

File No. 70-10237

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

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**POST-EFFECTIVE AMENDMENT NO. 1 TO  
FORM U-1/A**

**AMENDMENT NO. 2  
AMENDED AND RESTATED  
APPLICATION-DECLARATION  
UNDER THE  
PUBLIC UTILITY HOLDING COMPANY ACT OF 1935**

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**Black Hills Corporation**

625 Ninth Street  
Rapid City, SD 57701

(Name of Company filing this statement and address of principal executive offices)

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**Black Hills Corporation**

(Name of Top Registered Holding Company Parent of Each Applicant or Declarant)

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David R. Emery  
President and Chief Executive Officer  
Black Hills Corporation  
625 Ninth Street  
Rapid City, SD 57701

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The Commission is requested to send copies of all notices, orders and communications in connection with this Application-Declaration to:

Steven J. Helmers  
Senior Vice President and General Counsel  
Black Hills Corporation  
625 Ninth Street  
Rapid City, SD 57701

Michael C. Griffen  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, N.W.  
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## **Item 1. Description of Proposed Transaction**

### **A. INTRODUCTION**

Black Hills Corporation (“Black Hills”) is a registered holding company under the Public Utility Holding Company Act of 1935, as amended (the “Act”). Black Hills directly owns all of the issued and outstanding common stock of two electric utility companies, Black Hills Power, Inc. (“Black Hills Power”), and Cheyenne Light, Fuel and Power Company (“CLF&P”) (collectively, “Utility Subsidiaries”). In addition, Black Hills directly owns all of the issued and outstanding common stock of non-utility subsidiary Black Hills Energy, Inc. (“Black Hills Energy”), which, through its subsidiaries (collectively, “Non-Utility Subsidiaries”), owns non-utility businesses engaged in the development, ownership, and operation of exempt wholesale generators (“EWGs”) and qualifying facilities (“QFs”) and the production, transportation, and marketing of natural gas, oil, coal, and other energy commodities, power marketing, and other energy-related activities.

On December 28, 2004, the Securities and Exchange Commission (the “Commission”), acting on Black Hills’ application on Form U-1, as amended (“Application”), issued an order authorizing financing and certain related transactions, including investments in EWGs and foreign utility holding companies; approving service company and intrasystem transactions; and reserving jurisdiction. Black Hills Corporation, et al., Holding Company Act Release No. 35-27931 (December 28, 2004) (“Financing Order”). In the Financing Order the Commission authorized Black Hills to, among other things, establish and operate a Utility Money Pool and a Non-Utility Money Pool (collectively, “Money Pools”). In addition, the Commission acknowledged Black Hills’ plan to form Black Hills Service Company, LLC (“Black Hills Service”), as a service company subsidiary for the Black Hills holding company system (“Black Hills System”), and determined that as proposed, Black Hills Service satisfies the requirements of Rule 88(b) that Black Hills Service “is so organized and conducted, or to be so conducted, as to meet the requirements of section 13(b) of the Act with respect to reasonable assurance of efficient and economical performance of services or construction or sale of goods for the benefit of associate companies, at cost fairly and equitably allocated among them (or as permitted by [rule] 90).”

On August 8, 2005, the Energy Policy Act of 2005 (“EPAAct 2005”) became law. Among other things, EPAAct 2005 repeals the Act and enacts the Public Utility Holding Company Act of 2005 (“PUHCA 2005”). The repeal of the Act and the enactment of PUHCA 2005 both will be effective as of February 8, 2006 (“Repeal Date”).

PUHCA 2005 effectively transfers a small number of functions currently performed by the Commission to the Federal Energy Regulatory Commission (“FERC”). Relevant to this Application-Declaration, FERC will have jurisdiction to review and authorize the allocation of costs of non-power goods and administrative or management services provided to the public utility subsidiary or subsidiaries of a holding company by a services company subsidiary of a same holding company organized specifically for the purpose of providing such goods or services to utility associate companies. FERC is required to issue rules by December 8, 2005, to implement its new functions under PUHCA 2005. In addition, EPAAct 2005 expressly preserves

FERC's existing authority to require that jurisdictional rates (meaning the rates of public utilities such as the Black Hills Utility Subsidiaries) are just and reasonable, including the authority to deny the passthrough of costs, prevent cross-subsidization, and issue such rules and regulations as are necessary or appropriate to protect utility consumers.

1. Money Pools. The Commission authorized Black Hills to establish the Utility Money Pool and, to the extent not exempted by Rule 52, authorized Black Hills Power to make unsecured short-term borrowings from the Utility Money Pool and to contribute surplus funds to the Utility Money Pool and to lend and extend credit to (and, if applicable, acquire promissory notes from) the Utility Money Pool. Similarly, the Commission authorized Black Hills to establish the Non-Utility Money Pool. The Commission authorized Black Hills to contribute surplus funds and to lend and extend credit to Black Hills Power through the Utility Money Pool and to the Non-Utility Subsidiaries through the Non-Utility Money Pool. The Commission approved the forms of Utility Money Pool Agreement and Non-Utility Money Pool Agreement ("Money Pool Agreements") proposed by Black Hills. The Commission approved Black Hills' proposal that the Money Pools be administered by Black Hills Service.

In the Financing Order the Commission reserved jurisdiction over, among other things, the addition of participants to the Non-Utility Money Pool. The current participants in the Non-Utility Money Pool are identified in Exhibit A.

The list of current participants in the Non-Utility Money Pool includes five new Non-Utility Subsidiary participants that have been formed since the date of the Financing Order: Black Hills Midstream, LLC; Black Hills Waterville Station, LLC; Black Hills Artesia, LLC; Black Hills Ocotillo, LLC; and Buick Power, LLC. Each such entity is a Non-Utility Subsidiary formed in connection with the exempt or permitted acquisition or development of non-utility facilities. In addition, the list of current participants in the Non-Utility Money Pool includes Black Hills Service, the service company subsidiary for the Black Hills System.

In addition, the list of current participants in the Non-Utility Money Pool includes the following Non-Utility Subsidiaries that were in existence as of the date of Financing Order and which Black Hills identified in Exhibit I-1 to its Application but which Black Hills inadvertently did not include in the proposed list of Non-Utility Money Pool participants in its Application: Black Hills Nevada Real Estate Holdings, LLC, a Non-Utility Subsidiary that owns and leases the land on which are located the non-utility facilities of Non-Utility Subsidiaries Las Vegas Cogeneration II, LLC, and Sunco, Ltd.; Black Hills Valmont Colorado, LLC, a Non-Utility Subsidiary that has acted as financing agent for Non-Utility Subsidiary Black Hills Colorado, LLC; Daksoft, Inc., a Non-Utility Subsidiary that provides information technology support to Black Hills and its subsidiaries; E-Next A Equipment Leasing Company, LLC, a Non-Utility Subsidiary that owns and leases certain equipment used by Non-Utility Subsidiary Fountain Valley Power LLC; and Las Vegas Cogeneration Energy Financing Company, LLC, a Non-Utility Subsidiary that owns and leases certain equipment used by Non-Utility Subsidiary Las Vegas Cogeneration II, LLC.

Black Hills will establish Black Hills Power as the repository for the Utility Money Pool and Black Hills Energy as the repository for the Non-Utility Money Pool. Under the

authorization granted in the Financing Order, loans in the Utility Money Pool may be made from either Black Hills or any Utility Subsidiary that is authorized to participate in the Utility Money Pool (the "Utility Money Pool Lender") to the Utility Money Pool and from the Utility Money Pool to another Utility Subsidiary participant in the Utility Money Pool (the "Borrowing Utility Subsidiary"). Similarly, loans in the Non-Utility Money Pool may be made from either Black Hills or any Non-Utility Subsidiary that is authorized to participate in the Non-Utility Money Pool (the "Non-Utility Money Pool Lender") to the Non-Utility Money Pool and from the Non-Utility Money Pool to another Non-Utility Subsidiary participant in the Non-Utility Money Pool (the "Borrowing Non-Utility Subsidiary"). As structured with Black Hills Power as the repository for the Utility Money Pool and Black Hills Energy as the repository for the Non-Utility Money Pool, all loans in the Utility Money Pool may be made from a Utility Money Pool Lender to Black Hills Power, and from Black Hills Power to any Borrowing Utility Subsidiary, and all loans in the Non-Utility Money Pool may be made from a Non-Utility Money Pool Lender to Black Hills Energy, and from Black Hills Energy to any Borrowing Non-Utility Subsidiary.

Using Black Hills Power as the repository for the Utility Money Pool and Black Hills Energy as the repository for the Non-Utility Money Pool enhances the efficient and cost-effective operation of the Utility Money Pool and Non-Utility Money Pool by allowing existing companies in the Black Hills System to utilize their existing infrastructure and resources on behalf of the Money Pools, rather than requiring the creation of duplicative structures and the use of additional resources to handle Money Pool functions. Black Hills Service will administer and operate the Utility Money Pool and Non-Utility Money Pool in the same manner as the Commission authorized in the Financing Order and the Acquisition Order, and the Money Pools will be subject to the same restrictions as the Commission imposed in those orders. Black Hills Power will create separate accounts for Utility Money Pool purposes and ensure that Utility Money Pool funds will not be co-mingled with Black Hills Power funds. Similarly, Black Hills Energy will create separate accounts for Non-Utility Money Pool purposes and ensure that Non-Utility Money Pool funds will not be co-mingled with Black Hills Energy funds. Additionally, no loans through the Utility Money Pool or Non-Utility Money Pool, will be made to, and no borrowings through the Money Pools will be made by, Black Hills.

At the time of its Application for the Financing Order, Black Hills owned only one Utility Subsidiary, Black Hills Power. Subsequently, Black Hills acquired CLF&P as a second Utility Subsidiary pursuant to authorization granted by the Commission. Black Hills Corporation, et al., Holding Company Act Release No. 35-27933 (December 29, 2004) ("Acquisition Order"). In the Acquisition Order the Commission authorized CLF&P to participate in the Black Hills Utility Money Pool on the same basis as it authorized Black Hills Power to participate in the Utility Money Pool in the Financing Order. Consistent with the relief granted in the Acquisition Order, Black Hills has modified the form of Utility Money Pool Agreement to reflect CLF&P's eligibility to participate in the Utility Money Pool.

2. Black Hills Service and Affiliate Transactions. In its Application for the Financing Order, Black Hills explained that the Black Hills System companies will engage in a variety of affiliate transactions for the provision of goods, services, and construction, all such

transactions be carried out in accordance with the requirements and provisions of Rules 87, 88, 90, and 91 unless otherwise authorized by the Commission by order or by rule.<sup>1</sup> Black Hills committed to file its accounting and cost allocation “Procedures Manual” with the Commission by October 1, 2005. Black Hills committed to form Black Hills Service within sixty days of issuance of the Financing Order but sought authority to delay for not longer than twelve months the full implementation of Black Hills Service and the required accounting systems and cost allocation methodologies. Finally, Black Hills committed to complete the conversion of non-exempt market-based rate affiliate transactions to cost-based transactions not later than twelve months following issuance of the Financing Order. In the Financing Order, the Commission acknowledged Black Hills’ plans with respect to its “Procedures Manual,” Black Hills Service, and Black Hills’ affiliate arrangements.

The enactment of EPCRA 2005 has caused Black Hills to be concerned that its current plans for finalizing and submitting to the Commission its Procedures Manual for cost allocation and accounting methodologies, for fully implementing Black Hills Service, and for converting non-exempt market-based rate affiliate transactions to cost-based affiliate transactions, could subject Black Hills to potentially conflicting regulatory regimes in this area, first the Commission’s, then FERC’s. The Commission’s existing jurisdiction over this area of holding company regulation largely will be transferred to FERC, and FERC will issue new rules governing service company cost allocations and may issue rules governing cross-subsidization issues and other accounting and cost issues that may not be fully in harmony with the Commission’s requirements or precedents. Black Hills has formed Black Hills Service and has taken steps to implement it as part of its transition to a registered holding company system, but due to EPCRA 2005, Black Hills may become subject to conflicting or different FERC

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1. With respect to Black Hills Service, Black Hills explained that Black Hills Service will be the service company subsidiary for the Black Hills System and will provide Black Hills’ Utility Subsidiaries and Non-Utility Subsidiaries with various types of administrative, management, and support services. Black Hills explained that pursuant to standard forms of Services Agreements, the cost of services provided by Black Hills Services would be accumulated in accounts of the service company and be directly assigned, distributed, or allocated to the appropriate client company in accordance with the guidelines set forth in the Services Agreements and the procedures in a “Procedures Manual.” Black Hills committed that Black Hills Services’ accounting and cost allocation methods and procedures would be structured so as to comply with the Commission’s standards for service companies in registered holding company systems. Black Hills demonstrated that Black Hills Service would satisfy the requirements of Rule 88(b) that Black Hills Service “is so organized and conducted, or to be so conducted, as to meet the requirements of section 13(b) of the Act with respect to reasonable assurance of efficient and economical performance of services or construction or sale of goods for the benefit of associate companies, at cost fairly and equitably allocated among them (or as permitted by [rule] 90).”

With respect to affiliate transactions, Black Hills identified in Exhibit I-3 a number of existing contractual arrangements among associate companies within the Black Hills System, along with a discussion of proposed changes to the arrangements in connection with Black Hills’ transition to a registered holding company structure. Black Hills identified a number of affiliate transactions priced at cost-based rates and market-based rates which it proposed be allowed to remain in place as exempt from Rules 80 through 95 pertaining to services, sales, and construction in general or the “at cost” pricing requirements of Rules 90 and 91 in particular. Black Hills also identified a number of cost-based and market-based rate transactions involving functions and personnel that would be transferred to Black Hills Service and provided at cost-based rates.

requirements in the near future. Accordingly, Black Hills proposes extensions of time with respect to the implementation of certain requirements respecting service company and accounting and cost-of-service issues.

To be clear, Black Hills has established Black Hills Service and has taken significant steps to implement it. In connection with its implementation of Black Hills Service as the service company for the Black Hills System, Black Hills has expended significant resources in undertaking extensive planning and organizational initiatives to identify employees and functions to be transferred to Black Hills Service, defining extensive new organizational, management, and personnel structures to be put in place at Black Hills Service and associate companies, and formulating required changes to human resources systems and pension and benefit plans. With this amended application-declaration, Black Hills only proposes a delay in its implementation schedules for Black Hills Services and the accounting and cost-of-service actions discussed above.

Specifically, Black Hills proposes the following changes to its implementation schedules with respect to Black Hills Services and Black Hills' accounting and cost-of-service actions:

1. In its Application for the Financing Order, Black Hills committed that not later than October 1, 2005, it would file a post-effective amendment to its filing to submit its Procedures Manual describing its accounting systems and cost allocation methodologies. Given that Black Hills will become subject to FERC's applicable rules with respect to accounting systems and cost allocations, Black Hills proposes to delay through the Repeal Date its filing describing required accounting systems and cost allocation methodologies. Black Hills will comply with FERC's applicable requirements respecting such matters when they are effective.

2. In the Financing Order the Commission granted Black Hills' request to delay for not longer than twelve months the full implementation of Black Hills Service and the required accounting systems and cost allocation methodologies. Again because Black Hills will become subject to FERC's applicable rules with respect to accounting systems and cost allocations, Black Hills proposes to delay its full implementation of Black Hills Service for a period through the Repeal Date. Black Hills will comply with FERC's applicable requirements respecting service companies, required accounting systems, and cost allocation methodologies when they are effective.

3. In its Application for the Financing Order, Black Hills committed to complete the conversion of non-exempt market-based rate affiliate transactions to cost-based transactions not later than twelve months following issuance of the Financing Order. Black Hills proposes to delay such conversions for a period through the Repeal Date. Black Hills will comply with FERC's applicable requirements respecting at-cost affiliate transactions and cost allocation methodologies when they are effective.

## B. PROPOSED POST-EFFECTIVE AMENDMENTS TO MONEY POOLS

Black Hills proposes the following changes to the structure and operation of the Money Pools authorized in the Financing Order.

1. Modification to Interest Provisions of Money Pool Agreements. Black Hills proposes modifications to the forms of Utility Money Pool Agreement and Non-Utility Money Pool Agreement to clarify that each lender to either of the Money Pools may earn the same interest rate that borrowers from the Money Pools pay.

Further, Black Hills proposes further modifications to the Money Pool Agreements to clarify that the applicable interest rate on any outstanding loans through the Money Pools will be the composite weighted average daily effective cost incurred by the Lending Parties for External Funds<sup>2</sup> outstanding on that date. The daily effective cost shall be inclusive of interest rate swaps related to such External Funds. If there are no External Funds outstanding on that date, then the applicable interest rate will be the daily one-month LIBOR rate plus 100 basis points. Black Hills' proposal is consistent with interest rate provisions in other money pool agreements approved by the Commission.<sup>3</sup>

2. Quarterly Money Pool Reports Under Rule 24. In the Financing Order the Commission authorized Black Hills to file various specified reports of financing-related activities on a quarterly basis subject to the terms and conditions prescribed in Rule 24, rather than more frequently as may be required under Rule 24. To the extent that Money Pool transactions are required to be reported under Rule 24, Black Hills proposes that it be allowed to submit cumulative reports of Money Pool transactions on a quarterly basis, rather than periodically within ten days of each such transaction as otherwise would be required under Rule 24, on the schedule for quarterly Rule 24 reports established in the Financing Order. Allowing cumulative reporting on a quarterly basis will enhance the efficient and cost-effective operation of the Money Pools by eliminating the need for a Rule 24 report for every Money Pool transaction.

Conforming changes to the Utility Money Pool Agreement and Non-Utility Money Pool Agreement reflecting the post-effective amendments described above are shown in the amended versions of those agreements provided as Exhibits M-1/A2 and M-2/A2.

In the Financing Order the Commission acknowledged Black Hills' statement, made in its Application for the Financing Order, that it intended to form and operate the Utility Money Pool and the Non-Utility Money Pool by July 1, 2005. Black Hills advises the Commission that

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2. Under each form of Money Pool Agreement, "External Funds" are defined as proceeds from bank loans, the sale of notes, and/or the sale of commercial paper by the Lending Parties.

3. See, e.g., Centerpoint Energy, Holding Company Act Release No. 35-27972 (May 20, 2005) (approving interest rate determination based on composite weighted average daily effective costs incurred by the Lending Parties for External Funds outstanding on that date); Financing Order (approving LIBOR as the basis for cost-of-money determinations for short-term financings (LIBOR plus 300 basis points)).

it intends to extend the implementation date for the Money Pools from July 1, 2005, until a date after the Repeal Date. Such delay will allow Black Hills to form and operate the Money Pools in conjunction with its implementation of Black Hills Services and Black Hills' accounting and cost-of-service actions as described in this application-declaration.

**Item 2. Fees, Commissions, and Expenses**

Black Hills expects to incur fees, commissions, and expenses in connection with this application estimated at approximately \$5,000, consisting chiefly of outside counsel fees and expenses.

**Item 3. Applicable Statutory Provisions**

Black Hills considers Sections 12 and 13 of the Act and Rule 52 and Rules 80 through 91 of the Commission's regulations under the Act to be applicable to Black Hills' proposed changes to the Black Hills Utility Money Pool Agreement and the Black Hills Non-Utility Money Pool Agreement and Black Hills' proposed extensions of time with respect to service company and accounting and cost-of-service actions. To the extent the Commission considers Black Hills' proposed changes to require authorizations, exemptions, or approvals under any other section of the Act or the Commission's rules and regulations under the Act, Black Hills requests such authorization, exemption, or approval.

**Item 4. Regulatory Approval**

No other state or federal regulatory authority, other than the Commission, has jurisdiction over the proposed changes to the Black Hills Utility Money Pool Agreement and the Black Hills Non-Utility Money Pool Agreement and Black Hills' proposed extensions of time with respect to service company and accounting and cost-of-service actions, each as discussed in this application, and no other regulatory approvals are required.

**Item 5. Procedure**

Black Hills respectfully requests the Commission to publish notice of this application under Rule 23. Black Hills respectfully requests that appropriate and timely action be taken by the Commission in this matter. No recommended decision by a hearing officer or other responsible officer of the Commission is necessary or required in this matter. The Division of Investment Management of the Commission may assist in the preparation of the Commission's decision in this matter. There should be no thirty-day waiting period between the issuance and effective date of any order issued by the Commission in this matter, and it is respectfully requested that any order be made effective immediately upon the entry thereof.

**Item 6. Exhibits and Financial Statements**

|                |  |
|----------------|--|
| Exhibit A      | Current Participants in Non-Utility Money Pool   |
| Exhibit M-1/A2 | Amended Form of Utility Money Pool Agreement     |
| Exhibit M-2/A2 | Amended Form of Non-Utility Money Pool Agreement |



**Item 7. Information as to Environmental Effects**

None of the matters that are the subject of this Application-Declaration involve a "major federal action" nor do they "significantly affect the quality of the human environment" as those terms are used in Section 102(2)(C) of the National Environmental Policy Act. None of the proposed transactions that are the subject of this Application-Declaration will result in changes in the operation of Black Hills or any Utility Subsidiary or Non-Utility Subsidiary that will have an impact on the environment. Black Hills is not aware of any federal agency which has prepared or is preparing an environmental impact statement with respect to the transactions proposed herein.

**SIGNATURE**

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, as amended, the undersigned company has duly caused this Post-Effective Amendment No. 1 to Form U-1/A, Amendment No. 2 Amended and Restated Application-Declaration Under the Public Utility Holding Company Act of 1935, to be signed on its behalf by the undersigned thereunto duly authorized.

**BLACK HILLS CORPORATION**

/S/ David R. Emery

By: \_\_\_\_\_  
Name: David R. Emery  
Title: President and Chief Executive Officer

Dated: September 2, 2005



The following Non-Utility Subsidiaries currently are participants in the Non-Utility Money Pool:

Black Hills Artesia, LLC  
Black Hills Cabresto Pipeline, LLC  
Black Hills Colorado, LLC  
Black Hills Energy, Inc.  
Black Hills Energy Pipeline, LLC  
Black Hills Energy Resources, Inc.  
Black Hills Energy Terminal, LLC  
Black Hills Exploration and Production, Inc.  
Black Hills Fountain Valley, LLC  
Black Hills Fountain Valley II, LLC  
Black Hills Gas Holdings Corp.  
Black Hills Gas Resources, Inc.  
Black Hills Generation, Inc.  
Black Hills Idaho Operations, LLC  
Black Hills Ivanpah, LLC  
Black Hills Ivanpah GP, LLC  
Black Hills Kilgore Energy Pipeline, LLC  
Black Hills Kilgore Pipeline Company, L.P.  
Black Hills Kilgore Pipeline, Inc.  
Black Hills Midstream, LLC  
Black Hills Millennium Pipeline, Inc.  
Black Hills Millennium Terminal, Inc.  
Black Hills Nevada Operations, LLC  
Black Hills Nevada Real Estate Holdings, LLC  
Black Hills Nevada, LLC  
Black Hills Ocotillo, LLC  
Black Hills Ontario, LLC  
Black Hills Operating Company, LLC  
Black Hills Pepperell Power Associates, LLC  
Black Hills Service Company, LLC  
Black Hills Southwest, LLC  
Black Hills Valmont Colorado, Inc.  
Black Hills Waterville Station, LLC  
Black Hills Wyoming, Inc.  
Buick Power, LLC  
Daksoft, Inc.  
Desert Arc I, LLC  
Desert Arc II, LLC  
E-Next A Equipment Leasing Company, LLC  
EIF Investors, Inc.  
Enserco Energy Inc.  
Fountain Valley Power, LLC  
Harbor Cogeneration Company, LLC

Las Vegas Cogeneration Energy Financing Company, L.L.C.  
Las Vegas Cogeneration II, LLC  
Las Vegas Cogeneration Limited Partnership  
Millennium Pipeline Company, L.P.  
Millennium Terminal Company, L.P.  
Sunco, Ltd., a Limited Liability Company  
West Cascade Energy, LLC  
Wyodak Resources Development Corp.



## FORM OF UTILITY MONEY POOL AGREEMENT

This Utility Money Pool Agreement (the "Agreement"), dated as of July 1, 2005, is made and entered into by and among Black Hills Corporation ("Black Hills"), a South Dakota corporation and a registered holding company under the Public Utility Holding Company Act of 1935, as amended (the "Act"); Black Hills Service Company, LLC ("Black Hills Service"), a South Dakota limited liability company and a non-utility subsidiary of Black Hills (in its role as administrator of the Utility Money Pool); Black Hills Power, Inc. ("Black Hills Power"), a South Dakota corporation and a utility subsidiary of Black Hills (in its role as Repository, Lending Party, Borrowing Party and Utility Subsidiary, each as defined herein); and Cheyenne Light, Fuel and Power Company ("Cheyenne Light"), a Wyoming corporation and a utility subsidiary of Black Hills. Each of Black Hills, Black Hills Service, Black Hills Power, and Cheyenne Light is referred to herein as a "Party," and collectively as the "Parties." Black Hills, Black Hills Power, and Cheyenne Light may be referred to as a "Lending Party," and collectively as the "Lending Parties," as appropriate. Finally, each of Black Hills Power and Cheyenne Light may be referred to as a "Borrowing Party," and collectively as the "Borrowing Parties," also as appropriate.

### WITNESSETH:

WHEREAS, the Parties desire to establish a Money Pool (the "Utility Money Pool") to coordinate and provide for certain of the Borrowing Parties' short-term cash and working capital requirements; and

WHEREAS, the Borrowing Parties that will participate in the Utility Money Pool will from time to time have need to borrow funds on a short-term basis, and certain of the Lending Parties will from time to time have funds available to loan on a short-term basis;

NOW, THEREFORE, in consideration of the premises and the mutual agreements, covenants and provisions contained herein, and intending to be legally bound hereby, the Parties hereto agree as follows:

## ARTICLE I CONTRIBUTIONS AND BORROWINGS

### 1.1 Contributions to Utility Money Pool

Each Lending Party will determine each day, on the basis of cash flow projections and other relevant factors, in such Lending Party's sole discretion, the amount of funds it has available for contribution to the Utility Money Pool, and will contribute such funds to the Utility Money Pool. The determination of whether a Lending Party at any time has surplus funds to lend to the Utility Money Pool or shall lend funds to the Utility Money Pool will be made by such Lending Party's chief financial officer or treasurer, or by a designee thereof, on the basis of cash flow projections and other relevant factors, in such Party's sole discretion. Each Lending Party may withdraw any of its funds at any time upon notice to Black Hills Service as administrative agent of the Utility Money Pool.

## 1.2 Rights to Borrow

Subject to the provisions of Section 1.4(c) of this Agreement, short-term borrowing needs of the Borrowing Parties will be met by funds in the Utility Money Pool to the extent such funds are available. Each Borrowing Party shall have the right to make short-term borrowings from the Utility Money Pool from time to time, subject to the availability of funds and the limitations and conditions set forth herein and in the applicable orders of the Securities and Exchange Commission ("SEC"). Each Borrowing Party may request loans from the Utility Money Pool from time to time during the period from the date hereof until this Agreement is terminated by written agreement of the Parties; provided, however, that the aggregate amount of all loans requested by any Borrowing Party hereunder shall not exceed the applicable borrowing limits set forth in applicable orders of the SEC and other regulatory authorities, resolutions of such Borrowing Party's Board of Directors, such Borrowing Party's governing corporate documents, and agreements binding upon such Borrowing Party. No loans through the Utility Money Pool will be made to, and no borrowings through the Utility Money Pool will be made by, Black Hills.

## 1.3 Source of Funds

Funds will be available through the Utility Money Pool from the following sources for use by the Borrowing Parties from time to time: (1) surplus funds in the treasuries of the Lending Parties other than Black Hills, (2) surplus funds in the treasury of Black Hills, and (3) proceeds from bank loans, the sale of notes and/or the sale of commercial paper by the Lending Parties ("External Funds"), in each case to the extent permitted by applicable laws and regulatory orders. Funds will be made available from such sources in such order as Black Hills Service, as administrator of the Utility Money Pool, may determine will result in a lower cost of borrowing to Borrowing Parties, consistent with the individual borrowing needs and financial standing of the Lending Parties.

## 1.4 Authorization

(a) Each loan shall be authorized by the Lending Party's chief financial officer or treasurer, or by a designee thereof.

(b) Black Hills Service, as administrator of the Utility Money Pool, will provide each Party with periodic activity and cash accounting reports that include, among other things, reports of cash activity, the daily balance of loans outstanding and the calculation of interest charged.

(c) All borrowings from the Utility Money Pool shall be authorized by the Borrowing Party's chief financial officer or treasurer, or by a designee thereof. No Borrowing Party shall be required to effect a borrowing through the Utility Money Pool if such Borrowing Party determines that it can (and is authorized to) effect such borrowing at lower cost directly from banks or through the sale of its own commercial paper.

1.5 Interest

The interest rate applicable on any day to then outstanding loans through the Utility Money Pool, whether or not evidenced by a promissory demand note, will be the composite weighted average daily effective cost incurred by the Lending Parties for External Funds outstanding on that date. The daily effective cost shall be inclusive of interest rate swaps related to such External Funds. If there are no External Funds outstanding on that date, then the rate will be the daily one-month LIBOR rate plus 100 basis points.

1.6 Certain Costs

The cost of compensating balances and fees paid to banks to maintain credit lines by Lending Parties lending External Funds to the Utility Money Pool shall initially be paid by the Lending Party maintaining such line. A portion of such costs shall be retroactively allocated every month to the Borrowing Parties borrowing such External Funds through the Utility Money Pool in proportion to their respective daily outstanding borrowings of such External Funds.

1.7 Repayment

Each Borrowing Party receiving a loan from the Utility Money Pool hereunder shall repay the principal amount of such loan, together with all interest accrued thereon, on demand and in any event within 365 days of the date on which such loan was made. All loans made through the Utility Money Pool may be prepaid by the borrower without premium or penalty.

1.8 Form of Loans to Borrowing Parties

Loans to the Borrowing Parties from the Utility Money Pool shall be made as open-account advances, pursuant to the terms of this Agreement. A separate promissory note will not be required for each individual transaction. Instead, a promissory grid note evidencing the terms of the transactions shall be signed by the Parties to the transaction. Any such note shall: (a) be in substantially the form of the note appended as Attachment A to this Agreement; (b) be dated as of the date of the initial borrowing; (c) mature on demand or on a date agreed by the Parties to the transaction, but in any event not later than 365 days after the date of the applicable borrowing; and (d) be repayable in whole at any time or in part from time to time, without premium or penalty.

**ARTICLE II  
OPERATION OF UTILITY MONEY POOL**

2.1 Operation

(a) Operation of the Utility Money Pool, including record keeping and coordination of loans, will be handled by Black Hills Service under the authority of the appropriate officers of the Parties. Black Hills Service shall be responsible for the determination of all applicable interest rates and charges to be applied to advances outstanding at any time hereunder, shall maintain records of all advances, interest charges and accruals and interest and principal



payments for purposes hereof, and shall prepare periodic reports thereof for the Parties. Black Hills Service will administer the Utility Money Pool on an “at cost” basis. Separate records shall be kept by Black Hills Service for the Utility Money Pool established by this Agreement and any other money pool administered by Black Hills Service.

(b) Each Loan shall be made from a Lending Party shall be made from such Lending Party to Black Hills Power, in its capacity as the repository of the Utility Money Pool (in such capacity, the “Repository”). Each Loan to a Borrowing Party shall be made from Black Hills Power to the respective Borrowing Party on behalf of the Utility Money Pool. For avoidance of doubt, the Parties agree that Black Hills Power may also be a Borrowing Party or a Lending Party hereunder.

#### 2.2 Investment of Surplus Funds in the Utility Money Pool

Funds not required for the Utility Money Pool loans (with the exception of funds required to satisfy the Utility Money Pool’s liquidity requirements) will ordinarily be invested in one or more short-term investments, including (i) interest-bearing accounts with banks; (ii) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (iii) obligations issued or guaranteed by any state or political subdivision thereof, provided that such obligations are rated not less than A by a nationally recognized rating agency; (iv) commercial paper rated not less than A-1 by S&P or P-1 by Moody’s, or their equivalent by a nationally recognized rating agency; (v) money market funds; (vi) bank certificates of deposit; (vii) Eurodollar funds; and (viii) such other investments as are permitted by Section 9(c) of the Act and Rule 40 thereunder.

#### 2.3 Allocation of Interest Income and Investment Earnings

The interest income and other investment income earned by the Utility Money Pool on loans and investment of surplus funds will be allocated among the Parties in accordance with the proportion each Lending Party’s contribution of funds in the Utility Money Pool bears to the total amount of funds in the Utility Money Pool and the cost of any External Funds provided to the Utility Money Pool by such Lending Party. Interest and other investment earnings will be computed on a daily basis and settled once per month.

#### 2.4 Event of Default

If any Borrowing Party 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 any Borrowing Party seeking to adjudicate it bankrupt or insolvent, then Black Hills Service, on behalf of the Utility Money Pool, may, by notice to the Borrowing Party, terminate the Utility Money Pool’s commitment to the Borrowing Party and/or declare the principal amount then outstanding of, and the accrued interest on, the loans and all other amounts payable to the Utility Money Pool by the Borrowing Party hereunder to be forthwith due and payable, whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by each Borrowing Party.

**ARTICLE III  
MISCELLANEOUS**

3.1 Amendments

No amendment to this Agreement shall be adopted except in a writing executed by Parties and subject to all applicable approvals by the SEC and the applicable state utility regulatory commission.

3.2 Legal Responsibility

Nothing herein contained shall render any Party liable for the obligations of any other Party hereunder and the rights, obligations and liabilities of the Parties are several in accordance with their respective obligations, and not joint.

3.3 Rules for Implementation

The Parties may develop a set of guidelines for implementing the provisions of this Agreement, provided that the guidelines are consistent with all of the provisions of this Agreement.

3.4 Governing Law

This Agreement shall be governed by and construed in accordance with, the laws of the State of South Dakota.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officer of each Party hereto as of the date first above written.

**BLACK HILLS CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**BLACK HILLS SERVICE COMPANY, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**BLACK HILLS POWER, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**CHEYENNE LIGHT, FUEL AND POWER COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_





**FORM OF NON-UTILITY MONEY POOL AGREEMENT**

This Non-Utility Money Pool Agreement (the "Agreement"), dated as of July 1, 2005, is made and entered into by and among Black Hills Corporation ("Black Hills"), a South Dakota corporation and a registered holding company under the Public Utility Holding Company Act of 1935, as amended (the "Act"); Black Hills Service Company, LLC ("Black Hills Service"), a South Dakota limited liability company and a non-utility subsidiary of Black Hills (in its role as administrator of the Non-Utility Money Pool and as a participant in the money pool); Black Hills Energy, Inc. ("Black Hills Energy"), a South Dakota corporation and a non-utility subsidiary of Black Hills (in its role as Repository, Lending Party, Borrowing Party and Non-Utility Subsidiary, each as defined herein); and each of the non-utility subsidiaries of Black Hills whose name appears on Schedule I hereto (collectively, the "Non-Utility Subsidiaries"). Each of Black Hills, Black Hills Service, Black Hills Energy and the Non-Utility Subsidiaries is referred to herein as a "Party," and collectively as the "Parties." Black Hills and each Non-Utility Subsidiary may be referred to as a "Lending Party," and collectively as the "Lending Parties," as appropriate. Finally, each of the Non-Utility Subsidiaries may be referred to as a "Borrowing Party," and collectively as the "Borrowing Parties," also as appropriate.

**WITNESSETH:**

WHEREAS, the Parties desire to establish a Money Pool (the "Non-Utility Money Pool") to coordinate and provide for certain of the Borrowing Parties' short-term cash and working capital requirements; and

WHEREAS, the Borrowing Parties that will participate in the Non-Utility Money Pool will from time to time have need to borrow funds on a short-term basis, and certain of the Lending Parties will from time to time have funds available to loan on a short-term basis;

NOW, THEREFORE, in consideration of the premises and the mutual agreements, covenants and provisions contained herein, and intending to be legally bound hereby, the Parties hereto agree as follows:

**ARTICLE I  
CONTRIBUTIONS AND BORROWINGS****1.1 Contributions to Non-Utility Money Pool**

Each Lending Party will determine each day, on the basis of cash flow projections and other relevant factors, in such Lending Party's sole discretion, the amount of funds it has available for contribution to the Non-Utility Money Pool, and will contribute such funds to the Non-Utility Money Pool. The determination of whether a Lending Party at any time has surplus funds to lend to the Non-Utility Money Pool or shall lend funds to the Non-Utility Money Pool will be made by an appropriate officer of such Lending Party, or by a designee thereof, on the basis of cash flow projections and other relevant factors, in such Party's sole discretion. Each Lending Party may withdraw any of its funds at any time upon notice to Black Hills Service as administrative agent of the Non-Utility Money Pool.

## 1.2 Rights to Borrow

Subject to the provisions of Section 1.4(c) of this Agreement, short-term borrowing needs of the Borrowing Parties, with the exception of Black Hills, will be met by funds in the Non-Utility Money Pool to the extent such funds are available. Each Borrowing Party shall have the right to make short-term borrowings from the Non-Utility Money Pool from time to time, subject to the availability of funds and the limitations and conditions set forth herein and in the applicable orders of the Securities and Exchange Commission ("SEC"). Each Borrowing Party may request loans from the Non-Utility Money Pool from time to time during the period from the date hereof until this Agreement is terminated by written agreement of the Parties; provided, however, that the aggregate amount of all loans requested by any Borrowing Party hereunder shall not exceed the applicable borrowing limits set forth in applicable orders of the SEC and other regulatory authorities, resolutions of such Borrowing Party's Board of Directors or similar governing body, such Party's governing corporate documents, and agreements binding upon such Borrowing Party. No loans through the Non-Utility Money Pool will be made to, and no borrowings through the Non-Utility Money Pool will be made by, Black Hills.

## 1.3 Source of Funds

Funds will be available through the Non-Utility Money Pool from the following sources for use by the Borrowing Parties from time to time: (1) surplus funds in the treasuries of Lending Parties other than Black Hills, (2) surplus funds in the treasury of Black Hills, and (3) proceeds from bank loans, the sale of notes and/or the sale of commercial paper by the Lending Parties ("External Funds"), in each case to the extent permitted by applicable laws and regulatory orders. Funds will be made available from such sources in such order as Black Hills Service, as administrator of the Non-Utility Money Pool, may determine will result in a lower cost of borrowing to Borrowing Parties, consistent with the individual borrowing needs and financial standing of the Lending Parties.

## 1.4 Authorization

(a) Each loan shall be authorized by the Lending Party's chief financial officer or treasurer, or by a designee thereof.

(b) Black Hills Service, as administrator of the Non-Utility Money Pool, will provide each Party with periodic activity and cash accounting reports that include, among other things, reports of cash activity, the daily balance of loans outstanding and the calculation of interest charged.

(c) All borrowings from the Non-Utility Money Pool shall be authorized by the Borrowing Party's chief financial officer or treasurer, or by a designee thereof. No Borrowing Party shall be required to effect a borrowing through the Non-Utility Money Pool if such Borrowing Party determines that it can (and is authorized to) effect such borrowing at lower cost directly from banks or through the sale of its own commercial paper.

1.5 Interest

The interest rate applicable on any day to then outstanding loans through the Non-Utility Money Pool, whether or not evidenced by a promissory demand note, will be the composite weighted average daily effective cost incurred by the Lending Parties for External Funds outstanding on that date. The daily effective cost shall be inclusive of interest rate swaps related to such External Funds. If there are no External Funds outstanding on that date, then the rate will be the daily one-month LIBOR rate plus 100 basis points.

1.6 Certain Costs

The cost of compensating balances and fees paid to banks to maintain credit lines by Lending Parties lending External Funds to the Non-Utility Money Pool shall initially be paid by the Lending Party maintaining such line. A portion of such costs shall be retroactively allocated every month to the Borrowing Parties borrowing such External Funds through the Non-Utility Money Pool in proportion to their respective daily outstanding borrowings of such External Funds.

1.7 Repayment

Each Borrowing Party receiving a loan from the Non-Utility Money Pool hereunder shall repay the principal amount of such loan, together with all interest accrued thereon, (a) in the case of a Demand Loan (as defined in Section 1.8 below), on demand, or (b) in the case of a 365 Day Loan (as defined in Section 1.8 below) at maturity, but in any event within 365 days of the date on which such loan was made. All loans made through the Non-Utility Money Pool may be prepaid by the borrower without premium or penalty.

1.8 Form of Loans to Borrowing Parties

Loans to the Borrowing Parties from the Non-Utility Money Pool shall be made as open-account advances, pursuant to the terms of this Agreement. A separate promissory note will not be required for each individual transaction. Instead, a promissory grid note evidencing the terms of the transactions shall be signed by the Parties to the transaction. Any such note shall: (a) be in substantially the form of the note appended as Attachment A to this Agreement; (b) be dated as of the date of the initial borrowing; (c) (i) in the case of a loan which the Parties elect to have payable on demand (a "Demand Loan"), mature on demand, or (ii) in the case of a loan which the Parties elect to have payable within 365 days of its borrowing (a "365 Day Loan"), mature on a date agreed by the Parties to the transaction, but in any event not later than 365 days after the date of the applicable borrowing; and (d) be repayable in whole at any time or in part from time to time, without premium or penalty.



**ARTICLE II**  
**OPERATION OF NON-UTILITY MONEY POOL**

2.1 Operation

(a) Operation of the Non-Utility Money Pool, including record keeping and coordination of loans, will be handled by Black Hills Service under the authority of the appropriate officers of the Parties. Black Hills Service shall be responsible for the determination of all applicable interest rates and charges to be applied to advances outstanding at any time hereunder, shall maintain records of all advances, interest charges and accruals and interest and principal payments for purposes hereof, and shall prepare periodic reports thereof for the Parties. Black Hills Service will administer the Non-Utility Money Pool on an "at cost" basis. Separate records shall be kept by Black Hills Service for the Non-Utility Money Pool established by this Agreement and any other money pool administered by Black Hills Service.

(b) Each Loan shall be made from a Lending Party shall be made from such Lending Party to Black Hills Energy, in its capacity as the repository of the Non-Utility Money Pool (in such capacity, the "Repository"). Each Loan to a Borrowing Party shall be made from Black Hills Energy to the respective Borrowing Party on behalf of the Non-Utility Money Pool. For avoidance of doubt, the Parties agree that Black Hills Energy may also be a Borrowing Party or a Lending Party hereunder.

2.2 Investment of Surplus Funds in the Non-Utility Money Pool

Funds not required for the Non-Utility Money Pool loans (with the exception of funds required to satisfy the Non-Utility Money Pool's liquidity requirements) will ordinarily be invested in one or more short-term investments, including (i) interest-bearing accounts with banks; (ii) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (iii) obligations issued or guaranteed by any state or political subdivision thereof, provided that such obligations are rated not less than A by a nationally recognized rating agency; (iv) commercial paper rated not less than A-1 by S&P or P-1 by Moody's, or their equivalent by a nationally recognized rating agency; (v) money market funds; (vi) bank certificates of deposit; (vii) Eurodollar funds; and (viii) such other investments as are permitted by Section 9(c) of the Act and Rule 40 thereunder.

2.3 Allocation of Interest Income and Investment Earnings

The interest income and other investment income earned by the Non-Utility Money Pool on loans and investment of surplus funds will be allocated among the Parties in accordance with the proportion each Lending Party's contribution of funds in the Non-Utility Money Pool bears to the total amount of funds in the Non-Utility Money Pool and the cost of any External Funds provided to the Non-Utility Money Pool by such Lending Party. Interest and other investment earnings will be computed on a daily basis and settled once per month.

#### 2.4 Event of Default

If any Borrowing Party 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 any Borrowing Party seeking to adjudicate it bankrupt or insolvent, then Black Hills Service, on behalf of the Non-Utility Money Pool, may, by notice to the Borrowing Party, terminate the Non-Utility Money Pool's commitment to the Borrowing Party and/or declare the principal amount then outstanding of, and the accrued interest on, the loans and all other amounts payable to the Non-Utility Money Pool by the Borrowing Party hereunder to be forthwith due and payable, whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by each Borrowing Party.

### ARTICLE III MISCELLANEOUS

#### 3.1 Amendments

No amendment to this Agreement shall be adopted except in a writing executed by Parties and subject to all applicable approvals by the SEC and the applicable state utility regulatory commission.

#### 3.2 Legal Responsibility

Nothing herein contained shall render any Party liable for the obligations of any other Party hereunder and the rights, obligations and liabilities of the Parties are several in accordance with their respective obligations, and not joint.

#### 3.3 Rules for Implementation

The Parties may develop a set of guidelines for implementing the provisions of this Agreement, provided that the guidelines are consistent with all of the provisions of this Agreement.

#### 3.4 Governing Law

This Agreement shall be governed by and construed in accordance with, the laws of the State of South Dakota.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officer of each Party hereto as of the date first above written.

**BLACK HILLS CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**BLACK HILLS SERVICE COMPANY, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**BLACK HILLS ENERGY, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**THE NON-UTILITY SUBSIDIARY OF BLACK HILLS CORPORATION IDENTIFIED ON SCHEDULE I HERETO**

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_



SCHEDULE I**NON-UTILITY SUBSIDIARIES OF BLACK HILLS CORPORATION**

Black Hills Artesia, LLC  
Black Hills Cabresto Pipeline, LLC  
Black Hills Colorado, LLC  
Black Hills Energy, Inc.  
Black Hills Energy Pipeline, LLC  
Black Hills Energy Resources, Inc.  
Black Hills Energy Terminal, LLC  
Black Hills Exploration and Production, Inc.  
Black Hills Fountain Valley, LLC  
Black Hills Fountain Valley II, LLC  
Black Hills Gas Holdings Corp.  
Black Hills Gas Resources, Inc.  
Black Hills Generation, Inc.  
Black Hills Idaho Operations, LLC  
Black Hills Ivanpah, LLC  
Black Hills Ivanpah GP, LLC  
Black Hills Kilgore Energy Pipeline, LLC  
Black Hills Kilgore Pipeline Company, L.P.  
Black Hills Kilgore Pipeline, Inc.  
Black Hills Midstream, LLC  
Black Hills Millennium Pipeline, Inc.  
Black Hills Millennium Terminal, Inc.  
Black Hills Nevada Operations, LLC  
Black Hills Nevada Real Estate Holdings, LLC  
Black Hills Nevada, LLC  
Black Hills Ocotillo, LLC  
Black Hills Ontario, LLC  
Black Hills Operating Company, LLC  
Black Hills Pepperell Power Associates, LLC  
Black Hills Service Company, LLC  
Black Hills Southwest, LLC  
Black Hills Valmont Colorado, Inc.  
Black Hills Waterville Station, LLC  
Black Hills Wyoming, Inc.  
Buick Power, LLC  
Daksoft, Inc.  
Desert Arc I, LLC  
Desert Arc II, LLC  
E-Next A Equipment Leasing Company, LLC

EIF Investors, Inc.  
Enserco Energy Inc.  
Fountain Valley Power, LLC  
Harbor Cogeneration Company, LLC  
Las Vegas Cogeneration Energy Financing Company, L.L.C.  
Las Vegas Cogeneration II, LLC  
Las Vegas Cogeneration Limited Partnership  
Millennium Pipeline Company, L.P.  
Millennium Terminal Company, L.P.  
Sunco, Ltd., a Limited Liability Company  
West Cascade Energy, LLC  
Wyodak Resources Development Corp.