an Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Bank and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Advances or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)).

(h) The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state Laws based on the Uniform Electronic Transactions Act.

Section 8.08 Confidentiality. Neither the Agent nor any Lender may disclose to any Person any confidential, proprietary or non-public information of the Borrower furnished to the Agent or the Lenders by the Borrower (such information being referred to collectively herein as the "Borrower Information"), except that each of the Agent and each of the Lenders may disclose Borrower Information (i) to its and its affiliates' employees, officers, directors, agents and advisors having a need to know in connection with this Agreement (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Borrower Information and instructed to keep such Borrower Information confidential on substantially the same terms as provided herein), (ii) to the extent requested by any regulatory authority, (iii) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (iv) to any other party to this Agreement, (v) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section 8.08, to any assignee or participant or prospective assignee or participant, (vii) to the extent such Borrower Information (A) is or becomes generally available to the public on a non-confidential basis other than as a result of a breach of this Section 8.08 by the Agent or such Lender or their Related Parties, or (B) is or becomes available to the Agent or such Lender on a nonconfidential basis from a source other than the Borrower (provided that the source of such information was not known by the recipient after inquiry to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the Borrower or any other Person with respect to such information) and (viii)

with the consent of the Borrower. The obligations under this Section 8.08 shall survive for two calendar years after the date of the termination of this Agreement.

Section 8.09 Governing Law. This Agreement and the Notes shall be governed by, and construed in accordance with, the Laws of the State of New York (including Sections 5-1401 and 5-1402 of the General Obligations Law but otherwise without regard to conflict of law principles).

Section 8.10 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 3.01, this Agreement shall become effective when it shall have been executed by the Agent and when the Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 8.11 Jurisdiction, Etc.

(a) Each of the parties hereto hereby submits to the non-exclusive jurisdiction of any New York State court or federal court of the United States of America sitting in New York City, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or the other Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby agrees that all claims in respect of any such action or proceeding may be heard and determined in any such New York State court or, to the extent permitted by Law, in such federal court. Nothing in this Agreement shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement or the Notes in the courts of any jurisdiction.

(b) Each of the parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the Notes in any New York State or federal court. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 8.12 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Agent, any Issuing Bank or any Lender, or the Agent, any Issuing Bank or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Agent, such Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and

continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each Issuing Bank severally agrees to pay to the Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the Issuing Banks under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 8.13 Patriot Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each borrower, guarantor or grantor (the "Loan Parties"), which information includes the name and address of each Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the Act. The Borrower shall provide, to the extent commercially reasonable, such information and take such actions as are reasonably requested by the Agent or any Lender in order to assist the Agent and such Lender in maintaining compliance with the Act.

Section 8.14 Waiver of Jury Trial. EACH OF THE BORROWER, THE AGENT AND THE LENDERS HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE NOTES OR ANY OTHER LOAN DOCUMENT OR THE ACTIONS OF THE BORROWER, THE AGENT OR ANY LENDER IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT THEREOF.

Section 8.15 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby, the Borrower acknowledges and agrees that: (i) the credit facilities provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Borrower, on the one hand, and the Agent, each of the Lenders and each of the Arrangers, on the other hand, and the Borrower is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each of the Agent, the Lenders and the Arrangers is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Borrower or any of its Affiliates, stockholders, creditors or employees or any other Person; (iii) neither the Agent nor any Lender or Arranger has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Borrower with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether the Agent or any Lender or Arranger has advised or is currently advising the Borrower or any of its Affiliates on other matters) and neither the Agent nor any Lender or Arranger has any obligation to the Borrower with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Agent, each of the Lenders and the Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and

neither the Agent nor any Lender or Arranger has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Agent and each Lender and Arranger have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. The Borrower hereby waives and releases, to the fullest extent permitted by Law, any claims that it may have against the Agent and each Lender and Arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with the Loan Documents.

Section 8.16 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Agent and each Lender, regardless of any investigation made by the Agent or any Lender or on their behalf, and shall continue in full force and effect as long as any Advance or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 8.17 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

PINNACLE WEST CAPITAL CORPORATION

By _____

Name: _____
Title: _____

ADMINISTRATIVE AGENT:

BANK OF AMERICA. N.A., as Agent, Issuing Bank and Lender

By _____

Name: _____
Title: _____

LENDERS: [Lender]

By _____

Name: _____
Title: _____

SCHEDULE 1.01
COMMITMENTS AND RATABLE SHARES

Bank	Revolving Credit Commitment	Ratable Share
Bank of America, N.A.	$10,000,000.00	5.000000000%
Wells Fargo Bank, National Association	$10,000,000.00	5.000000000%
Barclays Bank PLC	$10,000,000.00	5.000000000%
Credit Suisse AG, Cayman Islands Branch	$10,000,000.00	5.000000000%
Deutsche Bank AG New York Branch	$7,714,285.71	3.857142855%
Goldman Sachs Bank USA	$7,714,285.71	3.857142855%
KeyBank National Association	$7,714,285.71	3.857142855%
Mizuho Corporate Bank, Ltd.	$7,714,285.71	3.857142855%
Scotiabanc Inc.	$7,714,285.71	3.857142855%
SunTrust Bank	$7,714,285.71	3.857142855%
The Royal Bank of Scotland plc	$7,714,285.71	3.857142855%
U.S. Bank National Association	$7,714,285.71	3.857142855%
UBS AG, Stamford Branch	$7,714,285.71	3.857142855%
Union Bank, N.A.	$7,714,285.71	3.857142855%
Citibank, N.A.	$6,571,428.58	3.285714290%
JPMorgan Chase Bank, N.A.	$6,571,428.58	3.285714290%
Morgan Stanley Bank, N.A.	$6,571,428.58	3.285714290%
National Bank of Arizona	$6,571,428.58	3.285714290%
The Bank of New York Mellon	$6,571,428.58	3.285714290%
Bank of Communications Co., Ltd., New York Branch	$5,000,000.00	2.500000000%
Bank of Taiwan, Los Angeles Branch	$5,000,000.00	2.500000000%
CIBC Inc.	$5,000,000.00	2.500000000%
First Commercial Bank, New York Agency	$5,000,000.00	2.500000000%
Sumitomo Mitsui Banking Corp., New York	$5,000,000.00	2.500000000%
Taiwan Business Bank	$5,000,000.00	2.500000000%
Taiwan Cooperative Bank, Los Angeles Branch	$5,000,000.00	2.500000000%
The Bank of East Asia, Limited, Los Angeles Branch	$5,000,000.00	2.500000000%
The Northern Trust Company	$5,000,000.00	2.500000000%
UMB Bank Arizona, N.A.	$5,000,000.00	2.500000000%
TOTAL	$200,000,000.00	100.000000000%

SCHEDULE 4.01(j)
SUBSIDIARIES

Arizona Public Service Company

SCHEDULE 4.01(k)
EXISTING INDEBTEDNESS

None.

SCHEDULE 8.02
CERTAIN ADDRESSES FOR NOTICES

BORROWER:

Pinnacle West Capital Corporation
400 North 5th Street
Mail Station 9036
Phoenix, AZ 85004
Attention: Treasurer
Telephone: (602) 250-3800
Telecopier: (602) 250-3303
Electronic james.hatfield@pinnaclewest.com

AGENT:

Agent's Office
(for payments and Requests for Credit Extensions):

Bank of America, N.A.
Large Corporate Loan Servicing
901 Main Street, 14 Floor
Dallas, Texas 75202
Attention: Nita Gerstung
Telephone: (214) 209-9126
Telecopier: (214) 290-9478
Electronic Mail: nita.gerstung@baml.com

Agent's Account/Wiring Information:

Bank of America New York, NY
Account No.: 1292000883
ABA No: 026009593
Account Name: Corporate Credit Services
Ref: Pinnacle West Capital Corporation

Other Notices as Agent:

Bank of America, N.A.
Agency Management
101 N. Tryon Street
Mail Code: NC1-001-15-14
Charlotte, NC 28255
Attention: Maria A. McClain
Telephone: (980) 388-1935
Facsimile: (704) 409-0913
Electronic Mail: maria.a.mcclain@baml.com

ISSUING BANKS:

Bank of America

Bank of America, N.A.
Trade Operations
1000 West Temple Street, 7th Floor
Mail Code: CA9-705-07-05
Los Angeles, CA 90012-1514

Attention: Hermann J. Schutterle
Telephone: 213-481-7826
Telecopier: 213-580-8441
Email: hermann.schutterle@bankofamerica.com

Wells Fargo Bank, National Association

Wachovia Bank, National Association
401 Linden Street
Mail Code: MAC D4004-012
Winston-Salem, North Carolina 27101
Attention: Standby Letters of Credit
Telephone: (800) 776-3862 option 2
Telecopy: (336) 735-0950

EXHIBIT A — FORM OF PROMISSORY NOTE

_____, 200__

FOR VALUE RECEIVED, the undersigned, PINNACLE WEST CAPITAL CORPORATION, an Arizona corporation (the "Borrower"), hereby promises to pay to the order of _____ or its registered assigns (the "Lender"), in accordance with the provisions of the Credit Agreement (as hereinafter defined), the principal amount of each Advance from time to time made by the Lender to the Borrower pursuant to the Three-Year Credit Agreement dated as of February 12, 2010 among the Borrower, the Lender and certain other lenders parties thereto, the Arrangers, and Bank of America, N.A., as Agent for the Lender and such other lenders, and the issuing banks and other agents party thereto (as amended or modified from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined) outstanding on such date.

The Borrower promises to pay interest on the unpaid principal amount of each Advance from the date of such Advance until such principal amount is paid in full, at such interest rates, and payable at such times, as are specified in the Credit Agreement.

Both principal and interest are payable in lawful money of the United States of America to the Agent for the account of the Lender in same day funds at the address and account specified on Schedule 8.02. Each Advance owing to the Lender by the Borrower pursuant to the Credit Agreement, and all payments made on account of principal thereof, shall be recorded by the Lender and, prior to any transfer hereof, endorsed on the grid attached hereto which is part of this Promissory Note.

This Promissory Note is one of the Notes referred to in, and is entitled to the benefits of, the Credit Agreement. The Credit Agreement, among other things, (i) provides for the making of Advances by the Lender to the Borrower from time to time in an aggregate amount not to exceed at any time the Lender's Unused Commitment, the indebtedness of the Borrower resulting from each such Advance being evidenced by this Promissory Note and (ii) contains provisions for acceleration of the maturity hereof upon the happening of certain stated events and also for prepayments on account of principal hereof prior to the maturity hereof upon the terms and conditions therein specified.

THIS PROMISSORY NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

PINNACLE WEST CAPITAL CORPORATION

By:

Name:

Title:

ADVANCES AND PAYMENTS OF PRINCIPAL

Date	Amount of Advance	Amount of Principal Paid or Prepaid	Unpaid Principal Balance	Notation Made By

EXHIBIT B — FORM OF NOTICE OF BORROWING

Bank of America, N.A., as Agent
for the Lenders parties
to the Credit Agreement
referred to below

Attention: Bank Loan Syndications Department

[Date]

Ladies and Gentlemen:

The undersigned, Pinnacle West Capital Corporation, refers to the Three-Year Credit Agreement, dated as of February 12, 2010 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein being used herein as therein defined), among the undersigned, certain Lenders parties thereto, the Arrangers, Bank of America, N.A., as Agent for said Lenders and the issuing banks and other agents party thereto, and hereby gives you notice, irrevocably, pursuant to Section 2.02 of the Credit Agreement that the undersigned hereby requests a Borrowing under the Credit Agreement, and in that connection sets forth below the information relating to such Borrowing (the "Proposed Borrowing") as required by Section 2.02(a) of the Credit Agreement:

(i) The Business Day of the Proposed Borrowing is _____, 20___.
(ii) The Type of Advances comprising the Proposed Borrowing is [Base Rate Advances] [Eurodollar Rate Advances].
(iii) The aggregate amount of the Proposed Borrowing is $_____.
[(iv) The initial Interest Period for each Eurodollar Rate Advance made as part of the Proposed Borrowing is ___month[s].]

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed Borrowing:

(A) the representations and warranties contained in Section 4.01 (other than Sections 4.01(k), 4.01(e)(ii) and 4.01(f)(ii)) of the Credit Agreement are correct, before and after giving effect to the Proposed Borrowing and to the application of the proceeds therefrom, as though made on and as of such date;

(B) no event has occurred and is continuing, or would result from such Proposed Borrowing or from the application of the proceeds therefrom, that constitutes a Default; and

(C) after giving effect to the Proposed Borrowing, the Indebtedness of the Borrower does not exceed that permitted by (A) applicable resolutions of the Board of Directors of the Borrower or (B) applicable Laws of any Governmental Authority.

Very truly yours,

PINNACLE WEST CAPITAL CORPORATION

By

Title:.

EXHIBIT C — FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between **[Insert name of Assignor]** (the "Assignor") and **[Insert name of Assignee]** (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. Annex 1 attached hereto (the "Standard Terms and Conditions") is hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date referred to below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including without limitation any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable Law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at Law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the "Assigned Interest"). Each such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor. Assignee shall deliver (if it is not already a Lender) to the Agent an Administrative Questionnaire.

1. Assignor: _____
2. Assignee: _____
   [and is an Affiliate of [identify Bank][1]]
3. Borrower: Pinnacle West Capital Corporation
4. Agent: Bank of America, N.A., as the administrative agent under the Credit Agreement
5. Credit Agreement: The Three—Year Credit Agreement dated as of February 12, 2010, by and among the Borrower, the Lenders party thereto, the Arrangers, the Agent and the Issuing Banks and other agents party thereto.
6. Assigned Interest:

[1] Select as applicable.

Aggregate Amount of Commitment for all Lenders	Amount of Commitment Assigned	Percentage Assigned of Commitment[2]	CUSIP Number
$_____	$_____	_____%	

[7. Trade Date:][3]
Effective Date: ___, 20___**[TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]**
The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By:

Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By:

Title:

[Consented to and][4] Accepted:
BANK OF AMERICA, N.A. as Agent

By
Title:

[2] Set forth, to at least 9 decimals, as a percentage of the Commitment of all Banks thereunder.
[3] To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.
[4] To be added only if the consent of the Agent is required by the terms of the Credit Agreement.

[Consented to:][5]
[WELLS FARGO BANK, NATIONAL ASSOCIATION as Issuing Bank]

By

Name:

Title:

[BANK OF AMERICA, N.A., as Issuing Bank]
By

Name:

Title:

PINNACLE WEST CAPITAL CORPORATION

By

Name:

Title:

[5] To be added only if the consent of the Borrowers and/or other parties (e.g. Issuing Bank) is required by the terms of the Credit Agreement.

ANNEX 1 TO ASSIGNMENT AND ASSUMPTION
STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower of any of its obligations under any Loan Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an Eligible Assignee under Section 8.07 of the Credit Agreement (subject to such consents, if any, as may be required under Section 8.07 of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 4.01(e) or 5.01(h), as applicable, thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest, and (vi) if it is a foreign lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by facsimile shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the Law of the State of New York.

Nickloy, Lee R(Z08122)

From: Philip.Smyth@fitchratings.com
Sent: Tuesday, May 25, 2010 6:43 PM
To: Nickloy, Lee R(Z08122)
Subject: RE: Bank agreements...
Attachments: PNW Credit_Agreement-Final.DOC

Thanks Lee.
-----Lee.Nickloy@PinnacleWest.com wrote: -----

To: Philip.Smyth@fitchratings.com
From: Lee.Nickloy@PinnacleWest.com
Date: 05/25/2010 08:34PM
Subject: RE: Bank agreements...

Phil,

...and attached is the PNW credit agreement

-----Original Message-----
From: Philip.Smyth@fitchratings.com [mailto:Philip.Smyth@fitchratings.com]
Sent: Tuesday, May 25, 2010 2:29 PM
To: Nickloy, Lee R(Z08122)
Subject: Bank agreements...

Lee,

Would you please send me the renegotiated bank facility documents at your convenience.

Thanks,

Phil

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McGill, James T(Z71171)

Subject: FW: June 11th dial in number

From: Nunley, Dody D(Z02969)
Sent: Thursday, May 27, 2010 10:35 AM
To: 'Bettinelli, Antonio'
Subject: RE: June 11th dial in number

Certainly ~
Lee Nickloy will be the Leader

Dial-in Number: (877) 857-7026
Conference Code: 6022502695

From: Bettinelli, Antonio [mailto:Antonio_Bettinelli@standardandpoors.com]
Sent: Thursday, May 27, 2010 10:30 AM
To: Nunley, Dody D(Z02969)
Subject: June 11th dial in number

Dody,

Apparently, we do not provide dial in numbers to our issuers. Will you be able to send us a dial-in number? Thanks.

Tony Bettinelli
Associate
Corporate & Government Ratings
Standard & Poor's
One Market, Steuart Tower, 15th Floor, San Francisco, CA 94105
(415) 371-5067
tony_bettinelli@sandp.com

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McGill, James T(Z71171)

From: Higuchi, Dene C(Z05435) on behalf of Hickman, Rebecca (Z46875)
Sent: Tuesday, June 01, 2010 11:12 AM
Subject: PNW: KLEIN ELECTED TO PINNACLE WEST BOARD OF DIRECTORS

Our Board of Directors has elected Dr. Dale E. Klein to the Board. The news release announcing Dr. Klein's addition is included below in this message.

As always, if you have any questions about this announcement or need other information about our company, please contact me.

Sincerely,
Becky

Rebecca L. Hickman
Director of Investor Relations | Pinnacle West Capital Corporation
Two Arizona Center | 400 North 5th Street | Station 9998 | Phoenix, AZ 85004
Office 602-250-5668 | Fax 602-250-2789 | E-mail rhickman@pinnaclewest.com

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FORMER NUCLEAR REGULATORY COMMISSION CHAIRMAN ELECTED TO PINNACLE WEST BOARD OF DIRECTORS

Dr. Dale E. Klein Joins Board

PHOENIX – The Board of Directors of Pinnacle West Capital Corporation (NYSE: PNW) announced today that Dr. Dale E. Klein has been elected to the Pinnacle West Board of Directors. He also has joined the Board of Pinnacle West's principal subsidiary, Arizona Public Service Company.

Dr. Klein, 62, served as Chairman of the U.S. Nuclear Regulatory Commission from July 2006 to May 2009, and thereafter as a Commissioner until March 30, 2010. Prior to his service on the NRC, Dr. Klein was Assistant to the Secretary of Defense for Nuclear, Chemical and Biological Defense Programs from November 2001 to July 2006. Before embarking on his government service, Dr. Klein held a variety of teaching and leadership positions at the College of Engineering of the University of Texas at Austin, with a focus on the University's nuclear program. Since leaving the NRC, he has returned to the University as Professor of Mechanical Engineering, Associate Vice President for Research, and Associate Director of the University's Energy Institute.

"Dr. Klein's world-class expertise in all aspects of nuclear energy regulation, operation, technology and safety will make him an outstanding addition to our Board," said Pinnacle West Chairman, President and Chief Executive Officer Don Brandt. "We will benefit from the same high standards, excellent business practices, focus on new technologies, communication skills, and sound judgment that Dr. Klein brought to the NRC. His wide national and international experience in the nuclear energy industry and in government will be of great value to our company, not only from the perspective of our operations at the Palo Verde nuclear station, but also as we take advantage of opportunities in our evolving utility business."

Dr. Klein is a Fellow of the American Society of Mechanical Engineers and the American Nuclear Society, and the recipient of numerous professional awards in the engineering field. He has published more than 100 technical papers and reports, and co-edited one book. Dr. Klein received his Ph.D. in Nuclear Engineering from the University of Missouri – Columbia in 1977.

Pinnacle West is a Phoenix-based company with consolidated assets of about $12 billion. Through its subsidiaries the Company generates, sells and delivers energy related products and services to retail and wholesale customers in the western United States.

# # #

McGill, James T(Z71171)

Subject: FW: Fitch Reports Attached For Your Review
Attachments: PNW_CU_6.4.2010.doc; PNW_APS_CU_6.4.2010.doc

-----Original Message-----
From: Philip.Smyth@fitchratings.com [mailto:Philip.Smyth@fitchratings.com]
Sent: Friday, June 04, 2010 6:20 AM
To: Nickloy, Lee R(Z08122)
Subject: Fitch Reports Attached For Your Review

Lee,

Please review the attached Fitch reports covering PNW and APS for factual accuracy, at your convenience. Thank you in advance for your help.

Sincerely,

Phil

Philip W. Smyth, CFA
Senior Director
Fitch Ratings
telephone: 212 908 0531

(See attached file: PNW_CU_6.4.2010.doc)(See attached file: PNW_APS_CU_6.4.2010.doc)

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Global Power
U.S. & Canada
Credit Update

Pinnacle West Capital Corp.

Ratings

Security Class	Current Rating
Long-Term IDR	BBB–
Short-Term IDR	F3
Commercial Paper	F3

Outlook

Stable

Financial Data

Pinnacle West Capital Corp.
($ Mil.)

	LTM 3/31/10	2009
Revenues	3301	3,297
Gross Margin	2,153	2,118
Cash Flow From Operations	1073	1031
Operating EBITDA	1320	1057
Total Debt	4,530	4,247
Total Capitalization	7,860	7,593
ROE (%)	7.1	2.0
Capex/Depreciation (%)	196.6	194.5

Analysts

Philip W. Smyth, CFA
+1 212 908-0531
philip.smyth@fitchratings.com

Robert Hornick
+1 212 908-0523
robert.hornick@fitchratings.com

Related Research

- *Press Release, "Fitch: Proposed Arizona Public Service Co. Settlement Would Support 'BBB-' IDR & Stable Outlook," dated Nov. 18, 2009.*
- *Credit Analysis, Arizona Public Service Co., dated May 13, 2009.*
- *Credit Analysis, Pinnacle West Capital Corp., dated May 13, 2009.*
- *Press Release, "Fitch Affirms PNW and APS' IDR at 'BBB-'; Outlook Negative for PNW; Stable for APS," dated April 9, 2009.*

Rating Rationale

- Pinnacle West Capital Corp.'s (PNW) ratings primarily reflect the relatively stable earnings and cash flow characteristics of its core operating utility subsidiary Arizona Public Service Company (APS) and a constructive rate settlement approved by the Arizona Corporation Commission (ACC) in December 2009.
- The recent revision of PNW's Rating Outlook to Stable from Negative reflects progress made in restructuring SunCor's assets and the small amount of remaining debt. Fitch does not expect recent SunCor defaults under certain loan agreements or pending restructuring to have an adverse impact on PNW's consolidated creditworthiness.
- The final ACC order approving a settlement agreement in APS's 2008 GRC was balanced, in Fitch's view, and supportive of PNW and APS's credit ratings. New electric rates were effective January 2010. As a result, Fitch expects APS's earned returns on invested capital to improve to 9% - 10% from 7% - 8% in recent years.
- On a quantitative basis, PNW's credit metrics are consistent with PNW's 'BBB-' issuer default rating (IDR). Fitch estimates 2010 - 2014 FFO-to-interest and FFO-to-debt ratios of 4.2 - 4.3x and 20% - 21%, respectively.
- Fitch expects APS to file its next GRC in mid-2011. Under the ACC order in APS's 2008 GRC, the utility is barred from filing a GRC until that time. The PNW and APS ratings also assume that future rate orders will support reasonable earned returns on invested capital. However, Fitch notes that regulatory lag is a primary risk factor for PNW investors and could lead to future credit rating downgrades.

Key Rating Drivers

- The regulatory compact in Arizona is expected to be the key determinant of the creditworthiness of PNW and its core electric operating utility, APS.
- Implementation of effective regulatory policies to ameliorate regulatory lag and provide APS a reasonable opportunity to earn its authorized ROE will be critical to PNW and APS's future credit ratings.

Overview

For the 12-months ended March 31, 2010, APS accounted for 96% of total revenue and all of PNW's consolidated operating and net income. Total APS assets were $11.7 billion representing 98% of total PNW consolidated assets as of March 31, 2010. PNW's FFO coverage ratios for the 12-months ended March 31, 2010 was 4.5x. Fitch estimates PNW's FFO-to-interest ratio will remain in a narrow range, approximating 4.2x - 4.3x in 2010 and 2011, consistent with its current 'BBB-' issuer default rating (IDR).

Recent Events

2008 GRC: In affirming PNW and APS's ratings in April 2009, Fitch assumed a final order in the utility's 2008 GRC generally consistent with the proposed settlement agreement filed with the commission in May 2009. On December 16, 2009, the ACC approved the proposed settlement agreement with relatively minor modifications.

Under the terms of the ACC-authorized settlement APS' rates were increased $208 million effective January 1, 2010, based on an 11.0% ROE. The approved rate increase represents approximately 75% of APS' requested amount. Line extension fees will be recorded as revenue instead of contribution-in-aid-of-construction. In addition, APS agreed, among other things, not to file its next two rate cases until June 1, 2011 and June 1, 2013, respectively.

APS's earned return-on-equity (ROE) has been well-below the utility's authorized ROE in recent years driven primarily by timing differences between when costs are incurred and recovered in rates, adversely impacting the utility's credit quality. ACC approval of interim rate relief and settlement of APS' recently concluded 2008 GRC were, in Fitch's opinion, constructive developments from an investor point-of-view. Fitch expects APS's 2010 earned ROE to improve to 9% - 10% from the 7% - 8% levels of 2008 and 2009.

Future regulatory developments designed to facilitate realization of earned returns consistent with authorized levels will be central to APS and PNW's credit ratings. With this in mind, Fitch notes that the parties to the ACC-approved settlement also agreed on a best efforts basis to process future GRCs within 12-months of a sufficiency finding, potentially mitigating regulatory lag in the future. However, the agreement to process future rate cases more timely does not bind the ACC and it is therefore unclear if this agreement will have any meaningful impact in shortening the duration of prospective GRC proceedings.

SunCor: The ratings and outlook also consider the recent default at SunCor Development Company (SunCor) under certain outstanding debt agreements. There are no cross-defaults between SunCor and either PNW or APS. Fitch believes that SunCor's restructuring, either in bankruptcy or outside of it, will not have a significant adverse impact on PNW or APS.

As of March 31, 2010, SunCor had total debt outstanding of $96 million and has negotiated forbearance agreements to its $54 million secured revolver, which matured January 2010. In addition, $26 million of debt under SunCor's other credit facilities have matured and remain outstanding. Thusfar, lenders have taken no enforcement action. In April 2009, PNW announced a plan to exit the real estate business using proceeds from asset divestitures to repay debt. It is unclear whether asset values realized in a restructuring will be sufficient to repay SunCor's remaining debt and a bankruptcy filing cannot be ruled out, in Fitch's opinion. Fitch believes PNW's exposure in any event to be modest given the relatively small debt balance at SunCor.

Liquidity and Debt Structure

On a consolidated basis, PNW's liquidity remains solid with slightly more than $900 million of cash and cash equivalents and borrowing capacity available under its revolving credit facilities. PNW's 2010 - 2014 long-term debt maturities are manageable with $175 million of parent company debt due February 2011. In addition, $1.1 billion of APS debt is scheduled to mature during the same time period as follows: $400 million in 2011; $375 million in 2012; and, $302 million in 2014.

Management recently renegotiated PNW and APS $283 million and $377 million bank facilities, which were scheduled to mature in December 2010. The PNW revolver was reduced to $200 million while the APS facility was increased to $500 million. Both revolvers are scheduled to mature in February 2013. Under certain condition, the PNW and APS bank agreements may be upsized to $300 million and $700 million, respectively.

Fitch expects management to renegotiate APS' $489 million credit facility which is scheduled to expire in September 2011. PNW had total available liquidity under these facilities of $904 million as of March 31, 2010. The credit facilities and internal cash should be sufficient to meet the substantial liquidity required to meet APS's margin and collateral requirements and other working capital needs and to bridge capex and long-term external funding requirements.

PNW issued 6.9 million shares of common stock to the public in April 2010, receiving net proceeds of approximately $253 million. The proceeds from the equity offering were transferred to APS to use to repay short-term debt, finance corporate expenditures and other general corporate purposes. Fitch expects FFO-to-debt to approximate 20% for the year-ended December 31, 2010.

CapEx

PNW's consolidated 2010 - 2012 capital spending program is expected to average $960 million per annum, 6% higher than the $904 million average per year during 2007 - 2009. Compound annual growth in capex is estimated at 14% during 2010 - 2012. PNW's future capex is expected to be driven solely by its core electric utility business, APS, and Fitch expects PNW to fund the lion's share of estimated capex internally. External funding requirements are anticipated by Fitch to be financed via a balanced mix of equity and debt.

Spending in the generation category is expected to outpace transmission and distribution, driven by investment in environmental remediation equipment. As a subset of estimated generation investment, environmental is expected to increase from $10 million in 2010 to $80 million in 2011 and $220 million in 2012. The remaining generation spend is comprised of various improvements to APS' existing fossil and nuclear plant and does not include investment in renewable generation to meet state-imposed stan dards. On a compound annual basis, growth in generation and distribution is expected to be 29% and 10%, respectively, while transmission investment is projected to be flat.

Historical data indicates PNW's capital expenditures rose sharply to $1.1 billion in 2007 from $738 million in 2006 and declined steadily through 2009. As indicated in the table below, annual, consolidated capex declined 15% in 2008 and a further 18% in 2009. However, growth is expected to resume in 2010. PNW's actual 2007 - 2009 and projected 2010 - 2012 capital spending plans are summarized below:

PNW Capital Expenditures as of Mar. 31st, 2010

	Actual			Forecasted		
Company	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**
APS						
Generation	$ 353	$ 310	$ 241	$ 309	$ 417	$ 520
Distribution	$ 372	$ 340	$ 246	$ 281	$ 322	$ 328
Transmission	$ 138	$ 163	$ 193	$ 145	$ 161	$ 192
Other	$ 37	$ 43	$ 52	$ 84	$ 71	$ 48
Subtotal	$ 900	$ 856	$ 732	$ 819	$ 971	$ 1,088
Other	$ 164	$ 48	$ 13	$ 1	$ -	$ -
Total	$ 1,064.0	$ 904.0	$ 745.0	$ 820.0	$ 971.0	$1,088.0

Source: 2009 10K & 2010 10Q

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Global Power
U.S. & Canada
Credit Update

Arizona Public Service Company

(Subsidiary of Pinnacle West Capital)

Ratings

Security Class	Current Rating
Long-Term IDR	BBB–
Senior Unsecured	BBB
Short-Term IDR	F3
Commercial Paper	F3

Outlook

Stable

Financial Data

Pinnacle West Capital Corp.
($ Mil.)

	LTM 3/31/10	2009
Revenues	3158	3,150
Gross Margin	2,010	1,971
Cash Flow From Operations	937	958
Operating EBITDA	1,099	1,060
Total Debt	4,120	3,773
Total Capitalization	7,574	7,218
ROE (%)	8.1	7.4
Capex/Depreciation (%)	196	195

Analysts

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Robert Hornick
+1 212 908-0523
robert.hornick@fitchratings.com

Related Research

- *Press Release, "Fitch: Proposed Arizona Public Service Co. Settlement Would Support 'BBB-' IDR & Stable Outlook," dated Nov. 18, 2009.*
- *Credit Analysis, Arizona Public Service Co., dated May 13, 2009.*
- *Credit Analysis, Pinnacle West Capital Corp., dated May 13, 2009.*
- *Press Release, "Fitch Affirms PNW and APS' IDR at 'BBB-'; Outlook Negative for PNW; Stable for APS,"*

Rating Rationale

- Arizona Public Service Company's (APS) ratings consider the utility's relatively stable earnings and cash flows and constructive rate settlement approved by the Arizona Corporation Commission (ACC) in December 2009. New electric rates were effective January 2010. As a result, Fitch expects APS's earned returns on invested capital to improve to 9% - 10% in 2010 and 2011 from 7% - 8% in recent years.
- On a quantitative basis, APS's credit metrics are consistent with its 'BBB-' issuer default rating (IDR). Fitch expects APS's 2010 - 2011 FFO-to-interest and FFO-to-debt ratios to approximate 4.5x and 22% - 23%, respectively.
- Fitch expects APS to file its next GRC in mid-2011, consistent with the terms of its ACC-approved 2008 GRC settlement. Under the agreement the utility is not to file its next GRC before June 1, 2011. The ratings assume future rate orders will support reasonable earned returns on invested capital.
- Earnings attrition due to regulatory lag is a primary risk factor for APS investors. If left unaddressed, future earned returns could track significantly below authorized levels resulting in weakening credit metrics and potential credit rating downgrades.

Key Rating Drivers

- In Fitch's opinion, the regulatory compact in Arizona will continue to be the key determinant of APS's creditworthiness.
- Implementation of effective regulatory policies to ameliorate regulatory lag and provide APS a reasonable opportunity to earn its authorized ROE will be critical to APS's future credit ratings.

Recent Events

2008 GRC: In affirming APS's ratings in April 2009, Fitch assumed a final order in the utility's 2008 GRC generally consistent with the proposed settlement agreement filed with the commission. On December 16, 2009, the ACC approved the proposed settlement agreement with relatively minor modifications.

Under the terms of the ACC-authorized settlement, APS's rates were increased $208 million effective January 1, 2010, based on an 11.0% return on equity (ROE) and a 2007 test year. The approved rate increase represents approximately 75% of APS's requested amount. Line extension fees will be recorded as revenue instead of contribution-in-aid-of-construction. In addition, APS agreed, among other things, not to file its next two rate cases until June 1, 2011 and June 1, 2013, respectively.

APS's earned return-on-equity (ROE) has been well-below the utility's authorized ROE in recent years driven primarily by timing differences between when costs are incurred and recovered in rates, adversely impacting the utility's credit quality. ACC approval of interim rate relief and settlement of APS' recently concluded 2008 GRC were, in Fitch's opinion, constructive developments from an investor point-of-view. Fitch expects APS's 2010 earned ROE to improve to 9% - 10% from the 7% - 8% levels of 2008 and 2009.

Future regulatory developments designed to facilitate realization of earned returns consistent with authorized levels will be central to APS's credit quality. Fitch notes that the parties to the ACC-approved settlement have agreed on a best efforts basis to process future GRCs within 12-months of a sufficiency finding, potentially mitigating regulatory lag in the future. However, the agreement to process future rate cases more timely does not bind the ACC and it is therefore unclear if this agreement will have any meaningful impact in shortening the duration of prospective GRC proceedings.

Liquidity and Debt Structure

On a consolidated basis, APS's liquidity remains solid with approximately $794 million of cash and cash equivalents and borrowing capacity available under its revolving credit facilities, as of March 31, 2010. APS's 2010 - 2014 long-term debt maturities are manageable with $1.1 billion scheduled to mature as follows: $400 million in 2011; $375 million in 2012; and, $302 million in 2014.

Management recently renegotiated APS's $377 million bank facility, which was scheduled to mature in December 2010. The APS revolver was increased to $500 million and, under certain condition, may be upsized to $700 million. Fitch expects APS to renegotiate its $489 million credit facility which is scheduled to expire in September 2011. APS's internal cash and credit facilities should be sufficient to meet the substantial liquidity required to meet margin and collateral requirements and other working capital needs and to bridge capex and long-term funding requirements.

In April 2010, PNW issued 6.9 million shares of common stock to the public, receiving net proceeds of approximately $253 million. The proceeds from the equity offering were transferred to APS to use to repay short-term debt, finance corporate expenditures and other general corporate purposes. Fitch expects APS's ratio of FFO-to-debt to approximate 23% for the year-ended December 31, 2010.

CapEx

APS's 2010 - 2012 capital spending program is expected to average $959 million per annum, 16% higher than the $829 million average per year during 2007 - 2009. Compound annual growth in capex is estimated at 14% during 2010 - 2012. Fitch expects APS to fund the lion's share of estimated capex internally, with external funding requirements financed via a balanced mix of equity and debt.

Spending in the generation category is expected to outpace transmission and distribution, driven in large part by investment in environmental remediation equipment. As a subset of estimated generation investment, environmental is expected to increase from $10 million in 2010 to $80 million in 2011 and $220 million in 2012. The remaining generation spend is comprised of various improvements to APS' existing fossil and nuclear plant and does not include investment in renewable generation to meet state-imposed standards. On a compound annual basis, growth in generation and distribution is expected to be 29% and 10%, respectively, while transmission investment is projected to be flat.

Historical data indicates APS's capital expenditures rose 22% to $900 million in 2007 from $738 million in 2006 and declined steadily through 2009. As indicated in the table below, annual consolidated capex declined 5% in 2008 and a further 15% in 2009. However, growth is expected to resume in 2010. APS' actual 2007 - 2009 and projected 2010 - 2012 capital spending plans are summarized below:

APS Capital Expenditures as of Mar. 31st, 2010						
	Actual			Forecasted		
Company	2007	2008	2009	2010	2011	2012
APS						
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Transmissi	$ 138	$ 163	$ 193	$ 145	$ 161	$ 192
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Subtotal	$ 900	$ 856	$ 732	$ 819	$ 971	$ 1,088
Source: 2009 10K & 2010 10Q						

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McGill, James T(Z71171)

Subject: FW: Arizona Public Service Company - Coconino Bonds

From: Dolyniuk, Karen E(J97440)
Sent: Monday, June 07, 2010 3:49 PM
To: 'Hansen, Justin'
Subject: Arizona Public Service Company - Coconino Bonds

Hi Justin! We worked together late last year regarding an LOC we were putting in place for some Coconino bonds. We are again beginning work on an LC that comes due in August on the APS, Coconino 1998 bonds, which are currently in VRDN mode with a KBC LOC. KBC has indicated they will not be renewing the LC, so we have found another bank to work with. Can you tell me the typical amount of time you will need to review the Reimbursement Agreement and LC? Can you also refresh my memory on how the process works at S&P? I seem to recall an email first and then receiving a letter later – but I'm a little fuzzy.

Thanks.

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

McGill, James T(Z71171)

Subject: FW: Arizona Public Service Company - Coconino Bonds

From: Dolyniuk, Karen E(J97440)
Sent: Tuesday, June 08, 2010 9:20 AM
To: 'Seifer, Carla'
Subject: RE: Arizona Public Service Company - Coconino Bonds

Thank you!

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

From: Seifer, Carla [mailto:Carla_Seifer@standardandpoors.com]
Sent: Tuesday, June 08, 2010 9:17 AM
To: Dolyniuk, Karen E(J97440)
Subject: Re: Arizona Public Service Company - Coconino Bonds

2 weeks would be sufficient.
Regards,

Carla

From: Karen.Dolyniuk@pinnaclewest.com <Karen.Dolyniuk@pinnaclewest.com>
To: Seifer, Carla
Sent: Tue Jun 08 12:12:24 2010
Subject: RE: Arizona Public Service Company - Coconino Bonds

Thanks Carla – I'm trying to determine an estimate of the time it will take for your review to be sure we have enough time built into our time table. Is 2 weeks enough time? We are only beginning the process, we do not have documents yet.

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

From: Seifer, Carla [mailto:Carla_Seifer@standardandpoors.com]
Sent: Tuesday, June 08, 2010 9:02 AM
To: Dolyniuk, Karen E(J97440)
Subject: Arizona Public Service Company - Coconino Bonds

Hi Karen,
I am reaching out to you regarding the email you sent to my colleague Justin. I understand you have an LOC substitution for an existing deal. Please submit the relevant documents and I will assign an analyst to review.
Please feel free to reach out if you have any questions.
Regards,
Carla

Carla Seifer
Director
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New York, NY 10041
Phone: (212) 438-1735
Fax: (212) 438-2647
carla_seifer@sandp.com

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McGill, James T(Z71171)

Subject: FW: Arizona Public Service Company - Coconino Bonds

From: Dolyniuk, Karen E(J97440)
Sent: Wednesday, June 09, 2010 7:30 AM
To: 'Mangaroo, Chetara'
Subject: RE: Arizona Public Service Company - Coconino Bonds

Sure, as soon as we have something I will be sure to get it to you. Thanks.

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

From: Mangaroo, Chetara [mailto:Chetara.Mangaroo@moodys.com]
Sent: Wednesday, June 09, 2010 7:27 AM
To: Dolyniuk, Karen E(J97440)
Subject: RE: Arizona Public Service Company - Coconino Bonds

Can you send me the OS for both issues so that we can take a look at it.
Thanks!
Tara

From: Karen.Dolyniuk@pinnaclewest.com [mailto:Karen.Dolyniuk@pinnaclewest.com]
Sent: Tuesday, June 08, 2010 5:07 PM
To: Bellinger, Lawrence
Cc: Mangaroo, Chetara
Subject: RE: Arizona Public Service Company - Coconino Bonds

Thank you – we are actually doing two different transactions – we will be taking the Coconino 1994A bonds from daily mode with an LC to a 3-year put. We will be leaving the Coconino 1998 in daily mode but replacing the KBC LC with a JPMorgan LC. As soon as we have documents, we will forward them for both transactions.

Tara, I'm not sure if we will have a formal term sheet – if not, what type of document would you need to see? I'm assuming you will need the reimbursement agreement at the very least.

Thanks.

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

From: Bellinger, Lawrence [mailto:Lawrence.Bellinger@moodys.com]
Sent: Tuesday, June 08, 2010 1:39 PM
To: Dolyniuk, Karen E(J97440)
Cc: Mangaroo, Chetara
Subject: RE: Arizona Public Service Company - Coconino Bonds

Karen,

Yes we will send a rating letter upon completion of our review. We request the documents 2-3 weeks prior to the date you need the rating letter.

Please send the documents and your request to Tara Mangaroo – who is cc'd on this email –thanks.

.....
Larry Bellinger, CFA
Analyst
212.553.0215 tel
lawrence.bellinger@moodys.com

Moody's Public Finance-Municipal Structured Products Group
7 World Trade Center
250 Greenwich Street
New York, NY 10007
.....

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From: Karen.Dolyniuk@pinnaclewest.com [mailto:Karen.Dolyniuk@pinnaclewest.com]
Sent: Monday, June 07, 2010 6:45 PM
To: Bellinger, Lawrence
Subject: Arizona Public Service Company - Coconino Bonds

Hi Larry! We worked together late last year regarding an LOC we were putting in place for some Coconino bonds. We are again beginning work on an LC that comes due in August on the APS, Coconino 1998 bonds, which are currently in VRDN mode with a KBC LOC. KBC has indicated they will not be renewing the LC, so we have found another bank to work with. Can you tell me the typical amount of time you will need to review the Reimbursement Agreement and LC? I'm assuming you will send us a letter with the ratings affirmation as you have in the past, is that correct?

Thanks.

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

Email Firewall made the following annotations

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McGill, James T(Z71171)

From: McGill, James T(Z71171)
Sent: Thursday, June 10, 2010 2:57 PM
To: 'Bettinelli, Antonio'
Subject: Info for Management Call

Tony,
Here's some information for our call tomorrow.

Jim

S&P Ratio Changes Final.xlsx

Attachment Intentionally Omitted -- Contains Confidential Information

McGill, James T(Z71171)

From: Bettinelli, Antonio [Antonio_Bettinelli@standardandpoors.com]
Sent: Thursday, June 10, 2010 4:18 PM
To: McGill, James T(Z71171)
Subject: RE: Info for Management Call

Thanks.

From: James.MCgill@pinnaclewest.com [mailto:James.MCgill@pinnaclewest.com]
Sent: Thursday, June 10, 2010 2:57 PM
To: Bettinelli, Antonio
Subject: Info for Management Call

Tony,
Here's some information for our call tomorrow.

Jim

Email Firewall made the following annotations

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McGill, James T(Z71171)

Subject: FW: Coconino 1994A OS

From: Dolyniuk, Karen E(J97440)
Sent: Tuesday, June 15, 2010 1:16 PM
To: 'Schumacher, Laura'
Subject: Coconino 1994A OS

[redacted]

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

NEW ISSUE – BOOK ENTRY ONLY

In the opinion of Orrick, Herrington & Sutcliffe, Bond Counsel, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes, except that no opinion is expressed as to the status of interest on any Bond during any period that such Bond is held by a "substantial user" of facilities financed by the Bonds or by a "related person" within the meaning of Section 103(b)(13) of the Internal Revenue Code of 1954, as amended. Bond Counsel observes that interest on the Bonds is a specific preference item for purposes of the federal individual and corporate alternative minimum taxes. Bond Counsel is also of the opinion that the Bonds and the income therefrom are exempt from all State of Arizona taxation. Bond Counsel expresses no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. See "Tax Matters."

$32,650,000
Coconino County, Arizona
Pollution Control Corporation
Pollution Control Revenue Bonds
(Arizona Public Service Company Navajo Project)
1994 Series A

Dated: Date of Issuance **Due: October 1, 2029**

The Bonds are limited obligations of the Coconino County, Arizona Pollution Control Corporation, and will be payable solely from and secured solely by the revenues to be derived pursuant to an Agreement with

Arizona Public Service Company

The Bonds will be further secured by an irrevocable direct pay Letter of Credit issued by:

Bank of America National Trust and Savings Association

Under the Letter of Credit, The Bank of New York, as trustee will be entitled to draw amounts sufficient to pay (a) up to sixty-two days interest on the Bonds and (b) principal of the Bonds as such principal becomes due, whether at maturity, on acceleration, at redemption or upon tender thereof. The Bonds are subject to purchase at the option of the holders of the Bonds and, under certain circumstances, are subject to mandatory purchase in the manner and at the times described herein.

The Bonds as initially issued will bear interest at Daily Rates, designated and determined from time to time as described herein. Thereafter, the interest rate on the Bonds may be changed to a Weekly Rate, Monthly Rate, Flexible Rate or Term Rate, as described herein.

The Bonds will be delivered in fully registered form in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, which will act as securities depository for the Bonds. Ownership interests in the Bonds may be purchased in book-entry form only, in authorized denominations described herein. So long as the Bonds remain in book-entry only form, purchasers of beneficial interests in the Bonds will not receive certificates representing such interests. The Bonds are subject to optional and mandatory redemption prior to maturity in the manner and at the times described herein. See "The Bonds".

The Bonds will not constitute an indebtedness or obligation to which the full faith and credit of the Issuer, Coconino County or the State of Arizona is pledged and shall never constitute nor give rise to a pecuniary liability of the Issuer, Coconino County or the State of Arizona or a charge against the general credit or taxing powers of Coconino County or the State of Arizona or the general credit of the Issuer. The Issuer has no taxing power.

Price 100%

The Bonds are offered, subject to prior sale, when, as and if issued and received by the Underwriter and subject to certain conditions, including the approval of Orrick, Herrington & Sutcliffe, Bond Counsel. Certain legal matters will be passed upon for the Issuer by Mangum, Wall, Stoops & Warden and for the Company by Snell & Wilmer, counsel to the Company. The validity of the Agreement will be passed upon for the Underwriter by Sullivan & Cromwell. It is expected that the Bonds will be available for delivery in New York, New York on or about October 12, 1994.

Goldman, Sachs & Co.

October 11, 1994

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

No dealer, broker, salesman or any other person has been authorized by the Issuer, Arizona Public Service Company or the Underwriter to give any information or to make any representations other than those contained in this Official Statement in connection with the offering described herein and, if given or made, such information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or solicitation of an offer to buy any securities other than the Bonds offered hereby, and there shall not be any offer or solicitation of such offer or sale of the Bonds within any jurisdiction in which such offer or solicitation is not authorized, or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

The information contained in this Official Statement has been obtained from Arizona Public Service Company and other sources which are deemed reliable by the Issuer. No representation or warranty is made, however, as to the accuracy or completeness of such information, and nothing contained in this Official Statement is, or shall be relied upon as, a promise or representation by either the Issuer or the Underwriter. This Official Statement is submitted in connection with the sale of securities as referred to herein and may not be reproduced or used in whole or in part for any other purpose. The delivery of this Official Statement at any time does not imply that information herein is correct as of any time subsequent to its date.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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$32,650,000
Coconino County, Arizona
Pollution Control Corporation
Pollution Control Revenue Bonds
(Arizona Public Service Company Navajo Project)
1994 Series A

INTRODUCTORY STATEMENT

This Official Statement is provided to furnish certain information in connection with the issuance by Coconino County, Arizona Pollution Control Corporation (the "Issuer") of its Pollution Control Revenue Bonds (Arizona Public Service Company Navajo Project) 1994 Series A in the aggregate principal amount of $32,650,000 (the "Bonds"). The Bonds will be issued pursuant to an Indenture of Trust, dated as of October 1, 1994 (the "Indenture"), between the Issuer and The Bank of New York, as trustee (the "Trustee"). The Bank of New York is acting as Tender Agent, Registrar and Paying Agent (the "Tender Agent", "Registrar" and "Paying Agent") with respect to the Bonds and its "Principal Office," as used herein, is at 101 Barclay Street, New York, New York.

The Bonds are being issued by the Issuer at the request of Arizona Public Service Company (the "Company"), a corporation organized and existing under the laws of the State of Arizona, in order to finance certain facilities for the abatement of air and water pollution, including the abatement of sulfur dioxide, and for the disposal of sewage and solid waste and certain facilities related thereto, at the Navajo Generating Station, located in Coconino County, Arizona (the "Project"). See "The Project."

Prior to the issuance of the Bonds, the Company and the Issuer will enter into a Loan Agreement dated as of October 1, 1994 (the "Agreement"), whereby the Issuer will loan the proceeds from the sale of the Bonds to the Company. In the Agreement, the Company agrees to make payments so as to provide sufficient revenues to pay when due, pursuant to the Indenture, the principal of (whether at maturity, on redemption, upon tender for purchase or by acceleration), premium, if any, and interest on the Bonds.

Concurrently with the issuance of the Bonds, the Company will cause to be delivered to the Trustee an irrevocable letter of credit (the "Letter of Credit") issued by Bank of America National Trust and Savings Association (the "Credit Provider"). The Letter of Credit will be issued pursuant to a Letter of Credit and Reimbursement Agreement, dated as of October 12, 1994 (the "Reimbursement Agreement"), between the Company and the Credit Provider.

As more fully provided in the Indenture, the Bonds will not constitute an indebtedness or obligation to which the faith and credit of the State of Arizona, Coconino County, the Issuer or any other political subdivision of the State of Arizona will be pledged, but will be limited obligations of the Issuer, which will be obligated to pay the principal of, premium, if any, and interest on the Bonds only from the payments made pursuant to the Agreement and the other funds pledged therefor. Coconino County will not in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement undertaken by the Issuer, nor will the Issuer's agreements or obligations be construed to constitute an indebtedness of Coconino County within the meaning of any constitutional or statutory provision of the State of Arizona whatsoever.

Brief descriptions of the Issuer and the Project and summaries of certain provisions of the Bonds, the Agreement, the Indenture, the Letter of Credit and the Reimbursement Agreement are included in this Official Statement. Such information and descriptions do not purport to be complete, comprehensive or definitive. Statements regarding specific documents, including the Agreement and the Indenture, make use of certain terms defined in such documents and are summaries of and subject

to the detailed provisions of such documents and are qualified in their entirety by reference to each such document, and references to the Bonds are similarly subject to and qualified in their entirety by reference to the form thereof included in the Indenture and the information with respect thereto included in the aforesaid documents. Copies of all aforesaid documents may be obtained at the principal office of Goldman, Sachs & Co. in New York, New York, during the period of the initial offering of the Bonds and thereafter are available for inspection at the offices of the Trustee or the Company.

For information concerning the Company, including selected financial and operating information and information incorporated by reference, see Appendix A hereto. For information concerning the Credit Provider, see Appendix B hereto. The proposed form of opinion of Bond Counsel is attached as Appendix C hereto.

THE ISSUER

The Issuer is a political subdivision under the laws of the State of Arizona, organized under the "Pollution Control Corporations for Municipalities and Counties Act", being Title 35, Chapter 6, Arizona Revised Statutes (the "Act"). The Bonds will be issued in full compliance with the Act, and the issuance of the Bonds by the Issuer will be approved by the Board of Supervisors of Coconino County, Arizona. The Issuer has no taxing power. As required by the provisions of Section 38-511, Arizona Revised Statutes, as amended, the Issuer may cancel any contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Issuer is, at any time while the contract or any extension thereof is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter thereof. The Company and the Trustee have covenanted not to employ as an employee, agent or, with respect to the subject matter of the Agreement and the Indenture, respectively, a consultant, any person significantly involved in initiating, negotiating, securing, drafting or creating such documents on behalf of the Issuer within three years from the execution thereof, unless a waiver is provided by the Issuer. The cancellation of any financing agreement which is material to the payment of the Bonds, including the Indenture, could adversely affect the holders of the Bonds.

THE PROJECT

The Project is located at the Navajo Generating Station (the "Navajo Station") in Coconino County, Arizona and consists of facilities for the abatement of air and water pollution, including facilities for the abatement of sulfur dioxide, and for the disposal of sewage and solid waste and certain facilities related thereto. The Navajo Station is owned in undivided interests as follows: the Company, 14%; Tucson Electric Power Company, 7.5%; Nevada Power Company, 11.3%; Department of Water and Power of the City of Los Angeles, California, 21.2%; Salt River Project Agricultural Improvement and Power District, 21.7%; and U.S. Bureau of Reclamation, 24.3%.

USE OF PROCEEDS

The proceeds of the Bonds will be used to defray the cost to the Company of acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing the Project and to pay certain costs of issuance incurred in connection with the issuance of the Bonds.

THE BONDS

General

The Bonds will be issued as fully registered Bonds without coupons in the manner described below. The Bonds will be dated as of the date of delivery thereof (the "Issue Date") and will mature on October 1, 2029. The term of the Bonds shall be divided into consecutive Rate Periods, during each of which the Bonds may bear interest at Daily, Weekly, Monthly, Term or Flexible Rates designated and determined as described herein. The Initial Rate Period for the Bonds will be a Daily Rate Period. During such Daily Rate Period, the Bonds will bear interest at Daily Rates as described herein. The Bonds will continue to bear interest at Daily Rates determined as described herein unless and until the interest rate determination method for the Bonds is adjusted as described herein.

The Bonds are authorized in denominations of $100,000 or any integral multiple thereof, with respect to Bonds during any Daily Rate Period, any Weekly Rate Period or any Monthly Rate Period; $100,000 or any integral multiple of $5,000 in excess of $100,000, with respect to Bonds during any Flexible Rate Period; and $5,000 or any integral multiple thereof, with respect to Bonds during any Term Rate Period; provided, however, that one Bond may be issued in a denomination other than the foregoing (collectively, "Authorized Denominations").

The Bonds are subject to tender for purchase at the option of the holders of the Bonds, and under certain circumstances are subject to mandatory tender for purchase in the manner and at the times described herein. The Bonds are subject to optional and mandatory redemption prior to maturity in the manner and at the times described herein.

Goldman, Sachs & Co. has been appointed by the Company as Remarketing Agent with respect to the Bonds. Goldman, Sachs & Co. is referred to herein as the "Remarketing Agent." The Remarketing Agent will be paid fees for its services and may be removed or resign under certain circumstances.

Concurrently with the issuance of the Bonds, the Company will cause to be delivered to the Trustee the Letter of Credit issued by the Credit Provider.

Definitions

The terms "Daily Rate," "Daily Rate Period," "Weekly Rate," "Weekly Rate Period," "Monthly Rate," "Monthly Rate Period," "Flexible Rate," "Flexible Segment," "Term Rate" and "Term Rate Period" are defined by reference to the procedures for the determination thereof, as described below. In addition, the following terms are used in this summary:

"Business Day" means a day on which banks located in the cities in which the principal offices of the Trustee, the Registrar, the Paying Agent, the Tender Agent, the Remarketing Agent and the Credit Provider are located are not required or authorized to be closed and on which the New York Stock Exchange is not closed, and, in the case of any action to be taken by the Company, which is not a day on which banks in Phoenix, Arizona are required or authorized to be closed.

"Interest Payment Date" means (i) with respect to any Daily, Weekly or Monthly Rate Period, the first Business Day of each calendar month, (ii) with respect to any Term Rate Period, the first day of the sixth month following the commencement of the Term Rate Period and the first day of each sixth month thereafter, (iii) with respect to any Flexible Segment, the Business Day next succeeding the last day of such Flexible Segment, (iv) with respect to any Rate Period, the Business Day next succeeding the last day thereof and (v) with respect to any Credit Provider Bonds, the dates specified in the Reimbursement Agreement for the payment of interest on any reimbursement

obligations of the Company to the Credit Provider relating to such Credit Provider Bonds, as such dates shall be specified by the Credit Provider to the Trustee.

"Rate Period" means any Daily Rate Period, Weekly Rate Period, Monthly Rate Period, Term Rate Period or Flexible Rate Period.

"Record Date" means with respect to any Interest Payment Date in respect of any Daily Rate Period, Weekly Rate Period, Monthly Rate Period or Flexible Segment, the Business Day next preceding such Interest Payment Date and, with respect to any Interest Payment Date in respect of any Term Rate Period, the fifteenth day of the month preceding such Interest Payment Date.

"Tax-Exempt" means, with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excluded from the gross income of the holders thereof (other than any holder who is a "substantial user" of facilities financed with such obligations or a "related person" within the meaning of Section 103(b)(13) of the Internal Revenue Code of 1954, as amended (the "1954 Code") or Section 147(a) of the Internal Revenue Code of 1986 (the "1986 Code") for federal income tax purposes, whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax under the 1954 Code or the 1986 Code.

Payment of Principal and Interest

Interest shall be payable (i) by check mailed by first class mail on the Interest Payment Date to the holders as of the Record Date or (ii) during any Rate Period other than a Term Rate Period, in immediately available funds (by wire transfer or by deposit to the account of the holder of such Bond if such account is maintained with the Paying Agent), but in respect of any holder of Bonds in a Daily, Weekly or Monthly Rate Period only to any holder owning Bonds in an aggregate principal amount of at least $1,000,000 on the Record Date and having provided wire transfer instructions to the Paying Agent prior to the close of business on such Record Date; provided, that, if and to the extent there shall have been a default in the payment of the interest due, such interest shall be paid to the person in whose name any such Bonds are registered as of a special record date to be fixed by the Trustee, notice of which shall be given to such holders not less than 10 days prior thereto. Notwithstanding the foregoing, interest in respect of any Bond bearing a Flexible Rate shall be paid only upon presentation to the Tender Agent of the Bond on which such payment is due.

Interest shall be computed, in the case of any Rate Period other than a Term Rate Period, on the basis of a 365- or 366-day year, as applicable, for the number of days actually elapsed and, in the case of a Term Rate Period, on the basis of a 360-day year consisting of twelve 30-day months.

Daily Rate Period

Daily Rate. During each Daily Rate Period, the Bonds shall bear interest at the Daily Rate, determined by the Remarketing Agent either on each Business Day for such Business Day or on the next preceding Business Day for the Business Day next succeeding such date of determination and as may be determined by the Remarketing Agent for any day that is not a Business Day on any such day during which there shall be active trading in Tax-Exempt obligations comparable to the Bonds for such day.

The Daily Rate will be the rate determined by the Remarketing Agent to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the

Remarketing Agent has not determined a Daily Rate, the Daily Rate will be the same as the Daily Rate for the immediately preceding day. In no event will the Daily Rate be greater than 12%.

Adjustment to a Daily Rate Period. The interest rate borne by the Bonds will be adjusted to a Daily Rate upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company. The notice must specify the effective date of the adjustment to a Daily Rate which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) following the fifth Business Day after the receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee), (2) in the case of an adjustment from a Monthly Rate Period or a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" and "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable, and (3) in the case of an adjustment from a Flexible Rate Period, either (i) the day immediately following the last day of the then current Flexible Rate Period, or (ii) for each Bond, the day immediately following the last day of the last Flexible Segment for such Bond in the then current Flexible Rate Period; provided, however, that if prior to the Company's making such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of such Daily Rate Period shall not precede such redemption date. In the case of an adjustment from a Term Rate Period, such notice must be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Act and the Indenture, and (2) will not adversely affect the Tax-Exempt status of the interest on the Bonds.

Notice of Adjustment to a Daily Rate Period. The Trustee must give notice of an adjustment to a Daily Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period shall be a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Daily Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to a Daily Rate (subject to the Company's ability to rescind its election, as provided in the Indenture), (2) the effective date of the Daily Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of the Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that the holders of the Bonds do not have a right to retain their Bonds on such effective date.

Weekly Rate Period

Weekly Rate. During each Weekly Rate Period, the Bonds will bear interest at the Weekly Rate determined by the Remarketing Agent no later than the first day of such Weekly Rate Period and thereafter no later than Tuesday of each week during such Weekly Rate Period, unless any such Tuesday shall not be a Business Day, in which event the Weekly Rate shall be determined by the Remarketing Agent no later than the Business Day next preceding such Tuesday.

The Weekly Rate will be the rate determined by the Remarketing Agent to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the Remarketing Agent has not determined a Weekly Rate for any period, the Weekly Rate for such period will be the same as the Weekly Rate for the immediately preceding period. In no event will the Weekly Rate be greater than 12%.

The first Weekly Rate determined for each Weekly Rate Period will apply to the period commencing on the first day of such Weekly Rate Period and ending on the next succeeding Tuesday. Thereafter, each Weekly Rate will apply to the period commencing on each Wednesday and ending on the next succeeding Tuesday; provided, however, if such Weekly Rate Period will end on a day other

than Tuesday, the last Weekly Rate for such Weekly Rate Period will apply to the period commencing on the Wednesday preceding the last day of such Weekly Rate Period and ending on such last day.

Adjustment to a Weekly Rate Period. The interest rate borne by the Bonds will be adjusted, at any time, to a Weekly Rate upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice must specify the effective date of such adjustment to a Weekly Rate Period which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) following the fifth Business Day after receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee), (2) in the case of an adjustment from a Monthly Rate Period or a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" and "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable, and (3) in the case of an adjustment from a Flexible Rate Period, either the day immediately following the last day of the then current Flexible Rate Period or for each Bond, the day immediately following the last day of the then current Flexible Segment for such Bond; provided, however, that if prior to the Company's making such election, any Bonds have been called for redemption and such redemption has not yet been effected, the effective date of such Weekly Rate Period will not precede such redemption date. In the case of an adjustment from a Term Rate Period, such notice must be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Act and the Indenture, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

Notice of Adjustment to a Weekly Rate Period. The Trustee must give notice of an adjustment to a Weekly Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current rate period is a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Weekly Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to a Weekly Rate (subject to the Company's ability to rescind its election, as provided in the Indenture), (2) the effective date of the Weekly Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of such Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that holders of the Bonds do not have the right to retain the Bonds on such effective date.

Monthly Rate Period

Monthly Rate. During each Monthly Rate Period, the Bonds will bear interest at the Monthly Rate, determined by the Remarketing Agent no later than the first day of such Monthly Rate Period and thereafter no later than the Business Day immediately preceding each Interest Payment Date.

The Monthly Rate will be the rate determined by the Remarketing Agent to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the Remarketing Agent has not determined a Monthly Rate for any period, the Monthly Rate shall be the same as the Monthly Rate in effect for the immediately preceding month. In no event shall any Monthly Rate be greater than 12%.

The first Monthly Rate determined for each Monthly Rate Period will apply to the period commencing on the first day of such Monthly Rate Period and ending on the day immediately preceding the next Interest Payment Date with respect to the Bonds. Thereafter, each Monthly Rate will apply to the period commencing on the Interest Payment Date next succeeding the date of determination of such Monthly Rate and ending on the day immediately preceding the Interest Payment Date next succeeding the effective date of such Monthly Rate.

Adjustment to a Monthly Rate Period. The interest rate borne by the Bonds will be adjusted, at any time, to a Monthly Rate upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice will specify the effective date of such adjustment to a Monthly Rate Period, which shall be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) following the fifth Business Day after the date of receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee); (2) in the case of an adjustment from a Term Rate Period, a day on which Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Term Rate Period"; and (3) in the case of an adjustment from a Flexible Rate Period either the day immediately following the last day of the then current Flexible Rate Period or for each Bond, the day immediately following the last day of the last Flexible Segment for such Bond in the then current Flexible Rate Period; provided, however, that if prior to the Company's making such election, any of the Bonds have been called for redemption and such redemption has not been effected, the effective date of such Monthly Rate Period will not precede such redemption date. In the case of an adjustment from a Term Rate Period, such written notice shall be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Indenture and the Act, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

Notice of Adjustment to a Monthly Rate Period. The Trustee must give notice of an adjustment to a Monthly Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Monthly Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to a Monthly Rate (subject to the Company's ability to rescind its election pursuant to the Indenture), (2) the effective date of the Monthly Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of such Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that the holders of the Bonds do not have the right to retain their Bonds on such effective date.

Flexible Rate Period

Flexible Segments and Flexible Rates. Flexible Rate Periods will consist of Flexible Segments of varying duration for each Bond. Different Flexible Segments may apply to different Bonds at any time and from time to time. During each Flexible Rate Period, each Bond will bear interest at the Flexible Rate applicable to the Flexible Segment in effect for such Bond. Each Flexible Segment will be a period of at least one day and not more than 365 days, ending on a day that immediately precedes a Business Day, determined by the Remarketing Agent to be the period which, together with all other Flexible Segments for all Bonds then outstanding, will result in the lowest overall net interest expense on the Bonds. The Flexible Rate for each Flexible Segment for each Bond will be the rate determined by the Remarketing Agent no later than the first day of such Flexible Segment to be the lowest interest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If a Flexible Rate for a Flexible Segment of one day is not determined or effective on such day, the Flexible Rate for such Flexible Segment of one day shall be eighty percent (80%) of the most recent One-Year Note Index theretofore published in The Bond Buyer. In no event shall the Flexible Rate for any Bond be greater than 12%.

Adjustment to a Flexible Rate Period. The interest rates borne by the Bonds will be adjusted, at any time, to Flexible Rates upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice will specify the effective date of the Flexible Rate Period during which the Bonds will bear interest at Flexible Rates which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the

then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) following the fifth Business Day after the date of receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee), and (2) in the case of an adjustment from a Monthly Rate Period or a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" or "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable; provided, however, that if prior to the Company's making such election, any of the Bonds have been called for redemption and such redemption has not been effected, the effective date of such Flexible Rate Period will not precede such redemption date. Such notice must also be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Indenture and the Act, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

Notice of Adjustment to a Flexible Rate Period. The Trustee must give notice of an adjustment to a Flexible Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) prior to the effective date of such Flexible Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to Flexible Rates (subject to the Company's ability to rescind its election pursuant to the Indenture), (2) the effective date of such Flexible Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on the effective date of such Flexible Rate Period, (4) the procedures for such mandatory tender, and (5) that the holders of the Bonds do not have the right to retain their Bonds on such effective date.

Adjustment from a Flexible Rate Period. At any time during a Flexible Rate Period, the Company may elect that the Bonds shall no longer bear interest at Flexible Rates. The Company must notify the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of the election and specify the Rate Period to follow with respect to the Bonds upon cessation of the Flexible Rate Period. The Remarketing Agent will (1) determine Flexible Segments of such duration that, as soon as possible, all Flexible Segments shall end on the same date, not earlier than the eleventh day following the fifth Business Day (or such shorter period acceptable to the Trustee), following the receipt by the Trustee of the notice described in the last sentence of this paragraph, which date shall be the last day of the then current Flexible Rate Period, and, upon the establishment of such Flexible Segments, the day next succeeding the last day of all such Flexible Segments shall be the effective date of the Rate Period elected by the Company; or (2) determine Flexible Segments that will in the judgment of the Remarketing Agent best promote an orderly transition to the next succeeding Rate Period to apply to the Bonds, beginning not earlier than the eleventh day following the fifth Business Day (or such shorter period acceptable to the Trustee) following the receipt by the Trustee of the notice described in the last sentence of this paragraph. If the alternative in clause (2) above is selected, the day next succeeding the last day of the Flexible Segment for each Bond shall be with respect to such Bond the effective date of the Rate Period elected by the Company. The Remarketing Agent, promptly upon the determination thereof, shall give written notice of such last day and such effective dates to the Company, the Trustee and the Paying Agent.

Term Rate Period

Term Rate. During each Term Rate Period, the Bonds will bear interest at the Term Rate which will be determined by the Remarketing Agent on a Business Day selected by the Remarketing Agent, but not more than 40 days prior to and not later than the effective date of such Term Rate Period. The Term Rate will be the rate determined by the Remarketing Agent on such date, and communicated on such date to the Trustee, the Paying Agent and the Company, by written notice or by telephone promptly confirmed by telecopy or other writing, as being the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof; provided, however, that if, for any reason, a Term Rate for any Term Rate Period is not determined or effective or if an adjustment

from a Term Rate Period to another Rate Period is not effective, the Rate Period for the Bonds will automatically convert to a Daily Rate Period. If a Daily Rate for the first day of such Daily Rate Period is not determined as described under "—Daily Rate Period—Daily Rate", the Daily Rate for the first day of such Daily Rate Period shall be 80% of the most recent One-Year Note Index theretofore published in The Bond Buyer. In no event will any Term Rate be greater than 12% per annum.

Adjustment to or Continuation of a Term Rate Period. The interest rate borne by the Bonds will be adjusted to or continued at a Term Rate, at any time, upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice will indicate the duration of the Term Rate Period during which the Bonds will bear interest at such rate. At the time the Company elects an adjustment to or continuation of a Term Rate Period, the Company may specify two or more consecutive Term Rate Periods and, if the Company so specifies, will specify the duration of each such successive Term Rate Period. Such notice must specify the effective date of each Term Rate Period, which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) following the fifth Business Day after the date of receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee); (2) in the case of an adjustment from a Monthly Rate Period or an adjustment from or continuation of a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to the provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" or "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable; and (3) in the case of an adjustment from a Flexible Rate Period either (i) the day immediately following the last day of the then current Flexible Rate Period, or (ii) for each Bond, the day immediately following the last day of the last Flexible Segment for such Bond in the then current Flexible Rate Period; provided, however, that if prior to the Company's making such election, any Bonds shall have been called for redemption and such redemption has not been effected, the effective date of such Term Rate Period will not precede such redemption date. In addition, such notice must specify the last day of such Term Rate Period (which shall be either the day preceding the date of final maturity of the Bonds or a day which both immediately precedes a Business Day and is at least one hundred eighty (180) days after such effective date), and unless such Term Rate Period immediately succeeds a Term Rate Period of the same duration and is subject to the same optional redemption rights provided by the Indenture, shall be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Indenture and the Act, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

If, by the second Business Day preceding the fourteenth day prior to the last day of any Term Rate Period, the Trustee shall not have received notice of the Company's election that, during the next succeeding Rate Period, the Bonds will bear interest at a Daily Rate, a Weekly Rate, a Monthly Rate, a Term Rate or a Flexible Rate accompanied by an appropriate opinion of bond counsel, if expressly required by the provisions of the Indenture, the next succeeding Rate Period shall be a Term Rate Period of the same duration as the immediately preceding Term Rate Period and the optional redemption prices and periods for such successive Term Rate Period shall be the same as for the immediately preceding Term Rate Period; provided, however, that if the last day of any such successive Term Rate Period is not a day immediately preceding a Business Day, then such successive Term Rate Period will end on the first day immediately preceding the Business Day next succeeding such day, or if such last day would be after the day prior to the final maturity date of the Bonds, such Term Rate Period shall end on the last day prior to such maturity date.

Notice of Adjustment to or Continuation of a Term Rate Period. The Trustee must give notice of an adjustment to or continuation of a Term Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Term Rate Period. In the event such adjustment or continuation is from a Term Rate Period to a Term Rate Period of equal duration, such notice shall state (1) that the interest rate on the Bonds will be adjusted to, or continue to be, a Term Rate (subject to the Company's ability to rescind its election as provided in the Indenture), (2) the

effective date and the last date of the Term Rate Period, (3) that the Term Rate for such Term Rate Period will be determined not later than the effective date thereof, (4) how such Term Rate may be obtained from the Remarketing Agent, (5) the Interest Payment Dates after such effective date, (6) that, during such Term Rate Period, the holders of Bonds will not have the right to tender their Bonds for purchase, (7) the redemption provisions that will apply to Bonds during such Term Rate Period, (8) whether any Credit Facility will be in effect after such effective date and, if so, the name of the Credit Provider and the interest coverage and expiration date of any such Credit Facility, and (9) the rating or ratings, if any, which the Bonds are expected to receive from the Rating Agencies as of such effective date. In the event such adjustment or continuation is not from a Term Rate Period to a Term Rate Period of equal duration, such notice shall state (1) that the interest rate on such Bonds will be adjusted to, or continue to be, a Term Rate (subject to the Company's ability to rescind its election as provided in the Indenture), (2) the effective date of the Term Rate Period, (3) that the Bonds shall be subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of the Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that the holders of the Bonds do not have the right to retain their Bonds on such effective date.

Determinations Conclusive

The determination of any Daily Rate, Weekly Rate, Monthly Rate, Flexible Rate and Term Rate and each Flexible Segment by the Remarketing Agent shall be conclusive and binding upon the Remarketing Agent, the Trustee, the Paying Agent, the Company, the Issuer and the holders of the Bonds.

Automatic Adjustment to Daily Rate Upon Rescission of Rate Period Adjustment

The Company may rescind any election by it to adjust to or continue a Rate Period prior to the effective date thereof, by giving written notice to the Issuer, the Trustee and the Remarketing Agent prior to such effective date. If notice of the election to adjust to or continue the Rate Period has previously been given by the Trustee to the holders of the Bonds, then the Rate Period will automatically adjust to a Daily Rate Period on the date originally scheduled for such adjustment or continuation. If a Daily Rate for the first day of any such Daily Rate Period is not determined as described under "—Daily Rate Period—Daily Rate", the Daily Rate for the first day of such Daily Rate Period will be 80% of the most recent One-Year Note Index theretofore published in The Bond Buyer.

Optional Tender for Purchase

Daily Rate Period. On any Business Day during any Daily Rate Period, any Bond (or portion thereof in an Authorized Denomination) will be purchased at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, to the Purchase Date (as defined in the Indenture), upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office by no later than 11:00 a.m., New York City time, on such Business Day, of an irrevocable notice by telephone or in writing, which states the principal amount, or portion thereof, of such Bond to be tendered for purchase and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Weekly Rate Period. On any Wednesday, or if such Wednesday is not a Business Day, then the next succeeding Business Day, during any Weekly Rate Period, any Bond (or portion thereof in an Authorized Denomination) will be purchased at a purchase price equal to 100% of the principal

amount thereof plus accrued interest, if any, to the Purchase Date, upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office of an irrevocable notice by telephone (promptly confirmed in writing) or in writing by 5:00 p.m. New York City time on any Business Day at least seven days prior to the Purchase Date, which states the principal amount or portion thereof of such Bond to be tendered for purchase and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Monthly Rate Period. On any Interest Payment Date during a Monthly Rate Period, any Bond (or portion thereof in an Authorized Denomination) will be purchased at a purchase price equal to 100% of the principal amount thereof, upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office of an irrevocable notice in writing, by 5:00 p.m., New York City time, on any Business Day at least seven days prior to such Purchase Date, which states the principal amount of such Bond to be tendered for purchase and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in a form satisfactory to the Tender Agent, executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Term Rate Period. On the first day of any Term Rate Period which is preceded by a Term Rate Period of the same duration, any Bond (or portion thereof in an Authorized Denomination) will be purchased from its holder, at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, to the Purchase Date upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office, of an irrevocable notice in writing, by 5:00 p.m., New York City time, on any Business Day not less than fifteen days prior to the Purchase Date which states the principal amount, or portion thereof, of such Bond to be purchased and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Bonds tendered for purchase under the provisions of the Indenture must be delivered to the Principal Office of the Tender Agent; provided that so long as any Bond is held in book-entry form, such Bond need not be delivered in connection with any tender pursuant to the provisions of the Indenture described in this Section.

Mandatory Tender for Purchase

The Bonds are subject to mandatory tender for purchase at a purchase price equal to the principal amount thereof, plus accrued interest to the Purchase Date therefor, on any of:

(a) as to any Bond, the effective date of any change in a Rate Period for such Bond other than the effective date for a Term Rate Period which was preceded by a Term Rate Period of the same duration;

(b) as to each Bond in a Flexible Rate Period, the day next succeeding the last day of any Flexible Segment with respect to such Bond;

(c) the second Business Day next preceding the termination of any Credit Facility (whether upon the stated termination date thereof or upon the substitution of a different Credit Facility) unless the Trustee shall have received, on or before the twentieth day prior to such termination date, confirmation (which need not be in writing) from each Rating Agency (as

defined in the Indenture) then rating the Bonds that such termination shall not result in the lowering or withdrawal of the then current ratings on the Bonds;

(d) a day, as specified by the Trustee, not more than twenty days after receipt by the Trustee from the Credit Provider, within seven days after a drawing on the Credit Facility, of a notice (the "Notice of Non-Reinstatement") to the effect that the Credit Provider has not been reimbursed for such drawing, and that the amount available to be drawn thereunder has not been reinstated and directing the Trustee to give notice of such mandatory tender and to purchase such Bonds on the applicable Purchase Date; or

(e) a day, as specified by the Trustee, not more than twenty days after receipt by the Trustee from the Credit Provider, of a written notice stating that an event of default has occurred under the Reimbursement Agreement and directing the Trustee to give notice of such mandatory tender and to purchase the Bonds on the applicable Purchase Date.

The Bonds are also subject to mandatory tender for purchase on the day next succeeding any Term Rate Period which ends prior to the day originally established as the last day of such Term Rate Period at a purchase price equal to the principal amount thereof plus an amount equal to any premium which would have been payable on such day had the Company directed optional redemption of the Bonds on that day.

On the day next succeeding the last day of any Flexible Segment for any Bond, such Bond shall be purchased (as described in clause (b) above) unless the holder thereof elects to retain its investment in the Bond or any portion thereof in an Authorized Denomination and not to have such Bond or portion thereof purchased, by delivery to the Tender Agent at the Principal Office of the Tender Agent not later than 11:00 a.m., New York City time, on the first day of the applicable Flexible Segment, of an irrevocable telephonic notice which states that such Bond or portion thereof is not to be so purchased. Payment of interest on Bonds to be retained shall be made only upon exchange thereof for a Bond bearing a notation of the new Flexible Segment and new Flexible Rate.

The Trustee shall give notice by first-class mail to the holders of Bonds of the termination of any Credit Facility and of the provision of any proposed substitute Credit Facility, not later than the fifteenth day prior to such termination or provision. Such notice shall (i) include a general description of any Credit Facility in effect prior to such termination or provision and any substitute Credit Facility to be in effect on such termination or provision, (ii) state the date of such termination or provision, (iii) state the ratings, if any, expected for the Bonds after such termination or provision, and (iv) if by the 20th day prior to such termination or provision the Trustee shall not have received confirmation (which need not be in writing) from each Rating Agency then rating the Bonds that such termination or provision will not result in the lowering or withdrawal of the then current rating on the Bonds, state that the Bonds shall be subject to mandatory tender for purchase on the second Business Day next preceding such termination or provision as described in clause (c) above.

The Trustee shall give notice by first-class mail to the holders of the Bonds of any mandatory tender occurring by reason of clause (d) or (e) above no later than five days after receiving the notice from the Credit Provider as described in such clause (d) or (e), as applicable, and not less than fifteen days prior to the mandatory tender date described in such clause (d) or (e), as applicable.

Redemption of Bonds

Optional Redemption—Daily Rate Period or Weekly Rate Period. On any Business Day during a Daily Rate Period or a Weekly Rate Period, the Bonds are subject to redemption, at the option of the Company, in whole or in part, at 100% of their principal amount, plus accrued interest, if any, to the redemption date.

Optional Redemption—Monthly Rate Period. On any Interest Payment Date during a Monthly Rate Period, the Bonds are subject to redemption at the option of the Company, in whole or in part, at 100% of their principal amount.

Optional Redemption—Flexible Rate Period. On the day next succeeding the last day of any Flexible Segment with respect to any Bond, such Bond is subject to redemption at the option of the Company, in whole or in part, at 100% of its principal amount.

Optional Redemption—Term Rate Period. On the day next succeeding the last scheduled day of any Term Rate Period, the Bonds shall be subject to redemption at a redemption price of 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date. During any Term Rate Period, the Bonds are subject to redemption, at the option of the Company, during the periods specified below, in whole at any time or in part from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued interest, if any, to the redemption date:

Length of Term Rate Period (in years)	Redemption Dates and Prices
Greater than 15	At any time on or after the first day of the calendar month following the tenth anniversary of the effective date at 102% declining 1% annually to 100%
Greater than 10 and less than or equal to 15	At any time on or after the first day of the calendar month following the fifth anniversary of the effective date at 102% declining 1% annually to 100%
Greater than 7 and less than or equal to 10	At any time on or after the first day of the calendar month following the third anniversary of the effective date at 102% declining 1% annually to 100%
Greater than 4 and less than or equal to 7	At any time on or after the first day of the calendar month following the second anniversary of the effective date at 101% declining 0.5% annually to 100%
Greater than 2 and less than or equal to 4	At any time on or after the first day of the calendar month following the second anniversary of the effective date at 101% declining 0.5% each six months thereafter to 100%
Greater than 1 and less than or equal to 2	At any time on or after the first day of the calendar month following the first anniversary of the effective date at 100.5%, declining 0.5% six months thereafter to 100%
Less than or equal to 1	Not redeemable

The Company shall have the option to cause the Rate Period to change on any date on which the Bonds are subject to redemption as provided above, in which event the Bonds shall be subject to mandatory tender at the applicable price set forth above, as described in the second paragraph under "—Mandatory Tender for Purchase."

With respect to any Term Rate Period, the Company may, in the notice required by the Indenture with respect to an adjustment to or continuation of a Term Rate Period, specify redemption provisions, prices and periods other than those set forth above; provided, however, that such notice shall be accompanied by an opinion of bond counsel stating that such changes in redemption provisions, prices and periods (i) are authorized or permitted by the Act and the Indenture, and (ii) will not adversely affect the Tax-Exempt status of the Bonds.

Extraordinary Optional Redemption. The Bonds will be redeemed in whole or in part at any time at a redemption price equal to 100% of the principal amount thereof plus accrued interest, if any, to the redemption date upon receipt by the Trustee of a written notice from the Company stating that any of the following events has occurred and that the Company therefore intends to exercise its option to prepay the payments due under the Agreement and thereby effect the redemption of Bonds in whole or in part:

(a) the Navajo Station or the Project or a portion thereof the original cost of which is equal to or greater than $500,000 shall have been damaged or destroyed to such extent that, in the opinion of the Company (i) it is not practicable or desirable to rebuild, repair or restore the Project or such portion thereof within a period of six consecutive months following such damage or destruction, (ii) the Company is or will be thereby prevented from carrying on its normal operations at the Project or such portion thereof for a period of six consecutive months, or (iii) the cost of restoration thereof would substantially exceed the net proceeds of insurance carried thereon;

(b) title to, or the temporary use of, the Navajo Station or the Project or a portion thereof the original cost of which is equal to or greater than $500,000 shall have been taken under the exercise of the power of eminent domain, including such a taking as results (or is likely to result) in the Company being prevented from carrying on normal operations at the Project or such portion thereof for a period of six months or as renders the Project or such portion thereof unsuitable for use by the Company;

(c) unreasonable burdens or excessive liabilities, in the opinion of the Company, shall have been imposed on the Company, including, without limitation, federal, state or other ad valorem, property, income or other taxes not being imposed on the date of the Agreement; or

(d) any court or administrative body or regulatory agency shall enter a judgment, order or decree requiring the Company to cease all or any substantial part of its operations at the Project or a portion thereof the original cost of which is equal to or greater than $500,000, to such an extent that, in the opinion of the Company it is or will be thereby prevented from carrying on its normal operations at the Project or such portion thereof for a period of six consecutive months.

Mandatory Redemption. Upon the occurrence of any of the following events, the Bonds shall be redeemed, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, from amounts required to be prepaid by the Company:

(A) in whole on any date upon a Determination of Taxability (as hereinafter defined); provided, however, that if, in the opinion of bond counsel delivered to the Issuer and to the Trustee, the redemption of a specified portion of the Bonds outstanding would have the result that interest payable on the Bonds remaining outstanding after such redemption would remain Tax-Exempt, then such Bonds shall be redeemed in part by lot (in Authorized Denominations) in such amount as such bond counsel in such opinion shall have determined is necessary to accomplish that result; or

(B) in whole upon the acceleration of payments due under the Agreement following an event of default (as such term is defined in the Agreement) thereunder; provided, however, that

such redemption shall not occur if, pursuant to the Agreement, the acceleration of such payments is annulled prior to the redemption date and, in such event, the Trustee will promptly give written notice of such annulment to the Issuer and the Company, and will give notice thereof to the holders of the Bonds and the Credit Provider.

For purposes of the foregoing, "Determination of Taxability" means a determination that interest payable on any Bond is includable in the gross income for federal income tax purposes of the owner of such Bond (other than an owner who is a "substantial user" of the Project or a "related person" within the meaning of Section 103(b)(13) of the 1954 Code). Such determination shall be deemed to have been made upon the date on which, due to the untruth or inaccuracy of any representation or warranty made by the Company in the Agreement, or in connection with the offer and sale of the Bonds, or the breach of any covenant or warranty of the Company contained in the Agreement, interest on the Bonds, or any of them, is determined to be includable in the gross income for federal income tax purposes of the owners thereof (other than an owner who is a "substantial user" of the Project or a "related person" within the meaning of Section 103(b)(13) of the 1954 Code) by a final administrative determination of the Internal Revenue Service or a final judicial decision of a court of competent jurisdiction in a proceeding of which the Company received notice and was afforded an opportunity to participate to the full extent permitted by law. A determination or decision will not be considered final for purposes of the preceding sentence unless (A) the holder or holders of the Bonds involved in the proceeding in which the issue is raised (i) shall have given the Company and the Trustee prompt notice of the commencement thereof, and (ii) shall have offered the Company the opportunity to control the proceeding; provided the Company agrees to pay all expenses in connection therewith and to indemnify such holder or holders against all liability for such expenses (except that any such holder may engage separate counsel, and the Company shall not be liable for the fees or expenses of such counsel); and (B) such proceeding shall not be subject to a further right of appeal or shall not have been timely appealed.

Notice and Manner of Redemption; Effect. Notice of redemption shall be given by the Trustee, not fewer than 15 nor more than 60 days prior to the redemption date, (i) by first-class mail to the registered holder of each Bond to be redeemed at such registered holder's address as it appears on the registration books and to the Credit Provider and (ii) by telecopy, confirmed by first-class mail, to the Securities Depositories (as defined in the Indenture) and one or more Information Services (as defined in the Indenture). During the continuance of a book-entry system, the Trustee shall not be obligated to give notices to beneficial holders. See "—Book-Entry Only System" below. Each notice of redemption shall state, among other things, the redemption date, the place of redemption, the source of funds to be used for such redemption and the principal amount, and shall also state that the interest on the Bonds designated for redemption shall cease to accrue from and after such redemption date and that on such date there will become due and payable on each of the Bonds the principal amount thereof to be redeemed, interest accrued thereon, if any, to the redemption date and the premium, if any, thereon (such premium to be specified). No publication of notice is required. If less than all the Bonds are called for redemption, the Trustee shall select Bonds to be redeemed by lot.

With respect to any notice of optional redemption, unless upon the giving of such notice such Bonds shall be deemed to have been paid, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of Available Amounts (as defined in the Indenture) sufficient to pay the principal of, and premium, if any, and interest on, such Bonds to be redeemed, and that if such Available Amounts shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such Available Amounts are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, to the persons and in the manner in which the notice of redemption was given, that such Available Amounts were not so received.

If moneys for payment of the redemption price are held by the Trustee, Bonds called for redemption shall become due and payable on the redemption date at the applicable redemption

price, interest on the Bonds called for redemption shall cease to accrue, such Bonds shall cease to be entitled to any lien, benefit or security under the Indenture, and the holders of the Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof (including interest, if any, accrued to the redemption date), without interest accrued on any funds held to pay such redemption price.

Failure to mail notice of redemption to any registered owner of the Bonds or any defect therein in respect of any Bond will not affect the validity of the redemption of any other Bonds and will not extend the period for making elections or in any way change the rights of the holders of the Bonds to elect to have their Bonds purchased as provided in the Indenture. Failure to give notice of redemption to any one or more of the Information Services or Securities Depositories or the insufficiency of any of any such notices will not affect the sufficiency of the proceedings for redemption.

If, thirty days after any redemption date, any Bonds called for redemption have not been presented to the Trustee for payment, the Trustee will no later than sixty days following such redemption date send notice by first-class mail to the holder of each Bond not so presented.

Transfer and Exchange

Bonds may be transferred or exchanged for other Bonds in Authorized Denominations at the Principal Office of the Registrar. Exchanges and transfers shall be made without charge to the holders, except for any applicable tax, fee or other governmental charge. The Registrar is not required to effect any transfer or exchange of any Bonds during the seven business days preceding the mailing of any notice of redemption or of any Bonds called for redemption.

Book-Entry Only System

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants (the "Participants") deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants (the "Direct Participants") include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (the "Indirect Participants"). The Rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Participants acting on behalf of

Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Bonds with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Participants remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to the Bonds. Under its usual procedures, DTC mails an Omnibus Proxy to the issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts on the payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on the payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Issuers or the Trustee, disbursement of such payments to Direct Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of Direct and Indirect Participants. Beneficial Owners of the Bonds will have no lien or security interest in any rebate or refund paid by DTC to the Paying Agent which arises from the payment by the Paying Agent of principal of or interest on the Bonds to DTC.

Notwithstanding anything to the contrary in the foregoing paragraphs, the Tender Agent shall accept any notice of tender from any Beneficial Owner of any Bond held in book-entry form, but shall make payment of the purchase price thereof only to the registered owner of such Bond.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Issuer or the Trustee. In such event or if the Company determines to discontinue the services of DTC, certificates for the Bonds will be delivered as described in the Indenture unless a successor securities depository is appointed by the Issuer (with the consent or at the direction of the Company).

THE ISSUER, THE COMPANY AND THE TRUSTEE CANNOT AND DO NOT GIVE ANY ASSURANCES, AND NONE OF THEM HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS OR ANY BENEFICIAL OWNER, WITH RESPECT TO, AMONG OTHER THINGS, (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT OR INDIRECT PARTICIPANT; (II) THE PAYMENT BY DTC OR ANY DIRECT OR INDIRECT PARTICIPANT OF

ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OF, OR PREMIUM, IF ANY, OR INTEREST ON, THE BONDS; (III) THE DISTRIBUTION OF ANY REDEMPTION OR OTHER NOTICES SENT TO DTC OR CEDE & CO. (INCLUDING THE TIMELINESS OF SUCH DISTRIBUTION); OR (IV) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC OR CEDE & CO. AS BONDHOLDER.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Company believes to be reliable, but neither the Issuer nor the Company nor the Underwriter take any responsibility for the accuracy thereof.

The Letter of Credit

The Letter of Credit is an irrevocable obligation of the Credit Provider to pay to the Trustee upon request, (i) in order to pay interest on the Bonds as such interest becomes due, an amount not exceeding the interest on the Bonds for up to sixty-two days computed at the rate of 12% per annum, and (ii) in order to pay principal on the Bonds as such principal becomes due, an amount not exceeding the principal amount of the Bonds. The Letter of Credit will terminate on the earliest of (i) the stated expiration date of the Letter of Credit (as described below), (ii) the date the Credit Provider is notified of the substitution of an Alternate Credit Facility (as described below), (iii) the date notified to the Credit Provider by the Trustee as the date on which there is no longer any Bond outstanding, (iv) the Credit Provider honoring a draft upon the maturity, acceleration, redemption, or purchase due to mandatory tender under the circumstances described in subparagraphs (c), (d) and (e) of the first paragraph under the heading "—Mandatory Tender for Purchase" above, of all of the Bonds and at the close of business on the effective date of any such mandatory tender; or (v) the Credit Provider honoring a draft upon purchase due to mandatory tender upon a change in Rate Period of the Bonds to a Term Rate Period or a Flexible Rate Period and at the close of business on the effective date of a change in Rate Period of the Bonds to a Term Rate Period or a Flexible Rate Period. The stated expiration date of the Letter of Credit is October 12, 1997. The termination of the Letter of Credit may result in a mandatory tender of the Bonds unless certain conditions are satisfied. See "—Mandatory Tender for Purchase."

The obligation of the Credit Provider under the Letter of Credit will be reduced to the extent of any drawings thereunder. With respect to a drawing by the Trustee to pay interest on the Bonds, unless the Trustee has received from the Credit Provider within seven calendar days from the date of such drawing a notice that the Credit Provider has not been reimbursed, the Trustee's right to draw under the Letter of Credit will be automatically reinstated by the amount of such drawing. With respect to a drawing by the Trustee to pay the purchase price of the Bonds tendered for purchase, except in the case of a mandatory tender of the Bonds under certain circumstances, the amount available under the Letter of Credit for the payment of principal of and interest on the Bonds will be reinstated to the extent the Credit Provider is reimbursed for amounts so drawn and accrued interest thereon.

Notice from the Credit Provider to the Trustee of the failure by the Company to reimburse the Credit Provider pursuant to the terms of the Reimbursement Agreement within seven days of a drawing or notice from the Credit Provider to the Trustee of an event of default under the Reimbursement Agreement will result in a mandatory tender of the Bonds. See "—Mandatory Tender for Purchase." Only the Trustee is entitled to make a drawing under the Letter of Credit.

Substitution of Credit Facility

As provided in the Indenture, the Company may at any time terminate any Credit Facility; provided, however, that the Company may not terminate any Credit Facility for a Bond during any Term Rate Period or Flexible Segment with respect to such Bond. See "—The Indenture—Credit Facility; Credit Provider Bonds." If there shall have been delivered to the Issuer and the Trustee (i) a

substitute Credit Facility and (ii) an opinion of bond counsel to the effect that the delivery of such Credit Facility to the Trustee is permitted under the Act and the Agreement and complies with the terms of the Agreement and the Indenture and that the delivery of such Credit Facility will not adversely affect the Tax-Exempt status of interest on the Bonds, then the Trustee shall accept such Credit Facility. In the event that the Company elects to terminate a Credit Facility or to provide a substitute Credit Facility, the Bonds are subject to mandatory tender unless the Trustee shall have received confirmation (which need not be in writing) from each Rating Agency then rating such Bonds at least twenty days prior to such termination or substitution that such Rating Agency's then current rating on such Bonds will not be lowered or withdrawn as a result of such termination or provision. Subject to the qualifications stated above, the Company is not required to maintain a Credit Facility in support of the Bonds.

THE AGREEMENT

General

The Issuer will enter into the Agreement with the Company, pursuant to which the Issuer will lend to the Company the proceeds from the issuance and sale of the Bonds in order to finance the Project. The Agreement will provide that all right, title and interest of the Issuer in and to the Agreement (except for the right to receive payment of certain fees and expenses, certain notices and certain rights of indemnification and the right to give approvals or consents pursuant to the Agreement) will be assigned to the Trustee, as security for the benefit of the holders of Bonds.

Amendment of Description of the Project

In the event that the Company desires to amend or supplement the description of the Project and the Issuer approves of such amendment or supplement, the Issuer will enter into, and will instruct the Trustee to consent to, such amendment or supplement upon receipt of:

(i) a certificate of the Company describing in detail the proposed changes and stating that they will not have the effect of disqualifying any component of the Project as a facility that may be financed pursuant to the Act;

(ii) a copy of the proposed form of amended or supplemented Project description; and

(iii) an opinion of bond counsel to the effect that such proposed changes will not adversely affect the Tax-Exempt status of interest on the Bonds.

Repayment Installments

The Company has agreed under the Agreement to make repayment installments ("Repayment Installments") in amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds when due; provided, however, that the Company's obligation to make such payments will be deemed satisfied and discharged to the extent of the corresponding payment made by any Credit Provider under a Credit Facility.

The Company has the option and in certain circumstances the obligation to prepay all or a portion of the Repayment Installments upon the happening of certain events as described under "The Bonds—Redemption of Bonds" and "The Indenture—Acceleration." To the extent mandatory redemption of the Bonds is required as described under "The Bonds—Redemption of Bonds—Mandatory Redemption," the Company must make the required prepayment (a) within 180 days of any

Determination of Taxability giving rise to such prepayment, (b) immediately in the case of any acceleration of payments following an event of default under the Agreement and (c) immediately upon receipt of notice from the Trustee of any acceleration of the maturity of any Bonds pursuant to the Indenture. In the event the Company elects or is required to make a prepayment under the Agreement, the Company must give written notice to the Issuer and the Trustee of such prepayment. Notice of mandatory redemption of Bonds shall be given by the Trustee as provided in the Indenture.

The Company's obligations to make payments required by the Agreement and to perform and observe the other agreements on its part contained in the Agreement are absolute and unconditional. Until such time as the principal of and premium, if any, and interest on all of the Bonds shall have been fully paid (or provision for the payment thereof shall have been made as required by the Indenture), the Company shall perform and observe all of its agreements contained in the Agreement and will not terminate the Agreement, except as otherwise provided therein.

Special Covenants of the Company

Special covenants of the Company under the Agreement include the following:

Maintenance of Corporate Existence. The Company agrees that during the term of the Agreement it will maintain its corporate existence in good standing and will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another person or permit one or more other persons to consolidate or merge into it; provided that the Company may consolidate with or merge into another person, or permit one or more other persons to consolidate with or merge into it, or sell or otherwise transfer to another person all or substantially all of its assets and thereafter dissolve, provided that (1) either (a) the Company is the surviving person or (b) the surviving, resulting or transferee person, as the case may be, (i) assumes and agrees in writing to pay and perform all of the obligations of the Company under the Agreement and (ii) qualifies to do business in the State of Arizona; and (2) the Company delivers to the Trustee an opinion of bond counsel to the effect that such consolidation, merger or transfer and dissolution does not in and of itself adversely affect the Tax-Exempt status of interest on the Bonds.

Assignments. The rights and obligations of the Company under the Agreement may be assigned by the Company, with the written consent of the Issuer, in whole or in part, provided that, any assignment other than an assignment described above under "Maintenance of Corporate Existence," will be subject to the following conditions: (i) no such assignment shall relieve the Company from primary liability for any of its obligations under the Agreement, and the Company shall continue to remain primarily liable for the payments specified in the Agreement and for the performance of its other obligations thereunder, (ii) the Company shall retain such rights and interests as will permit it to perform its obligations under the Agreement, and any assignee from the Company shall assume the obligations of the Company to the extent of the interest assigned and (iii) the Issuer and the Trustee shall be furnished a true and complete copy of such assignment together with an instrument of assumption and an opinion of bond counsel that such assignment will not, in and of itself, adversely affect the Tax-Exempt status of interest on the Bonds.

Maintenance and Repair. The Company agrees that, to the extent within its control, as long as it owns or operates the Project, it will maintain the Project, or cause the Project to be maintained, in as reasonably safe condition as its operations shall permit and in good repair and in good operating condition, ordinary wear and tear excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof; provided, however, that the Company will have no obligation to maintain, preserve, keep, repair, replace or renew any item or portion of the Project (a) the maintenance, preservation, keeping, repair, replacement or renewal of which becomes uneconomic because of damage or destruction or obsolescence (including economic obsolescence) or change in governmental standards and regulations, or the termination of the operation of the generating facilities to which the portion of the Project is an adjunct, and (b) with respect to which the Company has

furnished to the Issuer and the Trustee a certificate executed by an authorized Company representative that the maintenance, preservation, keeping, repair, replacement or renewal of such portion of such Project is being discontinued for one of the foregoing reasons, which shall be stated therein.

The Company shall have the privilege at its own expense of remodeling the Project or making substitutions, modifications and improvements to the Project from time to time as it, in its discretion, may deem to be desirable for its uses and purposes, which remodeling, substitutions, modifications and improvements shall be included under the terms of the Agreement as part of the Project.

Tax Covenants

Under the Agreement, each of the Issuer and the Company covenants and agrees that it will not directly or indirectly use or permit the use of any proceeds of the Bonds or other funds, or take or omit to take any action that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the 1986 Code. The Issuer certifies and represents that it has not taken, and the Issuer covenants and agrees that it will not take, and the Company certifies and represents that it has not taken or, to the extent within its control, permitted to be taken, and the Company covenants and agrees that it will not take or, to the extent within its control, permit to be taken, any action which results in interest paid on the Bonds being included in gross income of the holders thereof for federal income tax purposes pursuant to Section 103 of the 1954 Code and Title XIII of the Tax Reform Act of 1986 and other applicable regulations thereunder (except for any Bond during any period while such Bond is held by a "substantial user" of the Project or a "related person" within the meaning of Section 103(b)(13) of the 1954 Code). None of the covenants and agreements contained in the Agreement will require either the Company or the Issuer to enter an appearance or intervene in any administrative, legislative or judicial proceeding in connection with any changes in laws, rules or regulations or in connection with any decisions of any court or administrative agency or other governmental body affecting the taxation of interest on the Bonds.

Events of Default

Any one of the following events will constitute an event of default under the Agreement:

(a) failure by the Company to pay principal (whether at maturity or upon redemption or acceleration), premium, if any, or interest on the Bonds or the purchase price of Bonds tendered for purchase, in each case when due;

(b) failure of the Company to observe and perform any covenant, condition or agreement on its part required to be observed or performed by the Agreement (other than a failure resulting in an event of default referred to in (a) above) which continues for a period of sixty days after written notice, which notice shall specify such failure and request that it be remedied, given to the Company by the Issuer or the Trustee, unless the Issuer and the Trustee shall agree in writing to an extension of such time; provided, however, that if the failure stated in the notice cannot be corrected within such period, the Issuer and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted within such period and diligently pursued until the default is corrected; or

(c) certain specified events of bankruptcy or insolvency of the Company.

The Company shall not be deemed in default under clause (b) above if and so long as the Company is unable to carry out its agreement under the Agreement by reason of certain causes or events not reasonably within the control of the Company, as specified in the Agreement.

Remedies on Default

Whenever any event of default under the Agreement shall have occurred and shall continue,

(a) The Trustee may, and upon the written request of the holders of not less than 25% in aggregate principal amount of the Bonds outstanding, shall, by notice in writing delivered to the Company with copies of such notice being sent to the Issuer and the Credit Provider, declare the unpaid balance of the Repayment Installments attributable to the Bonds and the interest accrued thereon to be immediately due and payable, and such interest and principal shall thereupon become immediately due and payable; provided, however, that the Trustee shall not accelerate the unpaid balance of the Repayment Installments attributable to any Bonds secured by a Credit Facility without the prior written consent of the Credit Provider. Upon any such acceleration, the Bonds shall be subject to mandatory redemption as provided in the Indenture.

(b) The Trustee may have access to and may inspect, examine and make copies of the books and records and any and all accounts, data and federal income tax and other tax returns of the Company.

(c) The Issuer or the Trustee may take whatever action at law or in equity as may be necessary or desirable to collect the payments and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under the Agreement.

The provisions of clause (a) of the preceding paragraph are subject to the condition that if, at any time after the unpaid balance of the Repayment Installments shall have been declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, there shall have been deposited with the Trustee a sum sufficient to pay all the principal of the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all such Bonds, with interest on such overdue installments of principal as provided herein, and the reasonable expenses of the Trustee, and any and all other defaults actually known to the Trustee (other than in the payment of principal of and interest on such Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then the holders of at least a majority in principal amount of the Bonds then outstanding by written notice to the Issuer and to the Trustee accompanied by the written consent of the Credit Provider with respect to the Bonds, may, on behalf of the holders of all the Bonds, rescind and annul such declaration and its consequences and waive such default. No such recision and annulment will extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

Fees, Expenses and Indemnification

The Company has agreed to pay certain expenses in connection with the issuance of the Bonds and the transactions described herein. The Company will indemnify the Issuer and the Trustee against certain costs and charges, including the reasonable fees of attorneys incurred in good faith or arising out of or in connection with any collection or enforcement action under the Agreement. The Company will also indemnify and hold harmless the Issuer and the Trustee against certain liabilities

arising out of or connected with the Project, the issuance of the Bonds or the performance of the Indenture.

Assignment

Pursuant to the Indenture, the Issuer will assign to the Trustee its rights under and interests in, but not its obligations under, the Agreement, other than its rights to receive its fees and expenses and its rights to indemnification as described above, and certain rights to receive notices and to provide consents under the Agreement.

Amendments

Except under certain limited circumstances set forth in the Agreement and the Indenture, the Agreement may not be amended without the prior written consent of the Trustee and the Credit Provider. See "The Indenture—Amendments."

THE INDENTURE

Bond Fund; Credit Facility Account

The Bond Fund, into which the Revenues derived under the Agreement and certain other amounts specified in the Indenture (including all amounts received by the Trustee pursuant to any Credit Facility except amounts to be used to pay the purchase price of tendered Bonds) will be deposited, will be maintained with the Trustee. While any Bonds are outstanding and except as otherwise provided in the Indenture, moneys in the Bond Fund will be used for the payment of the principal of and premium, if any, and interest on, the Bonds as the same shall become due, whether at maturity, upon redemption or acceleration or otherwise.

Within the Bond Fund, the Trustee shall establish and maintain a Credit Facility Account. Except to the extent such proceeds are used to pay the purchase price of Bonds tendered, proceeds of drawings under any Credit Facility provided with respect to the Bonds shall be deposited in the Credit Facility Account.

In making payments of principal of, premium, if any, and interest on the Bonds, except as otherwise provided below in the second paragraph under "Credit Facility; Credit Provider Bonds," the Trustee shall (a) first use any Available Amounts held in the Bond Fund, other than amounts held in the Credit Facility Account, (b) then use amounts held in the Credit Facility Account, and (c) then use any other Revenues (as defined in the Indenture) received by the Trustee.

Project Fund

The proceeds from the sale of the Bonds will be deposited in the Project Fund which will be established by the Trustee. Funds on deposit in the Project Fund will be applied to the payment of the cost of the Project, including certain costs of issuance and interest accruing on the Bonds during the Construction Period (as such term is defined in the Indenture).

Investment of Funds

Except as provided in the Agreement and the Indenture, any moneys held in any fund or account established pursuant to the Indenture, including the Bond Fund, shall be invested by the

Trustee, upon written direction of the Company, in any securities or other evidences of indebtedness or demand deposits to the extent such investments are permitted under the laws of Arizona.

Credit Facility; Credit Provider Bonds

The Trustee will accept the Letter of Credit as the initial Credit Facility with respect to the Bonds. See "The Bonds—The Letter of Credit." The Company has the right at any time to terminate any Credit Facility and to provide a substitute Credit Facility; provided, that no such termination or substitution may be made with respect to any Bond during any Term Rate Period or Flexible Segment with respect to such Bond.

In the case of a Credit Facility in the form of a letter of credit, notwithstanding any other provision of the Indenture, the Trustee shall draw on such Credit Facility subject to and in accordance with its terms, in order to receive payment thereunder not later than the time payment is due on the Bonds on the following dates in the following amounts:

(i) On each Interest Payment Date, in an amount which will be sufficient to pay all interest due and payable on the outstanding Bonds on such Interest Payment Date;

(ii) On any date fixed for payment, defeasance (if a defeasance drawing is allowed under the Credit Facility) or redemption of the Bonds in part, in an amount which, together with amounts drawn pursuant to clause (i) above, will be sufficient to pay the amount due on such Bonds, including accrued interest;

(iii) On the date fixed for payment of the Bonds in connection with any declaration of the acceleration of the maturity of the Bonds following an event of default under the Indenture, in an amount which will be sufficient to pay all principal and interest due on such Bonds as a result of such declaration on the date fixed for such payment;

(iv) On each Purchase Date, in an amount sufficient to pay the purchase price of any Bonds tendered or deemed tendered pursuant to the Indenture and for which such purchase price has not been received upon the remarketing of such Bonds, provided, however, that in the event of a mandatory tender occurring due to the failure to reimburse the Credit Provider for a drawing, upon receipt from the Credit Provider of the Notice of Non-Reinstatement, the Trustee shall as soon as possible draw on the Credit Facility in an amount sufficient to pay the principal amount of all outstanding Bonds, together with interest to accrue thereon, calculated at 12%, to but excluding the Purchase Date; and

(v) On the final maturity, defeasance (if a defeasance drawing is allowed under the Credit Facility) or redemption date of the Bonds in an amount which, together with amounts drawn pursuant to clause (i) above, will be sufficient to pay the principal, premium (if a drawing is permitted for premium under such Credit Facility), if any, and interest due on all outstanding Bonds on such final maturity, defeasance or redemption date.

Any Bonds purchased with a drawing under a Credit Facility pursuant to clause (iv) above either (i) shall be registered in the name of or as otherwise directed by the Credit Provider and delivered to or upon the order of such Credit Provider or (ii) shall be held by the Tender Agent or such other person as may be designated by the Credit Provider in the name and on behalf of the Company or as otherwise provided by such Credit Provider and pledged to such Credit Provider, in each case in accordance with the terms of the Reimbursement Agreement; provided, that if such Bonds are then registered in the name of DTC or its Nominee, the Trustee shall immediately upon making any draw on a Credit Facility pursuant to clause (iv) above notify the Tender Agent. Upon receipt of such notice, the Tender Agent shall direct DTC to cause any Bonds purchased with the proceeds of such draw to be transferred to such account at DTC as may be directed by the Credit Provider, and such Bonds shall

be held in the name of or for the account of the Credit Provider or as may be directed by such Credit Provider (such Bonds, "Credit Provider Bonds").

Events of Default

The Indenture defines the occurrence of any of the following events to be an event of default with respect to the Bonds:

(a) failure to make payment of any installment of interest on any Bond when such installment shall have become due and payable;

(b) failure to make due and punctual payment of the principal of or premium, if any, on any Bond at the stated maturity thereof, or when such Bond has become due and payable upon proceedings for redemption thereof, or upon the maturity thereof by declaration of acceleration or failure to make any payment necessary to purchase Bonds tendered for purchase in accordance with the Indenture; or

(c) default by the Issuer in the performance or observance of any other of the covenants, agreements or conditions on its part contained in the Indenture or in any Bond and the continuance of such default for a period of 60 days after written notice thereof shall have been given to the Issuer, the Company and the Credit Provider by the Trustee, or to the Issuer, the Company, the Credit Provider and the Trustee by the holders of not less than 25% in aggregate principal amount of the Bonds at the time outstanding; provided that if the Issuer, the Company or the Credit Provider diligently pursues the correction of any such failure which cannot be corrected within 60 days, such failure will not constitute an event of default under the Indenture.

Acceleration

Upon the occurrence and continuation of an event of default under the Indenture, the Trustee may, and upon the written request of the holders of not less than 25% in aggregate principal amount of the Bonds then outstanding shall, by notice in writing delivered to the Company and the Credit Provider, declare the principal of all Bonds then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable; provided, however, that, with respect to Bonds secured by a Credit Facility, the Trustee shall not accelerate the maturity of the Bonds without the prior consent of the Credit Provider. The Indenture provides, however, that the Trustee is not required to take any action upon the occurrence and continuation of an Event of Default under (c) above until the Trustee has actual notice or knowledge of such Event of Default. After such declaration of acceleration, the Trustee shall immediately take such actions as are necessary to realize moneys under the Credit Facility and shall declare all Repayment Installments payable under the Agreement to be immediately due and payable in accordance with the terms thereof. Such provisions for acceleration are, however, subject to the condition that if, at any time after the principal of any Bonds shall have been declared due and payable, and before any judgment or decree for the payment of moneys due shall have been obtained or entered, there shall have been deposited with the Trustee a sum sufficient to pay all of the principal of such Bonds matured prior to such declaration and all matured installments of interest (if any) on such Bonds, with interest on such overdue installments of principal as provided in the Agreement and the reasonable expenses of the Trustee, and all other defaults known to the Trustee (other than in the payment of principal of and interest on such Bonds due and payable solely by reason of such declaration) under the Indenture are cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then the holders of a majority in aggregate principal amount of the Bonds then outstanding by written notice to the Issuer and the Trustee accompanied by the written consent of the Credit Provider with respect to Bonds secured by a Credit

Facility may annul such declaration and its consequences; provided, however, that with respect to Bonds secured by a Credit Facility, such Credit Facility shall remain in full force and effect on and after such waiver.

Other Remedies

In addition, upon the occurrence and continuation of an event of default under the Indenture, the Trustee may, and upon the written request of the holders of a majority in aggregate principal amount of the Bonds then outstanding and receipt of indemnity to its satisfaction will, pursue any available remedy at law or in equity by suit, action or special proceeding to enforce its rights or the rights of the holders of the Bonds under the Act or the Indenture.

No holder of any Bond shall have the right to institute any suit, action or proceeding in equity or at law for the enforcement of any remedy unless such holder has given notice to the Trustee of the occurrence of an event of default under the Indenture, the holders of at least a majority in aggregate principal amount of Bonds then outstanding shall have made written request to the Trustee to so act, such holders shall have tendered to the Trustee reasonable indemnity against costs, expenses and liabilities, and the Trustee shall have failed to so act within thirty days after receipt of such written request and tender of indemnity. Nothing contained in the Indenture shall, however, without the consent of the holder of such Bond, affect or impair the right of the holder of any Bond to enforce the payment of the principal of and premium, if any, and interest on such Bond out of Revenues on and after the respective due dates expressed in such Bond.

Amendments

Without the consent of or notice to any of the holders of the Bonds, but with the consent of the Credit Provider, the Issuer and the Trustee may execute supplemental indentures, and the Trustee may, without the consent of any holders of the Bonds, consent to any waiver, amendment or modification ("Amendment") to the Agreement or any Credit Facility ("Document") in each case for any one or more of the following purposes: (a) to add to the covenants or agreements of the Issuer contained in the Indenture, or of the Company or any Credit Provider contained in any Document, other covenants and agreements thereafter to be observed, or to assign or pledge additional security for the Bonds, or to surrender any right or power reserved to or conferred upon the Issuer or the Company in such Document, provided that no such change shall materially adversely affect the interests of the holders of the Bonds, (b) to make such provision for the curing of any ambiguity, inconsistency, defect or omission in the Indenture or any Document or in regard to matters or questions arising thereunder as the Issuer may deem necessary or desirable and not inconsistent with the Indenture and which shall not materially adversely affect the interest of the holders of the Bonds, (c) to permit the qualification of the Indenture under the Trust Indenture Act of 1939 or any other similar federal statute and, if they so determine, to add to the Indenture or any indenture supplemental thereto any other terms, conditions and provisions as may be permitted by such Trust Indenture Act of 1939 or similar federal statute and which shall not adversely affect the interest of the holders of the Bonds, (d) to provide for any additional procedures, covenants or agreements necessary to maintain the Tax-Exempt status of interest on the Bonds, (e) to modify or eliminate the book-entry registration system for the Bonds, (f) to provide for the procedures required to permit any holder of a Bond to separate the right to receive interest on the Bonds from the right to receive principal thereof and to sell or dispose of such rights, as contemplated by Section 1286 of the 1986 Code, (g) to provide for the appointment of a co-trustee or the succession of a new Trustee, Registrar or Paying Agent, (h) to change the description of the Project in the Agreement in accordance with the provisions thereof and of the Tax Certificate; (i) to provide for a Credit Facility; (j) in connection with any other change which, in the judgment of the Trustee, will not adversely affect the security for the Bonds or the Tax-Exempt status of interest thereon or otherwise materially adversely affect the holders of the Bonds; or (k) to modify, alter, amend or supplement the Indenture or any Document in any other respect if the effective date of such

supplemental indenture or Amendment is a date on which all Bonds affected thereby are subject to mandatory tender for purchase or if notice of the proposed supplemental indenture or Amendment is given to holders of the Bonds at least thirty days before the effective date thereof and, on or before such effective date, such holders of Bonds have the right to demand purchase of their Bonds pursuant to the Indenture.

Any other modification or amendment of the Indenture or the Agreement may be made only with the consent of the holders of a majority in aggregate principal amount of the Bonds at the time outstanding and the Credit Provider. No such modification or amendment shall be made which will have the effect of extending the time for payment or reducing any amount due and payable by the Company pursuant to the Agreement without the consent of all the holders of the Bonds, and no such supplemental indenture shall (1) extend the fixed maturity of any Bond or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the holder of each Bond so affected, or (2) reduce the aforesaid percentage of holders of Bonds whose consent is required for the execution of such supplemental indentures or permit the creation of any lien on the Revenues prior to or on a parity with the lien of the Indenture, except as permitted by the Indenture, or permit the creation of any preference of any holder of a Bond over any other holder of a Bond or deprive the holders of the Bonds of the lien created by the Indenture upon the Revenues or the pledge of any Credit Facility, without the consent of the holders of all the Bonds then outstanding.

The Trustee shall not execute any indenture supplemental to, or amendatory of, the Indenture or consent to any amendment to any Document unless the Trustee shall have received the prior written consent of the Company.

Defeasance

If at any time the entire indebtedness or obligation on all outstanding Bonds shall have been paid (or shall be deemed to have been paid) and if all other sums payable under the Indenture by the Issuer shall be paid and discharged, and upon the occurrence of certain other conditions, the Indenture shall terminate, and the Trustee shall acknowledge its satisfaction and discharge.

Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount to pay or redeem outstanding Bonds, whether upon or prior to their maturity or the redemption date of such Bonds (provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or provision satisfactory to the Trustee shall have been made for giving such notice), all liability of the Issuer and the Company in respect of such Bonds shall cease, terminate and be completely discharged, except that the Issuer and Company will remain liable for such payment but only from, and the holders of the Bonds will thereafter be entitled only to payment (without interest accrued thereon after such redemption date or maturity date) out of, the money deposited with the Trustee as aforesaid for their payment.

Concerning the Trustee

The Issuer, in the absence of an event of default under the Indenture, at the direction of the Company, or the holders of a majority in aggregate principal amount of the Bonds at the time outstanding may, at any time, remove the Trustee and appoint a successor Trustee. Under the Indenture, the Trustee must be a corporation or banking association organized and doing business under the laws of the United States of America or a state thereof, authorized under such laws to exercise corporate trust powers, have a combined capital and surplus of at least $50,000,000 and be subject to supervision and examination by federal or state authorities. The Trustee may at any time resign by giving written notice to the Issuer, the Company and the Credit Provider and by giving to the holders

of the Bonds notice either by publication of such resignation, which notice shall be published at least once in a qualified newspaper, or by mailing notice by first class mail to such holders of the Bonds.

THE REIMBURSEMENT AGREEMENT

Reimbursement, Fees and Expenses

The Company will reimburse the Credit Provider for all amounts drawn under the Letter of Credit, together with interest thereon. The Company also agrees to pay certain other fees and expenses.

Events of Default

The occurrence of certain events shall be events of default under the Reimbursement Agreement. If an event of default occurs under the Reimbursement Agreement, the Credit Provider may provide written notice to the Trustee of such event of default and direct the Trustee to give notice to the holders of the Bonds of a mandatory tender of the Bonds. The mandatory tender date will be a date, as specified by the Trustee, not more than 20 days after receipt by the Trustee of the Credit Provider's notice described above. See "The Bonds--Mandatory Tender for Purchase." The occurrence of an event of default under the Reimbursement Agreement does not relieve the Credit Provider of its obligations under the Letter of Credit.

Events of default under the Reimbursement Agreement include, among others: failure by the Company to make payments under the Reimbursement Agreement when due or, in certain cases, within the time specified in the Reimbursement Agreement; certain representations or warranties made by the Company or its officers in or in connection with the Reimbursement Agreement prove to have been false or misleading in any material respect when made; failure of the Company to abide by certain negative covenants or to perform other covenants and, in certain cases, the failure is not remedied within the time specified in the Reimbursement Agreement; failure by the Company to make payment on certain indebtedness or to perform certain covenants with respect to such indebtedness and the failure is not remedied within the time permitted; certain events of bankruptcy, insolvency or reorganization of the Company (or, under certain circumstances, certain subsidiaries of the Company), the failure by the Company (or, under certain circumstances, certain of its subsidiaries) to make payments on certain judgments and the failure is not remedied within the time specified in the Reimbursement Agreement; an event of default under the Indenture shall have occurred and be continuing; the occurrence of certain events challenging the validity or enforceability of the Reimbursement Agreement; and the occurrence of certain events relating to employee benefit plans of the Company or its affiliates.

Covenants

The Company agrees to certain covenants under the Reimbursement Agreement. In addition, without the prior written consent of the Credit Provider and certain other banks who may at any time be participants in the Reimbursement Agreement, the Company (and certain of its subsidiaries) may not, among other things: incur or allow certain liens on its properties unless certain conditions are satisfied, or the Company grants to the Credit Provider and such banks liens on its assets as collateral for the obligations under the Reimbursement Agreement; sell, lease or otherwise dispose of certain assets or merge or consolidate unless certain conditions are satisfied; enter into certain prohibited transactions or allow certain events or conditions relating to employee benefit plans; or enter into or consent to any amendment of the Indenture or the Agreement or consent to any substitution or change in the Trustee.

UNDERWRITING

Subject to the terms and conditions set forth in the Underwriting Agreement, Goldman, Sachs & Co. has agreed to purchase the Bonds at a price equal to 100% of the principal amount. The Company has agreed to pay the Underwriter an underwriting fee equal to 0.5615% of the principal amount of the Bonds.

Under the terms and conditions of the Underwriting Agreement, the Underwriter is committed to purchase all of the Bonds, if any are purchased.

The Underwriter may offer and sell the Bonds to certain dealers and others at prices lower than the public offering price stated on the cover page hereof. After the initial public offering, the public offering price may be changed from time to time by the Underwriter.

The Company has agreed to indemnify the Underwriter and the Issuer against certain liabilities, including liabilities under the Federal securities laws.

The Underwriter has provided various investment banking services, including serving as commercial paper dealer under the Company's commercial paper program, to the Company and its affiliates from time to time, for which it has received customary compensation. In addition, the Underwriter has provided various investment banking services to Pinnacle West Capital Corporation, the Company's parent, from time to time, for which it has received customary compensation.

TAX MATTERS

In the opinion of Orrick, Herrington & Sutcliffe, Bond Counsel, based on an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes, except that Bond Counsel expresses no opinion as to the status of interest on any Bond for federal income tax purposes during any period that such Bond is held by a person who is a "substantial user" of the facilities financed with the proceeds of the Bonds or by a "related person" within the meaning of Section 103(b)(13) of the 1954 Code. Interest on the Bonds is a specific preference item for purposes of the federal individual and corporate alternative minimum taxes. The Bonds and the income therefrom are exempt from all State of Arizona taxation. A complete copy of the proposed form of opinion of Bond Counsel concerning the Bonds is set forth as Appendix C hereto.

Title XIII of the Tax Reform Act of 1986, as amended, and Section 103 of the 1954 Code impose various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The Issuer and the Company have covenanted to comply with certain restrictions designed to assure that interest on the Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of issuance of the Bonds. The opinion of Bond Counsel assumes compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may adversely affect the tax status of interest on the Bonds.

The interest rate determination method and certain other requirements, agreements and procedures contained or referred to in the Indenture, the Agreement, the Tax Certificate and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the Bonds) may be taken under the circumstances and subject to the terms and conditions set forth in such documents. Bond Counsel expresses no opinion as to any Bond or the interest thereon if any such change occurs or action is taken upon the advice or approval of counsel other than themselves.

Although Bond Counsel is of the opinion that interest on the Bonds is excluded from gross income for federal income tax purposes and that the Bonds and the income therefrom are exempt from all State of Arizona taxation, the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may otherwise affect the tax liability of the holder of a Bond. The nature and extent of these other tax consequences will depend upon the particular tax status of the holder of the Bond or its other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

LEGAL MATTERS

Legal matters incident to the authorization, issuance, sale and delivery of the Bonds and with regard to the tax status thereof will be subject to the approval of Orrick, Herrington & Sutcliffe, San Francisco, California, Bond Counsel. Certain legal matters in connection with the Agreement and the Reimbursement Agreement will be passed upon for the Company by Snell & Wilmer, One Arizona Center, Phoenix, Arizona 85004-0001. The validity of the Agreement will be passed upon for Goldman Sachs by Sullivan & Cromwell, 444 South Flower Street, Los Angeles, California 90071. In giving their opinions, Sullivan & Cromwell and Snell & Wilmer may rely as to matters of New Mexico law upon the opinion of Keleher & McLeod, P.A., 1200 Public Service Building, Albuquerque, New Mexico 87102, and Sullivan & Cromwell may rely as to all matters of Arizona law upon the opinion of Snell & Wilmer.

This Official Statement has been duly approved, executed and delivered by the Issuer.

Coconino County, Arizona
Pollution Control Corporation

By: /s/ Bruce J. Nordstrom
President

ARIZONA PUBLIC SERVICE COMPANY

The information contained in this Appendix A has been obtained from Arizona Public Service Company (the "Company") and no representation is made by the Issuer or the Underwriter as to its accuracy or completeness.

AVAILABLE INFORMATION

The Company is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act"), and in accordance therewith files reports, proxy statements, and other information with the Securities and Exchange Commission (the "Commission"). Such reports, proxy statements, and other information can be obtained at prescribed rates from the Public Reference Section of the Commission or may be inspected and copied at the public reference facilities maintained by the Commission at 450 Fifth Street, N.W., Room 1024, Washington, D.C. 20549 and at certain of its regional offices located at 500 West Madison Street, Suite 1400, Chicago, Illinois 60661; and 7 World Trade Center, 13th Floor, New York, New York 10048. Certain securities of the Company are listed on the New York Stock Exchange. Reports, proxy materials, and other information concerning the Company can be inspected at the office of this exchange at 20 Broad Street, 7th Floor, New York, New York 10005.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents previously filed with the Commission by the Company (File No. 1-4473) are incorporated by reference in this Official Statement:

1. The Company's Form 10-K Report for the fiscal year ended December 31, 1993 (the "1993 10-K Report").

2. The Company's Form 10-Q Reports for the fiscal quarters ended March 31 and June 30, 1994 (the "June 10-Q Report").

3. The Company's Form 8-K Reports, dated December 15, 1993, February 23, April 30 and May 19, 1994.

All documents filed by the Company pursuant to Sections 13(a), 13(c), 14, or 15(d) of the 1934 Act after the filing date of the June 10-Q Report and prior to the termination of the offering of the securities offered hereby shall be deemed to be incorporated by reference in this Official Statement and to be a part hereof from the date of filing of such documents.

Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Official Statement to the extent that a statement contained herein or in any other subsequently filed document which is also incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as modified or superseded, to constitute a part of this Official Statement.

The Company will provide without charge to each person, including any beneficial owner, to whom a copy of this Official Statement is delivered, upon the oral or written request of such person, a copy of any or all of the documents referred to above which have been or may be

incorporated in this Official Statement by reference, other than exhibits to such documents. Request for such copies should be directed to Arizona Public Service Company, Office of the Secretary, Station 9068, P.O. Box 53999, Phoenix, Arizona 85072-3999, (602) 250-3252.

THE COMPANY

The Company was incorporated in 1920 under the laws of Arizona and is principally engaged in providing electricity in the State of Arizona. The principal executive offices of the Company are located at 400 North Fifth Street, Phoenix, Arizona 85004 and its telephone number is (602) 250-1000.

INDEPENDENT AUDITORS

The financial statements and the related financial statement schedules incorporated in this Official Statement by reference to the Company's 1993 Annual Report on Form 10-K have been audited by Deloitte & Touche LLP, independent auditors, as stated in their report, which is incorporated herein by reference.

SELECTED INFORMATION

The following material is qualified in its entirety by reference to the detailed information and financial statements in the documents incorporated by reference in this Official Statement.

The Company

Business	Electric utility servicing approximately 654,000 customers in an area that includes all or part of 11 of Arizona's 15 counties.
Generating Fuel Mix (estimated for the twelve months ended June 30, 1994)	Coal - 65.3%; Nuclear - 28.4%; Gas - 6.1%; Other - 0.2%.

Financial Data (thousands of dollars):

	Twelve Months Ended			
	June 30,	December 31,		
	1994(1)	1993	1992	1991
Electric Operating Revenues	$ 1,690,376	$ 1,686,290	$ 1,669,679	$ 1,515,289
Refund Obligation (2)	---	---	---	(53,436)
Net Operating Revenues	$ 1,690,376	$ 1,686,290	$ 1,669,679	$ 1,461,853
Net Income (Loss)	$ 246,175	$ 250,386	$ 246,805	$ (222,649)
Ratio of Earnings to Fixed Charges	2.97	2.99	2.73	(3)

Capitalization Data (thousands of dollars):

	As of June 30, 1994(1)	As Adjusted(4)	
		Amount	Percentage
Long-Term Debt (excluding current maturities)	$ 2,163,173	$ 2,203,323	55.7%
Redeemable Preferred Stock	145,000	75,000	1.9
Non-Redeemable Preferred Stock	193,561	193,561	4.9
Common Stock Equity	1,485,244	1,485,244	37.5
Total Capitalization	$ 3,986,978	$ 3,957,128	100.0%

(1) Financial data as of and for the twelve months ended June 30, 1994 is unaudited but, in the judgment of the Company's management, contains all necessary adjustments for a fair presentation of the financial position of the Company on such date and the results of operations for such period.

(2) The Company recorded a refund obligation to customers relating to and included in the write-off described in "Regulatory Matters—Rate Case Settlement" in Note 2 of Notes to Financial Statements in Part II, Item 8 of the 1993 10-K Report and in Note 5 of Notes to Financial Statements in Part I, Item 1 of the June 10-Q Report.

(3) The write-off resulting from the Arizona Corporation Commission order settling the Company's rate case (see "Regulatory Matters—Rate Case Settlement" in Note 2 of Notes to Financial Statements in Part II, Item 8 of the 1993 10-K Report) resulted in a negative coverage ratio and an earnings coverage deficiency of approximately $317 million for the twelve months ended December 31, 1991. Excluding the effects of the write-off, the coverage ratio would have been 2.11 for the same period.

(4) For the Company's (i) August 1994 purchases of approximately $24 million in aggregate principal amount of its First Mortgage Bonds, 10 1/4% Series due 2000; (ii) redemption at maturity on September 1, 1994 of $50 million of its $8.50 Cumulative Preferred Stock, Series T ($100 Par Value); (iii) incurrence on September 14, 1994 of $31.5 million of long-term debt in connection with a tax exempt financing; (iv) assumed redemption on October 24, 1994 of $20 million of its $8.48 Cumulative Preferred Stock, Series S ($100 par value); and (v) assumed issuance of $32,650,000 of the Bonds.

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BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION

Bank of America National Trust and Savings Association ("Bank of America") is a wholly owned subsidiary and the principal asset of BankAmerica Corporation, a bank holding company ("BankAmerica"). As of December 31, 1993, and based on the consolidated Report of Condition of Bank of America at such date, Bank of America and its consolidated subsidiaries had total deposits of $106.4 billion (including deposits from BankAmerica and its nonbank subsidiaries of $2.0 billion), total assets of $136.7 billion and capital and surplus of $11.7 billion.

Bank of America will provide without charge to any person to whom this Official Statement is delivered, upon request, a copy of any or all of the following reports:

(i) BankAmerica's 1993 Form 10-K and BankAmerica's Form 10-Q and Quarterly Analytical Review for each subsequent quarter for which such a report has been filed with the Securities and Exchange Commission;

(ii) each of BankAmerica's Form 8-K Current Reports filed with the Securities and Exchange Commission subsequent to the filing of BankAmerica's 1993 Form 10-K;

(iii) the publicly-available portions of the Consolidated Reports of Income of Bank of America for the years ended December 31, 1992 and 1993 and for each subsequent quarter for which such a report has been prepared, in each case so submitted to the Comptroller of the Currency; and

(iv) the publicly-available portions of the Consolidated Reports of Condition of Bank of America at December 31, 1992 and 1993 and at the end of each subsequent quarter for which such a report has been prepared, in each case as submitted to the Comptroller of the Currency.

Requests to Bank of America for such documents should be directed by telephone to Kara Hanks at (415) 624-0445 or by mail to Bank of America NT&SA, External Reporting Department #3703, P.O. Box 37000, San Francisco, CA 94137.

The information contained in this Appendix relates to and has been obtained from Bank of America. No assurance can be given by the Issuer, the Company or Goldman Sachs as to its accuracy or completeness. The delivery of the Official Statement or this Appendix shall not create any implication that there has been no change in the affairs of Bank of America since the date hereof, or that the information contained or referred to in this Appendix is correct as of any time subsequent to its date.

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October __, 1994

Coconino County, Arizona
Pollution Control Corporation
Flagstaff, Arizona

Re: Coconino County, Arizona
Pollution Control Corporation
Pollution Control Revenue Bonds
(Arizona Public Service Company Navajo Project)
1994 Series A
(Final Opinion)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by Coconino County, Arizona Pollution Control Corporation (the "Issuer") of $32,650,000 aggregate principal amount of Coconino County, Arizona Pollution Control Corporation Pollution Control Revenue Bonds (Arizona Public Service Company Navajo Project) 1994 Series A (the "Bonds"), issued pursuant to the provisions of Title 35, Chapter 6, Arizona Revised Statutes, as amended and supplemented to the date hereof (the "Act"), and pursuant to an Indenture of Trust, dated as of October 1, 1994 (the "Indenture"), between the Issuer and The Bank of New York, as trustee (the "Trustee"). The Bonds are issued for the stated purpose of making a loan of the proceeds thereof to Arizona Public Service Company, an Arizona corporation (the "Company"), pursuant to a Loan Agreement, dated as of October 1, 1994 (the "Loan Agreement"), between the Issuer and the Company. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Indenture.

In such connection, we have reviewed the Indenture, the Loan Agreement, opinions of counsel to the Issuer, the Company and the Trustee, the Tax Certificate, certificates of the Issuer, the Company, the Trustee and others, and such other documents, opinions and matters to the extent deemed necessary by us to render the opinions set forth herein. We have not undertaken to verify independently, and we have assumed, the accuracy of the factual matters represented, warranted or certified in such documents, and of the legal conclusions contained in the opinions referred to above, and we have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Issuer.

The interest rate determination method and certain other requirements, agreements and procedures contained or referred to in the Indenture, the Loan Agreement, the Tax Certificate and other relevant documents may be changed and certain actions (including, without limitation, defeasance of Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. No opinion is expressed herein as to any Bond or the interest thereon on or after any such change that occurs or action that is taken or omitted upon the advice or approval of counsel other than ourselves.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur, and we have no obligation to update this opinion. Our engagement with respect to the Bonds has concluded with their issuance. Further, we have assumed compliance with all covenants and agreements contained in the Indenture, the Loan Agreement and the Tax Certificate,

including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Bonds, the Indenture, the Loan Agreement and the Tax Certificate may be subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, arrangement and other similar laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against governmental entities in the State of Arizona. We also express no opinion with respect to any indemnification, contribution, choice of law, choice of forum or waiver provisions contained in the foregoing documents. Finally, we undertake no responsibility for the accuracy, completeness or fairness of any official statement or other offering material relating to the Bonds and express herein no opinion with respect thereto.

Based on and subject to the forgoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Issuer has lawful authority for the issuance of the Bonds, and the Bonds constitute valid and binding limited obligations of the Issuer payable solely from Revenues and other sources as and to the extent specified in the Indenture.

2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Issuer. The Indenture creates a valid pledge, to secure the payment of the principal of and interest on the Bonds, of the Revenues and (to the extent the Issuer has any interest therein) any Credit Facility provided with respect to the Bonds, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture. The Indenture also creates a valid assignment to the Trustee, for the benefit of the holders from time to time of the Bonds, of the right, title and interest of the Issuer in the Loan Agreement, except the right to receive certain payments and notices and to give certain consents and approvals (to the extent more particularly described in the Indenture).

3. The Loan Agreement has been duly authorized, executed and delivered by, and constitutes the valid and binding agreement of, the Issuer.

4. The Bonds are not a debt or liability or pledge of the faith and credit of the Issuer or Coconino County, Arizona, and are payable solely from the funds provided in the Indenture therefor.

5. Interest on the Bonds is excluded from gross income for federal income tax purposes under Title XIII of the Tax Reform Act of 1986 and Section 103 of the Internal Revenue Code of 1954, as amended (the "1954 Code"), except that no opinion is expressed as to the status of interest on any Bond during any period that such Bond is held by a "substantial user" of any facilities financed with Bond proceeds or by a "related person" within the meaning of Section 103(b)(13) of the 1954 Code. The Bonds and the income therefrom are exempt from all State of Arizona taxation. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds, although we observe that interest on the Bonds is a specific preference item for purposes of calculating federal individual and corporate alternative minimum taxable income.

Very truly yours,

ORRICK, HERRINGTON & SUTCLIFFE

per

McGill, James T(Z71171)

Subject: FW: Coconino 1994A Bonds

From: Dolyniuk, Karen E(J97440)
Sent: Tuesday, June 15, 2010 1:20 PM
To: 'Bettinelli, Antonio'
Subject: Coconino 1994A Bonds

[redacted]

Karen E. Dolyniuk, CTP
Manager, Treasury Operations
Pinnacle West Capital Corporation
Phone: 602-250-5630

NEW ISSUE – BOOK ENTRY ONLY

In the opinion of Orrick, Herrington & Sutcliffe, Bond Counsel, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes, except that no opinion is expressed as to the status of interest on any Bond during any period that such Bond is held by a "substantial user" of facilities financed by the Bonds or by a "related person" within the meaning of Section 103(b)(13) of the Internal Revenue Code of 1954, as amended. Bond Counsel observes that interest on the Bonds is a specific preference item for purposes of the federal individual and corporate alternative minimum taxes. Bond Counsel is also of the opinion that the Bonds and the income therefrom are exempt from all State of Arizona taxation. Bond Counsel expresses no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. See "Tax Matters."

$32,650,000
Coconino County, Arizona
Pollution Control Corporation
Pollution Control Revenue Bonds
(Arizona Public Service Company Navajo Project)
1994 Series A

Dated: Date of Issuance **Due: October 1, 2029**

The Bonds are limited obligations of the Coconino County, Arizona Pollution Control Corporation, and will be payable solely from and secured solely by the revenues to be derived pursuant to an Agreement with

Arizona Public Service Company

The Bonds will be further secured by an irrevocable direct pay Letter of Credit issued by:

Bank of America National Trust and Savings Association

Under the Letter of Credit, The Bank of New York, as trustee will be entitled to draw amounts sufficient to pay (a) up to sixty-two days interest on the Bonds and (b) principal of the Bonds as such principal becomes due, whether at maturity, on acceleration, at redemption or upon tender thereof. The Bonds are subject to purchase at the option of the holders of the Bonds and, under certain circumstances, are subject to mandatory purchase in the manner and at the times described herein.

The Bonds as initially issued will bear interest at Daily Rates, designated and determined from time to time as described herein. Thereafter, the interest rate on the Bonds may be changed to a Weekly Rate, Monthly Rate, Flexible Rate or Term Rate, as described herein.

The Bonds will be delivered in fully registered form in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, which will act as securities depository for the Bonds. Ownership interests in the Bonds may be purchased in book-entry form only, in authorized denominations described herein. So long as the Bonds remain in book-entry only form, purchasers of beneficial interests in the Bonds will not receive certificates representing such interests. The Bonds are subject to optional and mandatory redemption prior to maturity in the manner and at the times described herein. See "The Bonds".

The Bonds will not constitute an indebtedness or obligation to which the full faith and credit of the Issuer, Coconino County or the State of Arizona is pledged and shall never constitute nor give rise to a pecuniary liability of the Issuer, Coconino County or the State of Arizona or a charge against the general credit or taxing powers of Coconino County or the State of Arizona or the general credit of the Issuer. The Issuer has no taxing power.

Price 100%

The Bonds are offered, subject to prior sale, when, as and if issued and received by the Underwriter and subject to certain conditions, including the approval of Orrick, Herrington & Sutcliffe, Bond Counsel. Certain legal matters will be passed upon for the Issuer by Mangum, Wall, Stoops & Warden and for the Company by Snell & Wilmer, counsel to the Company. The validity of the Agreement will be passed upon for the Underwriter by Sullivan & Cromwell. It is expected that the Bonds will be available for delivery in New York, New York on or about October 12, 1994.

Goldman, Sachs & Co.

October 11, 1994

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

No dealer, broker, salesman or any other person has been authorized by the Issuer, Arizona Public Service Company or the Underwriter to give any information or to make any representations other than those contained in this Official Statement in connection with the offering described herein and, if given or made, such information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or solicitation of an offer to buy any securities other than the Bonds offered hereby, and there shall not be any offer or solicitation of such offer or sale of the Bonds within any jurisdiction in which such offer or solicitation is not authorized, or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

The information contained in this Official Statement has been obtained from Arizona Public Service Company and other sources which are deemed reliable by the Issuer. No representation or warranty is made, however, as to the accuracy or completeness of such information, and nothing contained in this Official Statement is, or shall be relied upon as, a promise or representation by either the Issuer or the Underwriter. This Official Statement is submitted in connection with the sale of securities as referred to herein and may not be reproduced or used in whole or in part for any other purpose. The delivery of this Official Statement at any time does not imply that information herein is correct as of any time subsequent to its date.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS OFFERED HEREBY AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

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$32,650,000
Coconino County, Arizona
Pollution Control Corporation
Pollution Control Revenue Bonds
(Arizona Public Service Company Navajo Project)
1994 Series A

INTRODUCTORY STATEMENT

This Official Statement is provided to furnish certain information in connection with the issuance by Coconino County, Arizona Pollution Control Corporation (the "Issuer") of its Pollution Control Revenue Bonds (Arizona Public Service Company Navajo Project) 1994 Series A in the aggregate principal amount of $32,650,000 (the "Bonds"). The Bonds will be issued pursuant to an Indenture of Trust, dated as of October 1, 1994 (the "Indenture"), between the Issuer and The Bank of New York, as trustee (the "Trustee"). The Bank of New York is acting as Tender Agent, Registrar and Paying Agent (the "Tender Agent", "Registrar" and "Paying Agent") with respect to the Bonds and its "Principal Office," as used herein, is at 101 Barclay Street, New York, New York.

The Bonds are being issued by the Issuer at the request of Arizona Public Service Company (the "Company"), a corporation organized and existing under the laws of the State of Arizona, in order to finance certain facilities for the abatement of air and water pollution, including the abatement of sulfur dioxide, and for the disposal of sewage and solid waste and certain facilities related thereto, at the Navajo Generating Station, located in Coconino County, Arizona (the "Project"). See "The Project."

Prior to the issuance of the Bonds, the Company and the Issuer will enter into a Loan Agreement dated as of October 1, 1994 (the "Agreement"), whereby the Issuer will loan the proceeds from the sale of the Bonds to the Company. In the Agreement, the Company agrees to make payments so as to provide sufficient revenues to pay when due, pursuant to the Indenture, the principal of (whether at maturity, on redemption, upon tender for purchase or by acceleration), premium, if any, and interest on the Bonds.

Concurrently with the issuance of the Bonds, the Company will cause to be delivered to the Trustee an irrevocable letter of credit (the "Letter of Credit") issued by Bank of America National Trust and Savings Association (the "Credit Provider"). The Letter of Credit will be issued pursuant to a Letter of Credit and Reimbursement Agreement, dated as of October 12, 1994 (the "Reimbursement Agreement"), between the Company and the Credit Provider.

As more fully provided in the Indenture, the Bonds will not constitute an indebtedness or obligation to which the faith and credit of the State of Arizona, Coconino County, the Issuer or any other political subdivision of the State of Arizona will be pledged, but will be limited obligations of the Issuer, which will be obligated to pay the principal of, premium, if any, and interest on the Bonds only from the payments made pursuant to the Agreement and the other funds pledged therefor. Coconino County will not in any event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement undertaken by the Issuer, nor will the Issuer's agreements or obligations be construed to constitute an indebtedness of Coconino County within the meaning of any constitutional or statutory provision of the State of Arizona whatsoever.

Brief descriptions of the Issuer and the Project and summaries of certain provisions of the Bonds, the Agreement, the Indenture, the Letter of Credit and the Reimbursement Agreement are included in this Official Statement. Such information and descriptions do not purport to be complete, comprehensive or definitive. Statements regarding specific documents, including the Agreement and the Indenture, make use of certain terms defined in such documents and are summaries of and subject

to the detailed provisions of such documents and are qualified in their entirety by reference to each such document, and references to the Bonds are similarly subject to and qualified in their entirety by reference to the form thereof included in the Indenture and the information with respect thereto included in the aforesaid documents. Copies of all aforesaid documents may be obtained at the principal office of Goldman, Sachs & Co. in New York, New York, during the period of the initial offering of the Bonds and thereafter are available for inspection at the offices of the Trustee or the Company.

For information concerning the Company, including selected financial and operating information and information incorporated by reference, see Appendix A hereto. For information concerning the Credit Provider, see Appendix B hereto. The proposed form of opinion of Bond Counsel is attached as Appendix C hereto.

THE ISSUER

The Issuer is a political subdivision under the laws of the State of Arizona, organized under the "Pollution Control Corporations for Municipalities and Counties Act", being Title 35, Chapter 6, Arizona Revised Statutes (the "Act"). The Bonds will be issued in full compliance with the Act, and the issuance of the Bonds by the Issuer will be approved by the Board of Supervisors of Coconino County, Arizona. The Issuer has no taxing power. As required by the provisions of Section 38-511, Arizona Revised Statutes, as amended, the Issuer may cancel any contract, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Issuer is, at any time while the contract or any extension thereof is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter thereof. The Company and the Trustee have covenanted not to employ as an employee, agent or, with respect to the subject matter of the Agreement and the Indenture, respectively, a consultant, any person significantly involved in initiating, negotiating, securing, drafting or creating such documents on behalf of the Issuer within three years from the execution thereof, unless a waiver is provided by the Issuer. The cancellation of any financing agreement which is material to the payment of the Bonds, including the Indenture, could adversely affect the holders of the Bonds.

THE PROJECT

The Project is located at the Navajo Generating Station (the "Navajo Station") in Coconino County, Arizona and consists of facilities for the abatement of air and water pollution, including facilities for the abatement of sulfur dioxide, and for the disposal of sewage and solid waste and certain facilities related thereto. The Navajo Station is owned in undivided interests as follows: the Company, 14%; Tucson Electric Power Company, 7.5%; Nevada Power Company, 11.3%; Department of Water and Power of the City of Los Angeles, California, 21.2%; Salt River Project Agricultural Improvement and Power District, 21.7%; and U.S. Bureau of Reclamation, 24.3%.

USE OF PROCEEDS

The proceeds of the Bonds will be used to defray the cost to the Company of acquiring, constructing, reconstructing, improving, maintaining, equipping or furnishing the Project and to pay certain costs of issuance incurred in connection with the issuance of the Bonds.

THE BONDS

General

The Bonds will be issued as fully registered Bonds without coupons in the manner described below. The Bonds will be dated as of the date of delivery thereof (the "Issue Date") and will mature on October 1, 2029. The term of the Bonds shall be divided into consecutive Rate Periods, during each of which the Bonds may bear interest at Daily, Weekly, Monthly, Term or Flexible Rates designated and determined as described herein. The Initial Rate Period for the Bonds will be a Daily Rate Period. During such Daily Rate Period, the Bonds will bear interest at Daily Rates as described herein. The Bonds will continue to bear interest at Daily Rates determined as described herein unless and until the interest rate determination method for the Bonds is adjusted as described herein.

The Bonds are authorized in denominations of $100,000 or any integral multiple thereof, with respect to Bonds during any Daily Rate Period, any Weekly Rate Period or any Monthly Rate Period; $100,000 or any integral multiple of $5,000 in excess of $100,000, with respect to Bonds during any Flexible Rate Period; and $5,000 or any integral multiple thereof, with respect to Bonds during any Term Rate Period; provided, however, that one Bond may be issued in a denomination other than the foregoing (collectively, "Authorized Denominations").

The Bonds are subject to tender for purchase at the option of the holders of the Bonds, and under certain circumstances are subject to mandatory tender for purchase in the manner and at the times described herein. The Bonds are subject to optional and mandatory redemption prior to maturity in the manner and at the times described herein.

Goldman, Sachs & Co. has been appointed by the Company as Remarketing Agent with respect to the Bonds. Goldman, Sachs & Co. is referred to herein as the "Remarketing Agent." The Remarketing Agent will be paid fees for its services and may be removed or resign under certain circumstances.

Concurrently with the issuance of the Bonds, the Company will cause to be delivered to the Trustee the Letter of Credit issued by the Credit Provider.

Definitions

The terms "Daily Rate," "Daily Rate Period," "Weekly Rate," "Weekly Rate Period," "Monthly Rate," "Monthly Rate Period," "Flexible Rate," "Flexible Segment," "Term Rate" and "Term Rate Period" are defined by reference to the procedures for the determination thereof, as described below. In addition, the following terms are used in this summary:

"Business Day" means a day on which banks located in the cities in which the principal offices of the Trustee, the Registrar, the Paying Agent, the Tender Agent, the Remarketing Agent and the Credit Provider are located are not required or authorized to be closed and on which the New York Stock Exchange is not closed, and, in the case of any action to be taken by the Company, which is not a day on which banks in Phoenix, Arizona are required or authorized to be closed.

"Interest Payment Date" means (i) with respect to any Daily, Weekly or Monthly Rate Period, the first Business Day of each calendar month, (ii) with respect to any Term Rate Period, the first day of the sixth month following the commencement of the Term Rate Period and the first day of each sixth month thereafter, (iii) with respect to any Flexible Segment, the Business Day next succeeding the last day of such Flexible Segment, (iv) with respect to any Rate Period, the Business Day next succeeding the last day thereof and (v) with respect to any Credit Provider Bonds, the dates specified in the Reimbursement Agreement for the payment of interest on any reimbursement

obligations of the Company to the Credit Provider relating to such Credit Provider Bonds, as such dates shall be specified by the Credit Provider to the Trustee.

"Rate Period" means any Daily Rate Period, Weekly Rate Period, Monthly Rate Period, Term Rate Period or Flexible Rate Period.

"Record Date" means with respect to any Interest Payment Date in respect of any Daily Rate Period, Weekly Rate Period, Monthly Rate Period or Flexible Segment, the Business Day next preceding such Interest Payment Date and, with respect to any Interest Payment Date in respect of any Term Rate Period, the fifteenth day of the month preceding such Interest Payment Date.

"Tax-Exempt" means, with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excluded from the gross income of the holders thereof (other than any holder who is a "substantial user" of facilities financed with such obligations or a "related person" within the meaning of Section 103(b)(13) of the Internal Revenue Code of 1954, as amended (the "1954 Code") or Section 147(a) of the Internal Revenue Code of 1986 (the "1986 Code") for federal income tax purposes, whether or not such interest is includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax under the 1954 Code or the 1986 Code.

Payment of Principal and Interest

Interest shall be payable (i) by check mailed by first class mail on the Interest Payment Date to the holders as of the Record Date or (ii) during any Rate Period other than a Term Rate Period, in immediately available funds (by wire transfer or by deposit to the account of the holder of such Bond if such account is maintained with the Paying Agent), but in respect of any holder of Bonds in a Daily, Weekly or Monthly Rate Period only to any holder owning Bonds in an aggregate principal amount of at least $1,000,000 on the Record Date and having provided wire transfer instructions to the Paying Agent prior to the close of business on such Record Date; provided, that, if and to the extent there shall have been a default in the payment of the interest due, such interest shall be paid to the person in whose name any such Bonds are registered as of a special record date to be fixed by the Trustee, notice of which shall be given to such holders not less than 10 days prior thereto. Notwithstanding the foregoing, interest in respect of any Bond bearing a Flexible Rate shall be paid only upon presentation to the Tender Agent of the Bond on which such payment is due.

Interest shall be computed, in the case of any Rate Period other than a Term Rate Period, on the basis of a 365- or 366-day year, as applicable, for the number of days actually elapsed and, in the case of a Term Rate Period, on the basis of a 360-day year consisting of twelve 30-day months.

Daily Rate Period

Daily Rate. During each Daily Rate Period, the Bonds shall bear interest at the Daily Rate, determined by the Remarketing Agent either on each Business Day for such Business Day or on the next preceding Business Day for the Business Day next succeeding such date of determination and as may be determined by the Remarketing Agent for any day that is not a Business Day on any such day during which there shall be active trading in Tax-Exempt obligations comparable to the Bonds for such day.

The Daily Rate will be the rate determined by the Remarketing Agent to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the

Remarketing Agent has not determined a Daily Rate, the Daily Rate will be the same as the Daily Rate for the immediately preceding day. In no event will the Daily Rate be greater than 12%.

Adjustment to a Daily Rate Period. The interest rate borne by the Bonds will be adjusted to a Daily Rate upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company. The notice must specify the effective date of the adjustment to a Daily Rate which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) following the fifth Business Day after the receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee), (2) in the case of an adjustment from a Monthly Rate Period or a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" and "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable, and (3) in the case of an adjustment from a Flexible Rate Period, either (i) the day immediately following the last day of the then current Flexible Rate Period, or (ii) for each Bond, the day immediately following the last day of the last Flexible Segment for such Bond in the then current Flexible Rate Period; provided, however, that if prior to the Company's making such election, any Bonds shall have been called for redemption and such redemption shall not have theretofore been effected, the effective date of such Daily Rate Period shall not precede such redemption date. In the case of an adjustment from a Term Rate Period, such notice must be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Act and the Indenture, and (2) will not adversely affect the Tax-Exempt status of the interest on the Bonds.

Notice of Adjustment to a Daily Rate Period. The Trustee must give notice of an adjustment to a Daily Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period shall be a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Daily Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to a Daily Rate (subject to the Company's ability to rescind its election, as provided in the Indenture), (2) the effective date of the Daily Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of the Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that the holders of the Bonds do not have a right to retain their Bonds on such effective date.

Weekly Rate Period

Weekly Rate. During each Weekly Rate Period, the Bonds will bear interest at the Weekly Rate determined by the Remarketing Agent no later than the first day of such Weekly Rate Period and thereafter no later than Tuesday of each week during such Weekly Rate Period, unless any such Tuesday shall not be a Business Day, in which event the Weekly Rate shall be determined by the Remarketing Agent no later than the Business Day next preceding such Tuesday.

The Weekly Rate will be the rate determined by the Remarketing Agent to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the Remarketing Agent has not determined a Weekly Rate for any period, the Weekly Rate for such period will be the same as the Weekly Rate for the immediately preceding period. In no event will the Weekly Rate be greater than 12%.

The first Weekly Rate determined for each Weekly Rate Period will apply to the period commencing on the first day of such Weekly Rate Period and ending on the next succeeding Tuesday. Thereafter, each Weekly Rate will apply to the period commencing on each Wednesday and ending on the next succeeding Tuesday; provided, however, if such Weekly Rate Period will end on a day other

than Tuesday, the last Weekly Rate for such Weekly Rate Period will apply to the period commencing on the Wednesday preceding the last day of such Weekly Rate Period and ending on such last day.

Adjustment to a Weekly Rate Period. The interest rate borne by the Bonds will be adjusted, at any time, to a Weekly Rate upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice must specify the effective date of such adjustment to a Weekly Rate Period which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) following the fifth Business Day after receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee), (2) in the case of an adjustment from a Monthly Rate Period or a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" and "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable, and (3) in the case of an adjustment from a Flexible Rate Period, either the day immediately following the last day of the then current Flexible Rate Period or for each Bond, the day immediately following the last day of the then current Flexible Segment for such Bond; provided, however, that if prior to the Company's making such election, any Bonds have been called for redemption and such redemption has not yet been effected, the effective date of such Weekly Rate Period will not precede such redemption date. In the case of an adjustment from a Term Rate Period, such notice must be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Act and the Indenture, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

Notice of Adjustment to a Weekly Rate Period. The Trustee must give notice of an adjustment to a Weekly Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current rate period is a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Weekly Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to a Weekly Rate (subject to the Company's ability to rescind its election, as provided in the Indenture), (2) the effective date of the Weekly Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of such Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that holders of the Bonds do not have the right to retain the Bonds on such effective date.

Monthly Rate Period

Monthly Rate. During each Monthly Rate Period, the Bonds will bear interest at the Monthly Rate, determined by the Remarketing Agent no later than the first day of such Monthly Rate Period and thereafter no later than the Business Day immediately preceding each Interest Payment Date.

The Monthly Rate will be the rate determined by the Remarketing Agent to be the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If the Remarketing Agent has not determined a Monthly Rate for any period, the Monthly Rate shall be the same as the Monthly Rate in effect for the immediately preceding month. In no event shall any Monthly Rate be greater than 12%.

The first Monthly Rate determined for each Monthly Rate Period will apply to the period commencing on the first day of such Monthly Rate Period and ending on the day immediately preceding the next Interest Payment Date with respect to the Bonds. Thereafter, each Monthly Rate will apply to the period commencing on the Interest Payment Date next succeeding the date of determination of such Monthly Rate and ending on the day immediately preceding the Interest Payment Date next succeeding the effective date of such Monthly Rate.

Adjustment to a Monthly Rate Period. The interest rate borne by the Bonds will be adjusted, at any time, to a Monthly Rate upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice will specify the effective date of such adjustment to a Monthly Rate Period, which shall be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) following the fifth Business Day after the date of receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee); (2) in the case of an adjustment from a Term Rate Period, a day on which Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Term Rate Period"; and (3) in the case of an adjustment from a Flexible Rate Period either the day immediately following the last day of the then current Flexible Rate Period or for each Bond, the day immediately following the last day of the last Flexible Segment for such Bond in the then current Flexible Rate Period; provided, however, that if prior to the Company's making such election, any of the Bonds have been called for redemption and such redemption has not been effected, the effective date of such Monthly Rate Period will not precede such redemption date. In the case of an adjustment from a Term Rate Period, such written notice shall be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Indenture and the Act, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

Notice of Adjustment to a Monthly Rate Period. The Trustee must give notice of an adjustment to a Monthly Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Monthly Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to a Monthly Rate (subject to the Company's ability to rescind its election pursuant to the Indenture), (2) the effective date of the Monthly Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of such Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that the holders of the Bonds do not have the right to retain their Bonds on such effective date.

Flexible Rate Period

Flexible Segments and Flexible Rates. Flexible Rate Periods will consist of Flexible Segments of varying duration for each Bond. Different Flexible Segments may apply to different Bonds at any time and from time to time. During each Flexible Rate Period, each Bond will bear interest at the Flexible Rate applicable to the Flexible Segment in effect for such Bond. Each Flexible Segment will be a period of at least one day and not more than 365 days, ending on a day that immediately precedes a Business Day, determined by the Remarketing Agent to be the period which, together with all other Flexible Segments for all Bonds then outstanding, will result in the lowest overall net interest expense on the Bonds. The Flexible Rate for each Flexible Segment for each Bond will be the rate determined by the Remarketing Agent no later than the first day of such Flexible Segment to be the lowest interest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof. If a Flexible Rate for a Flexible Segment of one day is not determined or effective on such day, the Flexible Rate for such Flexible Segment of one day shall be eighty percent (80%) of the most recent One-Year Note Index theretofore published in The Bond Buyer. In no event shall the Flexible Rate for any Bond be greater than 12%.

Adjustment to a Flexible Rate Period. The interest rates borne by the Bonds will be adjusted, at any time, to Flexible Rates upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice will specify the effective date of the Flexible Rate Period during which the Bonds will bear interest at Flexible Rates which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the

then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) following the fifth Business Day after the date of receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee), and (2) in the case of an adjustment from a Monthly Rate Period or a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" or "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable; provided, however, that if prior to the Company's making such election, any of the Bonds have been called for redemption and such redemption has not been effected, the effective date of such Flexible Rate Period will not precede such redemption date. Such notice must also be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Indenture and the Act, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

Notice of Adjustment to a Flexible Rate Period. The Trustee must give notice of an adjustment to a Flexible Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period is a Term Rate Period or if the Bonds are then held in book-entry form) prior to the effective date of such Flexible Rate Period. Such notice will state (1) that the interest rate on the Bonds will be adjusted to Flexible Rates (subject to the Company's ability to rescind its election pursuant to the Indenture), (2) the effective date of such Flexible Rate Period, (3) that the Bonds are subject to mandatory tender for purchase on the effective date of such Flexible Rate Period, (4) the procedures for such mandatory tender, and (5) that the holders of the Bonds do not have the right to retain their Bonds on such effective date.

Adjustment from a Flexible Rate Period. At any time during a Flexible Rate Period, the Company may elect that the Bonds shall no longer bear interest at Flexible Rates. The Company must notify the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of the election and specify the Rate Period to follow with respect to the Bonds upon cessation of the Flexible Rate Period. The Remarketing Agent will (1) determine Flexible Segments of such duration that, as soon as possible, all Flexible Segments shall end on the same date, not earlier than the eleventh day following the fifth Business Day (or such shorter period acceptable to the Trustee), following the receipt by the Trustee of the notice described in the last sentence of this paragraph, which date shall be the last day of the then current Flexible Rate Period, and, upon the establishment of such Flexible Segments, the day next succeeding the last day of all such Flexible Segments shall be the effective date of the Rate Period elected by the Company; or (2) determine Flexible Segments that will in the judgment of the Remarketing Agent best promote an orderly transition to the next succeeding Rate Period to apply to the Bonds, beginning not earlier than the eleventh day following the fifth Business Day (or such shorter period acceptable to the Trustee) following the receipt by the Trustee of the notice described in the last sentence of this paragraph. If the alternative in clause (2) above is selected, the day next succeeding the last day of the Flexible Segment for each Bond shall be with respect to such Bond the effective date of the Rate Period elected by the Company. The Remarketing Agent, promptly upon the determination thereof, shall give written notice of such last day and such effective dates to the Company, the Trustee and the Paying Agent.

Term Rate Period

Term Rate. During each Term Rate Period, the Bonds will bear interest at the Term Rate which will be determined by the Remarketing Agent on a Business Day selected by the Remarketing Agent, but not more than 40 days prior to and not later than the effective date of such Term Rate Period. The Term Rate will be the rate determined by the Remarketing Agent on such date, and communicated on such date to the Trustee, the Paying Agent and the Company, by written notice or by telephone promptly confirmed by telecopy or other writing, as being the lowest rate which would enable the Remarketing Agent to sell the Bonds on the effective date of such rate at a price (without regard to accrued interest) equal to 100% of the principal amount thereof; provided, however, that if, for any reason, a Term Rate for any Term Rate Period is not determined or effective or if an adjustment

from a Term Rate Period to another Rate Period is not effective, the Rate Period for the Bonds will automatically convert to a Daily Rate Period. If a Daily Rate for the first day of such Daily Rate Period is not determined as described under "—Daily Rate Period—Daily Rate", the Daily Rate for the first day of such Daily Rate Period shall be 80% of the most recent One-Year Note Index theretofore published in The Bond Buyer. In no event will any Term Rate be greater than 12% per annum.

Adjustment to or Continuation of a Term Rate Period. The interest rate borne by the Bonds will be adjusted to or continued at a Term Rate, at any time, upon receipt by the Issuer, the Trustee, the Paying Agent, the Remarketing Agent and the Credit Provider of written notice from the Company, which notice will indicate the duration of the Term Rate Period during which the Bonds will bear interest at such rate. At the time the Company elects an adjustment to or continuation of a Term Rate Period, the Company may specify two or more consecutive Term Rate Periods and, if the Company so specifies, will specify the duration of each such successive Term Rate Period. Such notice must specify the effective date of each Term Rate Period, which will be (1) a Business Day not earlier than the twelfth day (the fifteenth day if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) following the fifth Business Day after the date of receipt by the Trustee of such notice (or such shorter period acceptable to the Trustee); (2) in the case of an adjustment from a Monthly Rate Period or an adjustment from or continuation of a Term Rate Period, a day on which the Bonds would be permitted to be redeemed at the option of the Company pursuant to the provisions of the Indenture as described herein under "—Redemption of Bonds—Optional Redemption—Monthly Rate Period" or "—Redemption of Bonds—Optional Redemption—Term Rate Period," as applicable; and (3) in the case of an adjustment from a Flexible Rate Period either (i) the day immediately following the last day of the then current Flexible Rate Period, or (ii) for each Bond, the day immediately following the last day of the last Flexible Segment for such Bond in the then current Flexible Rate Period; provided, however, that if prior to the Company's making such election, any Bonds shall have been called for redemption and such redemption has not been effected, the effective date of such Term Rate Period will not precede such redemption date. In addition, such notice must specify the last day of such Term Rate Period (which shall be either the day preceding the date of final maturity of the Bonds or a day which both immediately precedes a Business Day and is at least one hundred eighty (180) days after such effective date), and unless such Term Rate Period immediately succeeds a Term Rate Period of the same duration and is subject to the same optional redemption rights provided by the Indenture, shall be accompanied by an opinion of bond counsel to the effect that such adjustment (1) is authorized or permitted by the Indenture and the Act, and (2) will not adversely affect the Tax-Exempt status of interest on the Bonds.

If, by the second Business Day preceding the fourteenth day prior to the last day of any Term Rate Period, the Trustee shall not have received notice of the Company's election that, during the next succeeding Rate Period, the Bonds will bear interest at a Daily Rate, a Weekly Rate, a Monthly Rate, a Term Rate or a Flexible Rate accompanied by an appropriate opinion of bond counsel, if expressly required by the provisions of the Indenture, the next succeeding Rate Period shall be a Term Rate Period of the same duration as the immediately preceding Term Rate Period and the optional redemption prices and periods for such successive Term Rate Period shall be the same as for the immediately preceding Term Rate Period; provided, however, that if the last day of any such successive Term Rate Period is not a day immediately preceding a Business Day, then such successive Term Rate Period will end on the first day immediately preceding the Business Day next succeeding such day, or if such last day would be after the day prior to the final maturity date of the Bonds, such Term Rate Period shall end on the last day prior to such maturity date.

Notice of Adjustment to or Continuation of a Term Rate Period. The Trustee must give notice of an adjustment to or continuation of a Term Rate Period to the holders of the Bonds not less than twelve days (fifteen days if the then current Rate Period is a Term Rate Period or if such Bonds are then held in book-entry form) prior to the effective date of such Term Rate Period. In the event such adjustment or continuation is from a Term Rate Period to a Term Rate Period of equal duration, such notice shall state (1) that the interest rate on the Bonds will be adjusted to, or continue to be, a Term Rate (subject to the Company's ability to rescind its election as provided in the Indenture), (2) the

effective date and the last date of the Term Rate Period, (3) that the Term Rate for such Term Rate Period will be determined not later than the effective date thereof, (4) how such Term Rate may be obtained from the Remarketing Agent, (5) the Interest Payment Dates after such effective date, (6) that, during such Term Rate Period, the holders of Bonds will not have the right to tender their Bonds for purchase, (7) the redemption provisions that will apply to Bonds during such Term Rate Period, (8) whether any Credit Facility will be in effect after such effective date and, if so, the name of the Credit Provider and the interest coverage and expiration date of any such Credit Facility, and (9) the rating or ratings, if any, which the Bonds are expected to receive from the Rating Agencies as of such effective date. In the event such adjustment or continuation is not from a Term Rate Period to a Term Rate Period of equal duration, such notice shall state (1) that the interest rate on such Bonds will be adjusted to, or continue to be, a Term Rate (subject to the Company's ability to rescind its election as provided in the Indenture), (2) the effective date of the Term Rate Period, (3) that the Bonds shall be subject to mandatory tender for purchase on such effective date, (4) the procedures for such mandatory tender, (5) the purchase price of the Bonds on such effective date (expressed as a percentage of the principal amount thereof), and (6) that the holders of the Bonds do not have the right to retain their Bonds on such effective date.

Determinations Conclusive

The determination of any Daily Rate, Weekly Rate, Monthly Rate, Flexible Rate and Term Rate and each Flexible Segment by the Remarketing Agent shall be conclusive and binding upon the Remarketing Agent, the Trustee, the Paying Agent, the Company, the Issuer and the holders of the Bonds.

Automatic Adjustment to Daily Rate Upon Rescission of Rate Period Adjustment

The Company may rescind any election by it to adjust to or continue a Rate Period prior to the effective date thereof, by giving written notice to the Issuer, the Trustee and the Remarketing Agent prior to such effective date. If notice of the election to adjust to or continue the Rate Period has previously been given by the Trustee to the holders of the Bonds, then the Rate Period will automatically adjust to a Daily Rate Period on the date originally scheduled for such adjustment or continuation. If a Daily Rate for the first day of any such Daily Rate Period is not determined as described under "—Daily Rate Period—Daily Rate", the Daily Rate for the first day of such Daily Rate Period will be 80% of the most recent One-Year Note Index theretofore published in The Bond Buyer.

Optional Tender for Purchase

Daily Rate Period. On any Business Day during any Daily Rate Period, any Bond (or portion thereof in an Authorized Denomination) will be purchased at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, to the Purchase Date (as defined in the Indenture), upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office by no later than 11:00 a.m., New York City time, on such Business Day, of an irrevocable notice by telephone or in writing, which states the principal amount, or portion thereof, of such Bond to be tendered for purchase and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Weekly Rate Period. On any Wednesday, or if such Wednesday is not a Business Day, then the next succeeding Business Day, during any Weekly Rate Period, any Bond (or portion thereof in an Authorized Denomination) will be purchased at a purchase price equal to 100% of the principal

amount thereof plus accrued interest, if any, to the Purchase Date, upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office of an irrevocable notice by telephone (promptly confirmed in writing) or in writing by 5:00 p.m. New York City time on any Business Day at least seven days prior to the Purchase Date, which states the principal amount or portion thereof of such Bond to be tendered for purchase and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Monthly Rate Period. On any Interest Payment Date during a Monthly Rate Period, any Bond (or portion thereof in an Authorized Denomination) will be purchased at a purchase price equal to 100% of the principal amount thereof, upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office of an irrevocable notice in writing, by 5:00 p.m., New York City time, on any Business Day at least seven days prior to such Purchase Date, which states the principal amount of such Bond to be tendered for purchase and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office, accompanied by an instrument of transfer thereof, in a form satisfactory to the Tender Agent, executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Term Rate Period. On the first day of any Term Rate Period which is preceded by a Term Rate Period of the same duration, any Bond (or portion thereof in an Authorized Denomination) will be purchased from its holder, at a purchase price equal to 100% of the principal amount thereof plus accrued interest, if any, to the Purchase Date upon (i) delivery by the holder of such Bond to the Tender Agent at its Principal Office, of an irrevocable notice in writing, by 5:00 p.m., New York City time, on any Business Day not less than fifteen days prior to the Purchase Date which states the principal amount, or portion thereof, of such Bond to be purchased and the Purchase Date, and (ii) delivery of such Bond to the Tender Agent at its Principal Office accompanied by an instrument of transfer thereof, in form satisfactory to the Tender Agent, executed in blank by the holder thereof with the signature of such holder guaranteed by a guarantor acceptable to the Tender Agent, at or prior to 1:00 p.m., New York City time, on the Purchase Date.

Bonds tendered for purchase under the provisions of the Indenture must be delivered to the Principal Office of the Tender Agent; provided that so long as any Bond is held in book-entry form, such Bond need not be delivered in connection with any tender pursuant to the provisions of the Indenture described in this Section.

Mandatory Tender for Purchase

The Bonds are subject to mandatory tender for purchase at a purchase price equal to the principal amount thereof, plus accrued interest to the Purchase Date therefor, on any of:

(a) as to any Bond, the effective date of any change in a Rate Period for such Bond other than the effective date for a Term Rate Period which was preceded by a Term Rate Period of the same duration;

(b) as to each Bond in a Flexible Rate Period, the day next succeeding the last day of any Flexible Segment with respect to such Bond;

(c) the second Business Day next preceding the termination of any Credit Facility (whether upon the stated termination date thereof or upon the substitution of a different Credit Facility) unless the Trustee shall have received, on or before the twentieth day prior to such termination date, confirmation (which need not be in writing) from each Rating Agency (as

defined in the Indenture) then rating the Bonds that such termination shall not result in the lowering or withdrawal of the then current ratings on the Bonds;

(d) a day, as specified by the Trustee, not more than twenty days after receipt by the Trustee from the Credit Provider, within seven days after a drawing on the Credit Facility, of a notice (the "Notice of Non-Reinstatement") to the effect that the Credit Provider has not been reimbursed for such drawing, and that the amount available to be drawn thereunder has not been reinstated and directing the Trustee to give notice of such mandatory tender and to purchase such Bonds on the applicable Purchase Date; or

(e) a day, as specified by the Trustee, not more than twenty days after receipt by the Trustee from the Credit Provider, of a written notice stating that an event of default has occurred under the Reimbursement Agreement and directing the Trustee to give notice of such mandatory tender and to purchase the Bonds on the applicable Purchase Date.

The Bonds are also subject to mandatory tender for purchase on the day next succeeding any Term Rate Period which ends prior to the day originally established as the last day of such Term Rate Period at a purchase price equal to the principal amount thereof plus an amount equal to any premium which would have been payable on such day had the Company directed optional redemption of the Bonds on that day.

On the day next succeeding the last day of any Flexible Segment for any Bond, such Bond shall be purchased (as described in clause (b) above) unless the holder thereof elects to retain its investment in the Bond or any portion thereof in an Authorized Denomination and not to have such Bond or portion thereof purchased, by delivery to the Tender Agent at the Principal Office of the Tender Agent not later than 11:00 a.m., New York City time, on the first day of the applicable Flexible Segment, of an irrevocable telephonic notice which states that such Bond or portion thereof is not to be so purchased. Payment of interest on Bonds to be retained shall be made only upon exchange thereof for a Bond bearing a notation of the new Flexible Segment and new Flexible Rate.

The Trustee shall give notice by first-class mail to the holders of Bonds of the termination of any Credit Facility and of the provision of any proposed substitute Credit Facility, not later than the fifteenth day prior to such termination or provision. Such notice shall (i) include a general description of any Credit Facility in effect prior to such termination or provision and any substitute Credit Facility to be in effect on such termination or provision, (ii) state the date of such termination or provision, (iii) state the ratings, if any, expected for the Bonds after such termination or provision, and (iv) if by the 20th day prior to such termination or provision the Trustee shall not have received confirmation (which need not be in writing) from each Rating Agency then rating the Bonds that such termination or provision will not result in the lowering or withdrawal of the then current rating on the Bonds, state that the Bonds shall be subject to mandatory tender for purchase on the second Business Day next preceding such termination or provision as described in clause (c) above.

The Trustee shall give notice by first-class mail to the holders of the Bonds of any mandatory tender occurring by reason of clause (d) or (e) above no later than five days after receiving the notice from the Credit Provider as described in such clause (d) or (e), as applicable, and not less than fifteen days prior to the mandatory tender date described in such clause (d) or (e), as applicable.

Redemption of Bonds

Optional Redemption—Daily Rate Period or Weekly Rate Period. On any Business Day during a Daily Rate Period or a Weekly Rate Period, the Bonds are subject to redemption, at the option of the Company, in whole or in part, at 100% of their principal amount, plus accrued interest, if any, to the redemption date.

Optional Redemption—Monthly Rate Period. On any Interest Payment Date during a Monthly Rate Period, the Bonds are subject to redemption at the option of the Company, in whole or in part, at 100% of their principal amount.

Optional Redemption—Flexible Rate Period. On the day next succeeding the last day of any Flexible Segment with respect to any Bond, such Bond is subject to redemption at the option of the Company, in whole or in part, at 100% of its principal amount.

Optional Redemption—Term Rate Period. On the day next succeeding the last scheduled day of any Term Rate Period, the Bonds shall be subject to redemption at a redemption price of 100% of the principal amount thereof, plus accrued interest, if any, to the redemption date. During any Term Rate Period, the Bonds are subject to redemption, at the option of the Company, during the periods specified below, in whole at any time or in part from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued interest, if any, to the redemption date:

Length of Term Rate Period (in years)	Redemption Dates and Prices
Greater than 15	At any time on or after the first day of the calendar month following the tenth anniversary of the effective date at 102% declining 1% annually to 100%
Greater than 10 and less than or equal to 15	At any time on or after the first day of the calendar month following the fifth anniversary of the effective date at 102% declining 1% annually to 100%
Greater than 7 and less than or equal to 10	At any time on or after the first day of the calendar month following the third anniversary of the effective date at 102% declining 1% annually to 100%
Greater than 4 and less than or equal to 7	At any time on or after the first day of the calendar month following the second anniversary of the effective date at 101% declining 0.5% annually to 100%
Greater than 2 and less than or equal to 4	At any time on or after the first day of the calendar month following the second anniversary of the effective date at 101% declining 0.5% each six months thereafter to 100%
Greater than 1 and less than or equal to 2	At any time on or after the first day of the calendar month following the first anniversary of the effective date at 100.5%, declining 0.5% six months thereafter to 100%
Less than or equal to 1	Not redeemable

The Company shall have the option to cause the Rate Period to change on any date on which the Bonds are subject to redemption as provided above, in which event the Bonds shall be subject to mandatory tender at the applicable price set forth above, as described in the second paragraph under "—Mandatory Tender for Purchase."

With respect to any Term Rate Period, the Company may, in the notice required by the Indenture with respect to an adjustment to or continuation of a Term Rate Period, specify redemption provisions, prices and periods other than those set forth above; provided, however, that such notice shall be accompanied by an opinion of bond counsel stating that such changes in redemption provisions, prices and periods (i) are authorized or permitted by the Act and the Indenture, and (ii) will not adversely affect the Tax-Exempt status of the Bonds.

Extraordinary Optional Redemption. The Bonds will be redeemed in whole or in part at any time at a redemption price equal to 100% of the principal amount thereof plus accrued interest, if any, to the redemption date upon receipt by the Trustee of a written notice from the Company stating that any of the following events has occurred and that the Company therefore intends to exercise its option to prepay the payments due under the Agreement and thereby effect the redemption of Bonds in whole or in part:

(a) the Navajo Station or the Project or a portion thereof the original cost of which is equal to or greater than $500,000 shall have been damaged or destroyed to such extent that, in the opinion of the Company (i) it is not practicable or desirable to rebuild, repair or restore the Project or such portion thereof within a period of six consecutive months following such damage or destruction, (ii) the Company is or will be thereby prevented from carrying on its normal operations at the Project or such portion thereof for a period of six consecutive months, or (iii) the cost of restoration thereof would substantially exceed the net proceeds of insurance carried thereon;

(b) title to, or the temporary use of, the Navajo Station or the Project or a portion thereof the original cost of which is equal to or greater than $500,000 shall have been taken under the exercise of the power of eminent domain, including such a taking as results (or is likely to result) in the Company being prevented from carrying on normal operations at the Project or such portion thereof for a period of six months or as renders the Project or such portion thereof unsuitable for use by the Company;

(c) unreasonable burdens or excessive liabilities, in the opinion of the Company, shall have been imposed on the Company, including, without limitation, federal, state or other ad valorem, property, income or other taxes not being imposed on the date of the Agreement; or

(d) any court or administrative body or regulatory agency shall enter a judgment, order or decree requiring the Company to cease all or any substantial part of its operations at the Project or a portion thereof the original cost of which is equal to or greater than $500,000, to such an extent that, in the opinion of the Company it is or will be thereby prevented from carrying on its normal operations at the Project or such portion thereof for a period of six consecutive months.

Mandatory Redemption. Upon the occurrence of any of the following events, the Bonds shall be redeemed, at a redemption price equal to the principal amount thereof plus accrued interest to the redemption date, from amounts required to be prepaid by the Company:

(A) in whole on any date upon a Determination of Taxability (as hereinafter defined); provided, however, that if, in the opinion of bond counsel delivered to the Issuer and to the Trustee, the redemption of a specified portion of the Bonds outstanding would have the result that interest payable on the Bonds remaining outstanding after such redemption would remain Tax-Exempt, then such Bonds shall be redeemed in part by lot (in Authorized Denominations) in such amount as such bond counsel in such opinion shall have determined is necessary to accomplish that result; or

(B) in whole upon the acceleration of payments due under the Agreement following an event of default (as such term is defined in the Agreement) thereunder; provided, however, that

such redemption shall not occur if, pursuant to the Agreement, the acceleration of such payments is annulled prior to the redemption date and, in such event, the Trustee will promptly give written notice of such annulment to the Issuer and the Company, and will give notice thereof to the holders of the Bonds and the Credit Provider.

For purposes of the foregoing, "Determination of Taxability" means a determination that interest payable on any Bond is includable in the gross income for federal income tax purposes of the owner of such Bond (other than an owner who is a "substantial user" of the Project or a "related person" within the meaning of Section 103(b)(13) of the 1954 Code). Such determination shall be deemed to have been made upon the date on which, due to the untruth or inaccuracy of any representation or warranty made by the Company in the Agreement, or in connection with the offer and sale of the Bonds, or the breach of any covenant or warranty of the Company contained in the Agreement, interest on the Bonds, or any of them, is determined to be includable in the gross income for federal income tax purposes of the owners thereof (other than an owner who is a "substantial user" of the Project or a "related person" within the meaning of Section 103(b)(13) of the 1954 Code) by a final administrative determination of the Internal Revenue Service or a final judicial decision of a court of competent jurisdiction in a proceeding of which the Company received notice and was afforded an opportunity to participate to the full extent permitted by law. A determination or decision will not be considered final for purposes of the preceding sentence unless (A) the holder or holders of the Bonds involved in the proceeding in which the issue is raised (i) shall have given the Company and the Trustee prompt notice of the commencement thereof, and (ii) shall have offered the Company the opportunity to control the proceeding; provided the Company agrees to pay all expenses in connection therewith and to indemnify such holder or holders against all liability for such expenses (except that any such holder may engage separate counsel, and the Company shall not be liable for the fees or expenses of such counsel); and (B) such proceeding shall not be subject to a further right of appeal or shall not have been timely appealed.

Notice and Manner of Redemption; Effect. Notice of redemption shall be given by the Trustee, not fewer than 15 nor more than 60 days prior to the redemption date, (i) by first-class mail to the registered holder of each Bond to be redeemed at such registered holder's address as it appears on the registration books and to the Credit Provider and (ii) by telecopy, confirmed by first-class mail, to the Securities Depositories (as defined in the Indenture) and one or more Information Services (as defined in the Indenture). During the continuance of a book-entry system, the Trustee shall not be obligated to give notices to beneficial holders. See "—Book-Entry Only System" below. Each notice of redemption shall state, among other things, the redemption date, the place of redemption, the source of funds to be used for such redemption and the principal amount, and shall also state that the interest on the Bonds designated for redemption shall cease to accrue from and after such redemption date and that on such date there will become due and payable on each of the Bonds the principal amount thereof to be redeemed, interest accrued thereon, if any, to the redemption date and the premium, if any, thereon (such premium to be specified). No publication of notice is required. If less than all the Bonds are called for redemption, the Trustee shall select Bonds to be redeemed by lot.

With respect to any notice of optional redemption, unless upon the giving of such notice such Bonds shall be deemed to have been paid, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of Available Amounts (as defined in the Indenture) sufficient to pay the principal of, and premium, if any, and interest on, such Bonds to be redeemed, and that if such Available Amounts shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such Available Amounts are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, to the persons and in the manner in which the notice of redemption was given, that such Available Amounts were not so received.

If moneys for payment of the redemption price are held by the Trustee, Bonds called for redemption shall become due and payable on the redemption date at the applicable redemption

price, interest on the Bonds called for redemption shall cease to accrue, such Bonds shall cease to be entitled to any lien, benefit or security under the Indenture, and the holders of the Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof (including interest, if any, accrued to the redemption date), without interest accrued on any funds held to pay such redemption price.

Failure to mail notice of redemption to any registered owner of the Bonds or any defect therein in respect of any Bond will not affect the validity of the redemption of any other Bonds and will not extend the period for making elections or in any way change the rights of the holders of the Bonds to elect to have their Bonds purchased as provided in the Indenture. Failure to give notice of redemption to any one or more of the Information Services or Securities Depositories or the insufficiency of any of any such notices will not affect the sufficiency of the proceedings for redemption.

If, thirty days after any redemption date, any Bonds called for redemption have not been presented to the Trustee for payment, the Trustee will no later than sixty days following such redemption date send notice by first-class mail to the holder of each Bond not so presented.

Transfer and Exchange

Bonds may be transferred or exchanged for other Bonds in Authorized Denominations at the Principal Office of the Registrar. Exchanges and transfers shall be made without charge to the holders, except for any applicable tax, fee or other governmental charge. The Registrar is not required to effect any transfer or exchange of any Bonds during the seven business days preceding the mailing of any notice of redemption or of any Bonds called for redemption.

Book-Entry Only System

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds securities that its participants (the "Participants") deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants (the "Direct Participants") include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations. DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, Inc., and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (the "Indirect Participants"). The Rules applicable to DTC and its Participants are on file with the Securities and Exchange Commission.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond (the "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Participants acting on behalf of

Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. The deposit of Bonds with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Participants remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to Cede & Co. If less than all the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. will consent or vote with respect to the Bonds. Under its usual procedures, DTC mails an Omnibus Proxy to the issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts on the payable date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on the payable date. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Issuers or the Trustee, disbursement of such payments to Direct Participants is the responsibility of DTC and disbursement of such payments to the Beneficial Owners is the responsibility of Direct and Indirect Participants. Beneficial Owners of the Bonds will have no lien or security interest in any rebate or refund paid by DTC to the Paying Agent which arises from the payment by the Paying Agent of principal of or interest on the Bonds to DTC.

Notwithstanding anything to the contrary in the foregoing paragraphs, the Tender Agent shall accept any notice of tender from any Beneficial Owner of any Bond held in book-entry form, but shall make payment of the purchase price thereof only to the registered owner of such Bond.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Issuer or the Trustee. In such event or if the Company determines to discontinue the services of DTC, certificates for the Bonds will be delivered as described in the Indenture unless a successor securities depository is appointed by the Issuer (with the consent or at the direction of the Company).

THE ISSUER, THE COMPANY AND THE TRUSTEE CANNOT AND DO NOT GIVE ANY ASSURANCES, AND NONE OF THEM HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS OR ANY BENEFICIAL OWNER, WITH RESPECT TO, AMONG OTHER THINGS, (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT OR INDIRECT PARTICIPANT; (II) THE PAYMENT BY DTC OR ANY DIRECT OR INDIRECT PARTICIPANT OF

ANY AMOUNT WITH RESPECT TO THE PRINCIPAL OF, OR PREMIUM, IF ANY, OR INTEREST ON, THE BONDS; (III) THE DISTRIBUTION OF ANY REDEMPTION OR OTHER NOTICES SENT TO DTC OR CEDE & CO. (INCLUDING THE TIMELINESS OF SUCH DISTRIBUTION); OR (IV) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC OR CEDE & CO. AS BONDHOLDER.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Company believes to be reliable, but neither the Issuer nor the Company nor the Underwriter take any responsibility for the accuracy thereof.

The Letter of Credit

The Letter of Credit is an irrevocable obligation of the Credit Provider to pay to the Trustee upon request, (i) in order to pay interest on the Bonds as such interest becomes due, an amount not exceeding the interest on the Bonds for up to sixty-two days computed at the rate of 12% per annum, and (ii) in order to pay principal on the Bonds as such principal becomes due, an amount not exceeding the principal amount of the Bonds. The Letter of Credit will terminate on the earliest of (i) the stated expiration date of the Letter of Credit (as described below), (ii) the date the Credit Provider is notified of the substitution of an Alternate Credit Facility (as described below), (iii) the date notified to the Credit Provider by the Trustee as the date on which there is no longer any Bond outstanding, (iv) the Credit Provider honoring a draft upon the maturity, acceleration, redemption, or purchase due to mandatory tender under the circumstances described in subparagraphs (c), (d) and (e) of the first paragraph under the heading "—Mandatory Tender for Purchase" above, of all of the Bonds and at the close of business on the effective date of any such mandatory tender; or (v) the Credit Provider honoring a draft upon purchase due to mandatory tender upon a change in Rate Period of the Bonds to a Term Rate Period or a Flexible Rate Period and at the close of business on the effective date of a change in Rate Period of the Bonds to a Term Rate Period or a Flexible Rate Period. The stated expiration date of the Letter of Credit is October 12, 1997. The termination of the Letter of Credit may result in a mandatory tender of the Bonds unless certain conditions are satisfied. See "—Mandatory Tender for Purchase."

The obligation of the Credit Provider under the Letter of Credit will be reduced to the extent of any drawings thereunder. With respect to a drawing by the Trustee to pay interest on the Bonds, unless the Trustee has received from the Credit Provider within seven calendar days from the date of such drawing a notice that the Credit Provider has not been reimbursed, the Trustee's right to draw under the Letter of Credit will be automatically reinstated by the amount of such drawing. With respect to a drawing by the Trustee to pay the purchase price of the Bonds tendered for purchase, except in the case of a mandatory tender of the Bonds under certain circumstances, the amount available under the Letter of Credit for the payment of principal of and interest on the Bonds will be reinstated to the extent the Credit Provider is reimbursed for amounts so drawn and accrued interest thereon.

Notice from the Credit Provider to the Trustee of the failure by the Company to reimburse the Credit Provider pursuant to the terms of the Reimbursement Agreement within seven days of a drawing or notice from the Credit Provider to the Trustee of an event of default under the Reimbursement Agreement will result in a mandatory tender of the Bonds. See "—Mandatory Tender for Purchase." Only the Trustee is entitled to make a drawing under the Letter of Credit.

Substitution of Credit Facility

As provided in the Indenture, the Company may at any time terminate any Credit Facility; provided, however, that the Company may not terminate any Credit Facility for a Bond during any Term Rate Period or Flexible Segment with respect to such Bond. See "—The Indenture—Credit Facility; Credit Provider Bonds." If there shall have been delivered to the Issuer and the Trustee (i) a

substitute Credit Facility and (ii) an opinion of bond counsel to the effect that the delivery of such Credit Facility to the Trustee is permitted under the Act and the Agreement and complies with the terms of the Agreement and the Indenture and that the delivery of such Credit Facility will not adversely affect the Tax-Exempt status of interest on the Bonds, then the Trustee shall accept such Credit Facility. In the event that the Company elects to terminate a Credit Facility or to provide a substitute Credit Facility, the Bonds are subject to mandatory tender unless the Trustee shall have received confirmation (which need not be in writing) from each Rating Agency then rating such Bonds at least twenty days prior to such termination or substitution that such Rating Agency's then current rating on such Bonds will not be lowered or withdrawn as a result of such termination or provision. Subject to the qualifications stated above, the Company is not required to maintain a Credit Facility in support of the Bonds.

THE AGREEMENT

General

The Issuer will enter into the Agreement with the Company, pursuant to which the Issuer will lend to the Company the proceeds from the issuance and sale of the Bonds in order to finance the Project. The Agreement will provide that all right, title and interest of the Issuer in and to the Agreement (except for the right to receive payment of certain fees and expenses, certain notices and certain rights of indemnification and the right to give approvals or consents pursuant to the Agreement) will be assigned to the Trustee, as security for the benefit of the holders of Bonds.

Amendment of Description of the Project

In the event that the Company desires to amend or supplement the description of the Project and the Issuer approves of such amendment or supplement, the Issuer will enter into, and will instruct the Trustee to consent to, such amendment or supplement upon receipt of:

(i) a certificate of the Company describing in detail the proposed changes and stating that they will not have the effect of disqualifying any component of the Project as a facility that may be financed pursuant to the Act;

(ii) a copy of the proposed form of amended or supplemented Project description; and

(iii) an opinion of bond counsel to the effect that such proposed changes will not adversely affect the Tax-Exempt status of interest on the Bonds.

Repayment Installments

The Company has agreed under the Agreement to make repayment installments ("Repayment Installments") in amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds when due; provided, however, that the Company's obligation to make such payments will be deemed satisfied and discharged to the extent of the corresponding payment made by any Credit Provider under a Credit Facility.

The Company has the option and in certain circumstances the obligation to prepay all or a portion of the Repayment Installments upon the happening of certain events as described under "The Bonds—Redemption of Bonds" and "The Indenture—Acceleration." To the extent mandatory redemption of the Bonds is required as described under "The Bonds—Redemption of Bonds—Mandatory Redemption," the Company must make the required prepayment (a) within 180 days of any

Determination of Taxability giving rise to such prepayment, (b) immediately in the case of any acceleration of payments following an event of default under the Agreement and (c) immediately upon receipt of notice from the Trustee of any acceleration of the maturity of any Bonds pursuant to the Indenture. In the event the Company elects or is required to make a prepayment under the Agreement, the Company must give written notice to the Issuer and the Trustee of such prepayment. Notice of mandatory redemption of Bonds shall be given by the Trustee as provided in the Indenture.

The Company's obligations to make payments required by the Agreement and to perform and observe the other agreements on its part contained in the Agreement are absolute and unconditional. Until such time as the principal of and premium, if any, and interest on all of the Bonds shall have been fully paid (or provision for the payment thereof shall have been made as required by the Indenture), the Company shall perform and observe all of its agreements contained in the Agreement and will not terminate the Agreement, except as otherwise provided therein.

Special Covenants of the Company

Special covenants of the Company under the Agreement include the following:

Maintenance of Corporate Existence. The Company agrees that during the term of the Agreement it will maintain its corporate existence in good standing and will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another person or permit one or more other persons to consolidate or merge into it; provided that the Company may consolidate with or merge into another person, or permit one or more other persons to consolidate with or merge into it, or sell or otherwise transfer to another person all or substantially all of its assets and thereafter dissolve, provided that (1) either (a) the Company is the surviving person or (b) the surviving, resulting or transferee person, as the case may be, (i) assumes and agrees in writing to pay and perform all of the obligations of the Company under the Agreement and (ii) qualifies to do business in the State of Arizona; and (2) the Company delivers to the Trustee an opinion of bond counsel to the effect that such consolidation, merger or transfer and dissolution does not in and of itself adversely affect the Tax-Exempt status of interest on the Bonds.

Assignments. The rights and obligations of the Company under the Agreement may be assigned by the Company, with the written consent of the Issuer, in whole or in part, provided that, any assignment other than an assignment described above under "Maintenance of Corporate Existence," will be subject to the following conditions: (i) no such assignment shall relieve the Company from primary liability for any of its obligations under the Agreement, and the Company shall continue to remain primarily liable for the payments specified in the Agreement and for the performance of its other obligations thereunder, (ii) the Company shall retain such rights and interests as will permit it to perform its obligations under the Agreement, and any assignee from the Company shall assume the obligations of the Company to the extent of the interest assigned and (iii) the Issuer and the Trustee shall be furnished a true and complete copy of such assignment together with an instrument of assumption and an opinion of bond counsel that such assignment will not, in and of itself, adversely affect the Tax-Exempt status of interest on the Bonds.

Maintenance and Repair. The Company agrees that, to the extent within its control, as long as it owns or operates the Project, it will maintain the Project, or cause the Project to be maintained, in as reasonably safe condition as its operations shall permit and in good repair and in good operating condition, ordinary wear and tear excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof; provided, however, that the Company will have no obligation to maintain, preserve, keep, repair, replace or renew any item or portion of the Project (a) the maintenance, preservation, keeping, repair, replacement or renewal of which becomes uneconomic because of damage or destruction or obsolescence (including economic obsolescence) or change in governmental standards and regulations, or the termination of the operation of the generating facilities to which the portion of the Project is an adjunct, and (b) with respect to which the Company has

furnished to the Issuer and the Trustee a certificate executed by an authorized Company representative that the maintenance, preservation, keeping, repair, replacement or renewal of such portion of such Project is being discontinued for one of the foregoing reasons, which shall be stated therein.

The Company shall have the privilege at its own expense of remodeling the Project or making substitutions, modifications and improvements to the Project from time to time as it, in its discretion, may deem to be desirable for its uses and purposes, which remodeling, substitutions, modifications and improvements shall be included under the terms of the Agreement as part of the Project.

Tax Covenants

Under the Agreement, each of the Issuer and the Company covenants and agrees that it will not directly or indirectly use or permit the use of any proceeds of the Bonds or other funds, or take or omit to take any action that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the 1986 Code. The Issuer certifies and represents that it has not taken, and the Issuer covenants and agrees that it will not take, and the Company certifies and represents that it has not taken or, to the extent within its control, permitted to be taken, and the Company covenants and agrees that it will not take or, to the extent within its control, permit to be taken, any action which results in interest paid on the Bonds being included in gross income of the holders thereof for federal income tax purposes pursuant to Section 103 of the 1954 Code and Title XIII of the Tax Reform Act of 1986 and other applicable regulations thereunder (except for any Bond during any period while such Bond is held by a "substantial user" of the Project or a "related person" within the meaning of Section 103(b)(13) of the 1954 Code). None of the covenants and agreements contained in the Agreement will require either the Company or the Issuer to enter an appearance or intervene in any administrative, legislative or judicial proceeding in connection with any changes in laws, rules or regulations or in connection with any decisions of any court or administrative agency or other governmental body affecting the taxation of interest on the Bonds.

Events of Default

Any one of the following events will constitute an event of default under the Agreement:

(a) failure by the Company to pay principal (whether at maturity or upon redemption or acceleration), premium, if any, or interest on the Bonds or the purchase price of Bonds tendered for purchase, in each case when due;

(b) failure of the Company to observe and perform any covenant, condition or agreement on its part required to be observed or performed by the Agreement (other than a failure resulting in an event of default referred to in (a) above) which continues for a period of sixty days after written notice, which notice shall specify such failure and request that it be remedied, given to the Company by the Issuer or the Trustee, unless the Issuer and the Trustee shall agree in writing to an extension of such time; provided, however, that if the failure stated in the notice cannot be corrected within such period, the Issuer and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted within such period and diligently pursued until the default is corrected; or

(c) certain specified events of bankruptcy or insolvency of the Company.

The Company shall not be deemed in default under clause (b) above if and so long as the Company is unable to carry out its agreement under the Agreement by reason of certain causes or events not reasonably within the control of the Company, as specified in the Agreement.

Remedies on Default

Whenever any event of default under the Agreement shall have occurred and shall continue,

(a) The Trustee may, and upon the written request of the holders of not less than 25% in aggregate principal amount of the Bonds outstanding, shall, by notice in writing delivered to the Company with copies of such notice being sent to the Issuer and the Credit Provider, declare the unpaid balance of the Repayment Installments attributable to the Bonds and the interest accrued thereon to be immediately due and payable, and such interest and principal shall thereupon become immediately due and payable; provided, however, that the Trustee shall not accelerate the unpaid balance of the Repayment Installments attributable to any Bonds secured by a Credit Facility without the prior written consent of the Credit Provider. Upon any such acceleration, the Bonds shall be subject to mandatory redemption as provided in the Indenture.

(b) The Trustee may have access to and may inspect, examine and make copies of the books and records and any and all accounts, data and federal income tax and other tax returns of the Company.

(c) The Issuer or the Trustee may take whatever action at law or in equity as may be necessary or desirable to collect the payments and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under the Agreement.

The provisions of clause (a) of the preceding paragraph are subject to the condition that if, at any time after the unpaid balance of the Repayment Installments shall have been declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, there shall have been deposited with the Trustee a sum sufficient to pay all the principal of the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all such Bonds, with interest on such overdue installments of principal as provided herein, and the reasonable expenses of the Trustee, and any and all other defaults actually known to the Trustee (other than in the payment of principal of and interest on such Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then the holders of at least a majority in principal amount of the Bonds then outstanding by written notice to the Issuer and to the Trustee accompanied by the written consent of the Credit Provider with respect to the Bonds, may, on behalf of the holders of all the Bonds, rescind and annul such declaration and its consequences and waive such default. No such recision and annulment will extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

Fees, Expenses and Indemnification

The Company has agreed to pay certain expenses in connection with the issuance of the Bonds and the transactions described herein. The Company will indemnify the Issuer and the Trustee against certain costs and charges, including the reasonable fees of attorneys incurred in good faith or arising out of or in connection with any collection or enforcement action under the Agreement. The Company will also indemnify and hold harmless the Issuer and the Trustee against certain liabilities

arising out of or connected with the Project, the issuance of the Bonds or the performance of the Indenture.

Assignment

Pursuant to the Indenture, the Issuer will assign to the Trustee its rights under and interests in, but not its obligations under, the Agreement, other than its rights to receive its fees and expenses and its rights to indemnification as described above, and certain rights to receive notices and to provide consents under the Agreement.

Amendments

Except under certain limited circumstances set forth in the Agreement and the Indenture, the Agreement may not be amended without the prior written consent of the Trustee and the Credit Provider. See "The Indenture—Amendments."

THE INDENTURE

Bond Fund; Credit Facility Account

The Bond Fund, into which the Revenues derived under the Agreement and certain other amounts specified in the Indenture (including all amounts received by the Trustee pursuant to any Credit Facility except amounts to be used to pay the purchase price of tendered Bonds) will be deposited, will be maintained with the Trustee. While any Bonds are outstanding and except as otherwise provided in the Indenture, moneys in the Bond Fund will be used for the payment of the principal of and premium, if any, and interest on, the Bonds as the same shall become due, whether at maturity, upon redemption or acceleration or otherwise.

Within the Bond Fund, the Trustee shall establish and maintain a Credit Facility Account. Except to the extent such proceeds are used to pay the purchase price of Bonds tendered, proceeds of drawings under any Credit Facility provided with respect to the Bonds shall be deposited in the Credit Facility Account.

In making payments of principal of, premium, if any, and interest on the Bonds, except as otherwise provided below in the second paragraph under "Credit Facility; Credit Provider Bonds," the Trustee shall (a) first use any Available Amounts held in the Bond Fund, other than amounts held in the Credit Facility Account, (b) then use amounts held in the Credit Facility Account, and (c) then use any other Revenues (as defined in the Indenture) received by the Trustee.

Project Fund

The proceeds from the sale of the Bonds will be deposited in the Project Fund which will be established by the Trustee. Funds on deposit in the Project Fund will be applied to the payment of the cost of the Project, including certain costs of issuance and interest accruing on the Bonds during the Construction Period (as such term is defined in the Indenture).

Investment of Funds

Except as provided in the Agreement and the Indenture, any moneys held in any fund or account established pursuant to the Indenture, including the Bond Fund, shall be invested by the

Trustee, upon written direction of the Company, in any securities or other evidences of indebtedness or demand deposits to the extent such investments are permitted under the laws of Arizona.

Credit Facility; Credit Provider Bonds

The Trustee will accept the Letter of Credit as the initial Credit Facility with respect to the Bonds. See "The Bonds—The Letter of Credit." The Company has the right at any time to terminate any Credit Facility and to provide a substitute Credit Facility; provided, that no such termination or substitution may be made with respect to any Bond during any Term Rate Period or Flexible Segment with respect to such Bond.

In the case of a Credit Facility in the form of a letter of credit, notwithstanding any other provision of the Indenture, the Trustee shall draw on such Credit Facility subject to and in accordance with its terms, in order to receive payment thereunder not later than the time payment is due on the Bonds on the following dates in the following amounts:

(i) On each Interest Payment Date, in an amount which will be sufficient to pay all interest due and payable on the outstanding Bonds on such Interest Payment Date;

(ii) On any date fixed for payment, defeasance (if a defeasance drawing is allowed under the Credit Facility) or redemption of the Bonds in part, in an amount which, together with amounts drawn pursuant to clause (i) above, will be sufficient to pay the amount due on such Bonds, including accrued interest;

(iii) On the date fixed for payment of the Bonds in connection with any declaration of the acceleration of the maturity of the Bonds following an event of default under the Indenture, in an amount which will be sufficient to pay all principal and interest due on such Bonds as a result of such declaration on the date fixed for such payment;

(iv) On each Purchase Date, in an amount sufficient to pay the purchase price of any Bonds tendered or deemed tendered pursuant to the Indenture and for which such purchase price has not been received upon the remarketing of such Bonds, provided, however, that in the event of a mandatory tender occurring due to the failure to reimburse the Credit Provider for a drawing, upon receipt from the Credit Provider of the Notice of Non-Reinstatement, the Trustee shall as soon as possible draw on the Credit Facility in an amount sufficient to pay the principal amount of all outstanding Bonds, together with interest to accrue thereon, calculated at 12%, to but excluding the Purchase Date; and

(v) On the final maturity, defeasance (if a defeasance drawing is allowed under the Credit Facility) or redemption date of the Bonds in an amount which, together with amounts drawn pursuant to clause (i) above, will be sufficient to pay the principal, premium (if a drawing is permitted for premium under such Credit Facility), if any, and interest due on all outstanding Bonds on such final maturity, defeasance or redemption date.

Any Bonds purchased with a drawing under a Credit Facility pursuant to clause (iv) above either (i) shall be registered in the name of or as otherwise directed by the Credit Provider and delivered to or upon the order of such Credit Provider or (ii) shall be held by the Tender Agent or such other person as may be designated by the Credit Provider in the name and on behalf of the Company or as otherwise provided by such Credit Provider and pledged to such Credit Provider, in each case in accordance with the terms of the Reimbursement Agreement; provided, that if such Bonds are then registered in the name of DTC or its Nominee, the Trustee shall immediately upon making any draw on a Credit Facility pursuant to clause (iv) above notify the Tender Agent. Upon receipt of such notice, the Tender Agent shall direct DTC to cause any Bonds purchased with the proceeds of such draw to be transferred to such account at DTC as may be directed by the Credit Provider, and such Bonds shall

be held in the name of or for the account of the Credit Provider or as may be directed by such Credit Provider (such Bonds, "Credit Provider Bonds").

Events of Default

The Indenture defines the occurrence of any of the following events to be an event of default with respect to the Bonds:

(a) failure to make payment of any installment of interest on any Bond when such installment shall have become due and payable;

(b) failure to make due and punctual payment of the principal of or premium, if any, on any Bond at the stated maturity thereof, or when such Bond has become due and payable upon proceedings for redemption thereof, or upon the maturity thereof by declaration of acceleration or failure to make any payment necessary to purchase Bonds tendered for purchase in accordance with the Indenture; or

(c) default by the Issuer in the performance or observance of any other of the covenants, agreements or conditions on its part contained in the Indenture or in any Bond and the continuance of such default for a period of 60 days after written notice thereof shall have been given to the Issuer, the Company and the Credit Provider by the Trustee, or to the Issuer, the Company, the Credit Provider and the Trustee by the holders of not less than 25% in aggregate principal amount of the Bonds at the time outstanding; provided that if the Issuer, the Company or the Credit Provider diligently pursues the correction of any such failure which cannot be corrected within 60 days, such failure will not constitute an event of default under the Indenture.

Acceleration

Upon the occurrence and continuation of an event of default under the Indenture, the Trustee may, and upon the written request of the holders of not less than 25% in aggregate principal amount of the Bonds then outstanding shall, by notice in writing delivered to the Company and the Credit Provider, declare the principal of all Bonds then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable; provided, however, that, with respect to Bonds secured by a Credit Facility, the Trustee shall not accelerate the maturity of the Bonds without the prior consent of the Credit Provider. The Indenture provides, however, that the Trustee is not required to take any action upon the occurrence and continuation of an Event of Default under (c) above until the Trustee has actual notice or knowledge of such Event of Default. After such declaration of acceleration, the Trustee shall immediately take such actions as are necessary to realize moneys under the Credit Facility and shall declare all Repayment Installments payable under the Agreement to be immediately due and payable in accordance with the terms thereof. Such provisions for acceleration are, however, subject to the condition that if, at any time after the principal of any Bonds shall have been declared due and payable, and before any judgment or decree for the payment of moneys due shall have been obtained or entered, there shall have been deposited with the Trustee a sum sufficient to pay all of the principal of such Bonds matured prior to such declaration and all matured installments of interest (if any) on such Bonds, with interest on such overdue installments of principal as provided in the Agreement and the reasonable expenses of the Trustee, and all other defaults known to the Trustee (other than in the payment of principal of and interest on such Bonds due and payable solely by reason of such declaration) under the Indenture are cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, then the holders of a majority in aggregate principal amount of the Bonds then outstanding by written notice to the Issuer and the Trustee accompanied by the written consent of the Credit Provider with respect to Bonds secured by a Credit

Facility may annul such declaration and its consequences; provided, however, that with respect to Bonds secured by a Credit Facility, such Credit Facility shall remain in full force and effect on and after such waiver.

Other Remedies

In addition, upon the occurrence and continuation of an event of default under the Indenture, the Trustee may, and upon the written request of the holders of a majority in aggregate principal amount of the Bonds then outstanding and receipt of indemnity to its satisfaction will, pursue any available remedy at law or in equity by suit, action or special proceeding to enforce its rights or the rights of the holders of the Bonds under the Act or the Indenture.

No holder of any Bond shall have the right to institute any suit, action or proceeding in equity or at law for the enforcement of any remedy unless such holder has given notice to the Trustee of the occurrence of an event of default under the Indenture, the holders of at least a majority in aggregate principal amount of Bonds then outstanding shall have made written request to the Trustee to so act, such holders shall have tendered to the Trustee reasonable indemnity against costs, expenses and liabilities, and the Trustee shall have failed to so act within thirty days after receipt of such written request and tender of indemnity. Nothing contained in the Indenture shall, however, without the consent of the holder of such Bond, affect or impair the right of the holder of any Bond to enforce the payment of the principal of and premium, if any, and interest on such Bond out of Revenues on and after the respective due dates expressed in such Bond.

Amendments

Without the consent of or notice to any of the holders of the Bonds, but with the consent of the Credit Provider, the Issuer and the Trustee may execute supplemental indentures, and the Trustee may, without the consent of any holders of the Bonds, consent to any waiver, amendment or modification ("Amendment") to the Agreement or any Credit Facility ("Document") in each case for any one or more of the following purposes: (a) to add to the covenants or agreements of the Issuer contained in the Indenture, or of the Company or any Credit Provider contained in any Document, other covenants and agreements thereafter to be observed, or to assign or pledge additional security for the Bonds, or to surrender any right or power reserved to or conferred upon the Issuer or the Company in such Document, provided that no such change shall materially adversely affect the interests of the holders of the Bonds, (b) to make such provision for the curing of any ambiguity, inconsistency, defect or omission in the Indenture or any Document or in regard to matters or questions arising thereunder as the Issuer may deem necessary or desirable and not inconsistent with the Indenture and which shall not materially adversely affect the interest of the holders of the Bonds, (c) to permit the qualification of the Indenture under the Trust Indenture Act of 1939 or any other similar federal statute and, if they so determine, to add to the Indenture or any indenture supplemental thereto any other terms, conditions and provisions as may be permitted by such Trust Indenture Act of 1939 or similar federal statute and which shall not adversely affect the interest of the holders of the Bonds, (d) to provide for any additional procedures, covenants or agreements necessary to maintain the Tax-Exempt status of interest on the Bonds, (e) to modify or eliminate the book-entry registration system for the Bonds, (f) to provide for the procedures required to permit any holder of a Bond to separate the right to receive interest on the Bonds from the right to receive principal thereof and to sell or dispose of such rights, as contemplated by Section 1286 of the 1986 Code, (g) to provide for the appointment of a co-trustee or the succession of a new Trustee, Registrar or Paying Agent, (h) to change the description of the Project in the Agreement in accordance with the provisions thereof and of the Tax Certificate; (i) to provide for a Credit Facility; (j) in connection with any other change which, in the judgment of the Trustee, will not adversely affect the security for the Bonds or the Tax-Exempt status of interest thereon or otherwise materially adversely affect the holders of the Bonds; or (k) to modify, alter, amend or supplement the Indenture or any Document in any other respect if the effective date of such

supplemental indenture or Amendment is a date on which all Bonds affected thereby are subject to mandatory tender for purchase or if notice of the proposed supplemental indenture or Amendment is given to holders of the Bonds at least thirty days before the effective date thereof and, on or before such effective date, such holders of Bonds have the right to demand purchase of their Bonds pursuant to the Indenture.

Any other modification or amendment of the Indenture or the Agreement may be made only with the consent of the holders of a majority in aggregate principal amount of the Bonds at the time outstanding and the Credit Provider. No such modification or amendment shall be made which will have the effect of extending the time for payment or reducing any amount due and payable by the Company pursuant to the Agreement without the consent of all the holders of the Bonds, and no such supplemental indenture shall (1) extend the fixed maturity of any Bond or reduce the rate of interest thereon or extend the time of payment of interest, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the holder of each Bond so affected, or (2) reduce the aforesaid percentage of holders of Bonds whose consent is required for the execution of such supplemental indentures or permit the creation of any lien on the Revenues prior to or on a parity with the lien of the Indenture, except as permitted by the Indenture, or permit the creation of any preference of any holder of a Bond over any other holder of a Bond or deprive the holders of the Bonds of the lien created by the Indenture upon the Revenues or the pledge of any Credit Facility, without the consent of the holders of all the Bonds then outstanding.

The Trustee shall not execute any indenture supplemental to, or amendatory of, the Indenture or consent to any amendment to any Document unless the Trustee shall have received the prior written consent of the Company.

Defeasance

If at any time the entire indebtedness or obligation on all outstanding Bonds shall have been paid (or shall be deemed to have been paid) and if all other sums payable under the Indenture by the Issuer shall be paid and discharged, and upon the occurrence of certain other conditions, the Indenture shall terminate, and the Trustee shall acknowledge its satisfaction and discharge.

Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount to pay or redeem outstanding Bonds, whether upon or prior to their maturity or the redemption date of such Bonds (provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or provision satisfactory to the Trustee shall have been made for giving such notice), all liability of the Issuer and the Company in respect of such Bonds shall cease, terminate and be completely discharged, except that the Issuer and Company will remain liable for such payment but only from, and the holders of the Bonds will thereafter be entitled only to payment (without interest accrued thereon after such redemption date or maturity date) out of, the money deposited with the Trustee as aforesaid for their payment.

Concerning the Trustee

The Issuer, in the absence of an event of default under the Indenture, at the direction of the Company, or the holders of a majority in aggregate principal amount of the Bonds at the time outstanding may, at any time, remove the Trustee and appoint a successor Trustee. Under the Indenture, the Trustee must be a corporation or banking association organized and doing business under the laws of the United States of America or a state thereof, authorized under such laws to exercise corporate trust powers, have a combined capital and surplus of at least $50,000,000 and be subject to supervision and examination by federal or state authorities. The Trustee may at any time resign by giving written notice to the Issuer, the Company and the Credit Provider and by giving to the holders

of the Bonds notice either by publication of such resignation, which notice shall be published at least once in a qualified newspaper, or by mailing notice by first class mail to such holders of the Bonds.

THE REIMBURSEMENT AGREEMENT

Reimbursement, Fees and Expenses

The Company will reimburse the Credit Provider for all amounts drawn under the Letter of Credit, together with interest thereon. The Company also agrees to pay certain other fees and expenses.

Events of Default

The occurrence of certain events shall be events of default under the Reimbursement Agreement. If an event of default occurs under the Reimbursement Agreement, the Credit Provider may provide written notice to the Trustee of such event of default and direct the Trustee to give notice to the holders of the Bonds of a mandatory tender of the Bonds. The mandatory tender date will be a date, as specified by the Trustee, not more than 20 days after receipt by the Trustee of the Credit Provider's notice described above. See "The Bonds--Mandatory Tender for Purchase." The occurrence of an event of default under the Reimbursement Agreement does not relieve the Credit Provider of its obligations under the Letter of Credit.

Events of default under the Reimbursement Agreement include, among others: failure by the Company to make payments under the Reimbursement Agreement when due or, in certain cases, within the time specified in the Reimbursement Agreement; certain representations or warranties made by the Company or its officers in or in connection with the Reimbursement Agreement prove to have been false or misleading in any material respect when made; failure of the Company to abide by certain negative covenants or to perform other covenants and, in certain cases, the failure is not remedied within the time specified in the Reimbursement Agreement; failure by the Company to make payment on certain indebtedness or to perform certain covenants with respect to such indebtedness and the failure is not remedied within the time permitted; certain events of bankruptcy, insolvency or reorganization of the Company (or, under certain circumstances, certain subsidiaries of the Company), the failure by the Company (or, under certain circumstances, certain of its subsidiaries) to make payments on certain judgments and the failure is not remedied within the time specified in the Reimbursement Agreement; an event of default under the Indenture shall have occurred and be continuing; the occurrence of certain events challenging the validity or enforceability of the Reimbursement Agreement; and the occurrence of certain events relating to employee benefit plans of the Company or its affiliates.

Covenants

The Company agrees to certain covenants under the Reimbursement Agreement. In addition, without the prior written consent of the Credit Provider and certain other banks who may at any time be participants in the Reimbursement Agreement, the Company (and certain of its subsidiaries) may not, among other things: incur or allow certain liens on its properties unless certain conditions are satisfied, or the Company grants to the Credit Provider and such banks liens on its assets as collateral for the obligations under the Reimbursement Agreement; sell, lease or otherwise dispose of certain assets or merge or consolidate unless certain conditions are satisfied; enter into certain prohibited transactions or allow certain events or conditions relating to employee benefit plans; or enter into or consent to any amendment of the Indenture or the Agreement or consent to any substitution or change in the Trustee.

UNDERWRITING

Subject to the terms and conditions set forth in the Underwriting Agreement, Goldman, Sachs & Co. has agreed to purchase the Bonds at a price equal to 100% of the principal amount. The Company has agreed to pay the Underwriter an underwriting fee equal to 0.5615% of the principal amount of the Bonds.

Under the terms and conditions of the Underwriting Agreement, the Underwriter is committed to purchase all of the Bonds, if any are purchased.

The Underwriter may offer and sell the Bonds to certain dealers and others at prices lower than the public offering price stated on the cover page hereof. After the initial public offering, the public offering price may be changed from time to time by the Underwriter.

The Company has agreed to indemnify the Underwriter and the Issuer against certain liabilities, including liabilities under the Federal securities laws.

The Underwriter has provided various investment banking services, including serving as commercial paper dealer under the Company's commercial paper program, to the Company and its affiliates from time to time, for which it has received customary compensation. In addition, the Underwriter has provided various investment banking services to Pinnacle West Capital Corporation, the Company's parent, from time to time, for which it has received customary compensation.

TAX MATTERS

In the opinion of Orrick, Herrington & Sutcliffe, Bond Counsel, based on an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the Bonds is excluded from gross income for federal income tax purposes, except that Bond Counsel expresses no opinion as to the status of interest on any Bond for federal income tax purposes during any period that such Bond is held by a person who is a "substantial user" of the facilities financed with the proceeds of the Bonds or by a "related person" within the meaning of Section 103(b)(13) of the 1954 Code. Interest on the Bonds is a specific preference item for purposes of the federal individual and corporate alternative minimum taxes. The Bonds and the income therefrom are exempt from all State of Arizona taxation. A complete copy of the proposed form of opinion of Bond Counsel concerning the Bonds is set forth as Appendix C hereto.

Title XIII of the Tax Reform Act of 1986, as amended, and Section 103 of the 1954 Code impose various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Bonds. The Issuer and the Company have covenanted to comply with certain restrictions designed to assure that interest on the Bonds will not be included in federal gross income. Failure to comply with these covenants may result in interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of issuance of the Bonds. The opinion of Bond Counsel assumes compliance with these covenants. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Bonds may adversely affect the tax status of interest on the Bonds.

The interest rate determination method and certain other requirements, agreements and procedures contained or referred to in the Indenture, the Agreement, the Tax Certificate and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the Bonds) may be taken under the circumstances and subject to the terms and conditions set forth in such documents. Bond Counsel expresses no opinion as to any Bond or the interest thereon if any such change occurs or action is taken upon the advice or approval of counsel other than themselves.

Although Bond Counsel is of the opinion that interest on the Bonds is excluded from gross income for federal income tax purposes and that the Bonds and the income therefrom are exempt from all State of Arizona taxation, the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may otherwise affect the tax liability of the holder of a Bond. The nature and extent of these other tax consequences will depend upon the particular tax status of the holder of the Bond or its other items of income or deduction. Bond Counsel expresses no opinion regarding any such other tax consequences.

LEGAL MATTERS

Legal matters incident to the authorization, issuance, sale and delivery of the Bonds and with regard to the tax status thereof will be subject to the approval of Orrick, Herrington & Sutcliffe, San Francisco, California, Bond Counsel. Certain legal matters in connection with the Agreement and the Reimbursement Agreement will be passed upon for the Company by Snell & Wilmer, One Arizona Center, Phoenix, Arizona 85004-0001. The validity of the Agreement will be passed upon for Goldman Sachs by Sullivan & Cromwell, 444 South Flower Street, Los Angeles, California 90071. In giving their opinions, Sullivan & Cromwell and Snell & Wilmer may rely as to matters of New Mexico law upon the opinion of Keleher & McLeod, P.A., 1200 Public Service Building, Albuquerque, New Mexico 87102, and Sullivan & Cromwell may rely as to all matters of Arizona law upon the opinion of Snell & Wilmer.

This Official Statement has been duly approved, executed and delivered by the Issuer.

Coconino County, Arizona
Pollution Control Corporation

By: /s/ Bruce J. Nordstrom
President

ARIZONA PUBLIC SERVICE COMPANY

The information contained in this Appendix A has been obtained from Arizona Public Service Company (the "Company") and no representation is made by the Issuer or the Underwriter as to its accuracy or completeness.

AVAILABLE INFORMATION

The Company is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the "1934 Act"), and in accordance therewith files reports, proxy statements, and other information with the Securities and Exchange Commission (the "Commission"). Such reports, proxy statements, and other information can be obtained at prescribed rates from the Public Reference Section of the Commission or may be inspected and copied at the public reference facilities maintained by the Commission at 450 Fifth Street, N.W., Room 1024, Washington, D.C. 20549 and at certain of its regional offices located at 500 West Madison Street, Suite 1400, Chicago, Illinois 60661; and 7 World Trade Center, 13th Floor, New York, New York 10048. Certain securities of the Company are listed on the New York Stock Exchange. Reports, proxy materials, and other information concerning the Company can be inspected at the office of this exchange at 20 Broad Street, 7th Floor, New York, New York 10005.

INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The following documents previously filed with the Commission by the Company (File No. 1-4473) are incorporated by reference in this Official Statement:

1. The Company's Form 10-K Report for the fiscal year ended December 31, 1993 (the "1993 10-K Report").

2. The Company's Form 10-Q Reports for the fiscal quarters ended March 31 and June 30, 1994 (the "June 10-Q Report").

3. The Company's Form 8-K Reports, dated December 15, 1993, February 23, April 30 and May 19, 1994.

All documents filed by the Company pursuant to Sections 13(a), 13(c), 14, or 15(d) of the 1934 Act after the filing date of the June 10-Q Report and prior to the termination of the offering of the securities offered hereby shall be deemed to be incorporated by reference in this Official Statement and to be a part hereof from the date of filing of such documents.

Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Official Statement to the extent that a statement contained herein or in any other subsequently filed document which is also incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as modified or superseded, to constitute a part of this Official Statement.

The Company will provide without charge to each person, including any beneficial owner, to whom a copy of this Official Statement is delivered, upon the oral or written request of such person, a copy of any or all of the documents referred to above which have been or may be

incorporated in this Official Statement by reference, other than exhibits to such documents. Request for such copies should be directed to Arizona Public Service Company, Office of the Secretary, Station 9068, P.O. Box 53999, Phoenix, Arizona 85072-3999, (602) 250-3252.

THE COMPANY

The Company was incorporated in 1920 under the laws of Arizona and is principally engaged in providing electricity in the State of Arizona. The principal executive offices of the Company are located at 400 North Fifth Street, Phoenix, Arizona 85004 and its telephone number is (602) 250-1000.

INDEPENDENT AUDITORS

The financial statements and the related financial statement schedules incorporated in this Official Statement by reference to the Company's 1993 Annual Report on Form 10-K have been audited by Deloitte & Touche LLP, independent auditors, as stated in their report, which is incorporated herein by reference.

SELECTED INFORMATION

The following material is qualified in its entirety by reference to the detailed information and financial statements in the documents incorporated by reference in this Official Statement.

The Company

Business	Electric utility servicing approximately 654,000 customers in an area that includes all or part of 11 of Arizona's 15 counties.
Generating Fuel Mix (estimated for the twelve months ended June 30, 1994)	Coal - 65.3%; Nuclear - 28.4%; Gas - 6.1%; Other - 0.2%.

Financial Data (thousands of dollars):

	Twelve Months Ended			
	June 30,	December 31,		
	1994(1)	1993	1992	1991
Electric Operating Revenues	$ 1,690,376	$ 1,686,290	$ 1,669,679	$ 1,515,289
Refund Obligation (2)	---	—	---	(53,436)
Net Operating Revenues	$ 1,690,376	$ 1,686,290	$ 1,669,679	$ 1,461,853
Net Income (Loss)	$ 246,175	$ 250,386	$ 246,805	$ (222,649)
Ratio of Earnings to Fixed Charges	2.97	2.99	2.73	(3)

Capitalization Data (thousands of dollars):

	As of June 30, 1994(1)	As Adjusted(4)	
		Amount	Percentage
Long-Term Debt (excluding current maturities)	$ 2,163,173	$ 2,203,323	55.7%
Redeemable Preferred Stock	145,000	75,000	1.9
Non-Redeemable Preferred Stock	193,561	193,561	4.9
Common Stock Equity	1,485,244	1,485,244	37.5
Total Capitalization	$ 3,986,978	$ 3,957,128	100.0%

(1) Financial data as of and for the twelve months ended June 30, 1994 is unaudited but, in the judgment of the Company's management, contains all necessary adjustments for a fair presentation of the financial position of the Company on such date and the results of operations for such period.

(2) The Company recorded a refund obligation to customers relating to and included in the write-off described in "Regulatory Matters—Rate Case Settlement" in Note 2 of Notes to Financial Statements in Part II, Item 8 of the 1993 10-K Report and in Note 5 of Notes to Financial Statements in Part I, Item 1 of the June 10-Q Report.

(3) The write-off resulting from the Arizona Corporation Commission order settling the Company's rate case (see "Regulatory Matters—Rate Case Settlement" in Note 2 of Notes to Financial Statements in Part II, Item 8 of the 1993 10-K Report) resulted in a negative coverage ratio and an earnings coverage deficiency of approximately $317 million for the twelve months ended December 31, 1991. Excluding the effects of the write-off, the coverage ratio would have been 2.11 for the same period.

(4) For the Company's (i) August 1994 purchases of approximately $24 million in aggregate principal amount of its First Mortgage Bonds, 10 1/4% Series due 2000; (ii) redemption at maturity on September 1, 1994 of $50 million of its $8.50 Cumulative Preferred Stock, Series T ($100 Par Value); (iii) incurrence on September 14, 1994 of $31.5 million of long-term debt in connection with a tax exempt financing; (iv) assumed redemption on October 24, 1994 of $20 million of its $8.48 Cumulative Preferred Stock, Series S ($100 par value); and (v) assumed issuance of $32,650,000 of the Bonds.

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BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION

Bank of America National Trust and Savings Association ("Bank of America") is a wholly owned subsidiary and the principal asset of BankAmerica Corporation, a bank holding company ("BankAmerica"). As of December 31, 1993, and based on the consolidated Report of Condition of Bank of America at such date, Bank of America and its consolidated subsidiaries had total deposits of $106.4 billion (including deposits from BankAmerica and its nonbank subsidiaries of $2.0 billion), total assets of $136.7 billion and capital and surplus of $11.7 billion.

Bank of America will provide without charge to any person to whom this Official Statement is delivered, upon request, a copy of any or all of the following reports:

(i) BankAmerica's 1993 Form 10-K and BankAmerica's Form 10-Q and Quarterly Analytical Review for each subsequent quarter for which such a report has been filed with the Securities and Exchange Commission;

(ii) each of BankAmerica's Form 8-K Current Reports filed with the Securities and Exchange Commission subsequent to the filing of BankAmerica's 1993 Form 10-K;

(iii) the publicly-available portions of the Consolidated Reports of Income of Bank of America for the years ended December 31, 1992 and 1993 and for each subsequent quarter for which such a report has been prepared, in each case so submitted to the Comptroller of the Currency; and

(iv) the publicly-available portions of the Consolidated Reports of Condition of Bank of America at December 31, 1992 and 1993 and at the end of each subsequent quarter for which such a report has been prepared, in each case as submitted to the Comptroller of the Currency.

Requests to Bank of America for such documents should be directed by telephone to Kara Hanks at (415) 624-0445 or by mail to Bank of America NT&SA, External Reporting Department #3703, P.O. Box 37000, San Francisco, CA 94137.

The information contained in this Appendix relates to and has been obtained from Bank of America. No assurance can be given by the Issuer, the Company or Goldman Sachs as to its accuracy or completeness. The delivery of the Official Statement or this Appendix shall not create any implication that there has been no change in the affairs of Bank of America since the date hereof, or that the information contained or referred to in this Appendix is correct as of any time subsequent to its date.

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APPENDIX C

October __, 1994

Coconino County, Arizona
Pollution Control Corporation
Flagstaff, Arizona

Re: Coconino County, Arizona
Pollution Control Corporation
Pollution Control Revenue Bonds
(Arizona Public Service Company Navajo Project)
1994 Series A
(Final Opinion)

Ladies and Gentlemen:

We have acted as bond counsel in connection with the issuance by Coconino County, Arizona Pollution Control Corporation (the "Issuer") of $32,650,000 aggregate principal amount of Coconino County, Arizona Pollution Control Corporation Pollution Control Revenue Bonds (Arizona Public Service Company Navajo Project) 1994 Series A (the "Bonds"), issued pursuant to the provisions of Title 35, Chapter 6, Arizona Revised Statutes, as amended and supplemented to the date hereof (the "Act"), and pursuant to an Indenture of Trust, dated as of October 1, 1994 (the "Indenture"), between the Issuer and The Bank of New York, as trustee (the "Trustee"). The Bonds are issued for the stated purpose of making a loan of the proceeds thereof to Arizona Public Service Company, an Arizona corporation (the "Company"), pursuant to a Loan Agreement, dated as of October 1, 1994 (the "Loan Agreement"), between the Issuer and the Company. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Indenture.

In such connection, we have reviewed the Indenture, the Loan Agreement, opinions of counsel to the Issuer, the Company and the Trustee, the Tax Certificate, certificates of the Issuer, the Company, the Trustee and others, and such other documents, opinions and matters to the extent deemed necessary by us to render the opinions set forth herein. We have not undertaken to verify independently, and we have assumed, the accuracy of the factual matters represented, warranted or certified in such documents, and of the legal conclusions contained in the opinions referred to above, and we have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Issuer.

The interest rate determination method and certain other requirements, agreements and procedures contained or referred to in the Indenture, the Loan Agreement, the Tax Certificate and other relevant documents may be changed and certain actions (including, without limitation, defeasance of Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. No opinion is expressed herein as to any Bond or the interest thereon on or after any such change that occurs or action that is taken or omitted upon the advice or approval of counsel other than ourselves.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur, and we have no obligation to update this opinion. Our engagement with respect to the Bonds has concluded with their issuance. Further, we have assumed compliance with all covenants and agreements contained in the Indenture, the Loan Agreement and the Tax Certificate,

including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Bonds, the Indenture, the Loan Agreement and the Tax Certificate may be subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, arrangement and other similar laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against governmental entities in the State of Arizona. We also express no opinion with respect to any indemnification, contribution, choice of law, choice of forum or waiver provisions contained in the foregoing documents. Finally, we undertake no responsibility for the accuracy, completeness or fairness of any official statement or other offering material relating to the Bonds and express herein no opinion with respect thereto.

Based on and subject to the forgoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Issuer has lawful authority for the issuance of the Bonds, and the Bonds constitute valid and binding limited obligations of the Issuer payable solely from Revenues and other sources as and to the extent specified in the Indenture.

2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Issuer. The Indenture creates a valid pledge, to secure the payment of the principal of and interest on the Bonds, of the Revenues and (to the extent the Issuer has any interest therein) any Credit Facility provided with respect to the Bonds, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture. The Indenture also creates a valid assignment to the Trustee, for the benefit of the holders from time to time of the Bonds, of the right, title and interest of the Issuer in the Loan Agreement, except the right to receive certain payments and notices and to give certain consents and approvals (to the extent more particularly described in the Indenture).

3. The Loan Agreement has been duly authorized, executed and delivered by, and constitutes the valid and binding agreement of, the Issuer.

4. The Bonds are not a debt or liability or pledge of the faith and credit of the Issuer or Coconino County, Arizona, and are payable solely from the funds provided in the Indenture therefor.

5. Interest on the Bonds is excluded from gross income for federal income tax purposes under Title XIII of the Tax Reform Act of 1986 and Section 103 of the Internal Revenue Code of 1954, as amended (the "1954 Code"), except that no opinion is expressed as to the status of interest on any Bond during any period that such Bond is held by a "substantial user" of any facilities financed with Bond proceeds or by a "related person" within the meaning of Section 103(b)(13) of the 1954 Code. The Bonds and the income therefrom are exempt from all State of Arizona taxation. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds, although we observe that interest on the Bonds is a specific preference item for purposes of calculating federal individual and corporate alternative minimum taxable income.

Very truly yours,

ORRICK, HERRINGTON & SUTCLIFFE

per

Nickloy, Lee R(Z08122)

From: Nickloy, Lee R(Z08122)
Sent: Tuesday, June 15, 2010 10:41 AM
To: 'Cortright, Richard'
Subject: RE: Possible Board Questions

Sure, Richard. 602-250-3300.

From: Cortright, Richard [mailto:richard_cortright@standardandpoors.com]
Sent: Tuesday, June 15, 2010 8:48 AM
To: Nickloy, Lee R(Z08122)
Subject: RE: Possible Board Questions

Thanks Lee.
On a completely unrelated topic, can I call you with a mortgage bond question?
Richard

Richard W. Cortright, Jr.
Managing Director
U.S. Utilities and Infrastructure Ratings
Standard & Poor's
55 Water Street
38th Floor
New York, NY 10041
Telephone: 212-438-7665
Fax: 212-438-2155
e-mail: richard_cortright@standardandpoors.com

From: Lee.Nickloy@PinnacleWest.com [mailto:Lee.Nickloy@PinnacleWest.com]
Sent: Tuesday, June 15, 2010 11:40 AM
To: Cortright, Richard
Cc: James.Hatfield@aps.com
Subject: Possible Board Questions

Richard,

In advance of the Board meeting next week, we thought it would be helpful to give you a "heads up" on some potential questions you may get from the Board members. We look forward to seeing you in Phoenix.

Lee

Email Firewall made the following annotations

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Possible Board Questions for Richard Cortright (S&P)

- **Please describe the rationale for PPA-related and other debt imputation.**
- **What is your view on credit rating impacts for utilities pursuing build of new nuclear generation?**
- **How do you see Financial Reform legislation impacting credit quality for financial institutions and investor-owned utilities?**
- **How have your views around the constructiveness of various regulatory jurisdictions been impacted as a result of recent poor rate case outcomes in Florida and Illinois and the Pennsylvania regulatory reaction to two recently filed rate cases?**
- **What are your views around carbon legislation risks and the impact on utilities' credit quality as a result?**
- **In late 2008, S&P published a report ranking U.S. state regulatory jurisdictions from most construction to least constructive. What sort of criteria and analysis did you use to develop those rankings?**
- **Do you expect any "spill-over" effects in the ratings processes for corporate and utility issuers as a result of the recent focus on ratings practices for mortgage backed securities?**
- **How have you incorporated issuer ERM (Enterprise Risk Management) policies and practices into the ratings process?**
- **Assuming a permanent more positive regulatory environment in Arizona, how long would it take for the environment to positively impact a rating?**

Nickloy, Lee R(Z08122)

From: Nickloy, Lee R(Z08122)
Sent: Tuesday, June 15, 2010 12:41 PM
To: 'Cortright, Richard'
Subject: Contact Details

Richard,

Just picked up your voicemail, sounds like you have what you were looking for on the FMB question. If you need anything else on that topic please don't hesitate to give a call. My contact details are below.

Lee

Lee R. Nickloy
Vice President and Treasurer
PINNACLE WEST CAPITAL CORPORATION
ARIZONA PUBLIC SERVICE COMPANY
400 North 5th Street, MS 9040
Phoenix, AZ 85004
ph: 602-250-3300
fax: 602-250-2367
Lee.Nickloy@pinnaclewest.com