

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
In re:	:	Chapter 11
	:	
DYNEGY HOLDINGS, LLC, <u>et al.</u> , ¹	:	Case No. 11-38111 (CGM)
	:	
	:	Jointly Administered
Debtors.	:	
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AMENDED CHAPTER 11 PLAN OF REORGANIZATION
FOR DYNEGY HOLDINGS, LLC PROPOSED BY
DYNEGY HOLDINGS, LLC AND DYNEGY INC.

Dated: January 19, 2012

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¹ The Debtors, together with the last four digits of each Debtor's federal tax identification number, are Dynegy Holdings, LLC (8415); Dynegy Northeast Generation, Inc. (6760); Hudson Power, L.L.C. (NONE); Dynegy Danskammer, L.L.C. (9301); and Dynegy Roseton, L.L.C. (9299). The location of the Debtors' corporate headquarters and the service address for Dynegy Holdings, LLC, Dynegy Northeast Generation, Inc. and Hudson Power, L.L.C. is 1000 Louisiana Street, Suite 5800, Houston, Texas 77002. The location of the service address for Dynegy Roseton, L.L.C. is 992 River Road, Newburgh, New York 12550. The location of the service address for Dynegy Danskammer, L.L.C. is 994 River Road, Newburgh, New York 12550.

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EXHIBITS

Glossary of Defined Terms Exhibit “A”
Allowed Amounts of Senior Notes Claims and Subordinated Notes Claims Exhibit “B”
Description of Plan Secured Notes Exhibit “C”
Plan Preferred Stock Designation Exhibit “D”

The Plan Proponents hereby propose the following chapter 11 plan of reorganization for Dynegy Holdings, LLC:

ARTICLE I.

DEFINITIONS AND INTERPRETATION

1.1. Definitions

The capitalized terms used herein shall have the respective meanings set forth in the Glossary of Defined Terms attached hereto as Exhibit "A."

1.2. Interpretation

Unless otherwise specified, all section, article, and exhibit references in the Plan are to the respective section in, article of, or exhibit to the Plan, as the same may be amended, waived, or modified from time to time as permitted herein. Words denoting the singular number shall include the plural number and vice versa, as appropriate, and words denoting one gender shall include the other gender. In the event of any ambiguity or conflict between the Plan and the Disclosure Statement, the provisions of the Plan shall govern.

1.3. Application of Definitions and Rules of Construction Contained in the Bankruptcy Code

Words and terms defined in section 101 of the Bankruptcy Code shall have the same meanings when used in the Plan, unless a different definition is given in the Glossary of Defined Terms attached hereto as Exhibit "A." The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan.

1.4. Other Terms

The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained in the Plan.

1.5. Appendices and Plan Documents

All exhibits and appendices to the Plan and the Plan Documents are incorporated into the Plan by this reference and are a part of the Plan as if set forth in full herein. All Plan Documents shall be filed with the Bankruptcy Court not less than ten (10) days prior to the Plan Objection Deadline. Holders of Claims and Equity Interests may obtain a copy of the Plan Documents, once filed, at <https://ecf.nysb.uscourts.gov/> and <http://dm.epiq11.com/dynegyholdingsllc>, or by a written request sent to the following address:

Dynegy Holdings LLC Ballot Processing Center
c/o Epiq Bankruptcy Solutions LLC
FDR Station, P.O. Box 5014
New York, NY 10150

ARTICLE II.

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

For the purposes of organization, voting, all confirmation matters, and the receipt of distributions under the Plan, except as otherwise provided herein, all Claims against and Equity Interests in DH shall be classified as set forth in this Article II.

2.1. Administrative Claims and Priority Tax Claims

As provided by section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims shall not be classified under the Plan, and shall instead be treated separately as unclassified Claims on the terms set forth in Article V.

2.2. Claims and Equity Interests

The Claims against and Equity Interests in DH shall be classified under the Plan as follows:

Class 1 – Priority Claims. Class 1 shall consist of all Priority Claims (which excludes Priority Tax Claims) against DH.

Class 2 – Secured Claims. Class 2 shall consist of all Secured Claims against DH.

Class 3 – General Unsecured Claims. Class 3 shall consist of all General Unsecured Claims against DH.

Class 4 – Convenience Claims. Class 4 shall consist of all Convenience Claims against DH.

Class 5 – Equity Interests. Class 5 shall consist of all Equity Interests in DH.

ARTICLE III.

IDENTIFICATION OF IMPAIRED CLASS OF CLAIMS

3.1. Unimpaired Classes of Claims and Equity Interests

Class 1 – Priority Claims, Class 2 – Secured Claims, Class 4 – Convenience Claims, and Class 5 – Equity Interests are not impaired under the Plan.

3.2. Impaired Class of Claims

Class 3 – General Unsecured Claims are impaired under the Plan.

3.3. Impairment Controversies

If a controversy arises as to whether any Claim or Equity Interest, or any class of Claims or Equity Interests, is impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine such controversy.

ARTICLE IV.

PROVISIONS FOR TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS UNDER THE PLAN

4.1. DH Claims and Equity Interests

The classes of Claims against and Equity Interests in DH shall be treated under the Plan as follows:

(a) Class 1 – Priority Claims

Each holder of an Allowed Priority Claim against DH shall be left unimpaired under the Plan, and, pursuant to section 1124 of the Bankruptcy Code, all of the legal, equitable and contractual rights to which such Claim entitles such holder in respect of such Claim shall be left unaltered, and except to the extent that a holder of an Allowed Priority Claim and the Plan Proponents agree on less favorable treatment for such holder, such Allowed Priority Claim against DH (including any amounts to which such holder is entitled pursuant to section 1124(2) of the Bankruptcy Code) shall be paid in full in accordance with such rights on the Plan Distribution Date.

(b) Class 2 – Secured Claims

Each holder of an Allowed Secured Claim against DH shall be left unimpaired under the Plan, and, pursuant to section 1124 of the Bankruptcy Code, all of the legal, equitable and contractual rights to which such Claim entitles such holder in respect of such Claim shall be left unaltered, and except to the extent that a holder of an Allowed Secured Claim and the Plan Proponents agree on less favorable treatment for such holder, such Allowed Secured Claim against DH (including any amounts to which such holder is entitled pursuant to section 1124(2) of the Bankruptcy Code) shall be paid in full in accordance with such rights on the Plan Distribution Date or, if after the Plan Distribution Date, as and when such payment is due.

(c) Class 3 – General Unsecured Claims

Except to the extent that a holder of an Allowed General Unsecured Claim and the Plan Proponents agree on less favorable treatment for such holder, each holder of an Allowed General Unsecured Claim against DH shall receive, on the Effective Date, its Pro Rata Share of (i) the Plan Cash Payment, (ii) the Plan Preferred Stock, and (iii) at the sole option of Dynegy, in its capacity as a Plan Proponent, either (a) the Plan Secured Notes or (b) the Plan Secured Notes Alternative Payment.

The rights of holders of Allowed Subordinated Notes Claims to receive Plan Distributions hereunder shall be subject to the subordination provisions set forth in Section 16.5; provided, however, that holders of Allowed Subordinated Notes Claims may make the Subordination Alternative Election as set forth in Section 16.5.

For the avoidance of doubt, to the extent that all or a portion of an Allowed General Unsecured Claim consists of an Allowed Lease Guaranty Claim, distributions in respect of such Allowed Lease Guaranty Claim to a Danskammer Lease Guaranty Party or a Roseton Lease Guaranty Party (in each case other than to a PSEG Entity) shall be limited to the lesser of (i) an amount equal to such holder's Lease Security Claim less the value of consideration made available to such holder by Dynegy Danskammer and/or Dynegy Roseton on account of any such Lease Security Claim or (ii) an amount equal to distributions otherwise available to such holder if its Allowed Lease Guaranty Claim were treated as an Allowed General Unsecured Claim.

(d) Class 4 – Convenience Claims

Each holder of an Allowed Convenience Claim against DH shall be left unimpaired under the Plan, and, pursuant to section 1124 of the Bankruptcy Code, all of the legal, equitable and contractual rights to which such Claim entitles such holder in respect of such Claim shall be left unaltered, and such Allowed Convenience Claim against DH (including any amounts to which such holder is entitled pursuant to section 1124(2) of the Bankruptcy Code) shall be paid in full in accordance with such rights on the Plan Distribution Date or, if after the Plan Distribution Date, as and when such payment is due.

(e) Class 5 – Equity Interests

Each holder of an Allowed Equity Interest in DH shall be left unimpaired under the Plan, and, pursuant to section 1124 of the Bankruptcy Code, all of the legal, equitable and contractual rights to which such Allowed Equity Interest entitles such holder in respect of such Allowed Equity Interest shall be left unaltered.

4.2. Intercompany Claims

Except as otherwise set forth in the Plan, including Articles VII and VIII, Intercompany Claims shall, solely for purposes of receiving distributions under the Plan, be treated as having been resolved by compromise or otherwise eliminated, and thus, holders of Intercompany Claims shall receive no distribution under the Plan on account of such Intercompany Claims. After the Effective Date, Intercompany Claims may be compromised or otherwise eliminated as determined by the Plan Trust Administrator or Disbursing Agent, as applicable. Holders of Intercompany Claims shall not be entitled to vote on the Plan.

ARTICLE V.

PROVISIONS FOR TREATMENT OF UNCLASSIFIED CLAIMS UNDER THE PLAN

5.1. Unclassified Claims

Administrative Claims and Priority Tax Claims shall be treated in accordance with sections 1129(a)(9)(A) and 1129(a)(9)(C) of the Bankruptcy Code, respectively. Such Claims are not designated as classes of Claims for the purposes of this Plan or for the purposes of sections 1123, 1124, 1125, 1126 or 1129 of the Bankruptcy Code.

5.2. Treatment of Administrative Claims

All Administrative Claims shall be treated as follows:

(a) Time for Filing Administrative Claims

Each holder of an Administrative Claim, other than (i) a Fee Claim, (ii) a liability incurred and payable in the ordinary course of business by DH (and not past due), or (iii) an Administrative Claim that has been Allowed on or before the Effective Date, must file with the Bankruptcy Court and serve on DH, the Plan Proponents, the Creditors' Committee, and the Office of the United States Trustee, notice of such Administrative Claim within thirty (30) days after service of the Notice of Confirmation. Such notice of Administrative Claim must include at a minimum (i) the name of the holder of the Administrative Claim, (ii) the amount of the Administrative Claim, and (iii) the basis of the Administrative Claim. **Failure to file and serve such notice timely and properly shall result in the Administrative Claim being forever barred and discharged.**

(b) Time for Filing Fee Claims

Each Professional Person who holds or asserts a Fee Claim shall be required to file with the Bankruptcy Court, and serve on all parties required to receive notice, a Fee Application within forty (40) days after the Effective Date. **The failure to timely file and serve such Fee Application shall result in the Fee Claim being forever barred and discharged.**

(c) Allowance of Administrative Claims/Fee Claims

An Administrative Claim with respect to which notice has been properly filed and served pursuant to Section 5.2(a) shall become an Allowed Administrative Claim if no objection is filed within thirty (30) days after the later of (i) the Effective Date, (ii) the date of service of the applicable notice of Administrative Claim, or (iii) such later date as may be (A) agreed to by the holder of such Administrative Claim or (B) approved by the Bankruptcy Court on motion of a party in interest, without notice or a hearing. If an objection is filed within such thirty (30) day period (or any extension thereof), the Administrative Claim shall become an Allowed Administrative Claim only to the extent Allowed by Final Order. A Fee Claim in respect of which a Fee Application has been properly filed and served pursuant to Section 5.2(b) shall

become an Allowed Administrative Claim only to the extent allowed by order of the Bankruptcy Court.

(d) Payment of Allowed Administrative Claims

On the Plan Distribution Date, each holder of an Allowed Administrative Claim shall receive (i) the amount of such holder's Allowed Administrative Claim in one Cash payment or (ii) such other treatment as may be agreed upon in writing by the Plan Proponents and such holder; provided, that such treatment shall not provide a recovery to such holder having a present value as of the Effective Date in excess of such holder's Allowed Administrative Claim; and provided, further, that an Administrative Claim representing a liability incurred in the ordinary course of business of DH may be paid at the Plan Proponents' election in the ordinary course of business.

5.3. Treatment of Priority Tax Claims

At the election of the Plan Proponents, each holder of an Allowed Priority Tax Claim shall receive in full satisfaction of such Allowed Priority Tax Claim: (a) payments in Cash, in regular installments over a period ending not later than five (5) years after the Petition Date, of a total value, as of the Effective Date, equal to the Allowed amount of such Claim; (b) a lesser amount in one Cash payment as may be agreed upon in writing by the Plan Proponents and such holder; or (c) such other treatment as may be agreed upon in writing by the Plan Proponents and such holder; provided, that such agreed upon treatment may not provide such holder with a recovery having a present value as of the Effective Date that is greater than the amount of such holder's Allowed Priority Tax Claim or that is less favorable than the treatment provided to the most favored nonpriority unsecured Claims under the Plan. The Confirmation Order shall enjoin any holder of an Allowed Priority Tax Claim from commencing or continuing any action or proceeding against any responsible person, officer or manager of DH that otherwise would be liable to such holder for payment of a Priority Tax Claim so long as DH is in compliance with this Section. So long as the holder of an Allowed Priority Tax Claim is enjoined from commencing or continuing any action or proceeding against any responsible person, officer or manager of DH under this Section or pursuant to the Confirmation Order, the statute of limitations for commencing or continuing any such action or proceeding shall be tolled.

ARTICLE VI.

ACCEPTANCE OR REJECTION OF THE PLAN

6.1. Class of Claims Entitled to Vote to Accept or Reject the Plan

Only Class 3 – General Unsecured Claims is impaired under the Plan, and thus only holders of Class 3 – General Unsecured Claims are entitled to vote on the Plan.

6.2. Classes of Claims and Equity Interests Deemed to Accept the Plan

Class 1 – Priority Claims, Class 2 – Secured Claims, Class 4 – Convenience Claims, and Class 5 – Equity Interests are unimpaired under the Plan, and such classes of Claims and Equity

Interests and holders of Claims or Equity Interests therein are deemed to have accepted the Plan and, therefore, are not entitled to vote on the Plan.

6.3. Class Acceptance Requirement

A class of Claims shall have accepted the Plan if it is accepted by the holders of at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims in such class that have voted on the Plan.

ARTICLE VII.

PLAN SETTLEMENT AND COMPROMISE

Pursuant to sections 1123(b)(3) and 1123(b)(6) of the Bankruptcy Code and Bankruptcy Rule 9019, and subject to the occurrence of the Effective Date, the Plan shall constitute a motion to approve, and entry of the Confirmation Order shall constitute approval of, the settlement and compromise between and among DH, Dynegy, DGIN and holders of General Unsecured Claims against DH as follows:

(a) Dynegy shall issue to DH, for the benefit of holders of Allowed General Unsecured Claims against DH, (i) the Plan Cash Payment, (ii) the Plan Preferred Stock, and (iii) either (A) the Plan Secured Notes or (B), in lieu of the Plan Secured Notes, and at the sole election of Dynegy, the Plan Secured Notes Alternative Payment; and DH shall thereafter cause such property to be distributed to the holders of Allowed General Unsecured Claims in accordance with and pursuant to the Plan;

(b) Dynegy and DH shall cause DGIN to cancel the DH Note and deem such DH Note fully satisfied and extinguished; and

(c) For and in consideration of the undertakings and other agreements of Dynegy under and in connection with the Plan, including those set forth above, on the Effective Date: (i) in the manner set forth in Section 8.2, (A) Legacy DH (as successor to DH) and Dynegy shall cancel the Undertaking Agreement and Dynegy's obligations under the Undertaking Agreement shall be deemed to be fully satisfied and extinguished, and (B) Legacy DH (as successor to DH) shall transfer to New DH, a newly formed, wholly-owned subsidiary of Dynegy, 100% of the equity interests in DGIN; (ii) DH, its non-Debtor Affiliates, its Estate, and the Plan Proponents shall release, and be deemed to have released, all Claims and Causes of Action of the types described in Section 8.13 against all persons and entities referenced in such Section 8.13; and (iii) holders of Claims or Causes of Action arising from or related to the Prepetition Restructurings, including the Prepetition Lawsuits, shall be enjoined, as set forth in Section 16.22(b) hereof, from taking any action in respect of such Claims or Causes of Action against DH and all successors thereto, Dynegy or its non-Debtor Affiliates, or any of their current or former respective members, equity holders, directors, managers, officers, employees, agents, and professionals, successors and assigns or their respective assets and property.

Subject to the occurrence of the Effective Date, entry of the Confirmation Order shall constitute authorization for all parties to take all actions that are necessary or appropriate to implement and give effect to the settlement and compromise set forth herein.

ARTICLE VIII.

MEANS FOR IMPLEMENTATION OF THE PLAN

8.1. Operations Between the Confirmation Date and the Effective Date

During the period from the Confirmation Date through and until the Effective Date, DH shall continue to operate its businesses as a Debtor in Possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules and all orders of the Bankruptcy Court that are then in full force and effect.

8.2. Certain Intercompany Transactions

The intercompany transactions described below shall occur and be implemented pursuant to section 1123(a)(5) of the Bankruptcy Code on or before the Effective Date:

(a) Re-Vesting of Assets

Upon the occurrence of the Effective Date, except as otherwise expressly provided in the Plan or the Confirmation Order, title to all of the Assets of DH and its Estate shall vest in DH free and clear of all liens, mortgages, Claims, Causes of Action, interests, security interests and other encumbrances and without further order of the Bankruptcy Court.

(b) Cancellation of DH Note

As set forth in Article VII, Dynegy and DH shall cause DGIN to cancel the DH Note and deem such DH Note fully satisfied and extinguished.

(c) Formation of New DH and Legacy DH

Dynegy shall form a wholly-owned direct subsidiary, New DH, as a Delaware corporation, and New DH shall then form a wholly-owned direct subsidiary, Legacy DH, as a Delaware limited liability company.

(d) DH Merger With Legacy DH

Following consummation of the actions described in Section 8.2(c), Dynegy shall contribute 100% of the Equity Interests in DH to New DH and immediately thereafter DH shall be merged into Legacy DH under Delaware law, with Legacy DH as the surviving entity.

(e) Cancellation of Undertaking Agreement

As set forth in Article VII, immediately following consummation of the actions described in Section 8.2(d), Legacy DH, as successor to DH, and Dynegy shall cancel the Undertaking Agreement and Dynegy's obligations under such Undertaking Agreement shall be deemed to be fully satisfied and extinguished.

(f) Elimination of Certain Intercompany Indebtedness

Immediately following consummation of the actions described in Section 8.2(e), (i) any intercompany indebtedness owed by (or to) Legacy DH or one of the remaining Debtors to (or by) Dynegy or any of its direct or indirect subsidiaries (other than Legacy DH or the remaining Debtors) shall be identified; (ii) such intercompany indebtedness shall be either contributed down or distributed up, as the case may be, by Dynegy and its direct or indirect subsidiaries (other than Legacy DH or a subsidiary that is one of the remaining Debtors) to Legacy DH; and (iii) all such intercompany indebtedness shall be netted by Legacy DH, and if the net amount results in (A) a receivable of Legacy DH, such net receivable shall be contributed to DNE by Legacy DH, or (B) a payable by Legacy DH, such net payable shall be cancelled.

(g) Transfer of Legacy DH Assets to New DH

Except for (i) Cash necessary to pay the reasonable costs and expenses associated with the administration of the Plan Trust, which amount shall be (A) determined by the Plan Proponents subject to the consent of the Requisite Consenting Noteholders, which consent shall not be unreasonably withheld or delayed, and (B) identified in a Plan Document to be filed with the Bankruptcy Court not less than ten (10) days prior to the Plan Objection Deadline, and (ii) Legacy DH's equity interests in DNE, Legacy DH shall, after consummation of the actions described in Section 8.2(f), promptly transfer substantially all of its assets to New DH. The assets transferred by Legacy DH to New DH as set forth in the preceding sentence shall include, without limitation, 100% of the equity interests in DGIN.

(h) Transfer of Legacy DH to the Plan Trust

After consummation of the transfers described in Section 8.2(g), (i) Dynegy shall cause New DH to transfer 100% of the equity interests in Legacy DH to the Plan Trust and (ii) Legacy DH and its subsidiaries shall change their legal names, where applicable, to exclude the word "Dynegy" therefrom. Further, immediately upon the transfer of the equity interests in Legacy DH to the Plan Trust, Legacy DH and the remaining Debtors shall adopt new constituent documents that shall appoint the Plan Trust Administrator as the sole director or manager thereof, as applicable.

EXCEPT AS OTHERWISE PROVIDED IN THE PLAN, NEITHER DYNEGY NOR ANY OF ITS SUBSIDIARIES, INCLUDING NEW DH, SHALL HAVE, OR BE CONSTRUED TO HAVE OR MAINTAIN, ANY LIABILITY, CLAIM, OR OBLIGATION THAT IS BASED IN WHOLE OR IN PART ON ANY ACT, OMISSION, TRANSACTION, EVENT, OR OTHER OCCURRENCE OR THING OCCURRING OR IN EXISTENCE ON OR PRIOR TO THE EFFECTIVE DATE OF THE PLAN (INCLUDING, WITHOUT LIMITATION, ANY LIABILITY, CLAIM OR OBLIGATION ARISING UNDER APPLICABLE NON-BANKRUPTCY LAW AS A SUCCESSOR TO DH OR LEGACY DH) AND NO SUCH LIABILITY, CLAIM, OR OBLIGATION FOR ANY ACTS SHALL ATTACH TO DYNEGY OR ANY OF ITS SUBSIDIARIES, INCLUDING NEW DH.

8.3. Corporate Action

The entry of the Confirmation Order shall constitute authorization for DH and its Affiliates to take or cause to be taken all corporate actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act or action under any applicable law, order, rule or regulation, including, without limitation, any action required by the members, officers, or managers of DH and its Affiliates, including, among other things: (a) all transfers of assets (including equity interests) that are to occur pursuant to the Plan, (b) the incurrence of all obligations contemplated by the Plan and the making of Plan Distributions, (c) the execution and delivery of all applicable Plan Documents, (d) the implementation of all settlements and compromises as set forth in or contemplated by the Plan, and (e) the execution and delivery or consummation of any and all transactions, contracts, or arrangements permitted by applicable law, order, rule or regulation. On the Effective Date, the members, managers and/or officers of DH are authorized and directed to do all things and to execute and deliver all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and to take all necessary actions required in connection therewith, in the name of and on behalf of DH. All obligations of DH to indemnify and hold harmless its current and former directors, officers and employees, whether arising under DH's constituent documents or under any contract, law or equitable principle, shall be assumed by DH upon the occurrence of the Effective Date with the same effect as though such obligations constituted executory contracts that are assumed under section 365 of the Bankruptcy Code, and all such obligations shall be fully enforceable on their terms from and after the Effective Date. The prosecution of any so-indemnified Cause of Action against the Persons to whom such right(s) of indemnification are owed shall be, upon the occurrence of the Effective Date, enjoined and prohibited.

8.4. Allowance of Senior Notes Claims and Subordinated Notes Claims

Upon entry of the Confirmation Order, the Senior Notes Claims and Subordinated Notes Claims shall be Allowed in full in the aggregate amounts set forth in Exhibit "B" hereto. The Senior Notes Claims and Subordinated Notes Claims shall constitute Allowed Claims for all purposes and shall not, except with respect to the Subordinated Notes Claims to the extent provided in this Plan and the Subordinated Notes Indenture, be subject to defense, offset, counterclaim, subordination, recoupment, reduction or recharacterization by DH or any party in interest.

8.5. Adjustment to Amount of Plan Cash Payment and Principal Amount of Plan Secured Notes

The aggregate amount of the Plan Cash Payment to be issued on the Effective Date and the aggregate principal amount of the Plan Secured Notes to be issued on the Effective Date are subject to adjustment as follows:

(a) the aggregate principal amount of Plan Secured Notes will be reduced (on a dollar-for-dollar basis) by the amount of Cash held by DH and its subsidiaries (other than Dynegy Gas Investments Holdings, LLC and Dynegy Coal Investments Holdings, LLC and their respective subsidiaries, and assuming solely for this purpose that Dynegy Coal Holdco, LLC is a

subsidiary of DH) on the Effective Date in excess of the sum of (i) \$200,000,000 (including, for this purpose, any funds in or required to be funded to the Plan Secured Notes Debt Service Account, but excluding, for this purpose, the Plan Cash Payment) and (ii) any Cash reserved in an amount agreed to by the Plan Proponents and the Requisite Consenting Noteholders to pay (on the Effective Date, or thereafter as contemplated by the Plan) Allowed Administrative Claims and other Allowed Claims pursuant to and in accordance with the Plan and to fund the Plan Trust; and

(b) the aggregate amount of the Plan Cash Payment shall be increased by the amount of such excess Cash (on a dollar-for-dollar basis) as calculated in Section 8.5(a) above.

For the purpose of the calculation in this Section 8.5, Dynegy Coal Holdco, LLC will be deemed to be a subsidiary of DH and Dynegy Coal Holdco, LLC and Dynegy Gas Holdco, LLC and their subsidiaries will be deemed to have distributed to DH all Cash permitted to be distributed pursuant to the CoalCo Credit Facility and the GasCo Credit Facility through December 31, 2011, subject to any limitations on dividends and distributions by such entities pursuant to applicable law. Further, for the purpose of the calculation in this Section 8.5, the amount of excess Cash shall be determined by the Plan Proponents in consultation with the advisors to the Consenting Noteholders.

In addition to the adjustments set forth in this Section 8.5, the aggregate principal amount of the Plan Secured Notes is subject to adjustment pursuant to Section 12.3. The adjustment of the aggregate principal amount of the Plan Secured Notes set forth in Section 12.3 shall occur prior to the adjustments to the amount of the Plan Cash Payment and the aggregate principal amount of the Plan Secured Notes set forth in this Section 8.5.

8.6. Plan Secured Notes Alternative Payment

As set forth in Section 4.1(c), Dynegy may, in its sole discretion, issue the Plan Secured Notes Alternative Payment to DH for distribution to holders of Allowed General Unsecured Claims in lieu of Dynegy issuing the Plan Secured Notes. The Cash necessary for Dynegy to issue the Plan Secured Notes Alternative Payment, if Dynegy chooses to do so, in its sole discretion, shall be obtained by Dynegy through Cash of the Plan Proponents and/or the Plan Secured Notes Alternative Payment Financing, which shall be on terms that, taken as a whole, are no less favorable to Dynegy than the terms of the Plan Secured Notes as determined by the Plan Proponents subject to the consent of the Requisite Consenting Noteholders, which consent shall not be unreasonably withheld or delayed; provided, however, that such Plan Secured Notes Alternative Payment Financing may have an effective interest rate up to 12% per annum (inclusive of any original issue discount); provided further that the Requisite Consenting Noteholders shall be deemed to have consented to the terms of the Plan Secured Notes Alternative Payment Financing if it is on the terms to be set forth in a Plan Document filed with the Bankruptcy Court not less than ten (10) days prior to the Plan Objection Deadline.

8.7. Establishment of Claims Purchasing Fund

On or prior to the Effective Date, Dynegy shall establish a fund for the purpose of acquiring Claims against the Debtors (other than DH), and shall deposit therein Cash in an amount to be (a) determined by Dynegy subject to the consent of the Requisite Consenting

Noteholders, which consent shall not be unreasonably withheld or delayed, and (b) set forth in a Plan Document filed with the Bankruptcy Court not less than ten (10) days prior to the Plan Objection Deadline. On and after the Effective Date, Dynegy may, in its sole discretion, utilize such funds to purchase Claims against the Debtors (other than DH).

8.8. Termination of Certain Debt Obligations

Upon the occurrence of the Effective Date, all notes, instruments, certificates and other documents evidencing the Senior Notes Claims and the Subordinated Notes Claims shall be cancelled and annulled, and the holders of Allowed Senior Notes Claims and Allowed Subordinated Notes Claims shall only be entitled to receive the treatment provided under the Plan. As set forth above, Dynegy shall cause DGIN to cancel the DH Note and deem such DH Note fully satisfied and extinguished.

8.9. Causes of Action

Except as otherwise set forth in the Plan, and in accordance with Article VII and Section 8.2 hereof, (a) all Causes of Action of DH and its Estate shall be transferred to, and be vested in, New DH, and (b) the right of New DH to commence, prosecute or settle such Causes of Action, in its sole discretion, shall be preserved notwithstanding the occurrence of the Effective Date.

No Person may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any Cause of Action against them as any indication that New DH will not pursue any and all available Causes of Action against them. New DH expressly reserves all rights to prosecute any and all Causes of Action against any Person, except as otherwise provided in the Plan. Unless any Cause of Action against a Person is expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or a Final Order, DH and New DH expressly reserve all Causes of Action for later adjudication, and, therefore, no preclusion doctrine, including without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such Causes of Action upon or after the confirmation or consummation of the Plan.

8.10. Appointment of the Disbursing Agent

Upon the occurrence of the Effective Date, Dynegy shall be appointed to serve as the Disbursing Agent and shall have all of the powers, rights, duties and protections afforded the Disbursing Agent under the Plan.

8.11. Sources of Cash for Plan Distributions

All Cash necessary for the Disbursing Agent to make payments and Plan Distributions, other than the Plan Cash Payment and Plan Secured Notes Alternative Payment, shall be obtained from DH's existing Cash balances as of the Effective Date. The Cash necessary to make the Plan Cash Payment and Plan Secured Notes Alternative Payment, if any, shall be provided by Dynegy as part of the settlement and compromise embodied in Article VII.

8.12. Investment of Funds Held by the Disbursing Agent; Tax Reporting by the Disbursing Agent

The Disbursing Agent may, but shall not be required to, invest any funds held by the Disbursing Agent pending the distribution of such funds pursuant to the Plan in investments that are exempt from federal, state and local taxes. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the Disbursing Agent of a private letter ruling if the Disbursing Agent so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Disbursing Agent), the Disbursing Agent may (a) treat the funds and other property held by it as held in a single trust for federal income tax purposes in accordance with the trust provisions of the Internal Revenue Code (sections 641, et seq.), and (b) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes.

8.13. Releases by DH, its non-Debtor Affiliates, the Estate, and the Plan Proponents

As of the Effective Date, for good and valuable consideration, DH, its non-Debtor Affiliates, the Estate, and the Plan Proponents shall be deemed to release and forever waive and discharge any and all Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to DH, DH's Chapter 11 Case, the Plan, the Disclosure Statement, solicitation of the Plan, or the Prepetition Restructurings (including, without limitation, all Causes of Action alleged in the Prepetition Lawsuits related to the Prepetition Restructurings), and that could have been asserted by or on behalf of DH, its non-Debtor Affiliates, the Estate, or the Plan Proponents against (a) the Plan Proponents, (b) DH's and its non-Debtor Affiliates' present and former officers, managers and directors (as applicable), (c) the Consenting Noteholders, (d) Franklin, (e) the PSEG Entities, and (f) the attorneys, accountants, investment bankers, bankruptcy and restructuring advisors and financial advisors of each of the foregoing; except, that nothing in this Section shall be construed to release any party or entity from willful misconduct or gross negligence as determined by a Final Order.

8.14. Releases by Creditors

Subject to the occurrence of the Effective Date, for good and valuable consideration, any holder of a Claim that is impaired or unimpaired under the Plan shall be presumed conclusively to have released DH, its non-Debtor Affiliates, the Plan Proponents, the Consenting Noteholders, Franklin, the PSEG Entities, and each of their respective present and former officers, managers and directors (as applicable), their respective successors, assigns, and each of their respective agents, attorneys, advisors, accountants, restructuring consultants, financial advisors and investment bankers, and any Person claimed to be liable derivatively through any of the foregoing, from any Cause of Action based on the same subject matter as such Claim; except that nothing in this Section shall be construed to release any party from willful misconduct or gross negligence as determined by a Final Order or to release any party from any Claim or Cause of Action which any Person who is

a party to the GasCo Credit Facility or the CoalCo Credit Facility, or their successors and assigns, may have in respect of the GasCo Credit Facility or the CoalCo Credit Facility.

ARTICLE IX.

THE PLAN TRUST

9.1. Creation of the Plan Trust and the Appointment of the Plan Trust Administrator

(a) On the Effective Date, the Plan Trust will be created pursuant to the Plan Trust Declaration. The beneficiary of the Plan Trust shall be identified in the Plan Trust Declaration. The beneficiary of the Plan Trust shall not be the holder of a Claim against or Equity Interest in DH, nor shall the beneficiary of the Plan Trust be a Plan Proponent or an Affiliate or insider of any Plan Proponent.

(b) The Plan Trust shall be administered by the Plan Trust Administrator who shall be identified prior to the conclusion of the Confirmation Hearing. The appointment of the initial Plan Trust Administrator and the terms of its compensation shall be subject to the approval of the Bankruptcy Court.

(c) During the period from the Confirmation Date to the Effective Date, DH shall reimburse the Plan Trust Administrator for actual and necessary out-of-pocket expenses incurred by it in preparing to assume its responsibilities under the Plan Trust Declaration in an aggregate amount not to exceed \$50,000. On the Effective Date, DH shall transfer to the Plan Trust Cash necessary to pay the reasonable costs and expenses associated with the administration of the Plan Trust, which amount shall be (i) determined by the Plan Proponents subject to the consent of the Requisite Consenting Noteholders, which consent shall not be unreasonably withheld or delayed, and (ii) identified in a Plan Document to be filed with the Bankruptcy Court not less than ten (10) days prior to the Plan Objection Deadline.

9.2. Property of the Plan Trust

As set forth in Section 8.2(h), after consummation of the transfers described in Section 8.2(g), New DH shall transfer 100% of the equity interests in Legacy DH to the Plan Trust.

9.3. Powers and Duties of the Plan Trust Administrator

(a) Subject to the terms and provisions of the Plan Trust Declaration, the Plan Trust Administrator shall have the duty and authority to take all actions, including, but not limited to, the retention of professionals and the filing of appropriate tax returns and applications for regulatory approvals, deemed by the Plan Trust Administrator to be necessary or appropriate to dissolve Legacy DH.

(b) To the extent the legal name of Legacy DH and the remaining Debtors have not been changed prior to the transfer of Legacy DH to the Plan Trust pursuant to Section 8.2(h), the Plan Trust Administrator shall have the duty and authority to change the legal name of Legacy DH, the remaining Debtors and their subsidiaries whose legal name contains the word "Dynergy" to another legal name that does not contain the word "Dynergy."

(c) The Plan Trust Administrator, together with its officers, directors, employees, agents, and representatives, are exculpated pursuant to the Plan and shall be exculpated pursuant to the Confirmation Order by all Persons, holders of Claims and Equity Interests, and parties in interest, from any and all Claims and Causes of Action arising out of the discharge of the powers and duties conferred upon the Plan Trust Administrator by the Plan Trust Declaration, the Plan, any Final Order of the Bankruptcy Court entered pursuant to or in the furtherance of the Plan, or applicable law, except solely for actions or omissions arising out of the Plan Trust Administrator's willful misconduct or gross negligence. No holder of a Claim or an Equity Interest, or representative thereof, shall have or pursue any Claim or Cause of Action against the Plan Trust Administrator or its officers, directors, employees, agents, or representatives for making payments in accordance with the Plan Trust Declaration, or for liquidating assets to make payments under the Plan Trust Declaration.

ARTICLE X.

PLAN DISTRIBUTION PROVISIONS

10.1. Plan Distributions

The Disbursing Agent shall make, or cause to be made, all Plan Distributions. In the event a Plan Distribution shall be payable on a day other than a Business Day, such Plan Distribution shall instead be paid on the immediately succeeding Business Day, but shall be deemed to have been made on the date otherwise due. Except as otherwise provided herein, Plan Distributions shall be made to the holders of Allowed Claims as reflected in the registry of Claims maintained by the Claims Agent on the Effective Date. The Disbursing Agent and its agents shall have no obligation to recognize any transfer of a Claim after the Effective Date.

10.2. Timing of Plan Distributions

Except for Plan Distributions that shall be made on the Effective Date in accordance with the Plan, each Plan Distribution shall be made on the relevant Plan Distribution Date therefor and shall be deemed to have been timely made if made on such date or within five (5) Business Days thereafter.

10.3. Address for Delivery of Plan Distributions/Unclaimed Plan Distributions

Subject to Bankruptcy Rule 9010, any Plan Distribution or delivery to a holder of an Allowed Claim shall be made at the address of such holder as set forth in the latest-dated of the following actually held or received by the Disbursing Agent prior to the Plan Distribution Date applicable to such Plan Distribution: (a) the Schedules; (b) the Proof of Claim filed by such holder; (c) any notice of assignment filed with the Bankruptcy Court with respect to such Claim pursuant to Bankruptcy Rule 3001(e); or (d) any notice served by such holder giving details of a change of address. If any Plan Distribution sent to the holder of a Claim is returned to the Disbursing Agent as undeliverable, no Plan Distributions shall be made to such holder unless the Disbursing Agent is notified of such holder's then current address within one hundred and twenty (120) days after such Plan Distribution was returned. After such date, if such notice was not provided, such holder shall have forfeited its right to such Plan Distribution, and the undeliverable Plan Distribution shall revert to New DH or the Disbursing Agent, as applicable.

Upon such reversion, the Claim of any holder or its successors with respect to such property shall be cancelled, discharged and forever barred notwithstanding any applicable federal or state escheat, abandoned or unclaimed property laws to the contrary.

10.4. De Minimis Plan Distributions

No Plan Distribution of less than twenty dollars (\$20.00) shall be made by the Disbursing Agent to the holder of any Claim unless a request therefor is made in writing to the Disbursing Agent. If no request is made as provided in the preceding sentence within ninety (90) days after the Effective Date, all such Plan Distributions shall revert to New DH or the Disbursing Agent, as applicable.

10.5. Time Bar to Cash Payments

Checks issued in respect of Allowed Claims shall be null and void if not negotiated within one hundred and eighty (180) days after the date of issuance thereof. Requests for reissuance of any voided check shall be made directly to the Disbursing Agent by the holder of the Allowed Claim to whom such check was originally issued. Any claim in respect of such a voided check shall be made within one hundred and eighty (180) days after the date of issuance of such check. If no request is made as provided in the preceding sentence, any claims in respect of such voided check shall be discharged and forever barred and such unclaimed Plan Distribution shall revert to New DH or the Disbursing Agent, as applicable.

10.6. Manner of Payment Under the Plan

Unless the Person receiving a Plan Distribution agrees otherwise, any Plan Distribution to be made in Cash under the Plan shall be made, at the election of the Disbursing Agent, by check drawn on a domestic bank or by wire transfer from a domestic bank. Cash payments to foreign creditors may be, in addition to the foregoing, made at the option of the Disbursing Agent in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. The Disbursing Agent may cause all Cash Plan Distributions in respect of the Senior Notes Claims and Subordinated Notes Claims to be paid to the Depository Trust Company for payment to the holders of Allowed Senior Notes Claims and Allowed Subordinated Notes Claims similar to the manner in which DH previously made payments on the Senior Notes and the Subordinated Notes.

10.7. Fractional Plan Distributions

Notwithstanding anything to the contrary contained herein, no Plan Distributions of fractional shares or fractions of dollars (whether in Cash or notes) will be made. Fractional shares and fractions of dollars (whether in Cash or notes) shall be rounded to the nearest whole unit (with any amount equal to or less than one-half share or one-half dollar, as applicable, to be rounded down).

10.8. Special Distribution Provisions Concerning Senior Notes Claims and Subordinated Notes Claims

The following additional provisions shall apply specifically to Plan Distributions to be made to the holders of Allowed Senior Notes Claims and Allowed Subordinated Notes Claims under the Plan:

(a) Service of Indenture Trustees. The Indenture Trustees and their agents, successors and assigns or such entity appointed by the Indenture Trustees shall facilitate the making of Plan Distributions to the holders of Allowed Senior Notes Claims and Allowed Subordinated Notes Claims for which they serve as indenture trustee and upon the completion thereof, shall be discharged of all their respective obligations associated with the Senior Notes and Subordinated Notes, as applicable. The rights of holders of Allowed Senior Notes Claims and holders of Allowed Subordinated Notes Claims shall continue in effect for the sole purpose of allowing and requiring the Indenture Trustees to make Plan Distributions on account of such Claims. Any actions taken by the Indenture Trustees with respect to Allowed Senior Notes Claims and Allowed Subordinated Notes Claims that are not for the purposes authorized herein shall be null and void.

(b) Substitution of the Indenture Trustees; Distributions. Upon the occurrence of the Effective Date, the Claims of the applicable Indenture Trustees shall be, for all purposes under the Plan, including, without limitation, the right to receive distributions hereunder, substituted for all Claims of individual holders of Allowed Senior Notes Claims and Allowed Subordinated Notes Claims. On the Plan Distribution Date, which for the purposes of this Section 10.8 shall be the Effective Date, all Senior Notes Claims and Subordinated Notes Claims shall be settled and compromised in exchange for the distribution to the applicable Indenture Trustees of the applicable Plan Distributions to the holders of Allowed Senior Notes Claims and Allowed Subordinated Notes Claims as specified in Section 4.1(c), and subject to Section 16.5; provided, that the Indenture Trustees shall return to the Disbursing Agent any Plan Distributions held on account of any Allowed Senior Notes Claims or Allowed Subordinated Notes Claims as to which the requirements of Section 10.10 are not satisfied by the first (1st) anniversary of the Effective Date.

(c) Payment of Fees and Expenses of Indenture Trustees. On the Effective Date, or as soon as reasonably practicable thereafter, the Disbursing Agent shall pay in Cash without any further notice to the Bankruptcy Court all reasonable and documented fees and expenses of the Indenture Trustees owed in accordance with the applicable Indenture. The Indenture Trustees shall provide reasonably detailed invoices to DH or the Disbursing Agent no later than five (5) days prior to the Effective Date (subject to redaction to preserve attorney-client privilege); provided, however, that the Bankruptcy Court shall retain jurisdiction over any disputes regarding the reasonableness of the Indenture Trustees' requested fees and expenses. Upon payment of the reasonable and documented fees and expenses of the Indenture Trustees owed in accordance with the applicable Indenture, the Indenture Trustees shall forever release, waive and discharge their liens, including any charging liens, with respect to any Plan Distribution that is made to any holder of an Allowed Senior Notes Claim or Allowed Subordinated Notes Claim.

10.9. Reserve for Contested Claims

The Pro Rata Share of Plan Distributions to be distributed to the holders of Allowed General Unsecured Claims shall be distributed as provided in this Article X. The Pro Rata Share of Plan Distributions reserved for Contested General Unsecured Claims shall not exceed the amount estimated by the Bankruptcy Court with respect to such Claims, if any, without the consent of the Requisite Consenting Noteholders, which consent shall not be unreasonably withheld or delayed.

10.10. Surrender and Cancellation of Instruments

As a condition to receiving any Plan Distribution, on or before the Plan Distribution Date, the holder of an Allowed Claim evidenced by a certificate, instrument or note, other than any such certificate, instrument or note that is being reinstated or being left unimpaired under the Plan, shall (a) surrender such certificate, instrument or note representing such Claim, including, without limitation, any guarantees, and (b) execute and deliver such other documents as may be necessary to effectuate the Plan. Such certificate, instrument or note, including any such guarantees, shall thereafter be cancelled and extinguished. The Disbursing Agent shall have the right to withhold any Plan Distribution to be made to or on behalf of any holder of such Claims unless and until (a) such certificates, instruments or notes, including any such guarantees, are surrendered, or (b) any relevant holder provides to the Disbursing Agent an affidavit of loss or such other documents as may be required by the Disbursing Agent together with an appropriate indemnity in the customary form. Any such holder who fails to surrender such certificates, instruments or notes, including any such guarantees, or otherwise fails to deliver an affidavit of loss and indemnity prior to the first (1st) anniversary of the Effective Date, shall be deemed to have forfeited its Claims and shall not participate in any Plan Distribution. All property in respect of such forfeited Claims shall revert to New DH or the Disbursing Agent, as applicable.

ARTICLE XI.

**PROCEDURES FOR RESOLVING
AND TREATING CONTESTED CLAIMS**

11.1. Claim Objection Deadline

As soon as practicable, but in no event later than one hundred and eighty (180) days after the Effective Date (subject to being extended by the order of the Bankruptcy Court upon motion of the Disbursing Agent), objections to Claims shall be filed with the Bankruptcy Court and served upon the holders of each of the Claims to which objections are made.

11.2. Prosecution of Contested Claims

The Disbursing Agent may object to the allowance of Claims filed with the Bankruptcy Court with respect to which liability is disputed in whole or in part. Except as otherwise set forth herein, all objections that are filed and prosecuted as provided herein shall be litigated to Final Order or compromised and settled in accordance with Section 11.3.

11.3. Settlement of Claims and Causes of Action

Notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, from and after the Effective Date, the Disbursing Agent shall have authority to settle or compromise all Claims and Causes of Action (to the extent not previously compromised, settled and released under the Plan) without further review or approval of the Bankruptcy Court.

11.4. Entitlement to Plan Distributions Upon Allowance

Notwithstanding any other provision of the Plan, no Plan Distribution or partial Plan Distribution shall be made with respect to any Claim to the extent it is a Contested Claim, unless and until such Contested Claim becomes an Allowed Claim, subject to the setoff rights as provided in Section 16.19. When a Claim that is not an Allowed Claim as of the Effective Date becomes an Allowed Claim (regardless of when) the holder of such Allowed Claim shall thereupon become entitled to receive the Plan Distributions in respect of such Claim, the same as though such Claim had been an Allowed Claim on the Effective Date.

11.5. Estimation of Claims

The Plan Proponents (or either of them) or, following the Effective Date, the Disbursing Agent, may, at any time, request that the Bankruptcy Court estimate any Contested Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Plan Proponents (or either of them) or the Disbursing Agent has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Contested Claim, that estimated amount shall constitute the Allowed amount of such Claim for all purposes under the Plan except with respect to Plan Distributions, and with respect to Plan Distributions the estimated amount shall constitute the maximum Allowed amount of such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

ARTICLE XII.

**CONDITIONS PRECEDENT TO
CONFIRMATION OF THE PLAN AND
THE OCCURRENCE OF THE EFFECTIVE DATE**

12.1. Conditions Precedent to Confirmation

The following are conditions precedent to confirmation of the Plan:

(a) The Bankruptcy Court shall have issued, and the Clerk of the Bankruptcy Court shall have entered, an order or orders (i) approving the Disclosure Statement as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code, (ii) determining that all votes on the Plan are binding and have been properly tabulated as acceptances or rejections of

the Plan, (iii) confirming and giving effect to the terms and provisions of the Plan, (iv) determining that all applicable tests, standards and burdens in connection with the Plan have been duly satisfied and met by the Plan Proponents and the Plan, (v) approving the Plan Documents, and (vi) authorizing the Plan Proponents to execute, enter into, and deliver the Plan Documents and to execute, implement, and to take all actions otherwise necessary or appropriate to give effect to the transactions and transfer of assets contemplated by the Plan and the Plan Documents;

(b) The Confirmation Order, the Plan, the Plan Documents, the Plan Secured Notes, the Plan Preferred Stock, and all of the documents, exhibits and appendices contained therein, are each in form and substance reasonably acceptable to the Plan Proponents and the Requisite Consenting Noteholders; and

(c) The Confirmation Order shall include determinations that, among other things, all of the settlements and compromises contained in the Plan, including but not limited to the settlement and compromise described in Article VII, meet the applicable standards under section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019 for approval and implementation, and that the Plan satisfies each of the confirmation standards set forth in section 1129(a) of the Bankruptcy Code.

12.2. Conditions Precedent to the Occurrence of the Effective Date

The following are conditions precedent to the occurrence of the Effective Date:

(a) The Confirmation Order shall have been entered by the Bankruptcy Court, be in full force and effect and not be subject to any stay or injunction;

(b) All necessary consents, authorizations and approvals shall have been given as provided for or contemplated by the Plan, including with respect to the transfers of property and the payments provided for or contemplated by the Plan;

(c) All conditions to the obligations of the Plan Proponents under the Plan and the Plan Documents shall have been satisfied or waived in accordance with the terms of the Plan or the applicable Plan Document;

(d) The Confirmation Order, the Plan, the Plan Documents, the Plan Secured Notes, the Plan Preferred Stock, and all of the documents, exhibits and appendices contained therein shall not have been amended, supplemented or otherwise modified from the form and substance reasonably acceptable to the Plan Proponents and Requisite Consenting Noteholders pursuant to Section 12.1(b), unless such amendments, supplements or modifications are in form and substance reasonably acceptable to the Plan Proponents and the Requisite Consenting Noteholders;

(e) The intercompany transactions authorized pursuant to Section 8.2, and all material documents, instruments and agreements necessary to implement such transactions, shall be in form and substance reasonably acceptable to the Plan Proponents and the Requisite Consenting Noteholders.

(f) If the approval of Dynegey's stockholders is required, as determined by Dynegey after consultation with the Consenting Noteholders, by the General Corporation Law of the State of Delaware (the "DGCL") or the rules of the New York Stock Exchange either (i) to amend Dynegey's certificate of incorporation to increase its authorized share capital to allow for the issuance of the Plan Preferred Stock and/or the shares of Dynegey's common stock to be issued upon conversion of the Plan Preferred Stock or (ii) to allow for the issuance of the Plan Preferred Stock and/or the shares of Dynegey's common stock to be issued upon conversion of the Plan Preferred Stock, then such stockholder approval shall have been obtained in accordance with the DGCL and Dynegey's certificate of incorporation and bylaws at a meeting duly called and held for such purpose or through action by written consent in lieu of such meeting, in each case in form and substance reasonably acceptable to Dynegey and the Requisite Consenting Noteholders; and

(g) An order or orders, which may be the Confirmation Order, in form and substance reasonably acceptable to the Plan Proponents and Requisite Consenting Noteholders, shall have been entered by the Bankruptcy Court, be in full force and effect and not be subject to any stay or injunction, and shall either (i) Allow or (ii) estimate the Lease Guaranty Claims in an aggregate amount not to exceed \$300,000,000.

12.3. Waiver of Conditions

The Plan Proponents may waive, with prior written notice to the Consenting Noteholders, but without further order of the Bankruptcy Court, any one or more of the conditions set forth in Section 12.1 or Section 12.2; provided, however, that to the extent such waiver is a waiver with respect to a condition that requires the consent or approval of the Requisite Consenting Noteholders, the Plan Proponents may not waive such requirement without the prior written consent of the Requisite Consenting Noteholders; provided further, that if the order or orders entered pursuant to Section 12.2(g) are otherwise in form and substance reasonably acceptable to the Requisite Consenting Noteholders and are in full force and effect and not subject to any stay or injunction, but the Lease Guaranty Claims Allowed or estimated pursuant thereto are in an aggregate amount that exceeds \$300,000,000, then the waiver of Section 12.2(g) shall require the prior written consent of the Requisite Consenting Noteholders only if the aggregate amount of Lease Guaranty Claims Allowed or estimated pursuant to such order or orders exceeds \$400,000,000.

If the Lease Guaranty Claims are Allowed or estimated as set forth herein in an aggregate amount that is less than \$300,000,000, the aggregate principal amount of Plan Secured Notes to be issued pursuant to the Plan shall be reduced by an amount to be determined for every dollar such Lease Guaranty Claims are less than \$300,000,000. If the Lease Guaranty Claims are Allowed or estimated as set forth herein in an aggregate amount that exceeds \$300,000,000 and the condition precedent to the occurrence of the Effective Date set forth in Section 12.2(g) is waived as set forth above, the aggregate principal amount of Plan Secured Notes to be issued pursuant to the Plan shall be increased by an amount to be determined for every dollar such Lease Guaranty Claims exceed \$300,000,000. The adjustment amounts left to be determined under this Section 12.3 shall be (i) an amount that is the same for an increase or decrease in the aggregate principal amount of Plan Secured Notes, (ii) agreed to among the Plan Proponents and Requisite Consenting Noteholders, and (iii) identified in a Plan Document to be filed with the Bankruptcy Court not less than ten (10) days prior to the Plan Objection Deadline.

12.4. Effect of Non-Occurrence of the Effective Date

If the Effective Date shall not occur, the Plan shall be null and void and nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims against or Equity Interests in DH; (b) prejudice in any manner the rights of DH or the Plan Proponents; or (c) constitute an admission, acknowledgement, offer or undertaking by DH or the Plan Proponents as to any matter or thing.

ARTICLE XIII.

THE DISBURSING AGENT

13.1. Powers and Duties of the Disbursing Agent

The Disbursing Agent shall be empowered to: (a) take all steps and execute all instruments and documents necessary to make Plan Distributions to holders of Allowed Claims; (b) comply with the Plan and the obligations thereunder; (c) employ, retain or replace professionals to represent it with respect to its responsibilities; (d) object to Claims as specified in Article XI, and prosecute such objections; (e) compromise and settle any issue or dispute regarding the amount, validity, priority, treatment or Allowance of any Claim as provided in Article XI; (f) make, in its sole discretion, annual and other periodic reports regarding the status of distributions under the Plan to the holders of Allowed Claims that are outstanding at such time, with such reports to be made available upon request to the holder of any Contested Claim; and (g) exercise such other powers as may be vested in the Disbursing Agent pursuant to the Plan, the Plan Documents, the Confirmation Order, or any other order of the Bankruptcy Court.

13.2. Plan Distributions

The Disbursing Agent shall make or cause to be made the required Plan Distributions specified under the Plan on the relevant Plan Distribution Date therefor, except as otherwise provided in Section 10.8 of the Plan.

13.3. Exculpation of the Disbursing Agent

Except as otherwise provided in this Section, the Disbursing Agent, together with its officers, directors, employees, agents and representatives, are exculpated pursuant to the Plan by all Persons, holders of Claims, and all other parties in interest, from any and all Claims or Causes of Action arising out of the discharge of the powers and duties conferred upon the Disbursing Agent (and each of its respective paying agents), by the Plan, any Final Order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law, except solely for actions or omissions arising out of the Disbursing Agent's willful misconduct or gross negligence. No holder of a Claim, or representative thereof, shall have or pursue any Claim or Cause of Action against (a) the Disbursing Agent or its respective officers, directors, employees, agents and representatives for making Plan Distributions in accordance with the Plan, or (b) any holder of a Claim receiving or retaining Plan Distributions as provided for by the Plan. Nothing contained in this Section shall preclude or impair any holder of an Allowed Claim from bringing an action in the

Bankruptcy Court to compel the making of Plan Distributions contemplated by the Plan on account of such Allowed Claim.

ARTICLE XIV.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

14.1. Assumption and Rejection of Executory Contracts and Unexpired Leases

(a) On the Effective Date, all executory contracts and unexpired leases of DH shall be rejected pursuant to the provisions of section 365 of the Bankruptcy Code, except: (i) any executory contracts or unexpired leases that are the subject of a separate motion to reject, assume, or assume and assign that is filed pursuant to section 365 of the Bankruptcy Code by DH before the Effective Date; (ii) any contracts and leases listed in any “Schedule of Assumed and Assumed and Assigned Executory Contracts and Unexpired Leases” to be filed by the Plan Proponents with the Bankruptcy Court at least ten (10) Business Days prior to the Confirmation Hearing; (iii) all executory contracts and unexpired leases assumed or assumed and assigned under this Plan or by order of the Bankruptcy Court entered before the Effective Date; (iv) any executory contract or unexpired lease that is the subject of a dispute over the amount or manner of cure pursuant to this Article XIV and for which DH (or, if after the Effective Date, the Disbursing Agent) makes a motion to reject such contract or lease based upon the existence of such dispute filed at any time; and (v) any agreement, obligation, security interest, transaction or similar undertaking that the Plan Proponents believe is not executory.

(b) The Plan shall constitute a motion to reject such executory contracts and unexpired leases rejected pursuant to Section 14.1(a), and DH shall have no liability thereunder except as is specifically provided in the Plan. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such rejections pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such rejected agreement, executory contract or unexpired lease is burdensome and that the rejection thereof is in the best interests of DH and the Estate.

(c) The Plan shall constitute a motion to assume or assume and assign to New DH (unless another party is otherwise listed) such executory contracts and unexpired leases as set forth in any “Schedule of Assumed and Assumed and Assigned Executory Contracts and Unexpired Leases” filed by the Plan Proponents with the Bankruptcy Court at least ten (10) Business Days prior to the Confirmation Hearing, and DH shall have no liability thereunder for any breach of such assumed and assigned executory contract or unexpired lease occurring after such assignment pursuant to section 365(k) of the Bankruptcy Code, except as is specifically provided in the Plan. Issuance of the Confirmation Order by the Bankruptcy Court, upon entry of such Confirmation Order by the Clerk of the Bankruptcy Court, shall constitute approval of such assumption or assumption and assignment pursuant to sections 365(a), (b) and (f) of the Bankruptcy Code, as applicable, and a finding by the Bankruptcy Court that the requirements of section 365(f) of the Bankruptcy Code have been satisfied. Any counterparty to an agreement listed on a “Schedule of Assumed and Assumed and Assigned Executory Contracts and Unexpired Leases” filed by the Plan Proponents who disputes the assumption or assignment of an executory contract or unexpired lease must file with the Bankruptcy Court, and serve upon the Plan Proponents and the Creditors’ Committee a written objection to the assumption or

assumption and assignment, which objection shall set forth the basis for the dispute by no later than seven (7) Business Days prior to the Confirmation Hearing. The failure to timely object shall be deemed a waiver of any and all objections to the assumption, or assumption and assignment, of executory contracts and unexpired leases listed in any “Schedule of Assumed and Assumed and Assigned Executory Contracts and Unexpired Leases” timely filed by the Plan Proponents.

(d) The inclusion of a contract, lease or other agreement on any “Schedule of Assumed and Assumed and Assigned Executory Contracts and Unexpired Leases” filed with the Bankruptcy Court by the Plan Proponents shall not constitute an admission by the Plan Proponents as to the characterization of whether any such included contract, lease, or other agreement is, or is not, an executory contract or unexpired lease or whether any claimants under any such contract, lease or other agreement are time-barred from asserting Claims against DH. The Plan Proponents reserve all rights with respect to the characterization of any such agreements.

14.2. Cure

At the election of the Plan Proponents, any monetary defaults under each executory contract and unexpired lease to be assumed under this Plan shall be satisfied pursuant to section 365(b)(1) of the Bankruptcy Code: (a) by payment of the default amount in Cash on the Effective Date or as soon thereafter as practicable; or (b) on such other terms as agreed upon in writing by the Plan Proponents or the Disbursing Agent, as applicable, and the counter-party to such executory contract or unexpired lease. In the event of a dispute regarding: (a) the amount of any cure payments; (b) the ability to provide adequate assurance of future performance under the contract or lease to be assumed or assigned; or (c) any other matter pertaining to assumption or assignment, the cure payments required by section 365(b)(1) of the Bankruptcy Code, if any, shall be made following the entry of a Final Order resolving the dispute and approving assumption or assignment, as applicable. Any “Schedule of Assumed and Assumed and Assigned Executory Contracts and Unexpired Leases” filed by the Plan Proponents shall set forth DH’s cure obligations, if any, for each agreement for which a cure obligation must be satisfied as a condition to the assumption or assumption and assignment of such agreement. Any counterparty to an agreement listed on any “Schedule of Assumed and Assumed and Assigned Executory Contracts and Unexpired Leases” filed by the Plan Proponents who disputes the scheduled cure obligation with respect to the executory contract or unexpired lease to which it is a party or regarding the provision of adequate assurance, or any other matter relating to assumption or assignment, must file with the Bankruptcy Court, and serve upon the Plan Proponents and the Creditors’ Committee a written objection, which objection shall set forth the basis for the dispute, the alleged correct cure obligation, if applicable, and/or any other objection related to the assumption or assignment of the relevant agreement by no later than seven (7) Business Days prior to the Confirmation Hearing. If a counterparty to an executory contract or unexpired lease to be assumed, or assumed and assigned, fails to file and serve an objection that complies with the foregoing, such counterparty shall be deemed to have waived any and all objections to the assumption and assignment of the relevant agreement as proposed by DH, including with respect to any cure obligations.

14.3. Claims Arising from Rejection, Expiration or Termination

Claims created by the rejection of executory contracts and unexpired leases or the expiration or termination of any executory contract or unexpired lease prior to the Confirmation Date must be filed with the Bankruptcy Court and served on DH and the Plan Proponents (a) in the case of an executory contract or unexpired lease rejected by DH prior to the Confirmation Date, no later than the later of (i) the applicable bar date set forth in the Bar Date Notice and (ii) the date that is thirty (30) days after the date of notice of such rejection provided by DH, (except to the extent the order authorizing such rejection specifies a different deadline), or (b) in the case of an executory contract or unexpired lease that (i) was terminated or expired by its terms prior to the Confirmation Date, or (ii) is rejected pursuant to this Article XIV, no later than thirty (30) days after the Confirmation Date. Any such Claims for which a Proof of Claim is not filed and served by the deadlines set forth in this Section 14.3, as applicable, shall be forever barred from assertion and shall not be enforceable against DH or its Estate, its Assets, or its non-Debtor Affiliates or any of their assets or property. Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be treated as General Unsecured Claims or Convenience Claims under the Plan, as applicable, subject to objection by the Disbursing Agent.

ARTICLE XV.

RETENTION OF JURISDICTION

Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, the Bankruptcy Court shall retain and shall have exclusive jurisdiction (except with respect to the Plan Preferred Stock and Plan Secured Notes, which shall be subject to the jurisdiction indicated in the definitive documentation thereof) over any matter (a) arising under the Bankruptcy Code, (b) arising in or related to the Chapter 11 Case of DH or the Plan or (c) that relates to the following:

- (i) To determine any and all adversary proceedings, applications, motions, and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Disbursing Agent or Dynegy, as applicable, after the Effective Date;
- (ii) To hear and determine any objections to the allowance of Claims, whether filed, asserted, or made before or after the Effective Date, including, without express or implied limitation, to hear and determine any objections to the classification of any Claim and to allow, disallow or estimate any Contested Claim in whole or in part;
- (iii) To issue such orders in aid of execution of the Plan to the extent authorized or contemplated by section 1142 of the Bankruptcy Code;
- (iv) To consider any modifications of the Plan, remedy any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

- (v) To hear and determine all Fee Applications and applications for allowances of compensation and reimbursement of any other fees and expenses authorized to be paid or reimbursed under the Plan or the Bankruptcy Code;
- (vi) To hear and determine all controversies, suits and disputes that may relate to, impact upon or arise in connection with the Plan, the Plan Documents or their interpretation, implementation, enforcement or consummation;
- (vii) To hear and determine all controversies, suits and disputes that may relate to, impact upon, or arise in connection with the Confirmation Order (and all exhibits to the Plan) or its interpretation, implementation, enforcement or consummation;
- (viii) To the extent that Bankruptcy Court approval is required and to the extent not released pursuant to the Plan, to consider and act on the compromise and settlement of any Claim or Cause of Action by, on behalf of, or against the Estate;
- (ix) To determine such other matters that may be set forth in the Plan, or the Confirmation Order, or that may arise in connection with the Plan, or the Confirmation Order;
- (x) To hear and determine matters concerning state, local and federal taxes, fines, penalties or additions to taxes for which DH or the Disbursing Agent may be liable, directly or indirectly, in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;
- (xi) To hear and determine all controversies, suits and disputes that may relate to, impact upon, or arise in connection with any setoff and/or recoupment rights of DH or any Person under the Plan;
- (xii) To hear and determine all controversies, suits, and disputes that may relate to, impact upon, or arise in connection with Causes of Action of DH (including Avoidance Actions) commenced by the Disbursing Agent, DH or any third parties, as applicable, before or after the Effective Date, except to the extent compromised, settled and released under the Plan;
- (xiii) To enter an order or final decree closing the Chapter 11 Case of DH;
- (xiv) To issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person with consummation, implementation or enforcement of the Plan or the Confirmation Order; and
- (xv) To hear and determine any other matters related hereto and not inconsistent with chapter 11 of the Bankruptcy Code.

ARTICLE XVI.

MISCELLANEOUS PROVISIONS

16.1. Substantial Consummation

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

16.2. Payment of Statutory Fees

All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid by DH on or before the Effective Date.

16.3. Satisfaction of Claims

The rights afforded in the Plan and the treatment of all Claims and Equity Interests herein shall be in exchange for and in complete satisfaction, discharge and release of all Claims and Equity Interests of any nature whatsoever against DH or its Estate, Assets, properties or interests in property. Except as otherwise provided herein, on the Effective Date, all Claims against and Equity Interests in DH shall be satisfied, discharged and released in full. Neither DH nor Dynege shall be responsible for any pre-Effective Date obligations of DH, except those expressly assumed by DH or Dynege, as applicable. Except as otherwise provided herein, all Persons shall be precluded and forever barred from asserting against DH or its Estate, their respective successors or assigns, or their Assets, properties, or interests in property any event, occurrence, condition, thing, or other or further Claims or Causes of Action based upon any act, omission, transaction, or other activity of any kind or nature that occurred or came into existence prior to the Effective Date, whether or not the facts of or legal bases therefor were known or existed prior to the Effective Date.

16.4. Special Provisions Regarding Insured Claims

Plan Distributions to each holder of an Allowed Insured Claim against DH shall be made in accordance with the treatment provided under the Plan for the Class in which such Allowed Insured Claim is classified; except, that there shall be deducted from any Plan Distribution on account of an Insured Claim, for purposes of calculating the Allowed amount of such Claim, the amount of any insurance proceeds actually received by such holder in respect of such Allowed Insured Claim. Nothing in this Section 16.4 shall constitute a waiver of any Claim, right, or Cause of Action DH or its Estate may hold against any Person, including any insurer. Pursuant to section 524(e) of the Bankruptcy Code, nothing in the Plan shall release or discharge any insurer from any obligations to any Person under applicable law or any policy of insurance under which DH is an insured or a beneficiary.

16.5. Third Party Agreements; Subordination

Except as provided in this Section 16.5, the Plan Distributions to the various classes of Claims and Equity Interests hereunder shall not affect the right of any Person to levy, garnish,

attach, or employ any other legal process with respect to such Plan Distributions by reason of any claimed subordination rights or otherwise. All such rights and any agreements relating thereto shall remain in full force and effect, except as otherwise compromised and settled pursuant to the Plan. Plan Distributions shall be subject to and modified by any Final Order directing distributions other than as provided in the Plan. The right of DH and the Disbursing Agent, as applicable, to seek subordination of any Claim pursuant to section 510 of the Bankruptcy Code is fully reserved, and the treatment afforded any Claim that becomes a subordinated Claim at any time shall be modified to reflect such subordination.

In accordance with this Section 16.5, and pursuant to Article XV of the Subordinated Notes Indenture, Allowed Subordinated Notes Claims shall be subordinated to Allowed Senior Notes Claims with respect to the right to receive Plan Distributions under Section 4.1(c), and all Plan Distributions on account of Allowed Subordinated Notes Claims shall be automatically distributed to holders of Allowed Senior Notes Claims without any further action or demand and shall be shared pro rata only among holders of Allowed Senior Notes Claims; provided, however, that holders of Allowed Subordinated Notes Claims may, in full and final satisfaction and settlement of all of such holder's Allowed Subordinated Notes Claims, elect to (a) reduce the amount of such Allowed Subordinated Notes Claims to an amount that is equal to \$0.35 for every \$1.00 of such Allowed Subordinated Notes Claims, and (b) pursuant to such election, receive a Pro Rata Share of the Plan Distributions under Section 4.1(c) based on the reduced amount of such Allowed Subordinated Notes Claims, without subordination. Such Subordination Alternative Election may be made pursuant to the procedures approved by the Bankruptcy Court in the Disclosure Statement Order.

16.6. Exculpation

None of DH, its non-Debtor Affiliates, the Plan Proponents, the Consenting Noteholders, Franklin, the PSEG Entities, or any of their respective officers, directors, managers, equity holders, employees, agents, representatives, advisors, attorneys or successors and assigns shall have or incur any liability to any Person for any act or omission in connection with, or arising out of, the pursuit of confirmation of the Plan, the consummation of the Plan, or the implementation or administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence as finally determined by the Bankruptcy Court, and, in all respects shall be entitled to rely upon the advice of counsel and all information provided by other exculpated persons herein without any duty to investigate the veracity or accuracy of such information with respect to their duties and responsibilities under the Plan.

16.7. Discharge of DH

Except as otherwise provided in the Plan or the Confirmation Order, on the Effective Date, without further notice or order, all Claims and Causes of Action against DH, its Estate and all successors thereto of any nature whatsoever shall be automatically discharged forever. Except as otherwise provided in the Plan or the Confirmation Order, on the Effective Date, DH and its Estate and all successors thereto shall be deemed fully discharged and released from any and all Claims and Causes of Action, including, but not limited to, demands and liabilities that arose before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), and 502(i) of the Bankruptcy Code, whether or not (a) a Proof of Claim based upon such debt is filed

or deemed filed under section 501 of the Bankruptcy Code; (b) a Claim based upon such debt is allowed under section 502 of the Bankruptcy Code; or (c) the holder of a Claim based upon such debt has accepted the Plan. The Confirmation Order shall be a judicial determination of discharge of all liabilities of DH, its Estate and all successors thereto. As provided in section 524 of the Bankruptcy Code, such discharge shall void any judgment against DH and its Estate or any successor thereto at any time obtained to the extent it relates to a discharged Claim, and operates as an injunction against the prosecution of any action against DH, its Estate or its property, and all successors thereto to the extent it relates to a discharged Claim.

16.8. Notices

Any notices, requests or demands to or upon the Plan Proponents or the Consenting Noteholders, in order to be effective, shall be in writing (including, without express or implied limitation, those delivered by facsimile transmission), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

If to DH:

Dynegy Holdings, LLC
Attention: General Counsel
1000 Louisiana Street
Suite 5800
Houston, Texas 77002
Telephone: (713) 507-6400
Facsimile: (713) 767-5181

and

Sidley Austin LLP
Attention: James F. Conlan
One South Dearborn
Chicago, Illinois 60603
Telephone: (312) 853-6890
Facsimile: (312) 853-7036

If to Dynegy, as a Plan Proponent:

Dynegy Inc.
Attention: General Counsel
1000 Louisiana Street
Suite 5800
Houston, Texas 77002
Telephone: (713) 507-6400
Facsimile: (713) 767-5181

and

White & Case LLP
Attention: Thomas E Lauria
200 South Biscayne Boulevard
Suite 4900
Miami, Florida 33131
Telephone: (305) 995-5282
Facsimile: (305) 358-5744

If to the Consenting Noteholders:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
Attention: Andrew N. Rosenberg
1285 Avenue of the Americas
New York, New York 10019
Telephone: (212) 373-3000
Facsimile: (212) 757-3990

16.9. Headings

The headings used in the Plan are inserted for convenience only, and neither constitute a portion of the Plan nor in any manner affect the construction of the provisions of the Plan.

16.10. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules), the laws of the State of New York, without giving effect to the conflicts of laws principles thereof, shall govern the construction of the Plan and any agreements, documents and instruments executed in connection with the Plan, except as otherwise expressly provided in such instruments, agreements or documents.

16.11. Expedited Determination

The Disbursing Agent is hereby authorized to file a request for expedited determination under section 505(b) of the Bankruptcy Code for all tax returns filed with respect to DH.

16.12. Exemption from Transfer Taxes

Pursuant to section 1146 of the Bankruptcy Code, the issuance, transfer, or exchange of notes or equity securities under the Plan, the creation of any mortgage, deed of trust, lien, pledge or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, shall not be subject to any stamp, real estate transfer, mortgage recording or other similar tax. The Bankruptcy Court may enter any order necessary or appropriate to implement this Section of the Plan.

16.13. Exemption from Registration

The issuance of the Plan Preferred Stock, any common stock of Dynegy for which the Plan Preferred Stock is exchanged in accordance with the conversion privilege provided for by the Plan Preferred Stock, and the Plan Secured Notes and the distribution thereof shall be exempt from registration under applicable securities laws pursuant to section 1145(a) of the Bankruptcy Code.

16.14. Notice of Entry of Confirmation Order and Relevant Dates

Promptly upon entry of the Confirmation Order, the Plan Proponents shall publish as directed by the Bankruptcy Court and serve on all known parties in interest and holders of Claims and Equity Interests, notice of the entry of the Confirmation Order and all relevant deadlines and dates under the Plan, including, but not limited to, the deadline for filing notice of Administrative Claims, and the deadline for filing rejection damage Claims.

16.15. Interest and Attorneys' Fees

Interest accrued after the Petition Date will accrue and be paid on Claims only to the extent specifically provided for in this Plan, the Plan Documents, the Confirmation Order, or as otherwise required by the Bankruptcy Court or by applicable law. No award or reimbursement of attorneys' fees or related expenses or disbursements shall be allowed on, or in connection with, any Claim, except as set forth in the Plan or as ordered by the Bankruptcy Court. Notwithstanding the foregoing, Dynegy will pay all reasonable out-of-pocket expenses of the Consenting Noteholders, including reasonable fees and expenses of their attorneys and financial advisors.

16.16. Modification of the Plan

Subject to the Noteholder Restructuring Support Agreement, and as provided in section 1127 of the Bankruptcy Code, modification of the Plan may be proposed in writing by the Plan Proponents at any time before confirmation, provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code, the Plan Proponents shall have complied with section 1125 of the Bankruptcy Code, and any necessary reasonable consents of the Consenting Noteholders otherwise required pursuant to the Plan shall have been obtained. The Plan Proponents may modify the Plan at any time after confirmation and before substantial consummation, provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code and the Bankruptcy Court, after notice and a hearing, confirms the Plan as modified, under section 1129 of the Bankruptcy Code, and the circumstances warrant such modifications.

A holder of a Claim that has accepted the Plan shall be deemed to have accepted such Plan as modified if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such holder.

16.17. Revocation of the Plan

The Plan Proponents reserve the right to revoke and withdraw the Plan and/or to adjourn the Confirmation Hearing prior to the occurrence of the Effective Date; provided, however, that unless otherwise agreed to in writing by the Requisite Consenting Noteholders, revocation of the Plan shall be permitted only in the event that either the Board of Managers of DH or the Board of Directors of Dynegy has determined in good faith, after consultation with legal counsel, that pursuing the Plan would be inconsistent with its applicable fiduciary obligations under applicable law; and provided, further, that nothing contained in the Plan shall be deemed to prevent either DH or Dynegy, respectively, from taking or failing to take any action that it is obligated to take (or refrain from taking) in the performance of its fiduciary or similar duty which DH or Dynegy, respectively, owes to any other Person.

If the Plan Proponents revoke or withdraw the Plan, or if the Effective Date does not occur, then the Plan and all settlements and compromises set forth in the Plan and not otherwise approved by a separate Final Order shall be deemed null and void and nothing contained herein and no acts taken in preparation for consummation of the Plan shall be deemed to constitute a waiver or release of any Claims against or Equity Interests in DH or to prejudice in any manner the rights of DH or any other Person in any other further proceedings involving DH, or to constitute an admission, acknowledgement, offer or undertaking by DH or the Plan Proponents as to any matter or thing.

16.18. Corrective Action

Prior to the Effective Date, upon the prior written consent of the Requisite Consenting Noteholders, the Plan Proponents may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court, provided that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Equity Interests.

16.19. Setoff Rights

In the event that DH has a Claim of any nature whatsoever against the holder of a Claim against DH, then DH may, but is not required to, set off its Claim against the Claim against DH (and any payments or other Plan Distributions to be made in respect of such Claim hereunder), subject to the provisions of sections 553, 556 and 560 of the Bankruptcy Code; provided, however, that there shall be no right of setoff against the Senior Notes Claims and Subordinated Notes Claims, and DH hereby waives any right to set off against any such Senior Notes Claims or Subordinated Notes Claims. The failure to exercise any right of setoff shall not constitute a waiver or release of any Claims that DH may have against the holder of any Claim.

16.20. Compliance with Tax Requirements

In connection with the Plan, DH and the Disbursing Agent, as applicable, shall comply with all withholding and reporting requirements imposed by federal, state, local and foreign taxing authorities and all Plan Distributions hereunder shall be subject to such withholding and reporting requirements. Notwithstanding the foregoing, each holder of an Allowed Claim that is to receive a Plan Distribution shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any government unit, including income, withholding and other tax obligations, on account of such Plan Distribution. The Disbursing

Agent has the right, but not the obligation, to not make a Plan Distribution until such holder has made arrangements satisfactory to the Disbursing Agent for payment of any such tax obligations.

16.21. Rates

The Plan does not provide for the change of any rate that is within the jurisdiction of any governmental regulatory commission after the occurrence of the Effective Date. Where a Claim has been denominated in foreign currency on a Proof of Claim, the Allowed amount of such Claim shall be calculated in legal tender of the United States based upon the conversion rate in place as of the Petition Date and in accordance with section 502(b) of the Bankruptcy Code.

16.22. Injunctions

(a) **On the Effective Date and except as otherwise provided herein, all Persons who have been, are, or may be holders of Claims against DH shall be permanently enjoined from taking any of the following actions against or affecting DH or its Estate or its non-Debtor Affiliates, the Assets, or the Disbursing Agent, or any of their current or former respective members, equity holders, directors, managers, officers, employees, agents, and professionals, successors and assigns or their respective assets and property with respect to such Claims (other than actions brought to enforce any rights or obligations under the Plan):**

(i) **commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, all suits, actions and proceedings that are pending as of the Effective Date, which must be withdrawn or dismissed with prejudice);**

(ii) **enforcing, levying, attaching, collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order;**

(iii) **creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance; and**

(iv) **asserting any setoff, right of subrogation or recoupment of any kind; provided, that any defenses, offsets or counterclaims which DH may have or assert in respect of the above referenced Claims are fully preserved in accordance with Section 16.19.**

(b) **Further, on the Effective Date, pursuant to section 105(a) of the Bankruptcy Code, and in accordance with Article VII hereof, all Persons shall be permanently and forever stayed, restrained and enjoined from taking any of the following actions against or affecting DH and all successors thereto, Dynegy or its non-Debtor Affiliates, or any of their current or former respective members, equity holders, directors, managers, officers, employees, agents, and professionals, successors and assigns, and any Person claimed to be liable derivatively through any of the foregoing, or their respective assets and property for the purpose of, directly or indirectly, collecting, recovering or receiving payment of, on or with respect to any Claim or Cause of Action arising from or in connection with the**

Prepetition Restructurings (including any claims asserted in any of the Prepetition Lawsuits related to the Prepetition Restructurings), including, but not limited to:

- (i) **commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including a judicial, arbitral, administrative or other proceeding);**
- (ii) **enforcing, levying, attaching, collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order;**
- (iii) **creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance;**
- (iv) **asserting any setoff, right of subrogation, reimbursement, contribution or recoupment of any kind; and**
- (v) **proceeding in any manner in any place whatsoever that does not conform to or comply with the provisions of the Plan and the settlement, compromise and releases set forth in Article VII hereof;**

(c) **Nothing contained in this Section 16.22 shall stay, restrain or enjoin any Person who is a party to the GasCo Credit Facility or the CoalCo Credit Facility, or their successors and assigns, from taking any actions with respect to any Claim or Cause of Action arising from or in connection with the GasCo Credit Facility or the CoalCo Credit Facility.**

16.23. Binding Effect

The Plan shall be binding upon DH, its non-Debtor Affiliates, the Plan Proponents, the holders of all Claims and Equity Interests, parties in interest, all Persons and their respective successors and assigns. To the extent any provision of the Disclosure Statement or any other solicitation document may be inconsistent with the terms of the Plan, the terms of the Plan shall be binding and conclusive.

16.24. Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Person.

16.25. Severability

IN THE EVENT THE BANKRUPTCY COURT DETERMINES THAT ANY PROVISION OF THE PLAN IS UNENFORCEABLE EITHER ON ITS FACE OR AS APPLIED TO ANY CLAIM OR EQUITY INTEREST OR TRANSACTION, THE PLAN PROPONENTS MAY MODIFY THE PLAN IN ACCORDANCE WITH SECTION 16.16 SO THAT SUCH PROVISION SHALL NOT BE APPLICABLE TO THE HOLDER OF ANY SUCH CLAIM OR EQUITY INTEREST OR TRANSACTION. SUCH A

DETERMINATION OF UNENFORCEABILITY SHALL NOT (A) LIMIT OR AFFECT THE ENFORCEABILITY AND OPERATIVE EFFECT OF ANY OTHER PROVISION OF THE PLAN OR (B) REQUIRE THE RESOLICITATION OF ANY ACCEPTANCE OR REJECTION OF THE PLAN.

16.26. No Admissions


None of the filing of the Plan or the taking by DH or the Plan Proponents of any action with respect to the Plan or any statement or provision contained herein shall be or be deemed to be an admission by any such party against interest, or be or be deemed to be a waiver of any rights, claims or remedies that such parties may have, and all such rights and remedies are and shall be specifically reserved. In the event the Plan is not confirmed and the Confirmation Order is not entered, the Plan, the Disclosure Statement and the Plan Documents, and any statement contained herein or therein, may not be used by any Person, party or entity against DH or the Plan Proponents.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER CAUSES OF ACTION OR THREATENED CAUSES OF ACTION, THIS PLAN SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS PLAN SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, AND OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, AND EQUITY INTERESTS IN, DH OR ANY OF ITS SUBSIDIARIES AND AFFILIATES.

Dated: January 19, 2012

Respectfully submitted,

DYNEGY HOLDINGS, LLC

By: 
Name: Robert C. Flexon
Title: President and Chief Executive Officer

DYNEGY INC.


By: 
Name: Robert C. Flexon
Title: President and Chief Executive Officer

EXHIBIT "A"

GLOSSARY OF DEFINED TERMS

1. "2012 Notes" means the 8.750% Senior Notes due 2012 in the initial aggregate principal amount of \$500,000,000, issued by DH under the Senior Notes Indenture.
2. "2015 Notes" means the 7.50% Senior Unsecured Notes due 2015 in the initial aggregate principal amount of \$785,000,000, issued by DH under the Senior Notes Indenture.
3. "2016 Notes" means the 8.375% Senior Unsecured Notes due 2016 in the initial aggregate principal amount of \$1,046,834,000, issued by DH under the Senior Notes Indenture.
4. "2018 Notes" means the 7.125% Senior Debentures due 2018 in the initial aggregate principal amount of \$175,000,000, issued by DH under the Senior Notes Indenture.
5. "2019 Notes" means the 7.75% Senior Unsecured Notes due 2019 in the initial aggregate principal amount of \$1,100,000,000, issued by DH under the Senior Notes Indenture.
 - (2) "2026 Notes" means the 7.625% Senior Debentures due 2026 in the initial aggregate principal amount of \$175,000,000, issued by DH under the Senior Notes Indenture.
 - (3) "Administrative Claim" means a Claim incurred by DH (or its Estate) on or after the Petition Date and before the Effective Date for a cost or expense of administration in the Chapter 11 Case of DH entitled to priority under sections 503(b) and 507(a)(2) of the Bankruptcy Code, including, without limitation, (a) Fee Claims and (b) any fees or charges assessed against the Estate of DH under section 1930 of chapter 123 of title 28 of the United States Code.
6. "Affiliate" means, with respect to any Person, all Persons that would fall within the definition assigned to such term in section 101(2) of the Bankruptcy Code, if such Person was a debtor in a case under the Bankruptcy Code.
7. "Allowed," when used
 - (a) with respect to any Claim, except for a Claim that is an Administrative Claim, means such Claim to the extent it is not a Contested Claim or a Disallowed Claim;
 - (b) with respect to an Administrative Claim, means such Administrative Claim to the extent it has become fixed in amount and priority pursuant to the procedures set forth in Section 5.2(c) of this Plan; and
 - (c) with respect to Equity Interests in DH, means the Equity Interests in DH held by Dynege as of the Effective Date.
8. "Assets" means all of DH's right, title and interest of any nature in property of any kind, wherever located, as specified in section 541 of the Bankruptcy Code.

9. “Avoidance Actions” means all Causes of Action of the Estate that arise under section 544, 545, 547, 548, 550, 551 and/or 553 of the Bankruptcy Code.
10. “Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as codified at title 11 of the United States Code, as amended from time to time and applicable to the Chapter 11 Cases.
11. “Bankruptcy Court” means the United States Bankruptcy Court for the Southern District of New York, Poughkeepsie Division, or such other court having jurisdiction over the Chapter 11 Cases.
12. “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as prescribed by the United States Supreme Court pursuant to section 2075 of title 28 of the United States Code and as applicable to the Chapter 11 Cases.
13. “Bar Date Notice” means any notice of establishment of a bar date for filing proofs of claim against the Estate that is approved pursuant to, and served in accordance with, a Bar Date Order.
14. “Bar Date Order” means any order of the Bankruptcy Court pursuant to Bankruptcy Rule 3003(c): (i) establishing a bar date for filing certain proofs of claim; (ii) establishing ramifications for failure to comply therewith; (iii) approving proof of claim form and notice of bar date; and (iv) approving notice and publication procedures, entered by the Bankruptcy Court in the Chapter 11 Case of DH.
15. “Business Day” means any day other than a Saturday, a Sunday or any other day on which commercial banks are required or authorized to close for business in New York, New York.
16. “Cash” means legal tender of the United States of America and equivalents thereof.
17. “Causes of Action” means all claims, rights, actions, causes of action, liabilities, obligations, suits, debts, remedies, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages or judgments, whether known or unknown, liquidated or unliquidated, fixed or contingent, matured or unmatured, foreseen or unforeseen, asserted or unasserted, arising in law, equity or otherwise.
18. “Chapter 11 Cases” means the cases commenced under chapter 11 of the Bankruptcy Code in the Bankruptcy Court with respect to the Debtors styled as In re Dynegy Holdings, LLC, et al., Chapter 11 Case 11-38111 (CGM), Jointly Administered.
19. “Claim” has the meaning set forth in section 101 of the Bankruptcy Code.
20. “Claim Objection Deadline” means the deadline for filing objections to Claims as set forth in Section 11.1 of the Plan.
21. “Claims Agent” means the Person designated by order of the Bankruptcy Court to process Proofs of Claim.

22. “CoalCo Credit Facility” means that certain \$600,000,000, five-year secured term loan facility, dated as of August 5, 2011, among Dynegy Midwest Generation, LLC, a Delaware limited liability company, Dynegy Coal Investments Holdings, LLC, a Delaware limited liability company, the lenders from time to time party thereto and Credit Suisse AG, Cayman Islands Branch, as administrative agent and collateral trustee (as amended, restated, replaced, refinanced, supplemented or otherwise modified or waived from time to time).
23. “Confirmation Date” means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.
24. “Confirmation Hearing” means the hearing held by the Bankruptcy Court, as it may be continued from time to time, to consider confirmation of the Plan.
25. “Confirmation Order” means the order of the Bankruptcy Court confirming the Plan.
26. “Consenting Noteholders” means those certain holders of Senior Notes and/or Subordinated Notes from time to time party to the Noteholder Restructuring Support Agreement.
27. “Contested” when used with respect to a Claim, means such Claim: (i) to the extent it is listed in the Schedules as disputed, contingent, or unliquidated, in whole or in part, and as to which no Proof of Claim has been filed; (ii) if it is listed in the Schedules as undisputed, liquidated, and not contingent and as to which a Proof of Claim has been filed with the Bankruptcy Court, to the extent (A) the Proof of Claim amount exceeds the amount indicated in the Schedules, or (B) the Proof of Claim priority differs from the priority set forth in the Schedules; (iii) if it is not listed in the Schedules or was listed in the Schedules as disputed, contingent or unliquidated, in whole or in part, but as to which a Proof of Claim has been filed with the Bankruptcy Court; or (iv) as to which an objection has been filed on or before the Claim Objection Deadline; provided, that a Claim (i) that is fixed in amount and priority pursuant to the Plan or by Final Order of the Bankruptcy Court or (ii) with respect to which a Proof of Claim has been timely filed and no objection has been filed by the Claim Objection Deadline, shall not be a Contested Claim.
28. “Convenience Claim” means any Claim in an amount equal to or less than \$100,000.00 that would otherwise qualify as a General Unsecured Claim.
29. “Creditors’ Committee” means an Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases.
30. “Danskammer Facility Lease” means that certain Facility Lease Agreement, dated as of May 8, 2001, between Danskammer Owner Lessor, as Owner Lessor, and Dynegy Danskammer, as Facility Lessee, pertaining to Units 3 and 4 of the Danskammer Power Station in Newburgh, New York.
31. “Danskammer Lease Documents” means (a) the Participation Agreement, dated as of May 8, 2001, among Dynegy Danskammer, Danskammer Owner Lessor, Wilmington Trust Company, not in its individual capacity except as expressly provided therein but solely as Lessor Manager, Danskammer OP LLC, The Chase Manhattan Bank, not in its individual capacity but solely as Lease Indenture Trustee and The Chase Manhattan Bank, not in its individual capacity

but solely as Pass Through Trustees, (b) the Danskammer Facility Lease, and (c) the other “Operative Documents” as defined in Appendix A to the Participation Agreement.

32. “Danskammer Lease Guaranty Party” means a party in whose favor DH made the Danskammer Lease Guaranty.
33. “Danskammer Lease Guaranty” means that certain Guaranty, dated as of May 1, 2001, by DH (f/k/a Dynegy Holdings Inc.), as guarantor, of certain obligations of Dynegy Danskammer under the Danskammer Lease Documents.
34. “Danskammer Lease Guaranty Claim” means any Claim of a Danskammer Lease Guaranty Party arising under the Danskammer Lease Guaranty pursuant to section 502 of the Bankruptcy Code.
35. “Danskammer Owner Lessor” means Danskammer OL LLC, as Owner Lessor under the Danskammer Facility Lease.
36. “Debtor” means any of DH, DNE, Hudson Power, Dynegy Danskammer and Dynegy Roseton.
37. “Debtor in Possession” means any Debtor, in its capacity as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.
38. “DGIN” means Dynegy Gas Investments, LLC.
39. “DH” means Dynegy Holdings, LLC, a Debtor in the Chapter 11 Cases.
40. “DH Note” means that certain \$1.25 billion promissory note issued by DH to DGIN on September 1, 2011, in exchange for DGIN transferring to DH its rights under the Undertaking Agreement, which promissory note bears annual interest at a rate of 4.24% which will be payable upon maturity.
41. “Disallowed” when used with respect to a Claim, means a Claim, or such portion of a Claim, that has been disallowed by a Final Order.
42. “Disbursing Agent” means Dynegy or any agent selected by Dynegy as applicable, acting on behalf of DH in (a) making the Plan Distributions contemplated under the Plan, the Confirmation Order, or any other relevant Final Order, and (b) performing any other act or task that is or may be delegated to the Disbursing Agent under the Plan.
43. “Disclosure Statement” means the disclosure statement filed with respect to the Plan, as it may be amended, supplemented, or otherwise modified from time to time, and the exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.
44. “Disclosure Statement Order” means the order entered by the Bankruptcy Court (a) approving the Disclosure Statement as containing adequate information required under section

1125 of the Bankruptcy Code, and (b) authorizing the use of the Disclosure Statement for soliciting votes on the Plan.

45. “DNE” means Dynegy Northeast Generation, Inc., a Debtor in the Chapter 11 Cases.

46. “Dynegy” means Dynegy Inc.

47. “Dynegy CoalCo” means Dynegy Midwest Generation, LLC.

48. “Dynegy Danskammer” means Dynegy Danskammer, L.L.C., a Debtor in the Chapter 11 Cases.

49. “Dynegy GasCo” means Dynegy Power, LLC.

50. “Dynegy Roseton” means Dynegy Roseton, L.L.C., a Debtor in the Chapter 11 Cases.

51. “Effective Date” means a date selected by the Plan Proponents which shall be a Business Day that is no later than five (5) days after all of the conditions specified in Section 12.2 of the Plan have been satisfied or waived (to the extent such conditions can be waived).

52. “Equity Interest” means any outstanding ownership interest in DH, including, without limitation, interests evidenced by membership interests, or other rights to purchase or otherwise receive any ownership interest in DH and any right to payment or compensation based upon any such interest, whether or not such interest is owned by the holder of such right to payment or compensation.

53. “Estate” means the estate of DH created by section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case by DH.

54. “Facility Leases Rejection Order” means the order entered by the Bankruptcy Court on December 20, 2011 [Docket No. 227] (as amended by an order entered by the Bankruptcy Court on December 28, 2011 [Docket No. 273]), which, among other things, approved the rejection of the Roseton Facility Lease and the Danskammer Facility Lease.

55. “Fee Application” means an application for allowance and payment of a Fee Claim (including Claims for “substantial contribution” pursuant to section 503(b) of the Bankruptcy Code).

56. “Fee Claim” means a Claim of a Professional Person.

57. “Final Order” means (a) an order or judgment of the Bankruptcy Court or any other court or adjudicative body as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending, or (b) in the event that an appeal, writ of certiorari, reargument, or rehearing thereof has been taken or sought, such order of the Bankruptcy Court or any other court or adjudicative body shall have been affirmed by the highest court to which such order was appealed, or certiorari has been denied, or from which reargument or rehearing was sought, and the time to take any further appeal, petition for

certiorari or move for reargument or rehearing shall have expired; provided, that no order shall fail to be a Final Order solely because of the possibility that a motion pursuant to section 502(j) of the Bankruptcy Code, Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 may be filed with respect to such order.

58. “Franklin” means Franklin Advisers, Inc., its affiliates, each fund, account and client for which Franklin Advisers, Inc. or its affiliates acts as an investment advisor, and all present and former directors, officers, managers, or employees of each of the foregoing.

59. “GasCo Credit Facility” means that certain \$1.1 billion, five-year secured term loan facility, dated as of August 5, 2011, among Dynegy Power, LLC, Dynegy Gas Investments Holdings, LLC, the lenders from time to time party thereto, Credit Suisse AG, Cayman Islands Branch as Administrative Agent and collateral trustee for the Lenders, Credit Suisse Securities (USA) LLC and Goldman Sachs Lending Partners, LLC, as Joint Bookrunners and Joint Lead Arrangers and Credit Suisse Securities (USA) LLC and Goldman Sachs Lending Partners, LLC, as Joint Syndication Agents and Co-Documentation Agents (as amended, restated, replaced, refinanced, supplemented or otherwise modified or waived from time to time).

60. “General Unsecured Claim” means any Claim against DH other than an Administrative Claim, a Priority Claim, a Priority Tax Claim, a Fee Claim, a Secured Claim, an Intercompany Claim, or a Convenience Claim, and specifically including a Senior Notes Claim, a Subordinated Notes Claim, and a Lease Guaranty Claim.

61. “Hudson Power” means Hudson Power L.L.C., a Debtor in the Chapter 11 Cases.

62. “Indentures” means the Senior Notes Indenture and the Subordinated Notes Indenture.

63. “Indenture Trustees” means the indenture trustees under the Indentures.

64. “Insured Claim” means any Claim against DH for which DH or the holder of a Claim is entitled to indemnification, reimbursement, contribution or other payment under a policy of insurance wherein DH is an insured or beneficiary of the coverage.

65. “Intercompany Claim” means a Claim held by Dynegy or any direct or indirect subsidiary of DH against DH.

66. “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended, and any applicable rulings, regulations (including temporary and proposed regulations) promulgated thereunder, judicial decisions, and notices, announcements, and other releases of the United States Treasury Department or the IRS.

67. “IRS” means the United States Internal Revenue Service.

68. “Lease Guaranty Claim” means a Roseton Lease Guaranty Claim, a Danskammer Lease Guaranty Claim, or the TIA Claim.

69. “Lease Security Claim” means any Claim asserted (a) by a Danskammer Lease Guaranty Party (other than one or more of the PSEG Entities) against Dynegy Danskammer in respect of

the Danskammer Lease Documents or (b) by a Roseton Lease Guaranty Party (other than one or more of the PSEG Entities) against Dynegy Roseton in respect of the Danskammer Lease Documents, which Claims in the aggregate shall not exceed the amount of the “Secured Indebtedness” as defined in (a) the Indenture of Trust, Mortgage, Assignment of Leases and Rents and Security Agreement, dated as of May 8, 2001, between Roseton OL LLC and the Chase Manhattan Bank and (b) the Indenture of Trust, Mortgage, Assignment of Leases and Rents and Security Agreement, dated as of May 8, 2001, between Danskammer OL LLC and the Chase Manhattan Bank, respectively.

70. “Legacy DH” means the new subsidiary of New DH to be created pursuant to Section 8.2(c) of the Plan and into which DH shall be merged under Delaware law, with Legacy DH as the surviving entity. Unless otherwise specifically indicated, any and all references in the Plan to “DH” with respect to any matters occurring after the merger described in Section 8.2(d) of the Plan, shall be deemed a reference to Legacy DH.

71. “New DH” means the new subsidiary of Dynegy to be created pursuant to Section 8.2(c) of the Plan, to which Dynegy shall transfer 100% of the Equity Interests of DH as set forth in Section 8.2(d).

72. “Noteholder Restructuring Support Agreement” means that certain restructuring support agreement dated as of November 7, 2011, by and among Dynegy, DH, on behalf of itself and certain of its subsidiaries, and the Consenting Noteholders, as it may be amended, supplemented or otherwise modified from time to time in accordance with its terms.

73. “Notice of Confirmation” means the notice of entry of the Confirmation Order to be filed with the Bankruptcy Court and mailed, as necessary, to holders of Claims and Equity Interests.

74. “Person” means an individual, corporation, partnership, limited liability company, joint venture, trust, estate, unincorporated association, unincorporated organization, governmental entity, or political subdivision thereof, or any other entity.

75. “Petition Date” means November 7, 2011, the date on which the Chapter 11 Cases were commenced.

76. “Plan” means this chapter 11 plan, either in its present form or as it may be amended, supplemented, or otherwise modified from time to time, and the exhibits and schedules hereto, as the same may be in effect at the time such reference becomes operative.

77. “Plan Cash Payment” means a Cash payment in the amount of \$400,000,000, subject to increase as set forth in Section 8.5 of the Plan, plus an amount equal to the interest that would have accrued on \$1,015,000,000 aggregate principal amount of Plan Secured Notes had such Plan Secured Notes been issued on the Petition Date, to be provided to DH by Dynegy and distributed to the holders of Allowed General Unsecured Claims pursuant to and in accordance with Section 4.1(c) of the Plan.

78. “Plan Distribution” means a payment or distribution of Cash, assets, securities or instruments evidencing an obligation to holders of Allowed Claims under the Plan.

79. “Plan Distribution Date” means with respect to any Claim or Equity Interest, (a) the Effective Date or a date that is as soon as reasonably practicable after the Effective Date, if such Claim or Equity Interest is then an Allowed Claim or an Allowed Equity Interest, or (b) if not Allowed on the Effective Date, a date that is as soon as reasonably practicable after the date such Claim or Equity Interest becomes Allowed, but is not earlier than thirty (30) days following the previous Plan Distribution Date.

80. “Plan Documents” means the documents that aid in effectuating the Plan filed with the Bankruptcy Court as specified in Section 1.5 of the Plan.

81. “Plan Objection Deadline” means the deadline established by the Bankruptcy Court for filing objections to confirmation of the Plan.

82. “Plan Preferred Stock” means the \$2,100,000,000 of Redeemable Convertible Preferred Shares, par value \$0.01 per share, to be issued by Dynegy to DH and thereafter distributed to the holders of Allowed General Unsecured Claims pursuant to and in accordance with Section 4.1(c) of the Plan, and which shall have the terms set forth in the certificate of designation of the Plan Preferred Stock attached to the Plan as Exhibit “D”.

83. “Plan Proponents” means DH and Dynegy in their capacity as co-proponents of the Plan.

84. “Plan Secured Notes” means the 11% Senior Secured Notes to be issued by Dynegy in the aggregate principal amount of \$1,015,000,000, subject to adjustments first in accordance with Section 12.3 of the Plan and second in accordance with Section 8.5 of the Plan, to DH and thereafter distributed to the holders of Allowed General Unsecured Claims pursuant to and in accordance with Section 4.1(c) of the Plan, and which shall have the terms set forth in the description of Plan Secured Notes attached to the Plan as Exhibit “C”. The Plan Secured Notes shall be in substantially the form filed with the Bankruptcy Court as a Plan Document.

85. “Plan Secured Notes Alternative Payment” means a Cash payment in the amount of \$1,015,000,000, subject to adjustment such that it shall equal the aggregate principal amount of Plan Secured Notes (after application of adjustments first in accordance with Section 12.3 of the Plan and second in accordance with Section 8.5 of the Plan) to be provided to DH by Dynegy, in its sole discretion, in lieu of Dynegy issuing the Plan Secured Notes, and distributed to the holders of Allowed General Unsecured Claims pursuant to and in accordance with Section 4.1(c) of the Plan.

86. “Plan Secured Notes Alternative Payment Financing” means any credit facility, indenture, note or other financing entered into to obtain financing, in whole or in part, for the Plan Secured Notes Alternative Payment, as described in Section 8.6 of the Plan.

87. “Plan Secured Notes Debt Service Account” means an account to be established on the Effective Date, as described more fully in the Description of Plan Secured Notes attached hereto as Exhibit “C”.

88. “Plan Trust” means the trust to be created pursuant to Article IX of the Plan.

89. “Plan Trust Administrator” means the Person selected to serve as the initial trustee under the Plan Trust.

90. “Plan Trust Declaration” means the declaration of trust to be entered into by the Plan Proponents and the Plan Trust Administrator. The Plan Trust Declaration shall be in substantially the form filed with the Bankruptcy Court as a Plan Document.

91. “Prepetition Lawsuits” means the following cases filed against Dynegy, DH, and certain of their officers, directors and affiliates in New York Supreme Court relating to the Prepetition Restructurings: (a) Avenue Investments, L.P., et al. v. Dynegy Inc., et al., Index No. 652599/2011 (Supreme Court of the State of New York, New York County, filed Sept. 21, 2011); (b) The Successor Lease Indenture Trustee, et al. v. Dynegy Inc., et al., Index No. 652642/2011 (Supreme Court of the State of New York, New York County, filed Sept. 27, 2011); (c) Resources Capital Management Corp., et al. v. Dynegy Inc., et al., Index No. 653067/2011 (Supreme Court of the State of New York, New York County, filed Nov. 4, 2011); (d) LibertyView Credit Opportunities Fund, L.P. et al v. Dynegy Holdings, Inc., Index No. 651998/2011 (Supreme Court of the State of New York, New York County, filed July 21, 2011); and (e) Roseton OL, LLC and Danskammer OL, LLC v. Dynegy Holdings, Inc., C.A. No. 6689-VCP (Court of Chancery of the State of Delaware, filed July 21, 2011).

92. “Prepetition Restructurings” means the prepetition transactions involving Dynegy and certain of its direct and indirect subsidiaries pursuant to which, among other things:

(a) Dynegy and certain of its direct and indirect subsidiaries completed an internal reorganization which eliminated the regional organizational structure and created separate coal-fueled power generation and gas-fueled power generation units whereby (i) substantially all of Dynegy’s indirectly owned coal-fired power generation facilities were transferred to Dynegy CoalCo, (ii) substantially all of Dynegy’s indirectly owned natural gas-fueled power generation facilities were transferred to Dynegy GasCo, and (iii) all of Dynegy’s indirect ownership interests of DNE, the entity that indirectly holds the equity interests in Dynegy Roseton and Dynegy Danskammer, were transferred to DH; and following such reorganization, Dynegy’s operations were reorganized into three segments: a gas segment, a coal segment and an “other” segment consisting of the remaining assets, including primarily DNE and the leasehold interests in the facilities owned by Dynegy Roseton and Dynegy Danskammer;

(b) Dynegy GasCo and its parent Dynegy Gas Investments Holdings, LLC, each non-Debtor subsidiaries of DH, entered into the GasCo Credit Facility, Dynegy CoalCo and its parent Dynegy Coal Investments Holdings, LLC, each non-Debtor subsidiaries of DH, entered into the CoalCo Credit Facility, and applied the proceeds from such credit agreements as permitted by such agreements, including to repay the outstanding DH indebtedness under DH’s existing senior secured credit agreement; and

(c) (i) DGIN, a non-Debtor subsidiary of DH, entered into a Membership Interest Purchase Agreement with Dynegy, pursuant to which it sold to Dynegy 100% of the outstanding membership interests in Dynegy Coal Holdco, LLC in exchange for the issuance of the Undertaking Agreement, (ii) DGIN assigned its right to receive payments under the Undertaking Agreement to DH in exchange for the DH Note, and (iii) the Undertaking Agreement was

amended and restated to be between Dynegy and DH and to provide for the reduction of Dynegy's obligations if the outstanding principal amount of the Senior Notes decreased as a result of any exchange offer, tender offer or other repurchase or repayment by Dynegy or its subsidiaries (other than DH and its subsidiaries, unless Dynegy guarantees the debt securities of DH or such subsidiary in connection with such exchange offer, tender offer or other purchase or repayment), provided that such principal amount is retired, cancelled or otherwise forgiven.

93. "Priority Claim" means any Claim to the extent such Claim is entitled to priority in right of payment under section 507(a) of the Bankruptcy Code, other than Secured Claims, Administrative Claims and Priority Tax Claims.

94. "Priority Tax Claim" means a Claim against DH that is of a kind specified in section 507(a)(8) of the Bankruptcy Code.

95. "Professional Person" means a Person retained by DH or to be compensated for services rendered or costs incurred on or after the Petition Date and on or prior to the Effective Date pursuant to sections 327, 328, 329, 330, 331, 503(b), or 1103 of the Bankruptcy Code in the Chapter 11 Case of DH. For the avoidance of doubt, professionals retained by the Consenting Noteholders shall not be deemed to be Professional Persons.

96. "Proof of Claim" means the proof of Claim that must be filed by a holder of a Claim by the date(s), if any, designated by the Bankruptcy Court as the last date(s) for filing proofs of Claim against DH.

97. "Pro Rata Share" means the proportion that an Allowed Claim bears to the aggregate amount of all Claims in a particular class, including Contested Claims, but excluding Disallowed Claims, (a) as calculated by the Disbursing Agent; or (b) as determined or estimated by the Bankruptcy Court.

98. "PSEG Entities" means Resources Capital Management Corporation; Resources Capital Asset Recovery, LLC, Series DD and Series DR; Roseton OL LLC; and Danskammer OL LLC.

99. "Requisite Consenting Noteholders" means the Consenting Noteholders (a) holding a majority of the aggregate principal amount of the Senior Notes and Subordinated Notes held by all Consenting Noteholders (as of the date of any applicable action or consent) and (b) constituting not less than two of the Consenting Noteholders. To the extent any consents or approvals are required under the Plan by the Requisite Consenting Noteholders (including that any documents be reasonably satisfactory to the Requisite Consenting Noteholders), such consents and approvals shall not be unreasonably withheld or delayed.

100. "Restructuring Term Sheet" means that certain term sheet attached as Exhibit A to the Noteholder Restructuring Support Agreement.

101. "Roseton Facility Lease" means that certain Facility Lease Agreement, dated as of May 8, 2001, between Roseton Owner Lessor, as Owner Lessor, and Dynegy Roseton, L.L.C., as Facility Lessee, pertaining to Units 1 and 2 of the Roseton Power Station in Newburgh, New York.

102. “Roseton Lease Documents” means, collectively, (a) the Participation Agreement, dated as of May 8, 2001, among Dynegy Roseton, Roseton Owner Lessor, Wilmington Trust Company, not in its individual capacity except as expressly provided therein but solely as Lessor Manager, Roseton OP LLC, The Chase Manhattan Bank, not in its individual capacity but solely as Lease Indenture Trustee and The Chase Manhattan Bank, not in its individual capacity but solely as Pass Through Trustees, (b) the Roseton Facility Lease, and (c) the other “Operative Documents” as defined in Appendix A to the Participation Agreement.

103. “Roseton Lease Guaranty Party” means a party in whose favor DH made the Roseton Lease Guaranty.

104. “Roseton Lease Guaranty” means that certain Guaranty, dated as of May 1, 2001, by DH (f/k/a Dynegy Holdings Inc.), as guarantor, of certain obligations of Dynegy Roseton under the Roseton Lease Documents.

105. “Roseton Lease Guaranty Claim” means any Claim of a Roseton Lease Guaranty Party arising under the Roseton Lease Guaranty pursuant to section 502 of the Bankruptcy Code.

106. “Roseton Owner Lessor” means Roseton OL LLC, as Owner Lessor under the Roseton Facility Lease.

107. “Schedules” means, unless otherwise stated, the schedules of assets and liabilities and list of Equity Interests and the statements of financial affairs filed by DH with the Bankruptcy Court, as required by section 521 of the Bankruptcy Code and in conformity with the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements have been or may be amended or supplemented from time to time in accordance with Bankruptcy Rule 1009.

108. “Secured Claim” means (a) a Claim secured by a lien on any Assets, which lien is valid, perfected, and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable non-bankruptcy law, and which is duly established in the Chapter 11 Case of DH, but only to the extent of the value of the holder’s interest in the collateral that secures payment of the Claim; (b) a Claim against DH that is subject to a valid right of recoupment or setoff under section 553 of the Bankruptcy Code, but only to the extent of the Allowed amount subject to recoupment or setoff as provided in section 506(a) of the Bankruptcy Code; and (c) a Claim deemed or treated under the Plan as a Secured Claim; provided, that, to the extent that the value of such interest is less than the amount of the Claim which has the benefit of such security, the unsecured portion of such Claim shall be treated as a General Unsecured Claim or Convenience Claim, as applicable, unless, in any such case the class of which such Claim is a part makes a valid and timely election in accordance with section 1111(b) of the Bankruptcy Code to have such Claim treated as a Secured Claim to the extent Allowed.

109. “Senior Notes” means those certain 2026 Notes, 2019 Notes, 2018 Notes, 2016 Notes, 2015 Notes, and 2012 Notes in the initial aggregate principal amount of \$3,781.8 million, issued by DH under the Senior Notes Indenture.

110. “Senior Notes Claim” means all Claims arising under or based upon the Senior Notes.

111. “Senior Notes Indenture” means that certain Indenture, dated as of September 26, 1996, restated as of March 23, 1998, and amended and restated as of March 14, 2001, between DH (f/k/a Dynegy Holdings Inc.) and Bank One Trust Company, National Association, as Trustee (as amended, restated and supplemented through the Petition Date).

112. “Subordinated Notes” means those certain Series B 8.316% Subordinated Capital Income Securities due 2027 in the initial aggregate principal amount of \$200,000,000, issued by DH under the Subordinated Notes Indenture.

113. “Subordinated Notes Claim” means all Claims arising under or based upon the Subordinated Notes.

114. “Subordinated Notes Indenture” means that certain Subordinated Debenture Indenture between DH (f/k/a NGC Corporation) and First National Bank of Chicago, as Debenture Trustee, dated as of May 28, 1997 (as amended, restated and supplemented through the Petition Date).

115. “Subordination Alternative Election” means the election available to holders of Allowed Subordinated Notes Claims pursuant to Section 16.5 of the Plan.

116. “TIA Claim” means the Claim of Resources Capital Management Corporation against DH that was Allowed as a General Unsecured Claim in the amount of \$110,000,000 pursuant to the Facility Leases Rejection Order.

117. “Undertaking Agreement” means the undertaking originally issued by Dynegy to DGIN on September 1, 2011, in exchange for DGIN selling to Dynegy 100% of the outstanding membership interests of Dynegy Coal HoldCo, LLC, pursuant to the Prepetition Restructurings, and pursuant to which Dynegy agreed to make certain specified payments over time that coincide in timing and amount to the payments of principal and interest that DH is obligated to make under a portion of certain of the Senior Notes, and which was assigned by DGIN to DH in exchange for the DH Note, and which, as a condition to such assignment, was amended and restated to be between DH and Dynegy and to provide for the reduction of Dynegy’s obligations thereunder if the outstanding principal amount of any of the Senior Notes is decreased as a result of any exchange offer, tender offer or other purchase or repayment by Dynegy or its subsidiaries (other than DH and its subsidiaries, unless Dynegy guarantees the debt securities of DH or such subsidiary in connection with such exchange offer, tender offer or other purchase or repayment), provided that such principal amount is retired, cancelled or otherwise forgiven.

EXHIBIT "B"

**ALLOWED AMOUNTS OF SENIOR NOTES CLAIMS
AND SUBORDINATED NOTES CLAIMS**

Instrument Series	Aggregate Allowed Amounts
8.750% Senior Notes due 2012	\$90,254,674.79
7.50% Senior Unsecured Notes due 2015	\$810,512,500.00
8.375% Senior Unsecured Notes due 2016	\$1,092,131,379.54
7.125% Senior Debentures due 2018	\$180,957,291.67
7.75% Senior Unsecured Notes due 2019	\$1,136,941,666.67
7.625% Senior Debentures due 2026	\$175,815,451.39
Series B 8.316% Subordinated Capital Income Securities due 2027	\$215,822,875.38

EXHIBIT "C"

DESCRIPTION OF PLAN SECURED NOTES

DESCRIPTION OF THE NEW SENIOR SECURED NOTES

You can find the definitions of certain terms used in this description under the caption “—Certain Definitions” below. In this description, the word “Dynegy” refers only to Dynegy Inc. and not to any of its Subsidiaries.

Dynegy will issue the notes under an indenture between itself and Wilmington Trust, National Association, as trustee, pursuant to the Chapter 11 Plan upon Dynegy Holdings, LLC’s (“*DH*”) emergence from Chapter 11 proceedings. The terms of the notes will include those stated in the indenture and those made part of the indenture by reference to the Trust Indenture Act of 1939, as amended (the “*TIA*”). The pledge and security agreement referred to below under the caption “—Security” defines the terms of the pledges and security interests that will secure the notes.

The following description is a summary of the material provisions of the indenture and the pledge and security agreement. It does not restate those agreements in their entirety. We urge you to read the indenture and the collateral documents because they, and not this description, define your rights as holders of the notes. Copies of the indenture and the collateral documents are available as set forth below under the caption “—Additional Information.” Certain defined terms used in this description but not defined below under the caption “—Certain Definitions” have the meanings assigned to them in the indenture, the collateral documents and the Chapter 11 Plan.

The registered holder of a note will be treated as the owner of it for all purposes. Only registered holders will have rights under the indenture.

Brief Description of the Notes

The Notes

The notes:

- will be senior secured obligations of Dynegy;
- will, subject to certain exceptions and Permitted Liens, be secured by (1) a first-priority security interest on the Plan Secured Notes Debt Service Account, all other assets of Dynegy and all of the presently-owned and after-acquired assets of Dynegy and the direct and indirect wholly-owned subsidiaries of Dynegy (excluding (a) Dynegy Gas Investments Holdings, LLC and Dynegy Coal Investments Holdings, LLC and their respective subsidiaries, (b) *DH* and its successor in interest Legacy *DH* (except for the equity interests in Dynegy Gas Investments, LLC covered in clause (2) below and New *DH*), (c) Dynegy Northeast Generation, Inc. and its direct and indirect subsidiaries and (d) the Marketing Entities); and (2) a first-priority pledge of the outstanding Equity Interests in each of the direct and indirect subsidiaries of Dynegy, including Dynegy Gas Holdco, LLC (“*Gas Holdco*”), Dynegy Coal Holdco, LLC (“*Coal Holdco*”), Dynegy Gas Investments Holdings, LLC and Dynegy Coal Investments Holdings, LLC (but excluding (a) each of the Ring-Fenced Entities that are direct and indirect subsidiaries of Dynegy Gas Investments Holdings, LLC and Dynegy Coal Investments Holdings, LLC, (b) Legacy *DH* and Dynegy Northeast Generation, Inc. and their respective direct and indirect subsidiaries, and (c) the Marketing Entities).
- will be *pari passu* in right of payment to all existing and future senior Indebtedness of Dynegy;
- will rank effectively senior to all existing and future Indebtedness of Dynegy that is unsecured or secured by Liens junior to the Note Liens to the extent of the value of the Collateral;
- will be senior in right of payment to any future subordinated Indebtedness of Dynegy;
- will be effectively junior in right of payment to all existing and future Indebtedness of all Non-Obligor Restricted Subsidiaries; and

- will be guaranteed on a senior secured basis by all of Dynegy's direct and indirect, wholly-owned Subsidiaries that are not Excluded Entities.

The Guarantees

The notes will be guaranteed by each existing and future wholly-owned Subsidiary of Dynegy (other than the Excluded Entities). The Guarantors will jointly and severally guarantee Dynegy's Obligations under the indenture and the notes. The Obligations of each Guarantor under its Note Guarantee will be limited as necessary to prevent the Note Guarantee from constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Note Guarantee will be:

- a senior secured obligation of the applicable Guarantor;
- senior in right of payment with all existing and future subordinated Indebtedness of such Guarantor;
- *pari passu* in right of payment with all existing and future senior indebtedness of such Guarantor;
- will be effectively junior in right of payment to all existing and future Indebtedness of all Non-Obligor Restricted Subsidiaries; and
- secured by a first-priority security interest in substantially all of the assets of the applicable Guarantor.

Each Guarantor may consolidate with or merge into or sell its assets to Dynegy or another Guarantor without limitation. See "—Certain Covenants – Merger, Consolidation or Sale of Assets." A Guarantor will be automatically and unconditionally released and discharged from its Note Guarantee without any action required on the part of such Guarantor, Dynegy, the trustee or any Holder:

- (1) if (a) all of the Equity Interests issued by such Guarantor are sold or otherwise disposed of (including by way of merger or consolidation) to a Person other than Dynegy or a Guarantor or (b) such Guarantor ceases to be a Restricted Subsidiary, in each case in a transaction that complies with the indenture;
- (2) if Dynegy exercises its legal defeasance option or covenant defeasance option as described below under the caption "—Legal Defeasance and Covenant Defeasance";
- (3) in connection with any sale or other disposition of all of the Capital Stock of that Guarantor (including by way of merger or consolidation), directly or indirectly, to a Person that is not (either before or after giving effect to such transaction) Dynegy or a Restricted Subsidiary of Dynegy, if the sale or other disposition does not violate the covenant set forth under the caption "—Asset Sales";
- (4) if Dynegy designates any Restricted Subsidiary that is a Guarantor to be an Unrestricted Subsidiary in accordance with the applicable provisions of the indenture;
- (5) upon a liquidation or dissolution of a Guarantor so long as no Default or Event of Default occurs as a result thereof;
- (6) at such time such Guarantor is no longer required to be a Guarantor pursuant to the covenant set forth under the caption "—Certain Covenants—Future Subsidiary Guarantors"; or
- (7) upon legal defeasance or satisfaction and discharge of the notes as provided below under the captions "—Legal Defeasance and Covenant Defeasance" and "—Satisfaction and Discharge."

At the request and expense of Dynege, the trustee will execute and deliver any instrument evidencing such release upon receipt of an Officers' Certificate and opinion of counsel as provided in the indenture. A Guarantor may also be released from its obligations under its Note Guarantee in connection with a permitted amendment. See "—Amendment, Supplement and Waiver."

As of the date of the Issue Date, all of Dynege's Subsidiaries other than the Excluded Entities will guarantee the notes. If Dynege designates a Guarantor as an Unrestricted Subsidiary, which it may do under certain circumstances, the designated Guarantor will be released from all of its Obligations under its Note Guarantee and the Collateral Documents.

The operations of Dynege are conducted through its Subsidiaries and, therefore, Dynege depends on the cash flow of its Subsidiaries to meet its obligations, including its obligations under the notes. The notes will be effectively subordinated in right of payment to all Indebtedness and other liabilities and commitments (including trade payables and lease obligations) of Dynege's Subsidiaries that are Non-Obligor Restricted Subsidiaries. Other than in connection with the Chapter 11 Plan and any enforcement with respect to the collateral securing the notes, any right of Dynege to receive assets of any of its Subsidiaries upon such Subsidiary's liquidation or reorganization (and the consequent right of the holders of the notes to participate in those assets) will be effectively subordinated to the claims of that Subsidiary's creditors, except to the extent that Dynege is itself recognized as a creditor of the Subsidiary, in which case the claims of Dynege would still be subordinate in right of payment to any security in the assets of the Subsidiary and any Indebtedness of the Subsidiary senior to that held by Dynege.

As of the Issue Date, all of our Subsidiaries (other than Legacy DH and Dynege Northeast Generation, Inc. and their respective direct and indirect subsidiaries), will be "Restricted Subsidiaries." However, under the circumstances described below under the caption "—Certain Covenants—Designation of Restricted and Unrestricted Subsidiaries," we will be permitted to designate certain of our other Subsidiaries as "Unrestricted Subsidiaries" and designate any of our "Unrestricted Subsidiaries" as "Restricted Subsidiaries." Our Unrestricted Subsidiaries will generally not be subject to the restrictive covenants in the indenture.

Principal, Maturity and Interest

Subject to the adjustments described below, Dynege will issue notes in an aggregate principal amount of \$1,015,000,000 as part of the consideration to be paid to holders of Allowed General Unsecured Claims under the Chapter 11 Plan. Dynege will issue notes in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The notes will mature on the seventh anniversary of the Issue Date.

The aggregate principal amount of notes to be issued on the Issue Date will be reduced (on a dollar-for-dollar basis) by the amount of cash or Cash Equivalents held by DH and its subsidiaries (other than Dynege Gas Investments Holdings, LLC and Dynege Coal Investments Holdings, LLC and their respective subsidiaries and, assuming solely for the purpose of this calculation, that Coal Holdco is a subsidiary of DH) in excess of the sum of (i) \$200.0 million (excluding, for this purpose, the Plan Cash Payment, but including, for this purpose, any funds in Plan Secured Notes Debt Service Account) and (ii) [any cash reserved in an amount agreed to by the Plan Proponents and the Requisite Consenting Noteholders] to pay (on the Chapter 11 Plan Effective Date, or thereafter as contemplated by the Chapter 11 Plan) Allowed Administrative Claims and other Allowed Claims pursuant to and in accordance with the Chapter 11 Plan and to fund the Plan Trust, which excess shall instead be used to increase (on a dollar-for-dollar basis) the amount of the Plan Cash Payment. Solely for the purposes of the calculations pursuant to this paragraph, Gas Holdco and Coal Holdco will be deemed to have distributed (but not necessarily effected such distributions) all cash and Cash Equivalents permitted pursuant to the CoalCo Credit Agreement and the GasCo Credit Agreement through December 31, 2011. Any reduction pursuant to this paragraph shall occur following any adjustment in the principal amount of notes described in the immediately succeeding paragraph.

If the Lease Guaranty Claims are Allowed or estimated as set forth in the Chapter 11 Plan in an aggregate amount that is less than \$300.0 million, the aggregate principal amount of notes shall be reduced by an amount to be determined for every dollar such claims are less than \$300.0 million. If the Lease Guaranty Claims are Allowed or estimated as set forth in the Chapter 11 Plan in an aggregate amount that exceeds \$300.0 million and the Lease Condition Precedent (as defined below) is waived as set forth below and in accordance with Section 12.3 of the Chapter 11 Plan, the aggregate principal amount of notes shall be increased by an amount to be determined for every

dollar such claims exceed \$300.0 million. The adjustment amounts left to be determined under Section 12.3 of the Chapter 11 Plan shall be (i) an amount that is the same for an increase or decrease in the aggregate principal amount of Plan Secured Notes, (ii) agreed to among the Plan Proponents and Requisite Consenting Noteholders, and (iii) identified in a Plan Document to be filed with the Bankruptcy Court not less than ten (10) days prior to the Plan Objection Deadline. The "*Lease Condition Precedent*" means the condition precedent to the occurrence of the Chapter 11 Plan Effective Date requiring an order, which may be the Confirmation Order, in form and substance reasonably acceptable to the Plan Proponents and the Requisite Consenting Noteholders, to have been entered by the Bankruptcy Court and be in full force and effect and not subject to any stay or injunction, either (i) Allowing or (ii) estimating the Lease Guaranty Claims in an aggregate amount not to exceed \$300.0 million. DH or Dynegy may waive the Lease Condition Precedent; *provided* that to the extent the Lease Guaranty Claims are Allowed or estimated in an amount that exceeds \$400.0 million, DH or Dynegy may not waive such condition without the prior written consent of the Requisite Consenting Noteholders.

Interest on the notes will accrue at the rate of 11.0% per annum from the Issue Date and will be payable in cash semi-annually in arrears on May 1 and November 1, commencing on the first May 1 or November 1, as applicable, following the Issue Date. Interest on overdue principal and interest will accrue at a rate that is 2.0% higher than the then applicable interest rate on the notes. Dynegy will make each interest payment to the holders of record on the immediately preceding April 15 and October 15. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

Methods of Receiving Payments on the Notes

If a holder of notes has given wire transfer instructions to Dynegy, Dynegy will pay all principal of, premium on, if any, and interest on, that holder's notes in accordance with those instructions. All other payments on the notes will be made at the office or agency of the paying agent and registrar within the United States unless Dynegy elects to make interest payments by check mailed to the noteholders at their address set forth in the register of holders.

Paying Agent and Registrar for the Notes

The trustee will initially act as paying agent and registrar. Dynegy may change the paying agent or registrar without prior notice to the holders of the notes, and Dynegy or any of its Subsidiaries may act as paying agent or registrar.

Transfer and Exchange

A holder may transfer or exchange notes in accordance with the provisions of the indenture. The registrar and the trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents in connection with a transfer of notes. Holders will be required to pay all taxes due on transfer. Dynegy will not be required to transfer or exchange any note selected for redemption. Also, Dynegy will not be required to transfer or exchange any note for a period of 15 days before a selection of notes to be redeemed.

Security

The Note Obligations will be secured by:

- (i) a first-priority security interest on the Plan Secured Notes Debt Service Account, all other assets of Dynegy and all of the presently-owned and after-acquired assets Dynegy and of the direct and indirect wholly-owned subsidiaries of Dynegy (excluding (a) Dynegy Gas Investments Holdings, LLC and Dynegy Coal Investments Holdings, LLC and their respective subsidiaries, (b) DH and its successor in interest Legacy DH (except for the equity interests in Dynegy Gas Investments, LLC covered in clause (ii) below and New DH), (c) Dynegy Northeast Generation, Inc. and its direct and indirect subsidiaries, and (d) the Marketing Entities); and

- (ii) a first-priority pledge of the outstanding Equity Interests in each of the direct and indirect subsidiaries of Dynegey, including Gas Holdco, Coal Holdco, Dynegey Gas Investments Holdings, LLC and Dynegey Coal Investments Holdings, LLC (but excluding (a) each of the Ring-Fenced Entities that are direct and indirect subsidiaries of Dynegey Gas Investments Holdings, LLC and Dynegey Coal Investments Holdings, LLC, (b) Legacy DH and Dynegey Northeast Generation, Inc. and their respective direct and indirect subsidiaries, and (c) the Marketing Entities),

other than Excluded Assets.

Dynegey, the Guarantors, the trustee and Wilmington Trust, National Association, who will act as the collateral agent, will enter into a pledge and security agreement (the "*Pledge and Security Agreement*") and the other Collateral Documents defining the terms of the Note Liens. These Note Liens will secure, equally and ratably, the payment and performance when due of all Note Obligations of Dynegey and the Guarantors and any additional secured obligations incurred to refinance the Note Obligations. In addition, the Collateral will secure Hedging Obligations secured in accordance with the Collateral Documents.

So long as no Event of Default has occurred and is continuing, and subject to certain terms and conditions of the Collateral Documents, Dynegey and the Guarantors will be entitled to receive all cash dividends, interest and other payments made upon or with respect to the Collateral pledged by them and to exercise any voting and other consensual rights pertaining to the Collateral pledged by them.

The fair market value of the Collateral is subject to fluctuations based on factors that include, among others, the ability to sell the Collateral in an orderly sale, general economic conditions, the availability of buyers and similar factors. The amount to be received upon a sale of the Collateral would also be dependent on numerous factors, including, but not limited to, the actual fair market value of the Collateral at such time and the timing and the manner of the sale. By its nature, portions of the Collateral may be illiquid and may have no readily ascertainable market value. Accordingly, there can be no assurance that the Collateral can be sold in a short period of time or in an orderly manner. In addition, in the event of a bankruptcy, the ability of the holders of the notes to realize upon any of the Collateral may be subject to certain bankruptcy law limitations as described below.

The Collateral has been pledged pursuant to the Collateral Documents, which contain provisions relating to the administration, preservation and disposition of the Collateral. The following is a summary of some of the covenants and provisions set forth in the Collateral Documents and the indenture as they relate to the Collateral.

Mortgages

With respect to any fee interest in any real property having a value (together with improvements thereof) of at least \$10.0 million acquired after the Issue Date by Dynegey or any Guarantor, within 120 days after the acquisition thereof, (i) execute and deliver a Mortgage in favor of the collateral agent covering such real property and corresponding UCC fixture filings, (ii) if requested by the collateral agent (acting on the instructions of the secured parties), provide a mortgagee's title insurance policy insuring such Mortgage in an amount at least equal to the purchase price of such real property, as well as any existing survey of such real property and (iii) a legal opinion relating to the enforceability of the such Mortgage and other customary opinions related thereto, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the collateral agent.

Maintenance of Collateral

The indenture and/or the Collateral Documents provide that, except as permitted under such documents, Dynegey and the Guarantors will:

- (1) maintain, develop and operate the pledged assets constituting Collateral in a good and workmanlike manner, except where such failure to comply would not have a material adverse effect on the Collateral taken as a whole;

(2) comply with all contracts and agreements applicable to or relating to the Collateral, except to the extent a failure to so comply would not have a material adverse effect on the Collateral taken as a whole;

(3) maintain, preserve and keep all operating equipment used with respect to the Collateral in proper repair, working order and condition, and make all necessary or appropriate repairs, renewals, replacements, additions and improvements thereto so that the efficiency of such operating equipment shall at all times be properly preserved and maintained, except where such failure to comply would not have a material adverse effect on the Collateral taken as a whole;

(4) cause the Collateral to be kept free and clear of all Liens other than Permitted Liens; and

(5) to the extent applicable, keep insurable properties adequately insured at all times by insurers of recognized responsibility; maintain such other insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts with reasonable deductibles, limits, retentions and self-insurance (including captive insurance arrangements consistent with past practices) as are customarily carried under similar circumstances by such other Persons.

Information Regarding Collateral

Dynergy and the Guarantors agree promptly to notify the trustee and collateral agent if any portion of the Collateral in excess of \$15.0 million is physically damaged, destroyed or condemned. Within 90 days after the end of each fiscal year, Dynergy shall deliver to the trustee and collateral agent an Officers' Certificate setting forth the information required pursuant to the schedules required by the Collateral Documents or confirming that there has been no change in any material respect in such required information since the date of the prior annual financial statements, and a customary legal opinion as to the perfection (or continued perfection) of the security interests under the Collateral Documents.

Further Assurances

To the extent required under the indenture and the Collateral Documents, Dynergy shall execute any and all further documents, financing statements, agreements and instruments, and take all further action that may be required under applicable law, or that the trustee and collateral agent may reasonably request, in order to grant, preserve, protect and perfect the validity and priority of the Note Liens in the Collateral, including, without limitation, prompt correction of any material defect which may hereafter be discovered in the title to the Collateral or in the execution and acknowledgment of the applicable Collateral Document, any notes, the Note Guarantees or any other document used in connection herewith or at any time delivered to Dynergy or any Guarantor in connection with any Indebtedness owing under the indenture, the note or the Note Guarantees.

Intercreditor Arrangements

Pursuant to the Pledge and Security Agreement, each secured party (as defined therein) agrees that liens securing each series of the Note Obligations (and any Obligations incurred to refinance those Note Obligations), the additional secured obligations (as defined therein) incurred to refinance the Note Obligations and the Hedging Obligations secured by the Collateral Documents (collectively, the "Secured Obligations") on any Collateral will have equal priority, notwithstanding the means or method of grant, attachment or perfection of any liens, any provision of applicable law, the financing documents (as defined therein) or any defect or deficiencies in the liens. The Secured Obligations may be, among other things, increased, extended, renewed, refinanced or otherwise amended, waived or modified without affecting the lien priorities or the relative rights of the secured parties (as defined therein).

The Pledge and Security Agreement further provides that only the collateral agent may act or refrain from acting with respect to the Collateral and then only on the instructions of secured parties owed or holding more than 50% of the sum of (i) the outstanding amount (as defined therein) under the indenture governing the notes and any other Obligations permitted to be secured *pari passu* with the Note Obligations and (ii) the eligible hedge amount

(as defined therein) under each secured hedge agreement (as defined therein) at such time (the “*Required Secured Parties*”). No secured party (other than the Required Secured Parties) shall, or shall instruct the collateral agent to, commence any foreclosure proceedings or otherwise take any action to enforce its security interest in respect of any Collateral and the collateral agent shall not follow any instructions with respect to such Collateral from any secured party other than the Required Secured Parties. Only the collateral agent, acting on instructions of the Required Secured Parties and in accordance with the applicable Collateral Documents, may take any such actions with respect to the Collateral. Notwithstanding the foregoing, these terms shall not prohibit a hedge counterparty (as defined therein) from exercising its rights, remedies, powers and all other actions permitted by the terms of any secured hedge agreement (as defined therein) to which it is a party. Secured parties cannot contest, protest or object to any foreclosure proceeding or action brought by the collateral agent or the Required Secured Parties.

The failure or delay by the collateral agent, any authorized representative (as defined therein) or any other secured party in exercising any right or power under the Pledge and Security Agreement, the indenture, any other note purchase agreement, credit agreement, note, guarantee or other similar documents or instruments governing additional secured obligations or the other Collateral Documents shall not operate as a waiver of any rights thereof. The indenture and certain Collateral Documents may be amended or modified in accordance with their terms without written consent of the secured parties. The Pledge and Security Agreement and other Collateral Documents may be amended or modified with the written consent of the Required Secured Parties, *provided* that no such amendment or modification violates the terms of any financing documents absent obtaining the requisite consents under such documents or adversely affects the collateral agent without its consent.

Foreclosure

Pursuant to the Pledge and Security Agreement, unless or until an event of default (as defined therein) occurs and is continuing, each grantor (as defined in the Collateral Documents) is entitled to exercise voting rights and any other consensual rights and powers inuring to an owner of any securities pledged under the Collateral Documents. Unless or until an event of default (as defined therein) occurs and is continuing, each grantor shall also be entitled to retain any and all dividends, interest, principal and other distributions paid on or distributed in respect of such pledged securities. Upon the occurrence and during the continuance of an event of default, the Collateral Documents provide for (among other available remedies) the foreclosure upon and sale of the applicable Collateral by the collateral agent (at the direction of the Required Secured Parties) and the distribution of the net proceeds of any such sale to the holders of the notes and the other secured obligations (as defined in the Collateral Documents), subject to any Permitted Liens, as follows:

(1) upon notice (given or deemed given as provided in the Pledge and Security Agreement) from the collateral agent of its intent to exercise its rights under the Pledge and Security Agreement, all rights of Dynegey and the Guarantors to exercise such voting or other consensual rights and to receive dividends will cease, and all such rights will become vested in the collateral agent, which, to the extent permitted by law, will have the right to exercise such voting and other consensual rights and to receive dividends;

(2) the collateral agent may sell the Collateral or any part of the Collateral in accordance with the terms of the Collateral Documents; and

(3) pursuant to the terms of the Collateral Documents, proceeds from the sale or otherwise of applicable Collateral (including dividends paid in cash) will be applied by the collateral agent according to the following priority: (i) payments due to the collateral agent and trustee under the indenture and Note Documents or the notes authorized representative, (ii) pro rata distribution to any secured party that had advanced or paid fees to the collateral agent or the notes authorized representative (as defined in the Collateral Documents), (iii) pro rata payment of any interest expense and all principal due under the indenture and payment of any termination payments due and payable, (iv) pro rata payment to all other secured obligations owing to any secured party not yet due and payable and (v) any balance to the grantors.

Pursuant to direction from the Required Secured Parties as provided in the Pledge and Security Agreement, the collateral agent will determine the circumstances and manner in which the Collateral will be disposed of, including, but not limited to, the determination of whether to release all or any portion of the Collateral from the Note Liens and whether to foreclose on the Collateral following a Default or Event of Default. In connection with

following directions from the Required Secured Parties, the collateral agent may request an indemnity and security satisfactory to the collateral agent.

In the event of foreclosure on the Collateral, the proceeds from the sale of the Collateral may not be sufficient to satisfy the Obligations under the notes and the Guarantees, either in whole or in part.

Certain Bankruptcy Limitations

The right of the trustee and collateral agent to repossess and dispose of the Collateral upon the occurrence of an Event of Default would be significantly impaired by applicable bankruptcy law in the event that a bankruptcy case were to be commenced by or against Dynegy or any Guarantor. Upon the commencement of a case for relief under the Bankruptcy Code a secured creditor such as the trustee and collateral agent is prohibited from repossessing its security from a debtor in a bankruptcy case, or from disposing of security repossessed from the debtor or any other Collateral, without bankruptcy court approval.

In view of the broad equitable powers of a U.S. bankruptcy court, it is impossible to predict how long payments under the notes could be delayed following commencement of a bankruptcy case, whether or when the collateral agent could repossess or dispose of the Collateral, the value of the Collateral at the time of the bankruptcy petition or whether or to what extent holders of the notes and the Guarantees would be compensated for any delay in payment or loss of value of the Collateral. The Bankruptcy Code permits only the payment and/or accrual of post-petition interest, costs and attorneys' fees to a secured creditor during a debtor's bankruptcy case to the extent the value of the Collateral is determined by the bankruptcy court to exceed the aggregate outstanding principal amount of the Obligations under the notes secured by the Collateral, including any such Obligations under the notes and the Note Guarantees secured on a priority basis. Furthermore, in the event a bankruptcy court determines that the value of the Collateral is not sufficient to repay all amounts due on the notes and the Note Guarantees after payment of any priority claims, the holders of the notes and the Note Guarantees would hold secured claims only to the extent of the value of the Collateral to which the holders of the notes and the Note Guarantees are entitled, and unsecured claims with respect to such shortfall.

Release

The Note Liens in the Collateral will be released:

- (1) upon the full and final payment and performance of all Note Obligations of Dynegy and the Guarantors;
- (2) upon legal defeasance, covenant defeasance or satisfaction and discharge of the notes and Note Guarantees as provided below under the captions “—Legal Defeasance and Covenant Defeasance” and “—Satisfaction and Discharge;”
- (3) in part, as to any assets or Capital Stock constituting Collateral that are sold or otherwise disposed of by Dynegy or a Guarantor (other than to Dynegy or any Guarantor) in transactions permitted under the indenture (including, without limitation, pursuant to the provisions set forth under the captions “Repurchase at the Option of Holders—Asset Sales” and “Certain Covenants—Merger, Consolidation or Sale of Assets”);
- (4) with respect to all or substantially all of the Collateral, with the prior consent of the holders of at least 75% in aggregate principal amount of the notes then outstanding in compliance with the provisions set forth under the caption “Amendment, Supplement and Waiver”; or
- (5) at such time a Guarantor is no longer required to be a Guarantor and grantor under the Collateral Documents pursuant to the covenant set forth under the caption “—Certain Covenants—Future Subsidiary Guarantors.”

TIA §314 and §313 Compliance

Any certificate or opinion required by TIA §314(d) may be made by a responsible officer of Dynegy, except in cases where TIA §314(d) requires that such certificate or opinion be made by an independent engineer, appraiser or other expert. Certain no-action letters issued by the SEC have permitted an indenture qualified under or subject to the TIA to contain provisions permitting the release of collateral from liens under such indenture in the ordinary course of a company's business without requiring the company to provide certificates and other documents under TIA §314(d). Dynegy and the Guarantors may, subject to the provisions of the indenture, among other things, without any release or consent by the trustee and collateral agent, conduct ordinary course activities with respect to the Collateral, including, without limitation:

- (1) selling or otherwise disposing of, in any transaction or series of related transactions, any property subject to the Note Liens that has become worn out, defective, obsolete or not used or useful in the business;
- (2) abandoning, terminating, canceling, releasing or making alterations in or substitutions of any leases or contracts subject to the Note Liens;
- (3) surrendering or modifying any franchise, license or permit subject to the Note Liens that it may own or under which it may be operating;
- (4) altering, repairing, replacing, changing the location or position of and adding to its structures, machinery, systems, equipment, fixtures and appurtenances;
- (5) selling, transferring or otherwise disposing of inventory or accounts receivable in the ordinary course of business; and
- (6) making cash payments (including for the repayment of Indebtedness or interest) from cash that is at any time part of the Collateral in the ordinary course of business not otherwise prohibited by the indenture or the Collateral Documents.

Dynegy shall deliver to the trustee (and collateral agent, if not the same Person as the trustee) within 90 days following each June 30 and December 31 occurring after the Issue Date, an Officers' Certificate to the effect that all releases and withdrawals during the preceding six-month period (or since the Issue Date, in the case of the first such certificate) in connection with which no consent of the collateral agent was obtained were made in the ordinary course of Dynegy's and the Guarantors' business and such release and the use of proceeds in connection therewith were not prohibited by the Note Documents.

Dynegy and the Guarantors will otherwise comply with the provisions of TIA §314.

To the extent applicable, Dynegy will cause TIA §313(b), relating to reports, and TIA §314(d), relating to the release of property or securities or relating to the substitution therefore of any property or securities to be subject to the Note Liens, to be complied with. Any certificate or opinion required by TIA §314(d) may be made by an officer of Dynegy except in cases where TIA §314(d) requires that such certificate or opinion be made by an independent Person, which Person will be an independent engineer, appraiser or other expert selected or reasonably satisfactory to the trustee.

Optional Redemption

At any time prior to the first anniversary of the Issue Date, Dynegy may on any one or more occasions redeem up to 35% of the aggregate principal amount of notes issued under the indenture, upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 111% of the principal amount of the notes redeemed, plus accrued and unpaid interest to the date of redemption (subject to the rights of holders of notes on the relevant record date to receive interest on the relevant interest payment date), with the net cash proceeds of an Equity Offering; *provided* that:

- (1) at least 65% of the aggregate principal amount of notes originally issued under the indenture (excluding notes held by Dynegy and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption;
- (2) such redemption occurs within 90 days of the date of the closing of such Equity Offering; and
- (3) such redemption does not occur in connection with or in contemplation of or as a result of a Change of Control.

At any time prior to the first anniversary of the Issue Date, Dynegy may on any one or more occasions redeem all or a part of the notes, upon not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the principal amount of the notes redeemed, plus the Applicable Premium as of, and accrued and unpaid interest to the date of redemption, subject to the rights of holders of notes on the relevant record date to receive interest due on the relevant interest payment date.

Except pursuant to the preceding paragraphs, the notes will not be redeemable at Dynegy's option prior to the first anniversary of the Issue Date.

On or after the first anniversary of the Issue Date, Dynegy may on any one or more occasions redeem all or a part of the notes, upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of the principal amount) set forth below, plus accrued and unpaid interest on the notes redeemed, to the applicable date of redemption, if redeemed during the twelve-month period beginning on the first anniversary of the Issue Date and the twelve-month periods following the subsequent anniversaries of the Issue Date indicated below, subject to the rights of holders of notes on the relevant record date to receive interest on the relevant interest payment date:

Year	Percentage
First	105.000%
Second	103.000%
Third	101.000%
Fourth and thereafter	100.000%

Unless Dynegy defaults in the payment of the redemption price, interest will cease to accrue on the notes or portions thereof called for redemption on the applicable redemption date.

Mandatory Redemptions; Other Purchases

Dynegy is not required to make any mandatory redemption or sinking fund payments with respect to the notes.

Dynegy or any of its Subsidiaries may at any time and from time to time purchase for cash notes and Convertible Preferred Shares in the open market, pursuant to tender or exchange offers, in privately negotiated transactions or otherwise with all cash and Cash Equivalents (i) remaining in Dynegy and its subsidiaries (excluding cash at Dynegy Gas Investments Holdings, LLC, Dynegy Coal Investments Holdings, LLC and their respective subsidiaries) immediately after the Chapter 11 Plan Effective Date and (ii) permitted to be distributed to Dynegy Gas Holdco, LLC or Dynegy Coal Holdco, LLC, as applicable, pursuant to the GasCo Credit Agreement or the CoalCo Credit Agreement (in each case, as in effect on the Issue Date), so long as, after giving pro forma effect to such open market purchases pursuant to this clause (ii), Dynegy and its subsidiaries (other than Dynegy Gas Investments Holdings, LLC and Dynegy Coal Investments Holdings, LLC and their respective subsidiaries) have at least \$100.0 million of Excess Ordinary Operating Cash (including, for this purpose, any funds in the Plan Secured Notes Debt Service Account). Subject to any reduction in the principal amount of notes to be issued on the Chapter 11 Plan Effective Date (as described under the caption “—Principal, Maturity and Interest”), any cash at Dynegy at the time of the Chapter 11 Plan Effective Date may also be used to make such open market purchases.

In furtherance of the foregoing, Dynegy and its Restricted Subsidiaries shall not permit (A) any Unrestricted Subsidiary or (B) any other Person that is not a Subsidiary of Dynegy in which an Investment has been made pursuant to paragraph (c) of the first paragraph of the covenant described under “Certain Covenants — Restricted Payments” or clause (19) of the definition of “*Permitted Investments*” to, directly or indirectly, purchase, repurchase, redeem or otherwise acquire for value or make any other payment with respect to Equity Interests in Dynegy or any derivative security or other instrument in respect of Equity Interests in Dynegy (including, without limitation, the Convertible Preferred Shares).

Plan Secured Notes Debt Service Account

Upon the Chapter 11 Plan Effective Date, Dynegy will establish in the United States a U.S. dollar-denominated account (the “*Plan Secured Notes Debt Service Account*”) over which the collateral agent will have sole and exclusive control and exclusive right of withdrawal, subject to the provisions in the next two paragraphs.

Dynegy shall on the Chapter 11 Plan Effective Date initially fund the Plan Secured Notes Debt Service Account by causing Gas Holdco and Coal Holdco to distribute to Dynegy all cash or Cash Equivalents permitted to be distributed pursuant to the restricted payment covenants under the CoalCo Credit Agreement and the GasCo Credit Agreement up to an amount equal to the principal amount of the notes issued under the Chapter 11 Plan multiplied by 5.5% and will be required to keep the Plan Secured Notes Debt Service Account “*Fully Funded*” at all times thereafter until the full and final payment and performance of all of Dynegy’s Obligations under the notes, the indenture and the Collateral Documents. The Plan Secured Notes Debt Service Account shall be deemed to be “*Fully Funded*” so long as, at any time, the cash and Cash Equivalents on deposit therein are equal to an amount sufficient to provide for the payment in full of the interest due on the notes (other than notes held by Dynegy or its Subsidiaries) on the following interest payment date; *provided, however*, that (i) following the initial funding thereof on the Chapter 11 Plan Effective Date, Dynegy’s obligation to fund the Plan Secured Notes Debt Service Account shall be limited solely to the extent that the GasCo Credit Agreement and the CoalCo Credit Agreement do not prohibit the distribution or dividend of cash to Dynegy, and the Plan Secured Notes Debt Service Account shall be deemed to be “*Fully Funded*” if, as a result of the GasCo Credit Agreement and CoalCo Credit Agreement prohibiting such distributions, the cash and Cash Equivalents on deposit in the Plan Secured Notes Debt Service Account are at any time less than the amount required above (*provided* that this clause (i) shall not be applicable to the extent any such inability to fund the Plan Secured Notes Debt Service Account arises solely as a result of amendments to or refinancing of the GasCo Credit Agreement or the CoalCo Credit Agreement that have the effect of limiting the ability to make such distributions or dividends) and (ii) Dynegy shall not be required to maintain at any time an amount in excess of the initial funding amount in the Plan Secured Notes Debt Service Account.

Amounts on deposit in the Plan Secured Notes Debt Service Account may be invested by the collateral agent in Cash Equivalents upon the prior written direction by Dynegy to the collateral agent; *provided*, that the aggregate amount of cash and Cash Equivalents maturing not later than the business day immediately preceding the next interest payment date shall at all times be at least equal to the amount required for the Plan Secured Notes Debt Service Account to be Fully Funded. To the extent the Plan Secured Notes Debt Service Account is Fully Funded on any given interest payment date, Dynegy may, by giving notice to the collateral agent no later than three business days prior to such interest payment date, apply any cash and Cash Equivalents on deposit in the Plan Secured Notes Debt Service Account in excess of the amount required for the account to be Fully Funded to payments of interest due and payable on the notes on such interest payment date.

Dynegy will be entitled to make deposits directly to the Plan Secured Notes Debt Service Account at any time. All right, title and interest in and to all cash and Cash Equivalents on deposit from time to time in the Plan Secured Notes Debt Service Account will be held by the collateral agent for the benefit of the holders of the notes. The collateral agent shall release to Dynegy all cash and Cash Equivalents in the Plan Secured Notes Debt Service Account as set forth under the caption “—Security.”

Repurchase at the Option of Holders

Change of Control

If a Change of Control occurs, each holder of notes will have the right to require Dynegey to repurchase all or any part (equal to \$2,000 or an integral multiple of \$1,000 in excess thereof) of that holder's notes pursuant to a Change of Control Offer on the terms set forth in the indenture. In the Change of Control Offer, Dynegey will offer a Change of Control Payment in cash equal to 101% of the aggregate principal amount of notes repurchased, plus accrued and unpaid interest on the notes repurchased to the date of purchase, subject to the rights of holders of notes on the relevant record date to receive interest due on the relevant interest payment date. Within 30 days following any Change of Control, Dynegey will mail a notice to each holder describing the transaction or transactions that constitute the Change of Control and offering to repurchase notes on the Change of Control Payment Date specified in the notice, which date will be no earlier than 30 days and no later than 60 days from the date such notice is mailed, pursuant to the procedures required by the indenture and described in such notice. Dynegey will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of the indenture, Dynegey will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control provisions of the indenture by virtue of such compliance.

On the Change of Control Payment Date, Dynegey will, to the extent lawful:

- (1) accept for payment all notes or portions of notes properly tendered pursuant to the Change of Control Offer;
- (2) deposit with the paying agent an amount equal to the Change of Control Payment in respect of all notes or portions of notes properly tendered; and
- (3) deliver or cause to be delivered to the trustee the notes properly accepted together with an Officers' Certificate stating the aggregate principal amount of notes or portions of notes being purchased by Dynegey.

The paying agent will promptly mail to each holder of notes properly tendered the Change of Control Payment for such notes, and the trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each holder a new note equal in principal amount to any unpurchased portion of the notes surrendered, if any. Dynegey will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

The provisions described above that require Dynegey to make a Change of Control Offer following a Change of Control will be applicable whether or not any other provisions of the indenture are applicable. Except as described above with respect to a Change of Control, the indenture does not contain provisions that permit the holders of the notes to require that Dynegey repurchase or redeem the notes in the event of a takeover, recapitalization or similar transaction.

Dynegey will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in the indenture applicable to a Change of Control Offer made by Dynegey and purchases all notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to the indenture as described above under the caption "—Optional Redemption," unless and until there is a default in payment of the applicable redemption price. Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.

The definition of Change of Control includes a phrase relating to the direct or indirect sale, lease, transfer, conveyance or other disposition of "all or substantially all" of the properties or assets of Dynegy and its Restricted Subsidiaries (other than the Capital Stock and assets of any Unrestricted Subsidiaries), taken as a whole. Although there is a limited body of case law interpreting the phrase "substantially all," there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a holder of notes to require Dynegy to repurchase its notes as a result of a sale, lease, transfer, conveyance or other disposition of less than all of the assets of Dynegy and its Subsidiaries taken as a whole to another Person or group may be uncertain.

The CoalCo Credit Agreement, the GasCo Credit Agreement and future credit agreements or other agreements relating to Indebtedness to which Dynegy or its Subsidiaries may become a party may prohibit or limit the ability of Dynegy's Subsidiaries to make dividends or other distributions to Dynegy to enable Dynegy to purchase any notes as a result of a Change of Control. In the event a Change of Control occurs at a time when Dynegy's Subsidiaries are prohibited from dividending or distributing funds to Dynegy to enable Dynegy to purchase the notes, such Subsidiary could seek the consent of its lenders and the holders of any other Indebtedness of such Subsidiary to permit the purchase of the notes or could attempt to refinance the indebtedness that contains such prohibition. If such Subsidiary does not obtain such consent or repay such indebtedness, Dynegy may be unable to obtain the funds to purchase the notes. In such case, Dynegy's failure to purchase tendered notes would constitute an Event of Default under the indenture. The CoalCo Credit Agreement and GasCo Credit Agreement provide, and future credit agreements or other agreements relating to Indebtedness to which we or our Subsidiaries become a party may provide, that certain change of control events with respect to Dynegy would constitute a default thereunder (including a change of control under the CoalCo Credit Agreement and GasCo Credit Agreement). If we experience a change of control that triggers a default under the CoalCo Credit Agreement, the GasCo Credit Agreement or such other Indebtedness, we could seek a waiver of such defaults or seek to refinance the CoalCo Credit Agreement, the GasCo Credit Agreement or such other Indebtedness. In the event we do not obtain such a waiver or refinance the CoalCo Credit Agreement, the GasCo Credit Agreement or such other Indebtedness, such default could result in amounts outstanding under such Indebtedness being declared due and payable.

Asset Sales

Dynegy will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) Dynegy (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale) of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2) at least 75% of the consideration received in the Asset Sale by Dynegy or such Restricted Subsidiary is in the form of cash or Cash Equivalents. For purposes of this clause (b), each of the following will be deemed to be cash:

(a) any Indebtedness of Dynegy or any Restricted Subsidiary assumed by the transferee of any such assets pursuant to a customary novation agreement;

(b) any securities, notes or other obligations received by Dynegy or any such Restricted Subsidiary from such transferee that are converted within 90 days by Dynegy or such Restricted Subsidiary into cash or Cash Equivalents, to the extent of the cash or Cash Equivalents received in that conversion; and

(c) any stock or assets of the kind referred to in clauses (2) or (4) of the next paragraph of this covenant.

Within 360 days after the receipt of any Net Proceeds from an Asset Sale or, if Dynegy or any of its Restricted Subsidiaries has entered into a binding commitment or commitments with respect to any of the actions described in clause (2), (3) or (4) below, within the later of (x) 360 days after the receipt of any Net Proceeds from

an Asset Sale or (y) 180 days after the entering into such commitment or commitments, Dynegy (or the applicable Restricted Subsidiary, as the case may be) may apply such Net Proceeds:

(1) to permanently repay (i) to the extent such Asset Sale does not involve Collateral, Indebtedness of Dynegy or any Guarantor, in each case, that is secured by a Lien on such asset or (ii) Indebtedness of one or more Non-Obligor Restricted Subsidiaries, so long as the Asset Sale was made by one or more Non-Obligor Restricted Subsidiaries; *provided*, that, if any of the foregoing Indebtedness repaid is revolving credit Indebtedness, commitments thereunder will be correspondingly reduced;

(2) to acquire all or substantially all of the assets of, or any Capital Stock of, another Permitted Business, if, after giving effect to any such acquisition of Capital Stock, the Permitted Business is or becomes a Restricted Subsidiary of Dynegy;

(3) to make a capital expenditure; or

(4) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business.

To the extent any amounts applied pursuant to clause (2), (3) or (4) of the preceding paragraph are proceeds of an Asset Sale of Collateral or are stock or assets received in respect of Collateral pursuant to clause (2)(c) of the first paragraph of this covenant, any assets acquired pursuant to such clauses shall be held by the Company or a Guarantor and pledged as Collateral to secure the Note Obligations and any Persons acquired pursuant to such clauses shall become a Guarantor and pledge its assets to secure the Note Obligations, in each case, to the extent required by the indenture and the Collateral Documents.

Pending the final application of any Net Proceeds, Dynegy (or the applicable Restricted Subsidiary) may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by the indenture.

Any Net Proceeds from Asset Sales that are not applied or invested as provided in the second paragraph of this covenant will constitute "*Excess Proceeds*." When the aggregate amount of Excess Proceeds exceeds \$10.0 million, within 10 days thereof, Dynegy will make an offer (an "*Asset Sale Offer*") to all holders of notes and all holders of other Indebtedness that is *pari passu* both as to contractual right of payment and to Lien priority with the notes ("*Pari Passu Lien Debt*") containing provisions similar to those set forth in the indenture with respect to offers to purchase, prepay or redeem with the proceeds of sales of assets to purchase, prepay or redeem the maximum principal amount of notes and such other *Pari Passu Lien Debt* (plus all accrued interest thereon and the amount of all fees and expenses, including premiums, incurred in connection therewith) that may be purchased, prepaid or redeemed out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount, plus accrued and unpaid interest to the date of purchase, prepayment or redemption, subject to the rights of holders of notes on the relevant record date to receive interest due on the relevant interest payment date, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, Dynegy may use those Excess Proceeds for any purpose not otherwise prohibited by the indenture. If the aggregate purchase price for notes and other *Pari Passu Lien Debt* tendered in (or required to be prepaid or redeemed in connection with) such Asset Sale Offer exceeds the amount of Excess Proceeds, the trustee will select the notes and Dynegy or the representative of such other *Pari Passu Lien Debt* shall select such other *Pari Passu Lien Debt* to be purchased on a *pro rata* basis, based on the amounts tendered or required to be prepaid or redeemed (with such adjustments as may be deemed appropriate by the trustee so that only notes in denominations of \$2,000, or an integral multiple of \$1,000 in excess thereof, will be purchased). Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

Dynegy will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of notes pursuant to a Change of Control Offer or an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control or Asset Sale provisions of the indenture, Dynegy will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under the Change of Control or Asset Sale provisions of the indenture by virtue of such compliance.

The agreements governing Dynegey's other future Indebtedness may contain prohibitions of certain events, including events that would constitute a Change of Control or an Asset Sale and including repurchases of or other prepayments in respect of the notes. The exercise by the holders of notes of their right to require Dynegey to repurchase the notes upon a Change of Control or an Asset Sale could cause a default under these other agreements, even if the Change of Control or Asset Sale itself does not, due to the financial effect of such repurchases on Dynegey. In the event a Change of Control or Asset Sale occurs at a time when Dynegey is prohibited from purchasing notes, Dynegey could seek the consent of its senior lenders to the purchase of notes or could attempt to refinance the borrowings that contain such prohibition. If Dynegey does not obtain a consent or repay those borrowings, Dynegey will remain prohibited from purchasing notes. In that case, Dynegey's failure to purchase tendered notes would constitute an Event of Default under the indenture which could, in turn, constitute a default under the other Indebtedness. Finally, Dynegey's ability to pay cash to the holders of notes upon a repurchase may be limited by Dynegey's then existing financial resources.

Selection and Notice

If less than all of the notes are to be redeemed at any time, the trustee will select notes for redemption on a *pro rata* basis (or, in the case of notes issued in global form as discussed under "—Book-Entry, Delivery and Form," based on the procedures of DTC unless otherwise required by law or applicable stock exchange or depositary requirements.

No notes of \$2,000 or less can be redeemed in part. Notices of redemption will be mailed by first class mail at least 30 but not more than 60 days before the redemption date to each holder of notes to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the notes or a satisfaction and discharge of the indenture. Notices of redemption may not be conditional.

If any note is to be redeemed in part only, the notice of redemption that relates to that note will state the portion of the principal amount of that note that is to be redeemed. A new note in principal amount equal to the unredeemed portion of the original note will be issued in the name of the holder of notes upon cancellation of the original note. Notes called for redemption become due on the date fixed for redemption. On and after the redemption date, interest ceases to accrue on notes or portions of notes called for redemption.

Certain Covenants

Restricted Payments

Dynegey will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

- (1) declare or pay any dividend or make any other payment or distribution on account of Dynegey's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving Dynegey or any of its Restricted Subsidiaries) or to the direct or indirect holders of Dynegey's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of Dynegey and other than dividends or distributions payable to Dynegey or a Restricted Subsidiary of Dynegey);
- (2) purchase, redeem, exchange or offer to exchange or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving Dynegey) any Equity Interests of Dynegey or any direct or indirect parent of Dynegey;
- (3) make any payment on or with respect to, or purchase, redeem, exchange or offer to exchange, defease or otherwise acquire or retire for value any Indebtedness of Dynegey that is contractually subordinated to the notes (excluding any intercompany Indebtedness between or among Dynegey and any of its Restricted Subsidiaries) or any Qualified Senior Debt, except in each case a payment of interest or principal at the Stated Maturity thereof;

(4) make any payment on or with respect to, or purchase, redeem, exchange or offer to exchange, defease or otherwise acquire for value the Convertible Preferred Shares; or

(5) make any Restricted Investment

(all such payments and other actions set forth in these clauses (1) through (5) above being collectively referred to as “*Restricted Payments*”),

unless, at the time of and after giving effect to such Restricted Payment:

(a) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;

(b) Dynegy would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described below under the caption “—Incurrence of Indebtedness and Issuance of Preferred Stock;” and

(c) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by Dynegy and its Restricted Subsidiaries since the Issue Date (excluding Restricted Payments permitted by clauses (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (14)(ii) of the next succeeding paragraph), is less than the sum, without duplication, of:

(i) 50% of the Consolidated Net Income of Dynegy for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the Issue Date to the end of Dynegy’s most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*

(ii) 100% of the aggregate net cash proceeds received by Dynegy since the Issue Date as a contribution to its common equity capital or from the issue or sale of Qualifying Equity Interests of Dynegy or from the issue or sale of convertible or exchangeable Disqualified Stock of Dynegy or convertible or exchangeable debt securities of Dynegy, in each case that have been converted into or exchanged for Qualifying Equity Interests of Dynegy (other than Qualifying Equity Interests and convertible or exchangeable Disqualified Stock or debt securities sold to a Subsidiary of Dynegy); *plus*

(iii) to the extent that any Restricted Investment that was made after the Issue Date is (a) sold for cash or Cash Equivalents or otherwise cancelled, liquidated or repaid for cash or Cash Equivalents, or (b) made in an entity that subsequently becomes a Restricted Subsidiary of Dynegy, the initial amount of such Restricted Investment (or, if less, the amount of cash received upon repayment or sale); *plus*

(iv) to the extent that any Unrestricted Subsidiary of Dynegy designated as such after the Issue Date is redesignated as a Restricted Subsidiary after the Issue Date, the Fair Market Value of Dynegy’s Restricted Investment in such Subsidiary as of the date of such redesignation; *plus*

(v) 100% of any dividends received in cash by Dynegy or a Restricted Subsidiary of Dynegy after the Issue Date from an Unrestricted Subsidiary of Dynegy.

So long as no Default or Event of Default has occurred and is continuing after giving effect thereto, the preceding provisions will not prohibit:

- (1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend, distribution or redemption payment would have complied with the provisions of the indenture;
- (2) the making of any Restricted Payment in exchange for, or out of or with the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of Dynegy) of, Equity Interests of Dynegy (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to Dynegy; *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will not be considered to be net proceeds of Qualifying Equity Interests for purposes of clause (c)(ii) of the preceding paragraph;
- (3) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of Dynegy to the holders of its Equity Interests on a *pro rata* basis;
- (4) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness or Disqualified Stock of Dynegy or its Restricted Subsidiaries that is contractually subordinated to the notes with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;
- (5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of Dynegy or any Restricted Subsidiary of Dynegy held by any current or former officer, director or employee of Dynegy or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$2.0 million in any twelve-month period (with unused amounts in any twelve-month period being carried over to succeeding calendar years) and may not exceed \$10.0 million in the aggregate since the Issue Date *plus* the amount of net cash proceeds received by Dynegy or any of its Restricted Subsidiaries after the Issue Date (a) in respect of "key-man" life insurance policies and (b) from the issuance of Equity Interests by Dynegy to members of management of Dynegy and its Subsidiaries, to the extent that those amounts did not provide the basis for any previous Restricted Payment;
- (6) the repurchase of Equity Interests deemed to occur upon the exercise of stock options or conversion of other Equity Interests to the extent such Equity Interests represent a portion of the exercise price of those stock options;
- (7) the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of Dynegy or any preferred stock of any Restricted Subsidiary of Dynegy issued on or after the Issue Date in accordance with the Fixed Charge Coverage Ratio test described below under the caption "—Incurrence of Indebtedness and Issuance of Preferred Stock;"
- (8) payments of cash, dividends, distributions, advances or other Restricted Payments by Dynegy or any of its Restricted Subsidiaries to allow the payment of cash in lieu of the issuance of fractional shares upon (i) the exercise of options or warrants or (ii) the conversion or exchange of Capital Stock of any such Person;
- (9) upon the occurrence of (i) a Change of Control and after the completion of the Change of Control Offer described above under the caption "—Repurchase at the Option of Holders—Change of Control" or (ii) an Asset Sale to the extent an Asset Sale Offer is required in accordance with the indenture and after the completion of the Asset Sale Offer as described above under the caption "—Repurchase at the Option of Holders—Asset Sales" (including, in each case, the purchase of all notes tendered), any purchase, defeasance, retirement, redemption or other acquisition of Capital Stock or Indebtedness that is contractually subordinated to the notes required under the terms of such Capital Stock or Indebtedness as a result of such Change of Control or Asset Sale, as applicable;

(10) the making of any investment by Dynege Midwest Generation, LLC (“*CoalCo*”) and Subsidiaries of *CoalCo* that are Restricted Subsidiaries hereunder permitted to be made pursuant to Section 6.04 of the *CoalCo* Credit Agreement as in effect on the Issue Date, other than clause (j) thereof; and so long as any Investments made pursuant to clause (t) or (v) thereof are not made into Parties that are not Restricted Subsidiaries;

(11) the making of any investment by Dynege Power, LLC (“*GasCo*”) and Subsidiaries of *GasCo* that are Restricted Subsidiaries hereunder permitted to be made pursuant to Section 6.04 of the *GasCo* Credit Agreement as in effect on the Issue Date, other than clause (j) thereof; and so long as any Investments made pursuant to clause (t) or (w) thereof are not made into Parties that are not Restricted Subsidiaries;

(12) all payments required by the Chapter 11 Plan and disclosed in the Disclosure Statement;

(13) the transfer from time to time of any or all assets of and Equity Interests in the Marketing Entities to Dynege Gas Investments Holdings, LLC or Dynege Coal Investments Holdings, LLC (or any direct or indirect Subsidiary of those entities) in connection with the designation of the Marketing Entities as Ring-Fenced Entities); and

(14) (i) the repurchase for cash of Convertible Preferred Shares in accordance with “—Other Mandatory Redemptions—Other Purchases” and (ii) the redemption of Convertible Preferred Shares in accordance with the terms thereof in a Qualified Redemption Transaction.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by Dynege or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this covenant will be determined by the Board of Directors of Dynege whose resolution with respect thereto will be delivered to the trustee. The Board of Directors’ determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the Fair Market Value exceeds \$50.0 million.

Any repurchase or redemption of Convertible Preferred Shares shall occur only if permitted by clause (14) of the second preceding paragraph and not the first paragraph of this covenant.

Not later than the date of making any Restricted Payment involving an amount or Fair Market Value in excess of \$20.0 million, Dynege shall deliver to the trustee an officers’ Certificate stating that such Restricted Payment is permitted and setting forth the basis upon which the calculations required by this covenant were computed together with a copy of any opinion or appraisal required by this covenant.

Incurrence of Indebtedness and Issuance of Preferred Stock

Dynege will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, “*incur*”) any Indebtedness (including Acquired Debt), and Dynege will not issue any Disqualified Stock and will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; *provided, however*, that Dynege may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock or permit Guarantors to incur Indebtedness (including Acquired Debt) if the Fixed Charge Coverage Ratio for Dynege’s most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or such preferred stock is issued, as the case may be, would have been at least 2.0 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock or the preferred stock had been issued, as the case may be, at the beginning of such four-quarter period.

The first paragraph of this covenant will not prohibit the incurrence of any of the following items of Indebtedness (collectively, “*Permitted Debt*”):

(1) the incurrence by Dynegy and its Restricted Subsidiaries of the Existing Indebtedness (other than under the CoalCo Credit Agreement and the GasCo Credit Agreement);

(2) (i) the incurrence by Dynegy and the Guarantors of Indebtedness represented by the notes to be issued on the Issue Date and (ii) the incurrence by Dynegy of the Convertible Preferred Shares to be issued on the Issue Date and any Qualified Subordinated Debt or Qualified Senior Debt to finance a Qualified Redemption Transaction (together with, in each case under this subclause (ii), any Permitted Refinancing Indebtedness in respect thereof);

(3) the incurrence by Dynegy or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of property, plant or equipment (or within 180 days thereafter) used or useful in the business of Dynegy or any of its Restricted Subsidiaries, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (3), not to exceed \$25.0 million at any time outstanding;

(4) the incurrence by Dynegy or the Guarantors of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by the indenture to be incurred under the first paragraph of this covenant or clause (1) or (2)(i) of this paragraph or clause (4) of this paragraph with respect thereto;

(5) the incurrence by:

(a) Dynegy or any Guarantor of intercompany Indebtedness between or among Dynegy and the Guarantors (which Indebtedness is unsecured and contractually subordinated in right of payment to all Note Obligations); *provided, however*, that any subsequent issuance or transfer of Equity Interests, any sale or transfer of such Indebtedness or any other event that results in any such Indebtedness being held by a Person other than Dynegy or a Guarantor shall be deemed to be an incurrence of such Indebtedness that is not permitted by this clause (5)(a); and

(b) any Non-Obligor Restricted Subsidiary of intercompany Indebtedness owed to Dynegy or another Restricted Subsidiary; *provided, however*, that any subsequent issuance or transfer of Equity Interests, any sale or transfer of such Indebtedness or any other event that results in any such Indebtedness being held by a Person other than Dynegy or a Restricted Subsidiary shall be deemed to be an incurrence of such Indebtedness that is not permitted by this clause (5)(b);

(6) the issuance by any:

(a) Guarantor of preferred stock to Dynegy or a Guarantor; *provided, however*, that any subsequent issuance or transfer of Equity Interests, any sale or transfer of such preferred stock or any other event that results in any such preferred stock being held by a Person other than Dynegy or a Guarantor shall be deemed to be an issuance of preferred stock that is not permitted by this clause (6)(a); and

(b) Non-Obligor Restricted Subsidiary of preferred stock to Dynegy or another Restricted Subsidiary; *provided, however*, that any subsequent issuance or transfer of Equity Interests, any sale or transfer of such preferred stock or any other event that results in any such preferred stock being held by a Person other than Dynegy or a Restricted Subsidiary shall be deemed to be an issuance of preferred stock that is not permitted by this clause (6)(b);

- (7) the incurrence by Dynegy or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business;
- (8) the incurrence by Dynegy or any of its Restricted Subsidiaries of Indebtedness in respect of (i) workers' compensation claims, self-insurance obligations, bankers' acceptances and (ii) performance, surety and similar bonds and completion guarantees in the ordinary course of business;
- (9) the incurrence by Dynegy or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five business days;
- (10) the incurrence by CoalCo and Subsidiaries of CoalCo that are Restricted Subsidiaries hereunder of Indebtedness permitted to be incurred pursuant to the CoalCo Credit Agreement as in effect on the Issue Date; *provided* that any such Indebtedness that constitutes Indebtedness for borrowed money shall not exceed \$840.0 million in the aggregate at any one time outstanding, less any amounts thereunder that are permanently repaid pursuant to clause (1) of the second paragraph under "—Asset Sales";
- (11) the incurrence by GasCo and Subsidiaries of GasCo that are Restricted Subsidiaries hereunder of Indebtedness permitted to be incurred pursuant to the GasCo Credit Agreement as in effect on the Issue Date; *provided* that any such Indebtedness that constitutes Indebtedness for borrowed money shall not exceed \$1,312.5 million in the aggregate at any one time outstanding, less any amounts thereunder that are permanently repaid pursuant to clause (1) of the second paragraph under "—Asset Sales";
- (12) the incurrence by Dynegy (as obligor, guarantor or issuer) or any of the Guarantors (as guarantors) of any Indebtedness that is incurred and outstanding pursuant to clause (10);
- (13) the incurrence by Dynegy (as obligor, guarantor or issuer) or any of the Guarantors (as guarantors) of any Indebtedness incurred and outstanding pursuant to clause (11);
- (14) the incurrence of Indebtedness arising from agreements of Dynegy or any of its Restricted Subsidiaries providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the disposition or acquisition of any business, assets or Equity Interests of a Subsidiary; *provided* that the maximum aggregate liability in respect of all such Indebtedness in respect of a disposition shall at no time exceed the gross proceeds (including the Fair Market Value of non-cash proceeds) actually received by Dynegy and/or such Restricted Subsidiary in connection with such disposition;
- (15) Indebtedness, Disqualified Stock or preferred stock of Persons or assets that are acquired by Dynegy or any of its Restricted Subsidiaries or merged into Dynegy or any of its Restricted Subsidiaries in accordance with the terms of the indenture; *provided* that such Indebtedness, Disqualified Stock or preferred stock is not incurred in contemplation of such acquisition or merger; *provided further* that after giving pro forma effect to such acquisition or merger, either (a) Dynegy would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first sentence of this covenant or (b) the Fixed Charge Coverage Ratio would be (i) greater than that immediately prior to such acquisition or merger and (ii) no less than 1.75 to 1.0;
- (16) Indebtedness of Dynegy or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;
- (17) Indebtedness in respect of letters of credit or bank guaranties (including reimbursement obligations with respect thereto) secured by cash and Cash Equivalents or are unsecured, in each case and incurred in the ordinary course of business and, for the avoidance of doubt, not supporting Indebtedness for borrowed money; and

(18) the incurrence by Dynegy or any of its Restricted Subsidiaries of additional Indebtedness in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, not to exceed \$25.0 million.

Dynegy will not incur any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of Dynegy unless such Indebtedness is also contractually subordinated in right of payment to the notes on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of Dynegy solely by virtue of being unsecured or by virtue of being secured on a junior priority basis. Indebtedness may only be incurred by a Restricted Subsidiary of Dynegy to the extent expressly permitted by this “Incurrence of Indebtedness and Issuance of Preferred Stock” covenant.

For purposes of determining compliance with this “Incurrence of Indebtedness and Issuance of Preferred Stock” covenant, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (18) above, or is entitled to be incurred pursuant to the first paragraph of this covenant, Dynegy will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this covenant; *provided, however*, that (i) any amounts outstanding under the CoalCo Credit Agreement on the Issue Date shall be deemed to have been incurred under clause (10) above and may not be reallocated to another clause (or the first paragraph of this covenant) thereafter, (ii) any amounts outstanding under the GasCo Credit Agreement on the Issue Date shall be deemed to have been incurred under clause (11) above and may not be reallocated to another clause (or the first paragraph of this covenant) thereafter, (iii) any Indebtedness described in clause (12) above (whether outstanding on the Issue Date or thereafter incurred) shall be allocated to such clause (12) and may not be reallocated to another clause (or the first paragraph of this covenant); and (iv) any Indebtedness described in clause (13) above (whether outstanding on the Issue Date or thereafter incurred) shall be allocated to such clause (13) and may not be reallocated to another clause (or the first paragraph of this covenant). The accrual of interest or preferred stock dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends on preferred stock or Disqualified Stock in the form of additional shares of the same class of preferred stock or Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of preferred stock or Disqualified Stock for purposes of this covenant; *provided*, in each such case (except the reclassification of the Convertible Preferred Shares as Indebtedness due to a change in accounting principles), that the amount thereof is included in Fixed Charges of Dynegy as accrued. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred. Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that Dynegy or any Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (a) the Fair Market Value of such assets at the date of determination; and
 - (b) the amount of the Indebtedness of the other Person.

Liens

Dynegy will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist (i) any Lien of any kind on any assets, except Permitted Liens and (ii) any Lien on the Collateral, except Permitted Collateral Liens.

Limitation on Sale and Leaseback Transactions

Dynegy will not, and will not permit any of its Restricted Subsidiaries to, enter into any sale and leaseback transaction; *provided* that Dynegy or any Restricted Subsidiary may enter into a sale and leaseback transaction if:

(1) Dynegy or that Restricted Subsidiary, as applicable, could have (a) incurred Indebtedness in an amount equal to the Attributable Debt relating to such sale and leaseback transaction under the Fixed Charge Coverage Ratio test in the first paragraph of the covenant described above under the caption “—Incurrence of Indebtedness and Issuance of Preferred Stock” and (b) incurred a Lien to secure such Indebtedness pursuant to the covenant described above under the caption “—Liens;”

(2) the gross cash proceeds of that sale and leaseback transaction are at least equal to the Fair Market Value, as determined in good faith by the Board of Directors of Dynegy and set forth in an Officers’ Certificate delivered to the trustee, of the property that is the subject of that sale and leaseback transaction; and

(3) the transfer of assets in that sale and leaseback transaction is permitted by, and Dynegy applies the proceeds of such transaction in compliance with, the covenant described above under the caption “—Repurchase at the Option of Holders—Asset Sales.”

Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries

Dynegy will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions on its Capital Stock to Dynegy or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to Dynegy or any of its Restricted Subsidiaries;

(2) make loans or advances to Dynegy or any of its Restricted Subsidiaries; or

(3) sell, lease or transfer any of its properties or assets to Dynegy or any of its Restricted Subsidiaries.

However, the preceding restrictions will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements governing Existing Indebtedness as in effect on the Issue Date and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; provided that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the Issue Date;

(2) the Note Documents;

(3) agreements governing other Indebtedness permitted to be incurred under the provisions of the covenant described above under the caption “—Incurrence of Indebtedness and Issuance of Preferred Stock” (other than Indebtedness under the CoalCo Credit Agreement or the GasCo Credit Agreement) and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements;

provided that the restrictions therein are not materially more restrictive, taken as a whole, than those contained in the indenture and the notes or the agreements referred to in clause (1) above;

(4) applicable law, rule, regulation or order;

(5) any instrument governing Indebtedness or Capital Stock of (i) a Person acquired by Dynegy or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired or (ii) an Unrestricted Subsidiary that has been designated a Restricted Subsidiary of Dynegy as in effect at the time of such designation and, in each case, any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those instruments, to the extent that the restrictions therein are (a) not materially more restrictive, taken as a whole, than those contained in those agreements at the time of such acquisition or designation (as the case may be) and (b) not applicable to any Restricted Subsidiary other than Restricted Subsidiaries (and Subsidiaries of such Restricted Subsidiaries) to which such restrictions were applicable at the time of such acquisition or designation (as the case may be); *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of the indenture to be incurred;

(6) customary non-assignment provisions in contracts, agreements, leases, permits and licenses entered into in the ordinary course of business;

(7) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (3) of the preceding paragraph;

(8) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending its sale or other disposition;

(9) Permitted Refinancing Indebtedness (other than Indebtedness described in clause (5) above or incurred pursuant to clause (10), (11), (12) or (13) of the definition of “*Permitted Debt*”); *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;

(10) Liens permitted to be incurred under the provisions of the covenant described above under the caption “—Liens” that limit the right of the debtor to dispose of the assets subject to such Liens;

(11) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements (including agreements entered into in connection with a Restricted Investment) permitted to be entered into by the indenture and entered into with the approval of Dynegy’s Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(12) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(13) restrictions or conditions contained in any trading, netting, operating, construction, service, supply, purchase, sale or similar agreement to which Dynegy or any of their Restricted Subsidiaries is a party entered into in the ordinary course of business; *provided* that such agreement prohibits the encumbrance of solely the property or assets of Dynegy or such Restricted Subsidiary that are the subject of such agreement, the payment rights arising thereunder and/or the proceeds thereof and not to any other asset or property of Dynegy or such Restricted Subsidiary or the assets or property of any other Restricted Subsidiary;

(14) with respect to clause (3) of the first paragraph of this covenant only, restrictions encumbering property at the time such property was acquired by Dynegy or any of its Restricted Subsidiaries, so long as such

restriction relates solely to the property so acquired and was not created in connection with or in anticipation of such acquisition;

(15) with respect to Dynegy Coal Investments Holdings, LLC and its Subsidiaries that are Restricted Subsidiaries hereunder, any restrictions set forth in the CoalCo Credit Agreement as in effect on the Issue Date (and (i) any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings thereof and (ii) restrictions that are contained in instruments governing Indebtedness incurred pursuant to clause (10) of the definition of “*Permitted Debt*,” in each case, to the extent that the restrictions therein are (a) with respect to restrictions on dividends and distributions, not more restrictive in any respect than those contained in the CoalCo Credit Agreement at the Issue Date, (b) with respect to any other restrictions, not materially more restrictive, taken as a whole, than those contained in the CoalCo Credit Agreement at the Issue Date and (c) with respect to all such restrictions, not applicable to any Restricted Subsidiary other than Dynegy Coal Investments Holdings, LLC and its Subsidiaries); and

(16) with respect to Dynegy Gas Investments Holdings, LLC and its Subsidiaries that are Restricted Subsidiaries hereunder, any restrictions set forth in the GasCo Credit Agreement as in effect on the Issue Date (and (i) any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings thereof and (ii) restrictions that are contained in instruments governing Indebtedness incurred pursuant to clause (11) of the definition of “*Permitted Debt*,” in each case, to the extent that the restrictions therein are (a) with respect to restrictions on dividends and distributions, not more restrictive in any respect than those contained in the GasCo Credit Agreement at the Issue Date, (b) with respect to any other restrictions, not materially more restrictive, taken as a whole, than those contained in the GasCo Credit Agreement at the Issue Date and (c) with respect to all such restrictions, not applicable to any Restricted Subsidiary other than Dynegy Gas Investments Holdings, LLC and its Subsidiaries).

Merger, Consolidation or Sale of Assets

Dynegy will not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not Dynegy is the surviving corporation), or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of Dynegy and its Restricted Subsidiaries (other than the Capital Stock and assets of any Unrestricted Subsidiaries), taken as a whole, in each case in one or more related transactions, to another Person, unless:

(1) either (a) Dynegy is the surviving corporation or (b) the Person formed by or surviving any such consolidation or merger (if other than Dynegy) or to which such sale, assignment, transfer, conveyance or other disposition has been made is an entity organized or existing under the laws of the United States, any state of the United States or the District of Columbia and, if such entity is not a corporation, a co-obligor of the notes is a corporation organized or existing under any such laws;

(2) the Person formed by or surviving any such consolidation or merger (if other than Dynegy) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of Dynegy under the notes, the indenture and the Collateral Documents pursuant to agreements in form satisfactory to the trustee;

(3) immediately after such transaction, no Default or Event of Default exists; and

(4) Dynegy or the Person formed by or surviving any such consolidation or merger (if other than Dynegy), or to which such sale, assignment, transfer, conveyance or other disposition has been made would, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period (i) be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of the covenant described above under the caption “—Incurrence of Indebtedness and Issuance of Preferred Stock” or (ii) have had a Fixed Charge Coverage Ratio no less than the actual Fixed Charge Coverage Ratio for Dynegy for such four-quarter period.

In addition, Dynegy will not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries (other than the Capital Stock and assets of any Unrestricted Subsidiaries), taken as a whole, in one or more related transactions, to any other Person.

No Guarantor (other than any Guarantor whose Note Guarantee is to be released in accordance with the terms of the Note Guarantee and the indenture in connection with any transaction complying with the provisions of “—Repurchase at the Option of Holders – Asset Sales”) will, and Dynegy will not cause or permit any Guarantor to, directly or indirectly: (1) consolidate or merge with or into another Person (other than Dynegy or another Guarantor), or (2) sell, assign, transfer or otherwise dispose of all or substantially all of its property or assets, taken as a whole, in each case, in one or more related transactions, to another Person (other than Dynegy or another Guarantor), unless:

- (1) the entity formed by or surviving any such consolidation or merger (if other than a Guarantor or Dynegy) shall have been made is a corporation or limited liability company organized and existing under the laws of the United States or any state thereof or the District of Columbia;
- (2) such entity assumes by supplemental indenture, amendment, supplement or other instrument (in form satisfactory to the trustee), executed and delivered to the trustee, all of the obligations of the Guarantor or Dynegy under its Note Guarantee, the notes and the indenture, and in connection therewith shall cause such instruments to be filed and recorded in such jurisdictions and take such other actions as may be required by applicable law to perfect or continue the perfection of the Lien created under the Collateral Documents on the Collateral owned by or transferred to the surviving entity; and
- (3) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing.

This “Merger, Consolidation or Sale of Assets” covenant will not apply to any consolidation or merger or sale, assignment, transfer, conveyance, lease or other disposition of assets (i) between or among Dynegy and its Obligor Restricted Subsidiaries or (ii) between or among Non-Obligor Restricted Subsidiaries. Clauses (3) and (4) of the first paragraph of this covenant will not apply to (i) any merger or consolidation of Dynegy with or into one of its Restricted Subsidiaries for any purpose or (ii) with or into an Affiliate solely for the purpose of reincorporating Dynegy in another jurisdiction.

Transactions with Affiliates

Dynegy will not, and will not permit any of its Restricted Subsidiaries to, make any payment to or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of Dynegy (each, an “*Affiliate Transaction*”) involving aggregate payments or consideration in excess of \$5.0 million, unless:

- (1) the Affiliate Transaction is on terms that are no less favorable to Dynegy or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by Dynegy or such Restricted Subsidiary with an unrelated Person; and
- (2) Dynegy delivers to the trustee:
 - (a) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$15.0 million, a resolution of the Board of Directors of Dynegy set forth in an Officers’ Certificate certifying that such Affiliate Transaction complies with this covenant and that such Affiliate Transaction has been approved by a majority of the disinterested members of the Board of Directors of Dynegy; and

(b) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$35.0 million, an opinion as to the fairness to Dynegey or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of the prior paragraph:

(1) any employment agreement or director's engagement agreement, employee benefit plan, officer or director indemnification agreement or any similar arrangement entered into by Dynegey or any of its Restricted Subsidiaries in the ordinary course of business and payments pursuant thereto;

(2) transactions between or among Dynegey and/or its Restricted Subsidiaries;

(3) transactions with a Person (other than an Unrestricted Subsidiary of Dynegey) that is an Affiliate of Dynegey solely because Dynegey owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(4) payment of reasonable and customary fees and reimbursements of expenses (pursuant to indemnity arrangements or otherwise) of officers, directors, employees or consultants of Dynegey or any of its Restricted Subsidiaries;

(5) any issuance of Equity Interests (including Convertible Preferred Shares, but excluding other Disqualified Stock) of Dynegey to Affiliates of Dynegey;

(6) Restricted Payments that do not violate the provisions of the indenture described above under the caption "—Restricted Payments" and Permitted Investments;

(7) with respect to transactions involving Dynegey Coal Investments Holdings, LLC and its Subsidiaries that are Restricted Subsidiaries hereunder, any transactions permitted to be effected by Dynegey Coal Investments Holdings, LLC or such Subsidiary pursuant to the CoalCo Credit Agreement as in effect on the Issue Date;

(8) with respect to transactions involving Dynegey Gas Investments Holdings, LLC and its Subsidiaries that are Restricted Subsidiaries hereunder, any transactions permitted to be effected by Dynegey Gas Investments Holdings, LLC or such Subsidiary pursuant to the GasCo Credit Agreement as in effect on the Issue Date;

(9) loans or advances to employees in the ordinary course of business not to exceed \$1.0 million in the aggregate at any one time outstanding;

(10) any (i) agreement, instrument or arrangement as in effect on the Issue Date that is disclosed in the Disclosure Statement or the public filings of Dynegey or (ii) any agreement, instrument, or arrangement as in effect on the Issue Date other than as described in clause (i) and that is not disclosed in the Disclosure Statement or the public filings of Dynegey and is not an agreement, instrument or arrangement with an Affiliate of Dynegey as of the Issue Date, in each case, and any transactions contemplated thereby and any amendment, modification, change or replacement thereof, so long as any such amendment, modification, change or replacement that, at the time such amendment, modification, change or replacement thereof is made, could not, either individually or in the aggregate, reasonably be expected to cause (a) a materially adverse effect on the business, assets, liabilities, operations, condition (financial or otherwise) or operating results of Dynegey and its Restricted Subsidiaries, taken as a whole, (b) a materially adverse effect on the Collateral, taken as a whole, (c) a material impairment of the ability of Dynegey or any of its Restricted Subsidiaries to perform any of its material obligations under the indenture, the notes or the Collateral Documents or (d) a material impairment of the rights and remedies of or benefits available to the holders of notes under the indenture, the notes or the Collateral Documents;

(11) any *pro rata* distribution (including a rights offering) to all holders of a class of Equity Interests or Indebtedness of Dynegey or any of their Restricted Subsidiaries, including Persons who are Affiliates of Dynegey or any of their Restricted Subsidiaries;

(12) any transaction with customers, clients, suppliers or purchasers or sellers of goods or services, including transactions involving sales of electric capacity, energy, ancillary services, transmission services and products, steam, emissions credits, fuel, fuel transportation and fuel storage, in each case, in the ordinary course of business on terms that are no less favorable to Dynegey or the relevant Restricted Subsidiary of Dynegey than those that would have been obtained in a comparable transaction by Dynegey or such Restricted Subsidiary with an unrelated Person;

(13) the trading and sharing of parts and components for equipment, tools and non-material equipment, among Dynegey and its Restricted Subsidiaries, in the ordinary course of business and consistent with past practices of the relevant Persons, including for purposes of spare or replacement; and

(14) the transfer from time to time of any or all assets of and Equity Interests in the Marketing Entities to Dynegey Gas Investments Holdings, LLC or Dynegey Coal Investments Holdings, LLC (or any direct or indirect Subsidiary of those entities).

Business Activities

Dynegey will not, and will not permit any of its Restricted Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to Dynegey and its Restricted Subsidiaries, taken as a whole.

Designation of Restricted and Unrestricted Subsidiaries

The Board of Directors of Dynegey may designate any Restricted Subsidiary (other than GasCo or CoalCo or any successor to either of them or any direct or indirect equity holder of GasCo or CoalCo or any successor to either of them) to be an Unrestricted Subsidiary if that designation would not cause a Default; *provided* that in no event will the business currently operated by GasCo or CoalCo be transferred to or held by an Unrestricted Subsidiary. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by Dynegey and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under the covenant described above under the caption “—Restricted Payments” or under one or more clauses of the definition of Permitted Investments, as determined by Dynegey. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

Any designation of a Subsidiary of Dynegey as an Unrestricted Subsidiary will be evidenced to the trustee by filing with the trustee a certified copy of a resolution of the Board of Directors giving effect to such designation and an Officers’ Certificate certifying that such designation complied with the preceding conditions and was permitted by the covenant described above under the caption “—Restricted Payments.” If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of the indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of Dynegey as of such date and, if such Indebtedness is not permitted to be incurred as of such date under the covenant described under the caption “—Incurrence of Indebtedness and Issuance of Preferred Stock,” Dynegey will be in default of such covenant. The Board of Directors of Dynegey may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of Dynegey; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of Dynegey of any outstanding Indebtedness of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under the covenant described under the caption “—Incurrence of Indebtedness and Issuance of Preferred Stock,” calculated on a pro forma basis as if such designation had occurred at the beginning of the applicable reference period; and (2) no Default or Event of Default would be in existence following such designation.

Limitation on Issuances of Guarantees of Indebtedness

Dynegy will not permit any of its Non-Obligor Restricted Subsidiaries, directly or indirectly, to Guarantee the payment of any other Indebtedness of Dynegy or a Guarantor unless such Non-Obligor Restricted Subsidiary simultaneously executes and delivers a supplemental indenture providing for the Guarantee of the payment of the notes by such Non-Obligor Restricted Subsidiary, which Guarantee will be senior to or *pari passu* with such Non-Obligor Restricted Subsidiary's Guarantee of such other Indebtedness.

Future Subsidiary Guarantors

If, after the Issue Date, Dynegy or any of the Guarantors acquires or creates any Material Subsidiary (other than any Excluded Entity), then such Material Subsidiary will become a Guarantor and (i) promptly, but in no event later than ten Business Days after the date on which it was acquired or created (A) execute a supplemental indenture and a joinder agreement to the Collateral Documents (or any additional security documents) in form satisfactory to the trustee providing that such Subsidiary shall become a Guarantor under the Indenture and a party as grantor to the Collateral Documents, and (B) deliver an opinion of counsel satisfactory to the trustee and (ii) promptly, but in no event later than 20 Business Days after the date on which it was acquired or created, take all actions required by the Collateral Documents to perfect the Note Liens created thereunder; *provided* that any Subsidiary that is not a Material Subsidiary need not (i) remain a Guarantor and grantor under the Collateral Documents or (ii) become a Guarantor and grantor under the Collateral Documents until such time as it becomes a Material Subsidiary.

Impairment of Security Interests; Liens on Additional Property

Neither Dynegy nor any of its Restricted Subsidiaries will take or omit to take any action which would adversely affect or impair in any material respect the Note Liens, except as otherwise permitted or required by the Collateral Documents or the indenture. Dynegy shall, and shall cause each Guarantor to, at its sole cost and expense, execute and deliver all such agreements and instruments as the collateral agent or the trustee shall reasonably request to more fully or accurately describe the property intended to be Collateral or the Note Obligations intended to be secured. Dynegy shall, and shall cause each Guarantor to, at its sole cost and expense, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Note Liens at such times and at such places as the collateral agent or the trustee may reasonably request.

Within 90 days following the end of each fiscal year, Dynegy will deliver:

- (1) to the trustee and collateral agent, as secured party, fully executed counterparts of Collateral Documents or amendments and supplements to existing Collateral Documents, duly executed by Dynegy or the Guarantor, as applicable, in form satisfactory to the trustee and collateral agent (together with evidence of the completion, or satisfactory arrangements for the completion, of all recordings and filings of such instruments) as may be necessary to create valid, perfected Note Liens (subject to no Lien other than Permitted Collateral Liens) on any after-acquired Collateral; and
- (2) such customary legal opinions concerning the authorization, execution and delivery of such Collateral Documents, amendments or supplements, and the enforceability and recording thereof, and the creation, validity and perfection of security interests, as are satisfactory to the trustee and collateral agent.

Payments for Consent

Dynegy will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any holder of notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of the indenture or the notes unless such consideration is paid to all holders of the notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

Reports

Whether or not required by the rules and regulations of the SEC, so long as any notes are outstanding, Dynegy will furnish to the holders and the trustee (or file with the SEC for public availability), within the time periods specified in the SEC's rules and regulations:

(1) all quarterly and annual reports that would be required to be filed with the SEC on Forms 10-Q and 10-K if Dynegy were required to file such reports, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report thereon by Dynegy's certified independent accountants; *provided* that Dynegy shall not be required to include the condensed consolidating footnote required by Rule 3-10 of Regulation S X in any report prior to its first quarterly report on Form 10 Q or annual report on Form 10-K, as applicable, required to be filed with the SEC following the Issue Date; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K if Dynegy were required to file such reports;

provided that, notwithstanding the forgoing, Dynegy may furnish to the holders of notes and the trustee (or file with the SEC for public availability), (i) its annual report for the fiscal year ended December 31, 2011 at any time on or prior to September 30, 2012 and (ii) its quarterly reports for the fiscal quarters ending March 31, 2012 and June 30, 2012 at any time on or prior to September 30, 2012.

All such reports will be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. In addition, Dynegy will file a copy of each of the reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the rules and regulations applicable to such reports (unless the SEC will not accept such a filing) and will post the reports on its website within those time periods.

If, at any time after consummation of the restructuring set forth in the Chapter 11 Plan, Dynegy is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, Dynegy will nevertheless continue filing the reports specified in the preceding paragraphs of this covenant with the SEC within the time periods specified above unless the SEC will not accept such a filing. Dynegy will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept Dynegy's filings for any reason, Dynegy will post the reports referred to in the preceding paragraphs on its website within the time periods that would apply if Dynegy were required to file those reports with the SEC.

The quarterly and annual financial information required by the preceding paragraphs will include a reasonably detailed presentation, either on the face of the financial statements, in the footnotes thereto or in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of Dynegy and its Restricted Subsidiaries separate from the financial condition and results of operations of the Unrestricted Subsidiaries of Dynegy.

In addition, Dynegy agrees that, for so long as any notes remain outstanding, if at any time it is not required to file with the SEC the reports required by the preceding paragraphs, it will furnish to the holders of notes and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

Events of Default and Remedies

Each of the following is an "Event of Default":

- (1) default for 30 days in the payment when due of interest on the notes;
- (2) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the notes;

(3) failure by Dynegy or any of its Restricted Subsidiaries to comply with the provisions described under the captions “—Repurchase at the Option of Holders—Change of Control,” “—Repurchase at the Option of Holders—Asset Sales” or “—Certain Covenants—Merger, Consolidation or Sale of Assets;”

(4) failure by Dynegy or any of its Restricted Subsidiaries for 45 days after notice to Dynegy by the trustee or the holders of at least 25% in aggregate principal amount of the notes then outstanding voting as a single class to comply with any of the other agreements in the indenture or the Collateral Documents;

(5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by Dynegy or any of its Restricted Subsidiaries (or the payment of which is guaranteed by Dynegy or any of its Restricted Subsidiaries), whether such Indebtedness or Guarantee now exists, or is created after the Issue Date, if that default:

(a) is caused by a failure to pay principal of, interest or premium, if any, on such Indebtedness prior to the expiration of the grace period provided in Indebtedness (a “*Payment Default*”); or

(b) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$25.0 million or more;

(6) failure by Dynegy or any of its Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$25.0 million (not otherwise covered by indemnities or independent third-party insurance as to which liability has not been denied by such insurance carrier), which judgments are not paid, discharged or stayed, for a period of 45 days following such judgment becoming final and non-appealable;

(7) (i) default in the due observance or performance by Dynegy or any of the Guarantors of any material covenant, condition or agreement contained in any Collateral Document and such default shall continue unremedied for a period of 30 days after notice thereof to Dynegy by the collateral agent or holders of at least 25% in aggregate principal amount of notes then outstanding voting as a single class or (ii) any security interest on any Collateral with a Fair Market Value in excess of \$25.0 million in the aggregate created by the Collateral Documents ceases to be in full force and effect (except as permitted by the terms of the indenture or the Collateral Documents or solely as a result of the collateral agent taking or refraining from taking any action in its sole control), or an assertion by Dynegy or any of its Restricted Subsidiaries that any Collateral is not subject to a valid, perfected security interest (except as permitted by the terms of the indenture or the Collateral Documents);

(8) any Note Guarantee of a Guarantor ceases to be in full force and effect (except as contemplated by the terms of the indenture) or is declared null and void in a judicial proceeding or any Guarantor denies or disaffirms its Obligations under its Note Guarantee; or

(9) certain events of bankruptcy or insolvency described in the indenture with respect to Dynegy or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of its Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary.

In the case of an Event of Default arising from certain events of bankruptcy or insolvency, with respect to Dynegy, any Restricted Subsidiary of Dynegy that is a Significant Subsidiary or any group of Restricted Subsidiaries of Dynegy that, taken together, would constitute a Significant Subsidiary, all outstanding notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the trustee or the holders of at least 25% in aggregate principal amount of the then outstanding notes may declare all the notes to be due and payable immediately.

Subject to certain limitations, holders of a majority in aggregate principal amount of the then outstanding notes may direct the trustee in its exercise of any trust or power. The trustee may withhold from holders of the notes notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal of, premium on, if any, and interest.

The trustee will be under no obligation to exercise any of the rights or powers under the indenture at the request or direction of any holders of notes unless such holders have offered to the trustee indemnity or security against any loss, liability or expense. Except to enforce the right to receive payment of principal, premium, if any, or interest, when due, no holder of a note may pursue any remedy with respect to the indenture or the notes unless:

- (1) such holder has previously given the trustee written notice that an Event of Default is continuing;
- (2) holders of at least 25% in aggregate principal amount of the then outstanding notes make a written request to the trustee to pursue the remedy;
- (3) such holder or holders offer and, if requested, provide to the trustee security or indemnity satisfactory to the trustee against any loss, liability or expense;
- (4) the trustee does not comply with such request within 60 days after receipt of the request and the offer of security or indemnity; and
- (5) during such 60-day period, holders of a majority in aggregate principal amount of the then outstanding notes do not give the trustee a direction inconsistent with such request.

The holders of a majority in aggregate principal amount of the then outstanding notes by written notice to the trustee may, on behalf of the holders of all of the notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the indenture, if the rescission would not conflict with any judgment or decree, except a continuing Default or Event of Default in the payment of principal of, premium on, if any, or interest on, the notes.

Dynegy is required to deliver to the trustee annually a statement regarding compliance with the indenture. Upon becoming aware of any Default or Event of Default, Dynegy is required to deliver to the trustee a statement specifying such Default or Event of Default.

No Personal Liability of Directors, Officers, Employees and Stockholders

No director, officer, employee, incorporator or stockholder of Dynegy, as such, will have any liability for any obligations of Dynegy under the notes, the indenture, the Collateral Documents or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of notes by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Legal Defeasance and Covenant Defeasance

Dynegy may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, elect to have all of the Note Obligations discharged ("*Legal Defeasance*") except for:

- (1) the rights of holders of outstanding notes to receive payments in respect of the principal of, premium on, if any, or interest on, such notes when such payments are due from the trust referred to below;
- (2) Dynegy's obligations with respect to the notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(3) the rights, powers, trusts, duties and immunities of the trustee under the indenture, and Dynegy's and the Guarantors' obligations in connection therewith; and

(4) the Legal Defeasance and Covenant Defeasance provisions of the indenture.

In addition, Dynegy may, at its option and at any time, elect to have the obligations of Dynegy and its Restricted Subsidiaries released with respect to certain covenants (including its obligation to make Change of Control Offers and Asset Sale Offers) that are described in the indenture ("*Covenant Defeasance*") and thereafter any omission to comply with those covenants will not constitute a Default or Event of Default with respect to the notes. In the event Covenant Defeasance occurs, all Events of Default described under "*Events of Default and Remedies*" (except those relating to payments on the notes or bankruptcy, receivership, rehabilitation or insolvency events) will no longer constitute an Event of Default with respect to the notes.

In order to exercise either Legal Defeasance or Covenant Defeasance:

(1) Dynegy must irrevocably deposit with the trustee, in trust, for the benefit of the holders of the notes, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, premium on, if any, and interest on, the outstanding notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and Dynegy must specify whether the notes are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of Legal Defeasance, Dynegy must deliver to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that (a) Dynegy has received from, or there has been published by, the Internal Revenue Service a ruling or (b) since the Issue Date, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such opinion of counsel will confirm that, the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, Dynegy must deliver to the trustee an opinion of counsel reasonably acceptable to the trustee confirming that the holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit (and any similar concurrent deposit relating to other Indebtedness), and the granting of Liens to secure such borrowings);

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than the indenture and the agreements governing any other Indebtedness being defeased, discharged or replaced) to which Dynegy or any Guarantor is a party or by which Dynegy or any Guarantor is bound;

(6) Dynegy must deliver to the trustee an Officers' Certificate stating that the deposit was not made by Dynegy with the intent of preferring the holders of notes over the other creditors of Dynegy with the intent of defeating, hindering, delaying or defrauding any creditors of Dynegy or others; and

(7) Dynegy must deliver to the trustee an Officers' Certificate and an opinion of counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Amendment, Supplement and Waiver

Except as provided in the next three succeeding paragraphs, the Note Documents may be amended or supplemented with the consent of the holders of a majority in aggregate principal amount of the then outstanding notes voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the notes), and any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium on, if any, or interest on, the notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of the Note Documents may be waived with the consent of the holders of a majority in aggregate principal amount of the then outstanding notes voting as a single class (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes).

Without the consent of each holder of notes affected, an amendment, supplement or waiver may not (with respect to any notes held by a non-consenting holder):

- (1) reduce the principal amount of notes whose holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed maturity of any note;
- (3) reduce the premium payable upon the redemption of any note or change the time at which any note may be redeemed as described under “Optional Redemption” above;
- (4) reduce the rate of or change the time for payment of interest, including default interest, on any note;
- (5) waive a Default or Event of Default in the payment of principal of, premium on, if any, or interest on, the notes (except a rescission of acceleration of the notes by the holders of at least a majority in aggregate principal amount of the then outstanding notes and a waiver of the payment default that resulted from such acceleration);
- (6) make any note payable in money other than that stated in the notes or provide for bearer securities;
- (7) make any change in the provisions of the indenture relating to waivers of past Defaults or the rights of holders of notes to receive payments of principal of, premium on, if any, or interest on, the notes;
- (8) except as permitted by the indenture, subordinate the notes (or any Note Guarantee) in right of payment to any other Obligation;
- (9) release any Guarantor or obligor with respect to the notes or any Note Guarantee, except as permitted by the indenture;
- (10) waive a redemption payment with respect to any note (other than a payment required by one of the covenants described above under the caption “—Repurchase at the Option of Holders”); or
- (11) make any change in the preceding amendment and waiver provisions.

In addition, any amendment to, or waiver of, the provisions of the indenture or the Collateral Documents that has the effect of (i) releasing all or substantially all of the Collateral from the Note Liens or (ii) adversely affecting the priority of the Note Liens, will require the consent of the holders of at least 75% in aggregate principal amount of the notes then outstanding, except as specifically provided in the Collateral Documents.

Notwithstanding the preceding, without the consent of any holder of notes, Dynege and the trustee and/or collateral agent, as applicable, may amend or supplement the Note Documents:

- (1) to cure any ambiguity, defect or inconsistency;
- (2) to provide for uncertificated notes in addition to or in place of certificated notes;
- (3) to provide for the assumption of Dynege's obligations to holders of notes in the case of a merger or consolidation or sale of all or substantially all of Dynege's assets, as applicable;
- (4) to make any change that would provide any additional rights or benefits to the holders of notes or that does not adversely affect the legal rights under the indenture of any holder;
- (5) to comply with requirements of the SEC in order to effect or maintain the qualification of the indenture under the TIA;
- (6) to conform the text of the indenture, the notes or the Collateral Documents to any provision of this Description of the New Senior Secured Notes to the extent that such provision in this Description of the New Senior Secured Notes was intended to be a verbatim recitation of a provision of the indenture, the notes or the Collateral Documents, which intent may be evidenced by an Officers' Certificate to that effect;
- (7) to enter into additional or supplemental Collateral Documents or otherwise to add Collateral for or further secure the notes, the Note Guarantees or any other obligation, in each case, permitted by the indenture and the Collateral Documents; or
- (8) to provide for additional obligors or Guarantors with respect to the notes.

Every amendment, supplement or waiver effected under the indenture shall comply with the TIA. In determining whether the holders of the required principal amount of notes have concurred in any direction, waiver, consent or notice, notes owned by Dynege or any Subsidiary of Dynege or an Affiliate of Dynege or any Subsidiary of Dynege shall be considered as though they are not outstanding. Dynege shall promptly, and in any case within two Business Days, notify the trustee, in writing, when, to its knowledge, any of its Subsidiaries, any of its Affiliates or any Affiliates of its Subsidiaries repurchase or otherwise acquire notes, of the aggregate principal amount of such notes so repurchased or otherwise acquired and such other information as the Trustee may reasonably request and the Trustee shall be entitled to rely thereon.

Satisfaction and Discharge

The indenture will be discharged and will cease to be of further effect as to all notes issued thereunder, when:

- (1) either:
 - (a) all notes that have been authenticated, except lost, stolen or destroyed notes that have been replaced or paid and notes for whose payment money has been deposited in trust and thereafter repaid to Dynege, have been delivered to the trustee for cancellation; or
 - (b) all notes that have not been delivered to the trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and Dynege or any Guarantor has irrevocably deposited or caused to be deposited with the trustee as trust funds in trust solely for the benefit of the holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the notes not delivered to the trustee for cancellation for principal of, premium on, if any, and interest on, the notes to the date of maturity or redemption;

(2) in respect of clause 1(b), no Default or Event of Default has occurred and is continuing on the date of the deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit and any similar deposit relating to other Indebtedness and, in each case, the granting of Liens to secure such borrowings) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which Dynegey or any Guarantor is a party or by which Dynegey or any Guarantor is bound (other than with respect to the borrowing of funds to be applied concurrently to make the deposit required to effect such satisfaction and discharge and any similar concurrent deposit relating to other Indebtedness, and in each case the granting of Liens to secure such borrowings);

(3) Dynegey or any Guarantor has paid or caused to be paid all sums payable by it under the indenture; and

(4) Dynegey has delivered irrevocable instructions to the trustee under the indenture to apply the deposited money toward the payment of the notes at maturity or on the redemption date, as the case may be.

In addition, Dynegey must deliver an Officers' Certificate and an opinion of counsel to the trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Concerning the Trustee

If the trustee becomes a creditor of Dynegey, the indenture limits the right of the trustee to obtain payment of claims in certain cases, or to realize on certain property received in respect of any such claim as security or otherwise. The trustee will be permitted to engage in other transactions; however, if it acquires any conflicting interest it must eliminate such conflict within 90 days, apply to the SEC for permission to continue as trustee or resign.

The holders of a majority in aggregate principal amount of the then outstanding notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the trustee, subject to certain exceptions. The indenture provides that in case an Event of Default has occurred and is continuing, the trustee will be required, in the exercise of its power, to use the degree of care of a prudent man in the conduct of his own affairs. Subject to such provisions, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request of any holder of notes, unless such holder has offered to the trustee indemnity or security satisfactory to it against any loss, liability or expense.

The issuer is solely responsible for the contents of the Disclosure Statement. The trustee took no part in producing the Disclosure Statement and shall bear no responsibility for any omissions any statements herein.

Additional Information

Anyone who receives the Disclosure Statement may obtain a copy of the indenture and the Collateral Documents without charge by writing to Dynegey Inc., 1000 Louisiana Street, Suite 5800, Houston, Texas 77002, Attention: Investor Relations.

Book-Entry, Delivery and Form

The notes will be issued in the form of one or more Global Notes, as defined below, that will be deposited with, or on behalf of, The Depository Trust Company, referred to herein as the Depository, and registered in the name of the Depository's nominee. Global Notes are not exchangeable for definitive note certificates except in the specific circumstances described below. For purposes of this Description of the New Secured Notes, "Global Note" refers to the Global Note or Global Notes representing the entire issue of notes.

A Global Note may be transferred, in whole and not in part, only to another nominee of the Depository or to a successor of the Depository or its nominee.

The Depository has advised us as follows:

- The Depository is:
 - o a limited purpose trust company organized under the laws of the State of New York;
 - o a “banking organization” within the meaning of the New York banking law;
 - o a “banking organization” within the meaning of the New York banking law;
 - o a member of the Federal Reserve System;
 - o a “clearing corporation” within the meaning of the New York Uniform Commercial Code; and
 - o a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934.
- The Depository was created to hold securities of its participants and to facilitate the clearance and settlement of securities transactions among its participants through electronic book entry changes in accounts of its participants, eliminating the need for physical movements of securities certificates.
- The Depository participants include securities brokers and dealers, banks, trust companies, clearing corporations and others, some of whom own the Depository.
- Access to the Depository book-entry system is also available to others that clear through or maintain a custodial relationship with a participant, either directly or indirectly.
- Ownership of beneficial interests in a Global Note will be shown on, and the transfers of ownership will be effected only through, records maintained by the Depository (with respect to participants), by the participants (with respect to indirect participants and certain beneficial owners) and by the indirect participants (with respect to all other beneficial owners). The laws of some states require that certain purchasers of securities take physical delivery in definitive form of securities they purchase. These laws may limit your ability to transfer beneficial interests in a Global Note.

So long as a nominee of the Depository is the registered owner of a Global Note, that nominee for all purposes will be considered the sole owner or holder of the notes under the indenture. Except as provided below, you will not be entitled to have notes registered in your name, will not receive or be entitled to receive physical delivery of notes in definitive form, and will not be considered the owners or holders thereof under the indenture.

We will make payment of principal of, premium, if any, and interest on, notes represented by a Global Note to the Depository or its nominee, as the case may be, as the registered owner and holder of the Global Note representing those notes. The Depository has advised us that upon receipt of any payment of principal of, or interest on, a Global Note, the Depository will immediately credit accounts of participants with payments in amounts proportionate to their respective beneficial interests in the principal amount of that Global Note, as shown in the records of the Depository. Standing instructions and customary practices will govern payments by participants to owners of beneficial interests in a Global Note held through those participants, as is now the case with securities held for the accounts of customers registered in “street name.” Those payments will be the sole responsibility of those participants, subject to any statutory or regulatory requirements that may be in effect from time to time.

Neither we, the trustee nor any of our respective agents will be responsible in any respect for actions or inactions of the Depository, any nominee or any participant relating to, or payments made on account of, beneficial

interest in a Global Note or for maintaining, supervising or reviewing any of the records of the Depository, any nominee or any participant relating to those beneficial interests.

As described above, we will issue notes in definitive form in exchange for a Global Note only in the following situations:

- if the Depository is at any time unwilling or unable to continue as depository and a successor depository is not appointed by us within 90 days;
- if we choose to issue definitive notes;
- there has occurred and is continuing an Event of Default with respect to the notes and the Holder thereof has requested such exchange.

In either instance, an owner of a beneficial interest in a Global Note will be entitled to have notes equal in principal amount to that beneficial interest registered in its name and will be entitled to physical delivery of notes in definitive form. Notes in definitive form will be issued in denominations of \$2,000 and integral multiples of \$1,000 in excess thereof and will be issued in registered form only, without coupons. We will maintain in the United States, one or more offices or agencies where notes may be presented for payment and may be transferred or exchanged. You will not be charged a fee for any transfer or exchange of notes, but we may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Same Day Settlement and Payment

Dynegy will make payments in respect of the notes represented by the Global Notes, including principal, premium, if any, and interest, by wire transfer of immediately available funds to the accounts specified by DTC or its nominee. Dynegy will make all payments of principal, premium, if any, and interest, with respect to notes in definitive form by wire transfer of immediately available funds to the accounts specified by the holders of the notes in definitive form or, if no such account is specified, by mailing a check to each such holder's registered address. The notes represented by the Global Notes are expected to be eligible to trade in DTC's Same-Day Funds Settlement System, and any permitted secondary market trading activity in such notes will, therefore, be required by DTC to be settled in immediately available funds. Dynegy expects that secondary trading in any notes in definitive form will also be settled in immediately available funds.

Certain Definitions

Set forth below are certain defined terms used in the indenture. Reference is made to the indenture for a full disclosure of all defined terms used therein, as well as any other capitalized terms used herein for which no definition is provided.

"Acceptable Commodity Counterparty" shall mean any Person who, at the time the applicable Eligible Commodity Hedging Agreement is entered into, (i) in the ordinary course purchases or sells power or enters into commodity transactions and (ii)(A) has a corporate rating of BBB- or higher by S&P and a corporate family rating of Baa3 or higher by Moody's (or an equivalent rating by another nationally recognized statistical rating organization of similar standing if either of such ratings agencies is not then in the business of providing such ratings), or (B) whose obligations are supported by collateral, guarantees or letters of credit in a manner consistent with the then prevailing industry practice for similarly situated Persons from Persons that have the ratings described in clause (A) above.

"Acceptable Financial Counterparty" shall mean any Person who, at the time the applicable Eligible Commodity Hedging Agreement, Interest Rate/Currency Hedging Agreement or Treasury Services Agreement entered into, (a) in the ordinary course enters into financial derivative transactions (including rate swaps, commodity hedges, swaps, futures or options) or commodity transactions (including power purchase or sale or gas purchase or sale and tolling agreements) or provides treasury services or cash management services and (b)(i) has a corporate rating of A- or higher by S&P and a corporate family rating of A3 or higher by Moody's (or an equivalent rating by

another nationally recognized statistical rating organization of similar standing if either of such rating agencies is not then in the business of providing such ratings), or (ii) whose obligations are supported by collateral, guarantees or letters of credit in a manner consistent with the then prevailing industry practice for similarly situated Persons from Persons that have the ratings described in clause (i) above.

“*Acquired Debt*” means, with respect to any specified Person:

- (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person; and
- (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“*Affiliate*” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control,” as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 12.5% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms “controlling,” “controlled by” and “under common control with” have correlative meanings.

“*AHYDO*” means an “Applicable High-Yield Discount Obligation” within the meaning of section 163(i) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“*Applicable Premium*” means, with respect to any note on any redemption date, as calculated by the chief financial officer of Dynegy, the greater of:

- (1) 1.0% of the principal amount of the note; or
- (2) the excess of:
 - (a) the present value at such redemption date of (i) the redemption price of the note at the first anniversary of the Issue Date (such redemption price being set forth in the table appearing above under the caption “—Optional Redemption”) plus (ii) all required interest payments due on the note through the first anniversary of the Issue Date (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over
 - (b) the principal amount of the note.

“*Asset Sale*” means:

- (1) the sale, lease, conveyance or other disposition of any assets or rights by Dynegy or any of Dynegy’s Restricted Subsidiaries; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of Dynegy and its Restricted Subsidiaries (other than the Capital Stock and assets of any Unrestricted Subsidiaries), taken as a whole, will be governed by the provisions of the indenture described above under the caption “—Repurchase at the Option of Holders—Change of Control” and/or the provisions described above under the caption “—Certain Covenants—Merger, Consolidation or Sale of Assets” and not by the provisions of the Asset Sale covenant; and
- (2) the issuance of Equity Interests by any of Dynegy’s Restricted Subsidiaries or the sale by Dynegy or any of Dynegy’s Restricted Subsidiaries of Equity Interests in any of Dynegy’s Subsidiaries.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (1) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$5.0 million;
- (2) a transfer of assets (i) between or among Dynegey and the Guarantors or (ii) between or among Non-Obligor Restricted Subsidiaries;
- (3) an issuance of Equity Interests by a Restricted Subsidiary of Dynegey to Dynegey or to a Guarantor;
- (4) the sale, lease or other transfer of power, capacity, fuel, emission credits and other products, services or accounts receivable in the ordinary course of business (it being understood that a disposition of a quantity of power, capacity, fuel or emission credits or other products or services that is material to Dynegey or such Restricted Subsidiary, as the case may be, shall not alone cause such disposition not to be in the ordinary course of business) and any sale or other disposition of damaged, worn-out or obsolete assets in the ordinary course of business (including the abandonment or other disposition of intellectual property that is, in the reasonable judgment of Dynegey, no longer economically practicable to maintain or useful in the conduct of the business of Dynegey and its Restricted Subsidiaries, taken as whole);
- (5) licenses and sublicenses by Dynegey or any of its Restricted Subsidiaries of software or intellectual property or other general intangibles and licenses, leases or subleases of other property, in each case in the ordinary course of business, which do not materially interfere with the business of Dynegey and its Restricted Subsidiaries, taken as a whole;
- (6) any surrender or waiver of contract rights or settlement, release, recovery on or surrender of contract, tort or other claims in the ordinary course of business;
- (7) the granting of Liens not prohibited by the covenant described above under the caption “—Liens;”
- (8) the sale or other disposition of cash or Cash Equivalents;
- (9) a Restricted Payment that does not violate the covenant described above under the caption “—Certain Covenants—Restricted Payments” or a Permitted Investment;
- (10) a disposition of assets in connection with a foreclosure, transfer or deed in lieu of foreclosure or other exercise of remedial action;
- (11) the trading and sharing of parts and components for equipment, tools and non-material equipment, among Dynegey and its Restricted Subsidiaries, in the ordinary course of business and consistent with past practices of the relevant Persons, including for purposes of spare or replacement parts;
- (12) the unwinding of any Hedging Obligation; and
- (13) any sale, transfer or other disposition of assets related to (i) the decommissioning or demolition of the Havana 1-5 Units, the Wood River 1-3 Units, the South Bay Facility or the Vermillion Facility or (ii) the designation of each Marketing Entity as a Ring-Fenced Entity.

“*Asset Sale Offer*” has the meaning assigned to that term in the indenture governing the notes.

“*Attributable Debt*” in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; *provided, however*, that if such sale and

leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."

"*Bankruptcy Code*" means Title 11 of the U.S. Code, as amended.

"*Beneficial Owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"*Board of Directors*" means:

- (1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
- (3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and
- (4) with respect to any other Person, the board or committee of such Person serving a similar function.

"*Capital Lease Obligation*" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

"*Capital Stock*" means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"*Cash Equivalents*" means:

- (1) United States dollars;
- (2) (i) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) and (ii) debt obligations issued by the Government National Mortgage Association, Farm Credit System, Federal Home Loan Banks, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Financing Corporation and Resolution Funding Corporation, in the case of each of clause (i) and (ii) above, having maturities of not more than one year from the date of acquisition;

(3) certificates of deposit, demand deposits, and time deposits with maturities of not more than one year from the date of acquisition, bankers' acceptances with maturities of not more than one year from the date of acquisition and overnight bank deposits, in each case, with any domestic branch of a commercial bank having capital and surplus in excess of \$500,000,000 and whose long-term debt, or whose parent company's long-term debt, is rated at the time of acquisition thereof at least "A" or the equivalent thereof by Moody's or "A" or the equivalent thereof by S&P;

(4) repurchase obligations (including under tri-party repurchase agreements) with a term of not more than 30 days from the date of acquisition for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper, notes and bonds having one of the two highest rating categories obtainable from Moody's or S&P and in each case maturing within one year from the date of acquisition;

(6) readily marketable direct obligations issued by any state of the United States or any political subdivision thereof, in either case having one of the two highest rating categories obtainable from either Moody's or S&P; and

(7) investments in "money market funds" that primarily invest in investments of the type described in clauses (1) through (6) above.

"Cash Payments" means, for any Determination Period, with respect to a Person and its Restricted Subsidiaries, the sum (without duplication) of (i) cash interest paid by such Person and its Restricted Subsidiaries during such Determination Period, *plus* (ii) cash taxes paid by such Person and its Restricted Subsidiaries during such Determination Period (including (A) any amounts paid in settlement of outstanding audits or disputes with regulatory authorities and (B) a reserve for doubtful tax positions in accordance with GAAP), *plus* (iii) capital expenditures made by such Person and its Restricted Subsidiaries during such Determination Period not funded by the incurrence of Indebtedness or the sale of Equity Interests by such Person or its Restricted Subsidiaries *plus* (iv) permanent cash repayments, prepayments or other retirements for value (including by means of derivative instruments and including the payment in cash of the principal amount of any instrument on which interest accretes or is issued at a discount to its redemption amount at maturity or that is issued as interest paid in kind) of Indebtedness by such Person and its Restricted Subsidiaries during such Determination Period other than any such repayments or prepayments of Indebtedness made by or from cash generated from reductions in any cash and/or Permitted Investments pledged or deposited as collateral to, or for the benefit of, a contract counterparty or a letter of credit provider, in each case as required by the CoalCo Credit Agreement or the GasCo Credit Agreement (in each case as in effect on the Issue Date).

"Change of Control" means the occurrence of any of the following:

(1) the direct or indirect sale, lease, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of Dynege and its Restricted Subsidiaries (other than the Capital Stock and assets of any Unrestricted Subsidiaries), taken as a whole, to any Person (including any "person" (as that term is used in Section 13(d)(3) of the Exchange Act)) other than a Permitted Holder;

(2) the adoption of a plan relating to the liquidation or dissolution of Dynege or any Parent;

(3) the consummation of any transaction (including, without limitation, any merger or consolidation), the result of which is that any Person (including any "person" (as defined above)) other than a Permitted Holder becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of Dynege or any Parent, measured by voting power rather than number of shares;

(4) the first day on which a majority of the members of the Board of Directors of Dynege are not Continuing Directors (other than as a result of the resignation or death of Continuing Directors without the appointment of replacement directors); or

(5) Dynegy or a Parent consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, Dynegy or a Parent, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of Dynegy or such Parent is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of Dynegy or such Parent outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock or such surviving or transferee Person immediately after giving effect to such issuance.

Notwithstanding the foregoing, (i) a Change of Control shall not occur as a result of the mandatory conversion of the Convertible Preferred Shares (or the right of holders of Convertible Preferred Shares to receive shares of Voting Stock of Dynegy upon such mandatory conversion); (ii) a Change of Control under clause (4) above shall not occur as a result of the election of directors at the first meeting of shareholders that occurs following the mandatory conversion of the Convertible Preferred Shares (which directors elected shall be deemed to be Continuing Directors); (iii) any holding company whose only significant asset is Equity Interests of Dynegy (or any successor) or any Parent shall not itself be considered a "person" or "group" for purposes of clause (2) above; (iv) the transfer of assets between or among the Restricted Subsidiaries and Dynegy shall not itself constitute a Change of Control; (v) the term "Change of Control" shall not include a merger or consolidation of Dynegy with, or the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially Dynegy's assets to, an Affiliate incorporated or organized solely for the purpose of reincorporating or reorganizing the Issuer in another jurisdiction and/or for the sole purpose of forming or collapsing a holding company structure; (vi) a "person" or "group" shall not be deemed to have beneficial ownership of securities subject to a stock purchase agreement, merger agreement or similar agreement (or voting or option agreement related thereto) until the consummation of the transactions contemplated by such agreement; and (vii) a Change of Control under clause (3) above shall not occur as a result of a Person who (by itself or together with any of its Affiliates) Beneficially Owns more than 10% of the Voting Stock of Dynegy at the Issue Date becoming the Beneficial Owner of more than 50% of the Voting Stock (measured by voting power and not by number of shares) of Dynegy (or any successor) or any Parent as a result of such Person purchasing such Voting Stock in a Qualified Rights Offering as a holder of Equity Interests of Dynegy (or any successor) or such Parent or as a Backstop Party.

"*Change of Control Offer*" has the meaning assigned to that term in the indenture governing the notes.

"*Chapter 11 Petition Date*" means November 7, 2011.

"*Chapter 11 Plan*" means the Chapter 11 plan of reorganization of Dynegy Holdings, LLC, Dynegy Northeast Generation, Inc., Hudson Power, L.L.C., Dynegy Danskammer, L.L.C. and Dynegy Roseton, L.L.C. following the voluntary Chapter 11 cases commenced on Chapter 11 Petition Date.

"*Chapter 11 Plan Effective Date*" means the date on which all conditions to consummation of the Chapter 11 Plan have been satisfied (or waived) and the Chapter 11 Plan becomes effective.

"*CoalCo Credit Agreement*" means that certain Credit Agreement, dated as of August 5, 2011, among Dynegy Midwest Generation, LLC, a Delaware limited liability company, Dynegy Coal Investments Holdings, LLC, a Delaware limited liability company, the lenders from time to time party thereto and Credit Suisse AG, Cayman Islands Branch, as administrative agent and collateral trustee (as amended, restated, replaced, refinanced, supplemented or otherwise modified or waived from time to time).

"*Collateral*" has the meaning assigned to it in the Collateral Documents.

"*Collateral Documents*" means the Pledge and Security Agreement, Mortgages and other instruments and documents, as the same may be amended, supplemented or otherwise modified from time to time and pursuant to which Collateral is pledged, secured, assigned or granted to or on behalf of the collateral agent for the ratable benefit of the holders of (i) the Note Obligations, (ii) any additional secured obligations incurred to refinance the Note Obligations in accordance with the Collateral Documents and (iii) any Hedging Obligations secured in accordance with the Collateral Documents, the collateral agent and the trustee or notice of such pledge, security interest, assignment or grant is given.

“*Commodity Hedging Agreements*” shall mean any agreement (including each confirmation entered into pursuant to any master agreement) providing for swaps, caps, collars, puts, calls, floors, futures, options, spots, forwards, power purchase or sale agreements, fuel purchase or sale agreements, tolling agreements, emissions credit purchase or sales agreements, power transmission agreements, fuel transportation agreements, fuel storage agreements, netting agreements, commercial or trading agreements, weather derivatives agreements, each with respect to, or involving the purchase, transmission, distribution, sale, lease or hedge of, any energy, generation capacity or fuel, or any other energy or weather related commodity, service or risk, price or price indices for any such commodities, services or risks or any other similar derivative agreements, any renewable energy credits, carbon emission credits and any other “cap and trade” related credits, assets or attributes with an economic value and any other similar agreements, entered into by a Person or any Subsidiary, in each case under this definition, (i) in the ordinary course of business, or (ii) otherwise consistent with Prudent Industry Practice in order to manage fluctuations in the price or availability to a Person or any Subsidiary of any commodity and/or manage the risk of adverse or unexpected weather conditions.

“*Commodity Hedging Obligations*” means, with respect to any specified Person, the obligations of such Person under a Commodity Hedging Agreement.

“*Consolidated EBITDA*” means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication:

- (1) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*
- (2) the Fixed Charges of such Person and its Restricted Subsidiaries for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*
- (3) the Transaction Costs for such period, to the extent that such Transaction Costs were deducted in computing such Consolidated Net Income; *plus*
- (4) any foreign currency translation losses (including losses related to currency remeasurements of Indebtedness) of such Person and its Restricted Subsidiaries for such period, to the extent that such losses were taken into account in computing such Consolidated Net Income; *plus*
- (5) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash charges and expenses (excluding any such non-cash charge or expense to the extent that it represents an accrual of or reserve for cash charges or expenses in any future period or amortization of a prepaid cash charge or expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash charges or expenses were deducted in computing such Consolidated Net Income; *minus*
- (6) any foreign currency translation gains (including gains related to currency remeasurements of Indebtedness) of such Person and its Restricted Subsidiaries for such period, to the extent that such gains were taken into account in computing such Consolidated Net Income; *minus*
- (7) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business,

in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for taxes based on the income or profits of, and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary of Dynegy will be added to Consolidated Net Income to compute Consolidated EBITDA of Dynegy only to the extent that a corresponding amount would be permitted at the date of determination to be dividended to Dynegy by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant

to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

“*Consolidated Net Income*” means, with respect to any specified Person for any period, the aggregate of the net income (loss) of such Person and its Restricted Subsidiaries for such period, on a consolidated basis (excluding the net income (loss) of any Unrestricted Subsidiary of such Person), determined in accordance with GAAP and without any reduction in respect of preferred stock dividends; *provided* that (without duplication):

(1) all extraordinary gains or losses and all gains or losses realized in connection with any Asset Sale or the disposition of securities or the early extinguishment of Indebtedness, together with any related provision for taxes on any such gain, will be excluded;

(2) the income or loss of any Person accrued prior to the date it becomes a Restricted Subsidiary or is merged into or consolidated with Dynegy or any Restricted Subsidiary on the date that such Person’s assets are acquired by Dynegy or any Restricted Subsidiary, will be excluded;

(3) the net income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person; *provided* that the net income of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting shall be excluded from the calculation of Consolidated Net Income for the purposes of clause (c)(i) of the first paragraph of “Certain Covenants—Restricted Payments;”

(4) solely for the purposes of calculating Consolidated Net Income for the purposes of clause (c)(i) of the first paragraph of “Certain Covenants—Restricted Payments,” the net income (but not loss) of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that net income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders;

(5) the cumulative effect of a change in accounting principles will be excluded;

(6) any non-cash gains, losses, income and expenses, and the related tax effect, resulting from the change in fair value of financial instruments of the type set forth in the definition of Hedging Obligations, will be excluded to the extent included in net income; and

(7) any net income (or loss) resulting from the restructuring transactions contemplated by the Chapter 11 Plan will be excluded.

“*continuing*” means, with respect to any Default or Event of Default, that such Default or Event of Default has not been cured or waived.

“*Continuing Directors*” means, as of any date of determination, any member of the Board of Directors of Dynegy who:

(1) was a member of such Board of Directors on the Issue Date;

(2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election; or

(3) is a director appointed by any Permitted Holder who becomes a Permitted Holder pursuant to clause (vii) of the last paragraph of the definition of “*Change of Control*.”

“*Convertible Preferred Shares*” means the \$2,100,000,000 of Dynegy’s Convertible Preferred Shares issued on the Chapter 11 Plan Effective Date.

“*Default*” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“*Determination Period*” means, with respect to any time of determination, the period, taken as a single period, from the beginning of the fiscal quarter commencing after the Issue Date to end of the fiscal quarter most recently completed as of such time of determination, for which AU 722 reviewed or audited financial statements of Dynegy are available.

“*Disqualified Stock*” means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require Dynegy to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that Dynegy may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with the covenant described above under the caption “—Certain Covenants—Restricted Payments.” The amount of Disqualified Stock deemed to be outstanding at any time for purposes of the indenture will be the maximum amount that Dynegy and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

“*Eligible Commodity Hedging Agreement*” shall mean any Commodity Hedging Agreement entered into by a Person or any Subsidiary with an Eligible Commodity Hedging Counterparty, which, individually or together with other Commodity Hedging Agreements (other than Commodity Hedging Agreements that are either unsecured, are supported by letters of credit or third-party Guarantees (and, in each case, not secured by all or substantially all of the assets of the Person or the relevant Subsidiary)) entered into or being entered into with such counterparty or its affiliates, is at the time entered into reasonably expected to hedge the anticipated exposure of the Person or the relevant Subsidiary to one or more commodity price risks relating to the business and operations of the Person or the relevant Subsidiary; *provided* that any Commodity Hedging Agreement that is entered into to offset all or any portion of an outstanding Eligible Commodity Hedging Agreement shall constitute an Eligible Commodity Hedging Agreement so long as, at the time entered into, such offsetting Commodity Hedging Agreement, together with all other outstanding Eligible Commodity Hedging Agreements, in the aggregate, are reasonably expected to hedge the anticipated exposure of the Person or the relevant Subsidiary to one or more commodity price risks relating to the business and operations of the Person or the relevant Subsidiary.

“*Eligible Commodity Hedging Counterparty*” shall mean a counterparty to an Eligible Commodity Hedging Agreement that, at the time the relevant Eligible Commodity Hedging Agreement is entered into, is either an Acceptable Commodity Counterparty or an Acceptable Financial Counterparty.

“*Eligible Commodity Hedging Obligations*” shall mean, with respect to any specified Person, the obligations of such Person under an Eligible Commodity Hedging Agreement.

“*Equity Interests*” means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

“*Equity Offering*” means a public or private sale either (1) of Equity Interests of Dynegy by Dynegy (other than Disqualified Stock and other than to a Subsidiary of Dynegy) or (2) of Equity Interests of a Parent of Dynegy (other than to Dynegy or another Subsidiary of Dynegy) to the extent that the net proceeds therefrom are contributed to the common equity capital of Dynegy.

“*Excess Ordinary Operating Cash*” means, at any time of determination, without duplication, the sum of (1) cash held by Dynegy and the Guarantors that was distributed to them from Gas Holdco and Coal Holdco, to the extent such distributions were derived from Excess Ordinary Operating Cash Flow of either Gas Holdco or Coal Holdco *plus* (2) cash derived from Excess Ordinary Operating Cash Flow that is held by Gas Holdco and its Restricted Subsidiaries but is able, at such time of determination, to be distributed to Dynegy or a Guarantor under all applicable agreements of Gas Holdco and its Restricted Subsidiaries (including, without limitation, each GasCo Credit Agreement then in effect) *plus* (3) cash derived from Excess Ordinary Operating Cash Flow that is held by Coal Holdco and its Restricted Subsidiaries but is able, at such time of determination, to be distributed to Dynegy or a Guarantor under all applicable agreements of Coal Holdco and its Restricted Subsidiaries (including, without limitation, each CoalCo Credit Agreement then in effect) *minus* (4) Cash Payments made by Dynegy and its Restricted Subsidiaries (without duplication for any amounts already deducted in the calculation of Excess Ordinary Operating Cash Flow or Segment EBITDA) during the Determination Period *plus* (5) following the reversal thereof, any amounts previously reserved for in respect of doubtful tax positions pursuant to clause (ii)(B) of the definition of “*Cash Payments*” to the extent such amounts reduced Excess Ordinary Operating Cash.

“*Excess Ordinary Operating Cash Flow*” means, at any time of determination, with respect to a Person and its Restricted Subsidiaries, the Segment EBITDA of such Person and its Restricted Subsidiaries for the Determination Period, less (without duplication) (i) Cash Payments of such Person and its Restricted Subsidiaries during the Determination Period and (ii) any Consolidated EBITDA of such Person and its Restricted Subsidiaries generated from forward sales, purchases or hedges of power or natural gas or other commodities or other Hedging Obligations with respect to any period of time after December 31, 2015.

“*Excluded Assets*” means each of the following:

- (1) any right, title or interest in any property or assets of any Ring-Fenced Entity, and any assets subject to a Lien permitted pursuant to clauses (2), (3), (8), (13) and (21) of the definition of “*Permitted Liens*”;
- (2) all interests in real property other than fee interests and other interests appurtenant thereto if the greater of the cost and the book value of such interest is less than \$10.0 million;
- (3) fee interests in real property if the greater of the cost and the book value of such fee interest is less than \$10.0 million;
- (4) any property or asset if and to the extent that the grant of a Lien under the Collateral Documents in such property or asset is prohibited by, in violation (including a breach or default thereunder) of, or requires consent not obtained under applicable law, rule or regulation; *provided, however*, that such property or asset shall include (and such security interest shall attach) immediately at such time as the legal prohibition referred to above shall no longer be applicable and to the extent severable, shall attach immediately to any portion of such property or asset not subject to the prohibitions specified above;
- (5) any lease, license, contract, property right or agreement to which Dynegy or any of its direct or indirect Subsidiaries is a party and any of its rights or interests thereunder if and only to the extent and only for so long as the grant of a Lien under the Collateral Documents in any such lease, license, contract, property right or agreement is prohibited by, in violation (including a breach or default thereunder) of, or requires consent not obtained under, a term, provision or condition of any such lease, license, contract, agreement or property right (unless such term, provision or condition with respect to the creation of a Lien would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law (including the Bankruptcy Code of the United States of America) or principles of equity); *provided* that such lease, license, contract, property right or agreement shall be included in the Collateral (and such Lien shall attach) immediately at such time as the contractual prohibition referred to above shall no longer be applicable and to the extent severable, shall attach immediately to any portion of such lease, license, contract, property right or agreement not subject to the prohibitions specified above;
- (6) any motor vehicles, rolling stock, vessels and aircraft, or other property subject to a certificate of title statute of any jurisdiction having an aggregate book value of less than \$10.0 million;

(7) all cash or Cash Equivalents, deposit accounts or securities accounts (other than (i) the Plan Secured Notes Debt Service Account or (ii) cash proceeds from the Collateral following an Event of Default, including any cash dividends, and cash proceeds from the sale, disposition or transfer of the Collateral following an Event of Default), including, without limitation, deposit accounts or securities accounts that contain cash or Cash Equivalents, (a) securing reimbursement obligations under letters of credit or surety bonds, (b) consisting of earnest money deposits made or received in connection with any disposition of property or assets or in connection with any Investment or (c) securing Hedging Obligations, in each case to the extent permitted under the indenture;

(8) assets or property subject to purchase money liens or capital leases permitted to be incurred under clause (3) of the definition of “*Permitted Debt*,” to the extent a lien on such assets or property is not permitted under the terms of the documents governing such purchase money liens, purchase money indebtedness or capital leases to be created to secure any Obligations;

(9) any Equity Interest of any Subsidiary (other than a Holdco) or any Person that is not a Subsidiary to the extent a pledge of such Equity Interest is expressly prohibited by any applicable shareholder agreement, joint venture agreement, indenture or other contractual arrangement either (x) in force and effect on the Issue Date or (y) entered into after the Issue Date but only if the applicable grantor has used commercially reasonable efforts to ensure that such shareholder agreement, indenture or other contractual arrangement does not restrict the ability of the applicable grantor to grant hereunder a Lien on or security interest in such Equity Interest, in any case only for so long as and to the extent that such prohibition remains in place;

(10) Equity Interests in any Subsidiary that is not a Material Subsidiary;

(11) any “intent-to-use” application for registration of a trademark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto, solely to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law;

(12) Margin Stock (as such term is defined in Regulation U of the Board of Governors of the Federal Reserve System of the United States of America, and all official rulings and interpretations thereunder or thereof);

(13) all leasehold interests in personal property;

(14) those assets (if any) as to which the collateral agent (acting at the direction of the holders of the notes and the other secured parties) and Dynegey shall have determined that the cost of obtaining a security interest is excessive in relation to the value of the security to be afforded thereby;

(15) any right, title or interest in any property and assets of Legacy DH; and

(16) any assets of and Equity Interests in the Excluded Entities.

“*Excluded Entities*” means the Marketing Entities, the Unrestricted Subsidiaries of Dynegey, the Ring-Fenced Entities and any entity that is not a Material Subsidiary.

“*Existing Indebtedness*” means all Indebtedness of Dynegey and its Subsidiaries (other than Indebtedness represented by the notes to be issued pursuant to the indenture on the Issue Date) in existence on the Issue Date.

“*Fair Market Value*” means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of Dynegey and set forth in an Officers’ Certificate (unless otherwise provided in the indenture).

“*Fixed Charge Coverage Ratio*” means with respect to any specified Person for any period, the ratio of the Consolidated EBITDA of such Person for such period to the Fixed Charges of such Person for such period. In the

event that the specified Person or any of its Restricted Subsidiaries incurs, assumes, guarantees, repays, repurchases, redeems, defeases or otherwise discharges any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date on which the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "*Calculation Date*"), then the Fixed Charge Coverage Ratio will be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase, redemption, defeasance or other discharge of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom, as if the same had occurred at the beginning of the applicable four-quarter reference period.

In addition, for purposes of calculating the Fixed Charge Coverage Ratio:

(1) acquisitions that have been made by the specified Person or any of its Restricted Subsidiaries, including through mergers or consolidations, or any Person or any of its Restricted Subsidiaries acquired by the specified Person or any of its Restricted Subsidiaries, and including all related financing transactions and including increases in ownership of Restricted Subsidiaries, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date, or that are to be made on the Calculation Date, will be given pro forma effect in accordance with Article 11 of Regulation S-X promulgated under the Securities Act as if such acquisition and related transactions had occurred on the first day of the relevant four-quarter reference period;

(2) the Consolidated EBITDA attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded;

(3) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses (and ownership interests therein) disposed of prior to the Calculation Date, will be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the specified Person or any of its Restricted Subsidiaries following the Calculation Date;

(4) any Person that is a Restricted Subsidiary on the Calculation Date will be deemed to have been a Restricted Subsidiary at all times during such four-quarter period;

(5) any Person that is not a Restricted Subsidiary on the Calculation Date will be deemed not to have been a Restricted Subsidiary at any time during such four-quarter period; and

(6) if any Indebtedness bears a floating rate of interest, the interest expense on such Indebtedness will be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligation applicable to such Indebtedness if such Hedging Obligation has a remaining term as at the Calculation Date in excess of 12 months).

"*Fixed Charges*" means, with respect to any specified Person for any period, (a) the cash interest expense (including imputed cash interest expense in respect of Capital Lease Obligations and Synthetic Lease Obligations) of such Person and its Restricted Subsidiaries (including Attributable Debt and all commissions, discounts and other fees and charges owed by such Person or any of its Restricted Subsidiaries with respect to letters of credit and bankers' acceptance financing), net of interest income, in each case determined on a consolidated basis in accordance with GAAP, minus (b) to the extent included in such cash interest expense for such period, amounts attributable to the amortization of financing costs and non-cash amounts attributable to the amortization of debt discounts and other debt issuance costs, fees and expenses. For purposes of the foregoing, Fixed Charges shall be determined after giving effect to any net payments made or received by such Person or any of its Restricted Subsidiaries with respect to Interest Rate/Currency Hedging Agreements.

"*GAAP*" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time;

provided, however, that any operating lease accounted for as such under GAAP prior to the Issue Date shall continue to be accounted for as such notwithstanding the requirements of GAAP in effect from time to time.

“*GasCo Credit Agreement*” means that certain Credit Agreement, dated as of August 5, 2011, among Dynegy Power, LLC, Dynegy Gas Investments Holdings, LLC, the lenders from time to time party thereto, Credit Suisse AG, Cayman Islands Branch as Administrative Agent and collateral trustee for the Lenders, Credit Suisse Securities (USA) LLC and Goldman Sachs Lending Partners, LLC, as Joint Bookrunners and Joint Lead Arrangers and Credit Suisse Securities (USA) LLC and Goldman Sachs Lending Partners, LLC, as Joint Syndication Agents and Co-Documentation Agents (as amended, restated, replaced, refinanced, supplemented or otherwise modified or waived from time to time).

“*Guarantee*” of or by any Person means (i) any obligation, contingent or otherwise, of such Person guaranteeing or otherwise becoming an obligor with respect to or (ii) any pledge (including a springing pledge) of such Person’s assets to secure, any Indebtedness or other obligation of any other Person (the “*primary obligor*”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment of such Indebtedness or other obligation, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment of such Indebtedness or other obligation or (c) to maintain working capital, equity capital, solvency or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation; *provided, however*, that the term “*Guarantee*” shall not include endorsements for collection or deposit in the ordinary course of business.

“*Guarantor*” means any wholly-owned Restricted Subsidiary of Dynegy that Guarantees the notes in accordance with the provisions of the indenture, and its respective successors and assigns.

“*Havana 1-5 Units*” means the decommissioned units 1 through 5 located at the power generation facility owned by CoalCo and located in Mason County, Illinois.

“*Hedging Obligations*” means, with respect to any specified Person, the obligations of such Person under (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements, (b) other agreements or arrangements designed to manage interest rates or interest rate risk, (c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates and (d) agreements (including each confirmation entered into pursuant to any master agreement) providing for swaps, caps, collars, puts, calls, floors, futures, options, spots, forwards, power purchase or sale agreements, fuel purchase or sale agreements, emissions credit purchase or sales agreements, power transmission agreements, fuel transportation agreements, fuel storage agreements, netting agreements, tolling agreements, commercial or trading agreements, each with respect to, or involving the purchase, transmission, distribution, sale, lease or hedge of, any energy, generation capacity or fuel, or any other energy related commodity or service, price or price indices for any such commodities or services or any other similar derivative agreements, and any other similar agreements, in each case under clauses (a), (b), (c) and (d), entered into by such Person, including Commodity Hedging Obligations, Eligible Commodity Hedging Obligations and Interest Rate/Currency Hedging Obligations.

“*Holdco*” means each of Dynegy Gas Investments Holdings, LLC; Gas Holdco; Dynegy GasCo Holdings, LLC; Dynegy Gas Investments, LLC; Dynegy Coal Investments Holdings, LLC; Coal Holdco; and New DH.

“*Indebtedness*” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses or trade payables), whether or not contingent (without duplication):

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit or reimbursement agreements in respect thereof;

- (3) in respect of banker's acceptances;
- (4) representing Capital Lease Obligations and Synthetic Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed; or
- (6) representing any Hedging Obligations,

if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

"*Interest Rate/Currency Hedging Agreement*" shall mean any agreement of the type described in clauses (a), (b) or (c) of the definition of "Interest Rate/Currency Hedging Obligations."

"*Interest Rate/Currency Hedging Obligations*" shall mean, with respect to any specified Person, the obligations of such Person under (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements, (b) other agreements or arrangements designed to manage interest rates or interest rate risk and (c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates, in each case under clauses (a), (b) and (c), entered into by such Person and not for speculative purposes.

"*Investments*" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If Dynegey or any Restricted Subsidiary of Dynegey sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of Dynegey such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of Dynegey, Dynegey will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of Dynegey's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of the covenant described above under the caption "—Certain Covenants—Restricted Payments." The acquisition by Dynegey or any Restricted Subsidiary of Dynegey of a Person that holds an Investment in a third Person will be deemed to be an Investment by Dynegey or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of the covenant described above under the caption "—Certain Covenants—Restricted Payments." Except as otherwise provided in the indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

"*Issue Date*" means the date the notes are first issued under the indenture.

"*Lease Value*" in respect of an operating lease means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the operating lease including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP.

"*Legacy DH*" means the new subsidiary of New DH to be created pursuant to Section 8.2(d) of the Chapter 11 Plan and into which DH shall be merged under Delaware law, with Legacy DH as the surviving entity. Unless otherwise specifically indicated, any and all references to "*DH*" with respect to any matters occurring after the aforementioned merger, shall be deemed a reference to Legacy DH.

“*Lien*” means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

“*Marketing Entities*” means each of Dynege Power Marketing, LLC, Dynege Marketing and Trade, LLC and Dynege Coal Trading and Transportation, LLC.

“*Material Subsidiary*” means any wholly-owned Restricted Subsidiary of Dynege having at least \$1.0 million of assets as of the last available balance sheet date or at least \$1.0 million in Consolidated EBITDA for the most recently completed fiscal year and each Holdco.

“*Moody’s*” means Moody’s Investors Service, Inc.

“*Mortgage*” shall mean, collectively, a mortgage, deed of trust, deed to secure debt and any other document or instrument under which a Lien on real property (other than any Excluded Assets) described therein is granted by the Grantors (as defined in the Collateral Documents) in favor or for the benefit of the collateral agent on behalf of the Secured Parties (as defined in the Collateral Documents) to secure the Secured Obligations (as defined in the Collateral Documents).

“*Net Proceeds*” means the aggregate cash proceeds and Cash Equivalents received by Dynege or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, and amounts required to be applied to the repayment of Indebtedness secured by a Lien on the asset or assets that were the subject of such Asset Sale and any reserve for adjustment or indemnification obligations in respect of the sale price of such asset or assets established in accordance with GAAP.

“*New DH*” means the new subsidiary of Dynege to be created pursuant to Section 8.2(c) of the Chapter 11 Plan, to which Dynege shall transfer 100% of the Equity Interests of DH as set forth in Section 8.2(d) of the Chapter 11 Plan.

“*Non-Obligor Restricted Subsidiary*” means a Restricted Subsidiary that does not Guarantee and is not otherwise an obligor with respect to the notes or any other indebtedness of Dynege, and its respective successors and assigns.

“*Non-Recourse Debt*” means Indebtedness:

(1) as to which neither Dynege nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness) or (b) is directly or indirectly liable as a guarantor or otherwise; and

(2) as to which the lenders will not have any recourse to the stock or assets of Dynege or any of its Restricted Subsidiaries (other than the Equity Interests of an Unrestricted Subsidiary).

“*Note Documents*” means the notes, the Note Guarantees, the indenture and the Collateral Documents.

“*Note Guarantee*” means any Guarantee of the Obligations of Dynege under the indenture and the notes by any Person in accordance with the provisions of the indenture.

“*Note Liens*” means first-priority Liens in the Collateral securing the Note Obligations.

“*Note Obligations*” means the Obligations of Dynegy and the Guarantors under the Note Documents.

“*Obligations*” means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

“*Obligor Restricted Subsidiary*” means a Restricted Subsidiary that Guarantees or is otherwise an obligor with respect to the notes or any other indebtedness of Dynegy, and its respective successors and assigns.

“*Officers’ Certificate*” means a certificate duly signed by both the chief financial officer and any other officer of Dynegy or a Restricted Subsidiary or any surviving entity thereof permitted under the indenture, as the case may be, and delivered to the trustee and collateral agent.

“*Parent*” means any Person that directly or indirectly holds 100% of the Capital Stock of Dynegy, and any successor Person thereto.

“*Permitted Business*” means any business that is the same as, or substantially related or ancillary to, any of the businesses in which Dynegy and its Restricted Subsidiaries are engaged on the Issue Date.

“*Permitted Collateral Liens*” means Liens on the Collateral permitted under clauses (1), (5), (6), (7), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (22) and (24) of the definition of “*Permitted Liens*.”

“*Permitted Holder*” means (i) a Person who Beneficially Owns more than 10.0% of the outstanding Voting Stock of Dynegy or a Parent immediately after the time of the mandatory conversion of the Convertible Preferred Shares occurs, (ii) any Person who becomes a Beneficial Owner of more than 50% of the Voting Stock (measured by voting power and not by number of shares) of Dynegy or any Parent as a result of clause (vii) of the last paragraph of the definition of “*Change of Control*”, and (iii) any Person who is in a "group" (for purposes of section 13(d)(3) under the Exchange Act) with any of the Persons described in clause (i) or (ii), so long as such Persons described in clause (i) or (ii) Beneficially Own more than 50% of the Voting Stock (measured by voting power and not by number of shares) of Dynegy or a Parent.

“*Permitted Investments*” means:

(1) any Investment (i) in Dynegy or in a Guarantor or (ii) in any Restricted Subsidiary by a Non-Obligor Restricted Subsidiary;

(2) any Investment in Cash Equivalents (including, without limitation, any Investments in the Plan Secured Notes Debt Service Account);

(3) any Investment by Dynegy or any Restricted Subsidiary of Dynegy in a Person, if as a result of such Investment:

(a) such Person becomes a Guarantor; or

(b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, Dynegy or a Guarantor;

(4) any Investment by a Non-Obligor Restricted Subsidiary in a Person, if as a result of such Investment:

(a) such Person becomes a Restricted Subsidiary of Dynegy; or

(b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, Dynegy or a Restricted Subsidiary of Dynegy;

- (5) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with the covenant described above under the caption “—Repurchase at the Option of Holders—Asset Sales;”
- (6) any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock or Convertible Preferred Shares) of Dynegy;
- (7) any Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of Dynegy or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes;
- (8) Investments represented by Hedging Obligations in the ordinary course of business;
- (9) loans or advances to employees made in the ordinary course of business of Dynegy or any Restricted Subsidiary of Dynegy in an aggregate principal amount not to exceed \$1.0 million at any one time outstanding;
- (10) any guarantee of Indebtedness permitted to be incurred by the covenant entitled “—Certain Covenants—Incurrence of Indebtedness and Issuance of Preferred Stock” other than a guarantee of Indebtedness of an Affiliate of Dynegy that is not a Restricted Subsidiary of Dynegy;
- (11) any Investment existing on, or made pursuant to binding commitments existing on, the Issue Date and any Investment consisting of an extension, modification or renewal of any Investment existing on, or made pursuant to a binding commitment existing on, the Issue Date; *provided* that the amount of any such Investment may be increased (a) as required by the terms of such Investment as in existence on the Issue Date or (b) as otherwise permitted under the indenture;
- (12) Investments acquired after the Issue Date as a result of the acquisition by Dynegy or any Restricted Subsidiary of Dynegy of another Person, including by way of a merger, amalgamation or consolidation with or into Dynegy or any of its Restricted Subsidiaries in a transaction that is not prohibited by the covenant described above under the caption “—Merger, Consolidation or Sale of Assets” after the Issue Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation;
- (13) Investments made as a result of the sale of Equity Interests of any Person that is a Subsidiary of Dynegy such that, after giving effect to any such sale, such Person is no longer a Subsidiary of Dynegy, if the sale of such Equity Interests constitutes an Asset Sale and the Net Proceeds received from such Asset Sale are applied as set forth above under the caption “—Repurchase at the Option of Holders—Asset Sales;”
- (14) receivables owing to Dynegy or a Restricted Subsidiary, if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; *provided* that such trade terms may include such concessionary trade terms as Dynegy or such Restricted Subsidiary deems reasonable under the circumstances;
- (15) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;
- (16) Investments made as a result of (i) the incurrence by Dynegy or any of its Restricted Subsidiaries of Indebtedness issued and (ii) the payment by Dynegy of cash consideration in an amount not to exceed the maximum amount of cash consideration to be paid in connection with the restructuring contemplated by the Chapter 11 Plan and described in the Disclosure Statement less the amount of cash consideration actually paid in connection with such restructuring, in either case, in exchange for or the proceeds of which are used to renew, refund, refinance, replace, defease or discharge the Indebtedness of DH and its Subsidiaries outstanding as of the Issue Date;

(17) the transfer from time to time of any or all assets of and Equity Interests in the Marketing Entities to Dynegy Gas Investments Holdings, LLC or Dynegy Coal Investments Holdings, LLC (or any direct or indirect Subsidiary of those entities);

(18) any Investment using 100% of the aggregate Fair Market Value of any property or assets (other than cash) received by Dynegy since the Issue Date as a contribution to its common equity capital or from the issue or sale of Qualifying Equity Interests of Dynegy or from the issue or sale of convertible or exchangeable Disqualified Stock of Dynegy or convertible or exchangeable debt securities of Dynegy, in each case, that have been converted into or exchanged for Qualifying Equity Interests of Dynegy (in each case, other than Qualifying Equity Interests and convertible or exchangeable Disqualified Stock or debt securities sold to a Subsidiary of Dynegy); and

(19) other Investments by Dynegy or any Guarantor in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (19) that are at the time outstanding, not to exceed \$75.0 million.

“*Permitted Liens*” means:

- (1) Liens created for the benefit of (or to secure) the notes issued on the Issue Date;
- (2) Liens on the assets of Dynegy Coal Investments Holdings, LLC, CoalCo and its Subsidiaries permitted to be incurred pursuant to the CoalCo Credit Agreement as in effect on the Issue Date, securing Indebtedness incurred under clauses (10) and (12) of the definition of “*Permitted Debt*”;
- (3) Liens on the assets of Dynegy Gas Investments Holdings, LLC, GasCo and its Subsidiaries permitted to be incurred pursuant to the GasCo Credit Agreement as in effect on the Issue Date, securing Indebtedness incurred under clause (11) and (13) of the definition of “*Permitted Debt*”;
- (4) Liens in favor of Dynegy or the Guarantors;
- (5) Liens on property of a Person existing at the time such Person becomes a Restricted Subsidiary of Dynegy or is merged with or into or consolidated with Dynegy or any Restricted Subsidiary of Dynegy; *provided* that such Liens were in existence prior to the contemplation of such Person becoming a Restricted Subsidiary of Dynegy or such merger or consolidation and do not extend to any assets other than those of the Person that becomes a Restricted Subsidiary of Dynegy or is merged with or into or consolidated with Dynegy or any Restricted Subsidiary of Dynegy;
- (6) Liens on property (including Capital Stock) existing at the time of acquisition of the property by Dynegy or any Subsidiary of Dynegy; *provided* that such Liens were in existence prior to such acquisition and not incurred in contemplation of, such acquisition;
- (7) Liens to secure the performance of statutory or regulatory obligations, insurance, surety or appeal bonds, workers compensation obligations, performance bonds or other obligations of a like nature incurred in the ordinary course of business (including Liens to secure letters of credit issued to assure payment of such obligations);
- (8) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by clause (3) of the definition of “*Permitted Debt*” covering only the assets acquired with or financed by such Indebtedness;
- (9) Liens existing on the Issue Date other than those described in clauses (1), (2) and (3) of this definition;
- (10) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

- (11) Liens imposed by law, such as carriers', warehousemen's, landlord's and mechanics' Liens, in each case, incurred in the ordinary course of business;
- (12) survey exceptions, encumbrances, easements or reservations, including those for licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines, mineral reservations and rights and leases, zoning restrictions and other restrictions (including defects or irregularities in title and similar encumbrances that are not material to the operations of Dynegy and its Restricted Subsidiaries, taken as a whole) as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;
- (13) Liens to secure any Permitted Refinancing Indebtedness (other than with respect to Indebtedness incurred under clauses (10), (11), (12) or (13) of the definition of "*Permitted Debt*") permitted to be incurred under the indenture; *provided, however*, that:
- (a) the new Lien is limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus repairs, improvements, additions and accessions to such property or proceeds or distributions thereof);
 - (b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount, or, if greater, committed amount, of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged with such Permitted Refinancing Indebtedness, (y) an amount necessary to pay any customary fees prevailing in the market and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge and (z) any protective advances with respect to the property and assets that secure such Permitted Refinancing Indebtedness; and
 - (c) the new Lien shall be equivalent or junior in priority to such Lien being refinanced.
- (14) Liens on insurance policies and proceeds thereof, or other deposits, to secure insurance premium financings;
- (15) filing of Uniform Commercial Code financing statements as a precautionary measure in connection with operating leases;
- (16) bankers' Liens and rights of setoff; Liens arising out of judgments or awards not constituting an Event of Default and notices of *lis pendens* and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;
- (17) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness, in each case as permitted by the indenture;
- (18) Liens on specific items of inventory or other goods (and the proceeds thereof) of any Person securing such Person's obligations in respect of bankers' acceptances issued or created in the ordinary course of business for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;
- (19) leases, licenses, subleases and sublicenses of assets (including, without limitation, real property and intellectual property rights) which do not materially interfere with the ordinary conduct of the business of Dynegy or any of its Restricted Subsidiaries;
- (20) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

- (21) Liens on Cash and Cash Equivalents to secure Indebtedness permitted by clause (17) of the definition of “*Permitted Debt*”.
- (22) Liens securing Obligations with respect to Hedging Obligations in the ordinary course of business;
- (23) any restrictions on any Equity Interest or undivided interests, as the case may be, of a Person providing for a breach, termination or default under any joint venture, stockholder, membership, limited liability company, partnership, owners’, participation or other similar agreement between such Person and one or more other holders of Equity Interests or undivided interests of such Person, as the case may be, if a security interest or Lien is created on such Equity Interest or undivided interest, as the case may be, as a result thereof; and
- (24) Liens with respect to Obligations of Dynegy or any Restricted Subsidiary of Dynegy that do not exceed \$25.0 million at any one time outstanding.

“*Permitted Refinancing Indebtedness*” means any Indebtedness of Dynegy or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge other Indebtedness of Dynegy or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided* that:

- (1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);
- (2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity that is (a) equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged or (b) more than 90 days after the final maturity date of the notes;
- (3) if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the notes, such Permitted Refinancing Indebtedness is subordinated in right of payment to the notes on terms at least as favorable to the holders of notes as those contained in the documentation governing the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; and
- (4) no Indebtedness of Dynegy or of any Guarantor may be refinanced with Indebtedness of a Non-Obligor Restricted Subsidiary.

“*Person*” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

“*Pledge and Security Agreement*” means the pledge and security agreement, dated as of the Issue Date, among Dynegy, the other parties thereto from time to time, the collateral agent and the trustee, as such agreement may be amended, supplemented, restated, amended and restated, or otherwise modified from time to time.

“*Prudent Industry Practice*” shall mean those practices or methods as are commonly used or adopted by Persons in the independent power generation industry in the United States, in connection with the conduct of such industry, in each case as such practices or methods may evolve from time to time, consistent with all applicable requirements of law.

“*Qualified Redemption Transaction*” means the redemption of (i) all of the Convertible Preferred Shares with the net cash proceeds of the issuance of Qualified Subordinated Debt or Qualified Senior Debt or (ii) all or a portion of the Convertible Preferred Shares with the net cash proceeds of the issuance of Qualifying Equity Interests; *provided, however*, that the aggregate principal amount of (x) any Qualified Subordinated Debt whose interest is payable in cash and (y) any Qualified Senior Debt whose net cash proceeds are used to finance the Qualified

Redemption Transaction shall not exceed the amount that is three times the net cash proceeds from Qualifying Equity Interests that are used to finance the Qualified Redemption Transaction.

“*Qualified Rights Offering*” means any offering completed prior to December 31, 2015 by Dynegy or a Parent of rights to acquire common Equity Interests of Dynegy (or any successor) or such Parent that (i) is made on a pro-rata basis to all holders of the Convertible Preferred Shares (and may be made to any other holders of Equity Interests in Dynegy) and (ii) is consummated and results in the acquisition of common Equity Interests of Dynegy (or any successor) or such Parent by a Person or “group” for purposes of section 13(d)(3) of the Exchange Act (each, a “*Backstop Party*”) for cash consideration paid by a Backstop Party or Backstop Parties acting as a “group” for purposes of section 13(d)(3) of the Exchange Act, which cash consideration paid by the Backstop Party or Backstop Parties is, in the aggregate, not less than \$300.0 million.

“*Qualified Senior Debt*” means Indebtedness of Dynegy, including any Permitted Refinancing Indebtedness in respect thereof, that (i) is contractually equal in right of payment to the notes, (ii) has no mandatory principal payment with a Stated Maturity that is earlier than the 91st day after the Stated Maturity of the notes, (iii) is not secured by any Lien; (iv) is not Guaranteed by any Subsidiary of Dynegy that is not a Guarantor and (v) to the extent the interest (including for this purpose any “catch-up” payments with respect to any such Indebtedness that is an AHYDO) on such Indebtedness is payable in cash, after giving pro forma effect to the incurrence of such Indebtedness, the Fixed Charge Coverage Ratio would be no less than 1.5 to 1.0.

“*Qualified Subordinated Debt*” means Indebtedness of Dynegy, including any Permitted Refinancing Indebtedness in respect thereof, that (i) is subordinated in contractual right of payment to the notes, (ii) has no mandatory principal payment (including any “catch-up” payments with respect to any such Indebtedness that is an AHYDO) with a Stated Maturity that is earlier than the 91st day after the Stated Maturity of the notes, (iii) is not secured by any Lien and (iv) is not Guaranteed by any Subsidiary of Dynegy that is not a Guarantor.

“*Qualifying Equity Interests*” means Equity Interests of Dynegy other than Disqualified Stock.

“*Restricted Investment*” means an Investment other than a Permitted Investment.

“*Restricted Subsidiary*” of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

“*Ring-Fenced Entities*” means each of the following entities and each of their respective successors:

- (1) Dynegy Coal Investments Holdings, LLC;
- (2) Dynegy Midwest Generation, LLC;
- (3) Havana Dock Enterprises, LLC;
- (4) Dynegy Gas Investments Holdings, LLC;
- (5) Dynegy Power, LLC;
- (6) Dynegy Power Generation Inc.;
- (7) Dynegy Oakland, LLC;
- (8) Dynegy South Bay, LLC;
- (9) Dynegy Morro Bay, LLC;
- (10) Morro Bay Mutual Water Company;

- (11) Dynegy Moss Landing LLC;
- (12) Moss Landing Mutual Water Company;
- (13) Casco Bay Energy Company, LLC;
- (14) Ontelaunee Power Operating Company, LLC;
- (15) Sithe Energies Inc.;
- (16) Montrose Partners, Ltd.;
- (17) Sithe / Independence LLC;
- (18) Sithe / Independence Power Partners, L.P.;
- (19) Sithe / Independence Funding Corp.;
- (20) Blue Ridge Generation LLC;
- (21) Black Mountain CoGen, Inc.;
- (22) Nevada Cogeneration Associates #2;
- (23) upon designation as a Ring-Fenced Entity by Dynegy, each of the Marketing Entities; and
- (24) any Subsidiary established, created or acquired by any of the entities listed in clauses (1) through (23) above.

“S&P” means Standard & Poor’s Ratings Group.

“*Segment EBITDA*” of a Person and its Restricted Subsidiaries, with respect to a Determination Period, means the Consolidated EBITDA of such Person and its Restricted Subsidiaries, excluding (without duplication): (1) any such Consolidated EBITDA generated during the Determination Period from transactions with Dynegy, its Restricted Subsidiaries or any of their respective Subsidiaries or Affiliates, (2) any non-cash amounts increasing the Consolidated Net Income of such Person and its Restricted Subsidiaries during the Determination Period, (3) any such Consolidated EBITDA generated during the Determination Period from the sale, lease or other disposition or monetization of assets or Capital Stock, (4) any such Consolidated EBITDA generated during the Determination Period that is of an extraordinary, non-recurring or unusual nature or that is generated other than from the ordinary course of business of such Person and its Restricted Subsidiaries, (5) any such Consolidated EBITDA that is generated from Hedging Obligations relating to interest rates and (6) any such Consolidated EBITDA that is generated from Hedging Obligations that are incurred other than in the ordinary course of business of such Person and its Restricted Subsidiaries.

“*Significant Subsidiary*” means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Issue Date.

“*South Bay Facility*” shall mean the decommissioned power generation facility owned by a Subsidiary of GasCo and located in San Diego, California.

“*Stated Maturity*” means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of its original issue date, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

“*Subsidiary*” means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership or limited liability company of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“*Synthetic Lease*” shall mean, as to any Person, any lease (including leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) (a) that is accounted for as an operating lease under GAAP, for the purposes of this definition as in effect and consistently applied by Dynegey on the Issue Date, and (b) in respect of which the lessee retains or obtains ownership of the property so leased for U.S. federal income tax purposes, other than any such lease under which such Person is the lessor.

“*Synthetic Lease Obligations*” shall mean, as to any Person, an amount equal to the capitalized amount of the remaining lease payments under any Synthetic Lease that would appear on a balance sheet of such person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations.

“*Transaction Costs*” means any fees, expenses or charges, including professional and underwriting fees, related to any equity offering, Permitted Investment, acquisition, disposition, recapitalization, restructuring or Indebtedness permitted to be incurred by the indenture, in each case, whether or not successful, including such fees, expenses or charges related to the issuance of the notes and the repayment of Indebtedness on the Issue Date and related transactions.

“*Treasury Rate*” means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two business days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to the first anniversary the Issue Date.

“*Treasury Services Agreement*” shall mean any agreement between Dynegey or any of its Restricted Subsidiaries and any Acceptable Financial Counterparty relating to treasury, depository, credit card, debit card, stored value cards, purchasing or procurement cards and cash management services or automated clearinghouse transfer of funds or any similar services.

“*Unrestricted Subsidiary*” means (i) Legacy DH and Dynegey Northeast Generation, Inc. and their respective direct and indirect subsidiaries and (ii) any Subsidiary of Dynegey that is designated by the Board of Directors of Dynegey as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary:

(1) has no Indebtedness other than Non-Recourse Debt;

(2) except as permitted by the covenant described above under the caption “—Certain Covenants— Transactions with Affiliates,” is not party to any agreement, contract, arrangement or understanding with Dynegey or any Restricted Subsidiary of Dynegey unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to Dynegey or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of Dynegey;

(3) is a Person with respect to which neither Dynege nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and

(4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of Dynege or any of its Restricted Subsidiaries.

"*Vermillion Facility*" means the decommissioned power generation facility owned by CoalCo and located in Vermillion County, Illinois.

"*Voting Stock*" of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

(1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; *by*

(2) the then outstanding principal amount of such Indebtedness.

"*Wholly-Owned Restricted Subsidiary*" of any specified Person means a Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) will at the time be owned by such Person or by one or more Wholly-Owned Restricted Subsidiaries of such Person.

"*Wood River 1-3 Units*" means the decommissioned units 1 through 3 located at the power generation facility owned by CoalCo and located in Madison County, Illinois.

EXHIBIT "D"

DESIGNATION OF PLAN PREFERRED STOCK

CERTIFICATE OF DESIGNATION OF

DYNEGY INC.¹

Pursuant to Section 151 of the General Corporation Law of the State of Delaware

SERIES A REDEEMABLE CONVERTIBLE PREFERRED STOCK

Dynegy Inc., a Delaware corporation (the "Corporation"), hereby certifies that the following resolution has been duly adopted by the Board of Directors of the Corporation (the "Board"):

WHEREAS, pursuant to the certificate of incorporation of the Corporation (the "Certificate of Incorporation"), the Corporation is authorized to issue up to [twenty million (20,000,000)] shares of preferred stock, par value \$0.01 per share (the "Preferred Stock"), with such designations, preferences and relative, optional and other special rights and qualifications, limitations or restrictions as may be determined by the Board from time to time;

NOW, THEREFORE, it is hereby

RESOLVED, that pursuant to the authority expressly granted to and vested in the Board by the provisions of the Certificate of Incorporation, there hereby is created out of the [twenty million (20,000,000)] shares of Preferred Stock authorized by Article 5 of the Certificate of Incorporation a series of Preferred Stock consisting of [●] shares, which series shall have the following powers, designations, preferences and relative, optional and other special rights and the following qualifications, limitations, and restrictions:

1. Designation. This series of Preferred Stock shall be designated as "Series A Redeemable Convertible Preferred Stock".

2. Authorization. The Corporation shall have the authority to issue [●] shares of the Series A Redeemable Convertible Preferred Stock, par value \$0.01 per share, of the Corporation (the "Series A Preferred Stock"). The issued shares of Series A Preferred Stock shall be uncertificated shares.

3. Rank. The Series A Preferred Stock shall, with respect to dividend rights, rights upon the liquidation, or winding up or dissolution of the Corporation, rank senior in preference and priority to all Common Stock and each other class or series of capital stock of the Corporation whether now existing or hereafter created (collectively, the "Junior Stock").

¹ Note to draft: Registration rights to be discussed.

4. Dividends.

(a) So long as any share of Series A Preferred Stock is outstanding, the holder of such share will be entitled to receive preferential dividends at a rate (the “Dividend Rate”) per annum equal to (i) from November 7, 2011 through December 31, 2013, four percent (4.0%) of the then-effective Liquidation Preference per share for such share hereunder, (ii) on and after January 1, 2014 through December 31, 2014, eight percent (8.0%) of the then-effective Liquidation Preference per share for such share hereunder, and (iii) on and after January 1, 2015, twelve percent (12.0%) of the then-effective Liquidation Preference per share for such share hereunder. Such dividends shall compound quarterly and accrue automatically without any requirement of notice or further action by any Person. Such dividends shall not be payable in cash but shall accrue. Such dividends with respect to each share of Series A Preferred Stock will be fully cumulative and will begin to accrue from its Original Issue Date, whether or not such dividends are authorized or declared by the Board and whether or not there are assets of the Corporation legally available for the payment of such dividends. Any dividends which accrue pursuant to this Section 4 and which shall not have been paid, shall be classified as “accrued dividends” and shall remain “accrued and unpaid dividends” until paid or otherwise cancelled pursuant to this Certificate of Designation.

(b) So long as any share of Series A Preferred Stock is outstanding, the Corporation shall not, and shall not permit any of its Subsidiaries to, make any dividends or other distributions (whether in cash or in kind) on shares of Junior Stock or any purchase, redemption, retirement or other acquisition for value or other payment in respect of Junior Stock (including, without limitation, pursuant to any tender or exchange offer); provided, that prior to the occurrence of a Trigger Event, the Corporation and its Subsidiaries may make dividends or other distributions (whether in cash or in kind) on shares of Junior Stock or any purchase, redemption, retirement or other acquisition for value or other payment in respect of Junior Stock (including, without limitation, pursuant to any tender or exchange offer) as follows:

(i) in exchange for, or out of or with the net cash proceeds from the substantially concurrent contribution of common equity capital to the Corporation;

(ii) to redeem or repurchase Junior Stock pursuant to agreements with employees, consultants or directors or benefit plans giving the Corporation the right to repurchase shares upon their termination of services or the occurrence of other events; provided, further, that the aggregate price paid for all such repurchased or redeemed Junior Stock may not exceed \$2.0 million in any twelve-month period (with unused amounts in any twelve-month period being carried over to succeeding calendar years) and may not exceed \$10.0 million in the aggregate since the Effective Date plus the amount of net cash proceeds received by the Corporation or any of its Subsidiaries after the Effective Date (x) in respect of “key-man” life insurance policies and (y) from the issuance of equity interests by the Corporation to members of management of the Corporation and its Subsidiaries, to the extent that those amounts did not provide the basis for any previous payment that otherwise would have been prohibited by this Section 4(b);

(iii) the repurchase of any Junior Stock deemed to occur upon the exercise of stock options or conversion of other Common Stock Derivatives to the extent such Common Stock Derivatives represent a portion of the exercise price of those stock options;

(iv) making distributions, purchases, acquisitions or other payments to allow the payment of cash in lieu of the issuance of fractional shares upon (1) the exercise of options or warrants or (2) the conversion or exchange of Common Stock Derivatives (including Series A Preferred Stock);

(v) all payments required by the Plan of Reorganization and disclosed in the Disclosure Statement;

(vi) the transfer from time to time of any or all assets of and equity interests in the Marketing Entities to Dynegy Gas Investments Holdings, LLC or Dynegy Coal Investments Holdings, LLC (or any direct or indirect Subsidiary of those entities); or

(vii) payments to the Corporation or to a direct or indirect, wholly owned Subsidiary of the Corporation, by a direct or indirect wholly owned Subsidiary of the Corporation.

(c) Dividends accruing on the Series A Preferred Stock shall be computed on the basis of a 360-day year consisting of twelve 30-day months and actual days elapsed over a 30-day month.

5. Preference Upon a Liquidation Event.

(a) If a Liquidation Event occurs, each holder of shares of Series A Preferred Stock shall be entitled to receive, out of the assets and funds of the Corporation legally available for distribution (if any) (the “Remaining Assets”), before any distribution or payment may be made to a holder of any Junior Stock, a liquidating distribution (the “Liquidation Preference”) equal to the greater of (i) the total number of shares of Series A Preferred Stock held by such holder (including any Series A Preferred Stock constituting accrued but unpaid dividends thereon) multiplied by the then-effective Stated Value per share and (ii) the liquidating distribution that such holder would have received as a holder of Common Stock in connection with such Liquidation Event had it converted its shares of Series A Preferred Stock into Common Stock immediately prior to the consummation of such Liquidation Event in accordance with Section 7 (as if the mandatory conversion of the Series A Preferred Stock pursuant to Section 7 occurred at such time whether or not such Series A Preferred Stock is actually convertible or converted at such time). If the liquidating distribution due under this Section 5(a) is paid in full upon a Liquidation Event to the holders of the Series A Preferred Stock, no further amount shall be due to such holders. If, upon the occurrence of any such Liquidation Event, the Remaining Assets shall be insufficient to pay such holders of Series A Preferred Stock the aggregate Liquidation Preference, then the Remaining Assets shall be allocated among, and distributed to, such holders, who shall share *pro rata* in such distribution based on the number of shares of Series A Preferred Stock held by each such holder thereof; provided, that the Corporation will use its commercially reasonable efforts to sell any Remaining Assets and distribute the proceeds thereof to the holders of Series A Preferred Stock in accordance with this

Section 5. Any liquidating distribution and payment to the holders of the Series A Preferred Stock as provided above shall have priority over any amounts due to the holders of shares of Junior Stock. No holder of Junior Stock shall receive any distributions in respect of a Liquidation Event unless the entire Liquidation Preference in respect of the shares of Series A Preferred Stock has been paid.

(b) In the event of any Liquidation Event, if the assets to be distributed by the Corporation are other than cash, the value of each such asset will be deemed its fair market value as reasonably determined by an Acceptable Financial Advisor chosen by the Corporation. In determining the value of securities in accordance with this Section 5(b), the following rules shall be applied:

(i) if traded on a securities exchange or actively traded over-the-counter, the value shall be deemed to be the Thirty Day VWAP of the securities as of the day ending three (3) days prior to the date of the Liquidation Event; and

(ii) if there is no active public market, the value shall be the fair market value thereof, as determined by the Acceptable Financial Advisor.

(c) Reacquired Shares. Shares of Series A Preferred Stock purchased, redeemed or acquired by the Corporation or any Subsidiary thereof upon a Liquidation Event or otherwise shall become authorized and unissued shares of Preferred Stock, without designation as to series.

6. Voting.

(a) Except as otherwise provided herein or as required by applicable law, the holders of shares of Series A Preferred Stock shall have no voting rights.

(b) Without limiting the provisions of Section 7, and subject to Section 7(m), following the occurrence of a Trigger Event, each share of Series A Preferred Stock shall entitle the holder thereof to such number of votes on any and all matters submitted to a vote of the holders of Common Stock that is equal to the number of shares of Common Stock that would have been issued on the Series A Preferred Stock had it been converted into Common Stock immediately prior to the applicable record date for such vote in accordance with Section 7 (as if the mandatory conversion of the Series A Preferred Stock pursuant to Section 7 occurred at such time whether or not such Series A Preferred Stock is actually converted at such time). Except as otherwise provided in this Certificate of Designation or by non-waivable provisions of law, the holders of shares of Series A Preferred Stock and the holders of shares of Common Stock and any other Permitted Stock having general voting rights, shall vote together as one class on all such matters submitted to a vote of stockholders of the Corporation.

(c) Veto Rights of Series A Preferred Stock.

(i) The Corporation shall not, directly or indirectly, take any of the following actions without (in addition to any other vote or consent required herein, by the Certificate of Incorporation, the Bylaws or by applicable law) the prior affirmative vote or written consent of the Super Majority Holders:

(A) amend, repeal, alter or add, delete or otherwise change the powers, preferences, rights or privileges of the Series A Preferred Stock set forth in the Specified Sections (including by means of merger, consolidation, reorganization, recapitalization or otherwise), whether by means of an amendment or other change to the Specified Sections or by means of an amendment or other change to any definitions used in the Specified Sections or any other terms of this Certificate of Designation affecting the Specified Sections;

(B) increase the authorized number of shares of Series A Preferred Stock or issue any shares of Series A Preferred Stock after the Effective Date; or

(C) agree in a binding agreement to, directly or indirectly, consummate or effectuate any of the foregoing actions set forth in clauses (A) or (B), unless such agreement expressly provides that the Corporation's obligation to undertake any of the foregoing is subject to the prior approval of the Super Majority Holders.

(ii) The Corporation shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise or through means of any exchange offer, tender offer, consent solicitation or similar corporate action) without (in addition to any other vote or consent required herein, by the Certificate of Incorporation, the Bylaws or by applicable law) the prior affirmative vote or written consent of the Required Majority Holders:

(A) authorize, designate or issue or obligate itself to issue, whether by reclassification or otherwise, any class or series of shares or any other securities convertible into, or exercisable or exchangeable for, equity securities of the Corporation or such Subsidiary, other than (w) pursuant to agreements with employees, consultants or directors or benefit and compensation plans not prohibited by this Certificate of Designation, (x) Permitted Stock to the extent permitted by Section 10, (y) any issuance effected solely for the purpose of changing, directly or indirectly, the form of organization or the organizational structure of the Corporation and/or any of its wholly owned Subsidiaries that is not prohibited by this Certificate of Designation (without adversely affecting the relative rights of the holders of the equity securities of the Corporation in any material respect), or (z) subject to Section 6(c)(iii)(F), the issuance and sale of up to 20% of the equity interests in GasCo permitted to be issued under the GasCo Credit Facility (as in effect on the Effective Date (whether or not such agreement remains in effect)), on the terms and subject to the conditions of such GasCo Credit Facility;

(B) without limiting Section 6(c)(i)(A), alter, change or amend the Certificate of Incorporation or Bylaws of the Corporation in a manner that adversely affects the powers, preferences, or special rights or privileges, qualifications, limitations, or restrictions of the Series A Preferred Stock (including, without limitation, by adoption of any amendment to the Certificate of Incorporation or the Bylaws that would be reasonably likely to impair or delay the ability of the holders of shares of Series A Preferred Stock to, immediately following a Trigger Event, exercise all their rights and powers as holders of Common Stock, including, without limitation, the ability to vote, or exercise a written consent with respect to, such shares of Common Stock to remove and replace any members of the Board). For the avoidance of doubt, any action that is not otherwise prohibited or restricted by this Certificate of Designation shall not become subject to this Section 6(c)(ii)(B) solely because an alteration, change or amendment to the Certificate of Incorporation or Bylaws of the Corporation is necessary to effectuate such action, unless such alteration, change or amendment would otherwise be subject to this Section 6(c)(ii)(B);

(C) amend, repeal, alter or add, delete or otherwise change the powers, preferences, rights or privileges of the Series A Preferred Stock set forth in Section 6(c)(ii) or Section 13, but solely to the extent it relates to any amendment of Section 6(c)(ii), including by means of merger, consolidation, reorganization, recapitalization or otherwise, whether by means of an amendment or other change to Section 6(c)(ii) or Section 13, but solely to the extent it relates to any amendment of Section 6(c)(ii), or by means of an amendment or other change to any definitions used in Section 6(c)(ii) or any other terms of this Certificate of Designation affecting Section 6(c)(ii) or Section 13, but solely to the extent it relates to any amendment of Section 6(c)(ii); or

(D) agree in a binding agreement to, directly or indirectly, consummate or effectuate any of the foregoing actions set forth in clauses (A) or (C), unless such agreement expressly provides that the Corporation's obligation to undertake any of the foregoing is subject to the prior approval of the Required Majority Holders.

(iii) The Corporation shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, take any of the following actions (including by means of merger, consolidation, reorganization, recapitalization or otherwise or through means of any exchange offer, tender offer, consent solicitation or similar corporate action) without (in addition to any other vote or consent required herein, by the Certificate of Incorporation, the Bylaws or by applicable law) the prior affirmative vote or written consent of the Majority Holders:

(A) create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness in excess of one hundred fifty million dollars (\$150,000,000); except for the incurrence of any Indebtedness, without duplication (1) existing on the Effective Date or pursuant to the Plan of Reorganization, or (2) that otherwise is permitted to be incurred, without

duplication, under the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such agreement remains in effect);

(B) sell, assign, transfer, convey or otherwise dispose of assets, except for any sale, assignment, transfer, conveyance or other disposition of assets which is not prohibited under (and whose proceeds are applied in accordance with) the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect);

(C) other than (1) Permitted Investments, (2) Investments effected solely for the purpose of changing, directly or indirectly, the form of organization or the organizational structure of the Corporation and/or any of its wholly owned Subsidiaries that is not otherwise prohibited pursuant to this Certificate of Designation and (3) Investments in a Permitted Business (so long as such Investment in a Permitted Business is made in (x) the Corporation, (y) any Subsidiary of the Corporation in which the Corporation, directly or indirectly, owns at least 80% of each class of equity securities or (z) any Qualified Joint Venture), make an Investment in any Person;

(D) without limiting Section 6(c)(i)(A), engage in any (1) transaction or a series of related transactions that result in a Sale of the Business, or (2) merger, consolidation, or recapitalization of the Corporation or similar transaction with respect to the Corporation, other than any merger, consolidation, recapitalization or similar transaction (i) involving only the Corporation and its wholly owned Subsidiaries and that is not otherwise prohibited by this Certificate of Designation (without adversely affecting the relative rights of the holders of the equity securities of the Corporation in any material respect) or (ii) involving the sale, assignment, transfer, conveyance or other disposition of assets or the acquisition of assets, businesses or Persons that are otherwise permitted pursuant to this Certificate of Designation, provided, that such transaction does not involve the issuance of any capital stock or other equity interests of the Corporation or any of its Subsidiaries (other than the issuance and sale of up to 20% of the equity interests in GasCo permitted to be issued under the GasCo Credit Facility (as in effect on the Effective Date, whether or not such agreement remains in effect) on the terms and subject to the conditions of such GasCo Credit Facility;

(E) acquire any business or Person, by merger or consolidation, purchase of substantial assets or equity interests or by any other manner, in a single transaction or a series of related transactions, other than (1) assets with a fair market value as determined in good faith by the Board of up to fifty million dollars (\$50,000,000), (2) a Permitted Business, or (3) in a transaction involving only the Corporation and its wholly owned Subsidiaries and that is not otherwise prohibited by this Certificate of Designation; or

(F) engage in any Asset Sales between or for the benefit of the Corporation or any of its Subsidiaries, on the one hand, and any Affiliate of the Corporation, on the other hand, involving, in the aggregate, amounts with a total

Fair Market Value in excess of one hundred million dollars (\$100,000,000) (for the purpose of valuing any Asset Sale, measured on the date such Asset Sale is made and without giving effect to subsequent changes in value).

Additionally, without (in addition to any other vote or consent required herein, by the Certificate of Incorporation, the Bylaws or by applicable law) the prior affirmative vote or written consent of the Majority Holders, neither the Corporation nor any of its Subsidiaries shall agree in a binding agreement to, directly or indirectly, consummate or effectuate any of the foregoing actions set forth in clauses (A) through (F), unless such agreement expressly provides that the Corporation's obligation to undertake any of the foregoing is subject to the prior approval of the Majority Holders. Notwithstanding anything to the contrary contained in this Section 6, nothing in this Section 6 shall prohibit, or require the approval of the holders of Series A Preferred Stock with respect to, any action or transaction if (A) the consummation of such action or transaction is expressly conditioned on all of the shares of Series A Preferred Stock outstanding at such time being redeemed in whole in accordance with Section 8 hereof substantially simultaneously with the consummation of such action or transaction and (B) all of the shares of Series A Preferred Stock outstanding at such time are redeemed in whole in accordance with Section 8 hereof substantially simultaneously with the consummation of such action or transaction. The approval rights set forth in this Section 6(c) shall be in addition to the other rights set forth herein and any voting rights to which the Series A Preferred Stock is entitled herein and under the General Corporation Law of the State of Delaware.

(d) Any action as to which a class vote of the holders of Series A Preferred Stock, or the holders of Series A Preferred Stock and Common Stock (and any other Permitted Stock) voting together, is required pursuant to the terms of this Certificate of Designation may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation.

7. Conversion of Series A Preferred Stock.

(a) Conversion. Subject to Section 7(m), upon the occurrence of a Trigger Event (the date of such Trigger Event, the "Conversion Date"), each share of Series A Preferred Stock that has not been redeemed or repurchased prior to the Conversion Date shall automatically be converted into fully-paid and non-assessable shares of Common Stock (the "Conversion"). The aggregate number of shares of Common Stock to which each holder of shares of Series A Preferred Stock shall be entitled upon the Conversion (the "Aggregate Conversion Shares") shall equal the product obtained by multiplying the Conversion Rate then in effect by the number of shares Series A Preferred Stock being converted.

(b) Conversion Rate. The conversion rate in effect at any time for the conversion of shares of Series A Preferred Stock (the "Conversion Rate") shall be the quotient obtained by dividing (i) the Stated Value by (ii) the then-current Series A Conversion Price. The initial Series A Conversion Price shall be \$[] per share but shall be adjusted from time to time

(but not below \$0.00) in accordance with this Section 7 (as used herein, “Series A Conversion Price” shall mean such Series A Conversion Price, as so adjusted).²

(c) Mechanics of Conversion. Following Conversion on the Conversion Date, all rights with respect to the shares of Series A Preferred Stock, including, but not limited to, the rights, if any, to receive notices, will terminate, except for the rights of holders thereof to receive cash in lieu of any fractional share as provided in Section 7(f), and the holder thereof will be treated for all purposes as being the holder of the number of shares of Common Stock (regardless of whether certificates for such shares of Common Stock have been issued) into which the shares of Series A Preferred Stock held by them automatically converted at the close of business on the Conversion Date. Upon the Conversion, the books and records of the Corporation shall be updated to reflect the Conversion. The Corporation shall reimburse any and all stock transfer, documentary, stamp and other taxes actually paid in respect of any issuance or delivery of shares of Common Stock, issued or delivered on conversion of Series A Preferred Stock. The Corporation shall issue a press release for publication on Business Wire, Dow Jones News Service or Bloomberg Business News (or if any such service is not available, another broadly disseminated news or press release service selected by the Corporation) prior to the opening of business on the first Business Day following the Conversion Date announcing the aggregate number of shares of Series A Preferred Stock converted pursuant to this Section 7 and the number of shares of Common Stock issuable in connection therewith.

(d) Delivery of Certificates. The shares of Common Stock to be issued upon the Conversion may be represented by certificates, or may be uncertificated shares, in either case in whole or in part, as determined and authorized by the Board. With respect to any shares of Common Stock to be issued upon the Conversion to be represented by certificates, as promptly as practicable, but in any event within two (2) Business Days following the Conversion Date, the Corporation will cause the Transfer Agent to issue and deliver to each holder of shares of Series A Preferred Stock who will receive a certificate or certificates in connection with the conversion of such holder’s shares of Series A Preferred Stock pursuant to this Section 7, a certificate or certificates for the number of full shares of Common Stock issuable upon the conversion of such holder’s shares of Series A Preferred Stock in accordance with the provisions of this Section 7, and any fractional interest in respect of a share of Common Stock arising upon such conversion will be settled as provided in Section 7(f).

(e) Dividends. Shares of Series A Preferred Stock will cease to accrue dividends pursuant to Section 4(a) as of the end of day immediately preceding the Conversion Date.

(f) No Fractional Shares. No fractional shares or scrip representing fractions of shares of Common Stock will be issued upon the Conversion. Instead of any fractional interest in a share of Common Stock that would otherwise be deliverable upon the Conversion, the Corporation will pay to the holder of such shares an amount in cash based upon the Thirty Day VWAP of Common Stock measured as of the Trading Day immediately preceding the

² Note to draft: The Conversion Rate will be established so that the Series A Preferred Stock is initially convertible into 97% of the post-Conversion Common Stock and will be subject to the anti-dilution protection described herein. For the avoidance of doubt, equity issued as compensation will not be subject to dilution.

Conversion Date. If more than one share of Series A Preferred Stock is held by any single holder of Series A Preferred Stock, the number of full shares of Common Stock issuable upon conversion thereof will be computed on the basis of the aggregate number of shares subject to conversion pursuant to this Section 7.

(g) Certain Adjustments. If the Corporation shall (i) subdivide or reclassify the outstanding shares of Common Stock into a greater number of shares, or (ii) combine or reclassify the outstanding Common Stock into a smaller number of shares, the Series A Conversion Price in effect at the time of the record date for such subdivision, combination or reclassification shall be proportionately adjusted so that the holder of any shares of Series A Preferred Stock subject to conversion after such date shall be entitled to receive the number of shares of Common Stock that represent the same percentage of the outstanding capital stock of the Corporation following such event as was the case immediately prior to such event if such share had been converted in accordance with Section 7 (as if the mandatory conversion of the Series A Preferred Stock pursuant to this Section 7 occurred at such time whether or not such Series A Preferred Stock is actually convertible or converted at such time). If any transaction or event (including, but not limited to, any merger, consolidation, sale of assets, tender or exchange offer, reclassification, compulsory share exchange, in each case, other than a Liquidation Event or Sale of the Business) occurs in which all or substantially all of the outstanding Common Stock is converted into or exchanged for stock, other securities, cash or assets (each, a “Fundamental Change”), the holder of each share of Series A Preferred Stock outstanding immediately prior to the occurrence of such Fundamental Change will have the right upon any subsequent conversion to receive (but only out of legally available funds, to the extent required by applicable law) the kind and amount of stock, other securities, cash and assets that such holder would have received if such share had been converted in accordance with Section 7 (as if the mandatory conversion of the Series A Preferred Stock pursuant to this Section 7 occurred at such time whether or not such Series A Preferred Stock is actually convertible or converted at such time) immediately prior thereto (assuming such holder failed to exercise his rights of election, if any, as to the kind or amount of securities, cash or other property receivable upon such Fundamental Change). The Corporation or the Person formed by the applicable transaction pursuant to such Fundamental Change shall make provisions in its certificate or articles of incorporation or other constituent document to establish such right and to provide for adjustments which, for events subsequent to consummation of such Fundamental Change, shall be as nearly equivalent as may be practicable to the adjustments provided for herein, and the Corporation agrees that it will not be a party to or permit such Fundamental Change to occur unless such provisions are so made as a part of the terms thereof. In the event the Corporation shall propose to take any action of the type described in this Section 7(g), the Corporation shall give or cause to be given notice to each holder of shares of Series A Preferred Stock, in the manner set forth in this Certificate of Designation, which notice shall specify the record date, if any, with respect to any such action and the approximate date on which such action is to take place. Such notice shall also set forth such facts with respect thereto as shall be reasonably necessary to indicate the effect of such action (to the extent such effect may be known at the date of such notice) on the Conversion Rate and the number, kind or class of shares or other securities or property which shall be deliverable upon conversion of shares of Series A Preferred Stock. In the case of any action which would require the fixing of a record date, such notice shall be given, to the extent practicable, at least ten (10) days prior to the date so fixed, and in case of all other action, such notice shall be given, to the extent practicable, at least ten (10) days prior to the taking of such proposed action. Failure to

give such notice, or any defect therein, shall not, however, affect the legality or validity of any such action. The substance of this paragraph shall similarly apply to successive Fundamental Changes and adjustments to the Conversion Rate.

(h) Shares Issuable Upon Conversion. All shares of Common Stock issued upon conversion of shares of Series A Preferred Stock will, upon issuance by the Corporation, be duly and validly issued, fully paid and nonassessable, not issued in violation of any preemptive or similar rights arising under law or contract and free from all taxes, liens and charges with respect to the issuance thereof, and the Corporation shall take no action which will cause a contrary result.

(i) Reservation of Common Stock. The Corporation shall at all times reserve and keep available, free from any preemptive rights, out of its authorized but unissued shares of Common Stock, solely for the purpose of effecting the conversion of shares of Series A Preferred Stock, such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of Series A Preferred Stock (after taking into account any adjustments to the Conversion Rate from time to time pursuant to the terms of this Section 7). Without prejudice to any other remedy at law or in equity any holder may have as a result of a breach of the preceding sentence, if at any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Series A Preferred Stock, the Corporation, as expeditiously as reasonably practicable, will take such corporate action as may be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

(j) Payment of Taxes. The Corporation will pay all taxes (other than taxes based upon income) and other governmental charges that may be imposed with respect to the issuance or delivery of shares of Common Stock upon conversion of shares of Series A Preferred Stock, excluding any tax or other charge imposed in connection with any transfer involved in the issuance and delivery of shares of Common Stock in a name other than that in which the shares of Series A Preferred Stock so converted were registered.

(k) No Dilution or Impairment. In addition to the requirements of Section 6, without the consent of the Required Majority Holders, the Corporation shall not amend the Certificate of Incorporation, and shall not, and shall cause each of its Subsidiaries not to, participate in any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or take any other voluntary action, in each case, the purpose or effect of which is to, directly or indirectly, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed under this Section 7 by the Corporation, but shall at all times in good faith assist in carrying out all such action as may be reasonably necessary or appropriate in order to protect the conversion rights of the holders of the Series A Preferred Stock against dilution, delay in conversion or other impairment.

(l) Exchange Listing. The Corporation shall use its commercially reasonable efforts to list and maintain the listing of the Series A Preferred Stock on the New York Stock Exchange, and if, notwithstanding the foregoing, such listing is unavailable, on any other U.S. national securities exchange. If such listing is suspended, the Corporation shall use its commercially reasonable efforts to terminate such suspension. In addition, if the Common Stock

is quoted on the New York Stock Exchange or any other U.S. national securities exchange, the Corporation shall use its commercially reasonable efforts to list and maintain the listing on each such exchange of all shares of Common Stock issuable upon the Conversion. If such listing is suspended, the Corporation shall use its commercially reasonable efforts to terminate such suspension. For as long as any shares of Series A Preferred Stock are outstanding, the Corporation will not voluntarily apply for deregistration or suspension of the registration of its Common Stock or the Series A Preferred Stock under Section 12 or 15 of the Exchange Act. If any shares of Common Stock to be reserved for the purpose of conversion of shares of Series A Preferred Stock require registration with or approval of any Person under any federal or state law or the rules and regulations of the securities exchange on which shares of the Common Stock are then listed before such shares may be validly issued or delivered upon conversion, then the Corporation will, as expeditiously as reasonably practicable, use commercially reasonable efforts to secure such registration or approval, as the case may be.

(m) Conversion and Beneficial Ownership Limitations; Voting Limitation.

Notwithstanding anything herein to the contrary, until such time as the Corporation and the relevant holder of shares of Series A Preferred Stock have made all filings and registrations with, and obtained all approvals or authorizations from, the Federal Energy Regulatory Commission and any other governmental or regulatory authorities necessary or advisable (the "Ownership Approval"), (i) the Corporation shall not effect any Conversion with respect to such holder's Series A Preferred Stock, to the extent that after giving effect to such Conversion, such holder of shares of Series A Preferred Stock (together with such holder's Affiliates), would Beneficially Own shares of the Corporation's Voting Stock which exceed the Beneficial Ownership Limitation (as defined below) (such incremental shares, the "Excess Shares") and (ii) such holder of shares of Series A Preferred Stock shall not be entitled to vote such Excess Shares on any matter submitted to the holders of the Corporation's Voting Stock for a vote (whether at a meeting or by written consent). For purposes of this Section 7(m), in determining the number of outstanding shares of Common Stock or Voting Stock, a holder of shares of Series A Preferred Stock may rely on the number of outstanding shares of Common Stock as reflected in (A) the Corporation's most recent periodic or annual report filed with the Securities and Exchange Commission, as the case may be, (B) a more recent public announcement by the Corporation or (C) a more recent written notice by the Corporation or the Transfer Agent setting forth the number of shares of Voting Stock outstanding. Upon the written request of a holder of shares of Series A Preferred Stock, the Corporation shall within five (5) Business Days confirm in writing to such holder the number of shares of Voting Stock then outstanding. The Corporation shall use its commercially reasonable efforts to take, or cause to be taken, all appropriate action, and to make, or cause to be made, all filings necessary, proper or advisable under applicable laws, including its commercially reasonable efforts to obtain, as promptly as practicable, all permits, consents, approvals, authorizations, qualifications and orders of the Federal Energy Regulatory Commission and any other regulatory or governmental authorities pursuant to Section 203 of the Federal Power Act, 16 U.S.C. § 824b as amended or any successor rule or regulation or any similar law, rule, regulation or policies of any other governmental or regulatory authority applicable to the Corporation, as is necessary for consummation of the Conversion (other than a Conversion by any competitor of the Corporation or its Subsidiaries) or to allow the Beneficial Ownership of and exercise of the right to vote Excess Shares by any holder of shares of Series A Preferred Stock of any Excess Shares (other than any competitor of the Corporation or its Subsidiaries), it being understood that the costs and expenses of all such actions shall be borne

solely by the holders of shares of Series A Preferred Stock. The “Beneficial Ownership Limitation” shall be such number of shares of the Voting Stock, or such percentage of the Voting Stock outstanding at any time, the Beneficial Ownership of which shall require the prior approval of the Federal Energy Regulatory Commission pursuant to Section 203 of the Federal Power Act, 16 U.S.C. § 824b, as amended or any successor rule or regulation or any similar law, rule, regulation or policies of any other governmental or regulatory authority applicable to the Corporation, as determined in good faith by the Corporation.³

8. Redemption. Each share of Series A Preferred Stock is redeemable as provided in this Section 8.

(a) At any time prior to the Conversion Date the Corporation may, upon a decision taken by the Board, redeem at any time from any source of funds legally available therefor, in whole or in part, any or all of the shares of Series A Preferred Stock that have not been converted pursuant to Section 7 for an aggregate cash redemption price (the “Aggregate Redemption Price”) equal to the product of (i) a fraction, presented as a percentage, the numerator of which is the number of the then outstanding shares of Series A Preferred Stock to be redeemed at such time and the denominator of which is the number of shares of Series A Preferred Stock outstanding on the Effective Date, multiplied by (ii) (x) prior to May 7, 2013, \$1,950,000,000, (y) on or after May 8, 2013 through December 31, 2013, \$2,000,000,000, and (z) on or after January 1, 2014, \$2,100,000,000, in each case, plus all accrued and unpaid dividends, and each holder of Series A Preferred Stock shall be entitled to such holder’s Pro Rata Portion of the Aggregate Redemption Price; provided, that if the Corporation redeems less than all of the shares of Series A Preferred Stock, the amounts set forth in clauses (ii)(x) and (y) shall be replaced with \$2,100,000,000. Notwithstanding the foregoing, the Corporation may only redeem less than all of the shares of Series A Preferred Stock with the proceeds of a firm commitment, underwritten (or backstop underwritten, including, without limitation, underwritten or backstopped by an Affiliate of the Corporation) issuance of Permitted Stock that complies with the requirements of Section 10 and with respect to which the firm commitment underwriting (or backstop underwriting) is entered into prior to December 31, 2014.

(b) In connection with any redemption pursuant to Section 8(a), the Board shall fix a record date for the determination of the shares of Series A Preferred Stock to be redeemed (the date on which such shares are redeemed being referred to herein as the “Redemption Date”), and such record date shall not be more than ninety (90) days nor less than ten (10) days prior to the Redemption Date. The Corporation shall, or shall cause the Transfer Agent to, deliver a notice of redemption not less than ten (10) nor more than thirty (30) days prior to the Redemption Date, addressed to the holders of Series A Preferred Stock of record as they appear in the records of the Corporation. Each notice must state the following: (i) the record date and Redemption Date, (ii) the Aggregate Redemption Price as of the record date, (iii) the number of shares of Series A Preferred Stock to be redeemed, and (iv) that dividends on the

³ Note to draft: Subject to review by FERC counsel. Obligations regarding preclearance of holders in advance of conversion under consideration, including filing of applications on the third anniversary of the closing to be discussed. Additional limitations on conversion and voting with regard to HSR compliance to be discussed. Additional provisions to ensure that any rights that can be obtained by a holder prior to obtaining consent (e.g., economic rights) will be effectuated without delay upon a Trigger Event to be discussed.

shares to be redeemed will cease to accrue on the Redemption Date. In addition, the Corporation shall issue a press release for publication on Business Wire, Dow Jones News Service or Bloomberg Business News (or if any such service is not available, another broadly disseminated news or press release service selected by the Corporation) prior to the opening of business on the first Business Day following any date on which the Corporation provides notice to holders of Series A Preferred Stock pursuant to this Section 8(b) disclosing the right of the Corporation to redeem Series A Preferred Stock pursuant to this Section 8.

(c) On or prior to the Redemption Date, the Corporation shall set aside, separate and apart from its other funds, in trust for the benefit of the holders of shares of Series A Preferred Stock to be redeemed, all funds necessary to pay the Aggregate Redemption Price. If the Corporation complies with the provisions of the preceding sentence, on and after the Redemption Date, dividends shall cease to accrue on the shares of Series A Preferred Stock that were redeemed on such Redemption Date.

(d) Mechanics of Redemption.

(i) The Corporation shall pay each holder of shares of Series A Preferred Stock's Pro Rata Portion of the Aggregate Redemption Price in cash on the Redemption Date. The books and records of the Corporation shall be updated to reflect any redemption pursuant to this Section 8.

(ii) From and after the Redemption Date, dividends on the Series A Preferred Stock redeemed will cease to accrue (subject to compliance with Section 8(c)); said shares will no longer be deemed to be outstanding; and all rights of the holder thereof as a holder of Series A Preferred Stock (except the right to receive from the Corporation such holder's Pro Rata Portion of the Aggregate Redemption Price) shall cease and terminate with respect to such shares; provided, that in the event that a share of Series A Preferred Stock is not redeemed due to a default in payment by the Corporation or because the Corporation is otherwise unable to pay the Aggregate Redemption Price, such share of Series A Preferred Stock will remain outstanding and will be entitled to all of the rights as provided herein. Any shares of Series A Preferred Stock that have been redeemed will, after such redemption and payment in full of the Aggregate Redemption Price, be deemed cancelled and retired and have the status of authorized but unissued Preferred Stock, without designation as to series until such shares are once more designated as part of a particular series by the Board.

(iii) If fewer than all of the outstanding shares of Series A Preferred Stock are to be redeemed, the Corporation shall redeem the aggregate number of shares to be redeemed ratably (as nearly as may be practicable without creating fractional shares) from the holders of issued and outstanding shares of Series A Preferred Stock in proportion to the number of shares of Series A Preferred Stock held by each such holder.

In addition to the requirements of Section 6, the Corporation shall not, and shall cause each of its Subsidiaries not to, whether by any amendment of its Certificate of Incorporation, by any reclassification or other change to its capital stock, by any merger, consolidation or other combination involving the Corporation or any Subsidiary thereof, by any sale, conveyance or

other transfer of any of its assets, by the liquidation, dissolution or winding up of the Corporation or any Subsidiary thereof or by any other way or action, restrict the redemption provisions of this Section 8, or avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Corporation, but will at all times in good faith assist in the carrying out of all the provisions of this Section 8 and in the taking of all such action as may be necessary or appropriate in order to protect the redemption rights of the holders of the Series A Preferred Stock against impairment to the extent required hereunder.

9. Affiliate Transactions. Without limiting the requirements of Section 6(c)(iii)(F), the Corporation shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, make any payment to or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of related transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Corporation (each, an “Affiliate Transaction” (provided, that a transaction solely among the Corporation and one or more direct or indirect wholly owned Subsidiaries of the Corporation or solely among two or more direct or indirect wholly owned Subsidiaries of the Corporation shall not be an Affiliate Transaction) involving aggregate payments or consideration in excess of five million dollars (\$5,000,000), unless:

(i) the Affiliate Transaction is on terms that are no less favorable to the Corporation or the relevant Subsidiary than those that would have been obtained in a comparable transaction by the Corporation or such Subsidiary with an unrelated Person;

(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of fifteen million dollars (\$15,000,000), such Affiliate Transaction has been approved by a majority of the disinterested members of the Board; and

(iii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of thirty-five million dollars (\$35,000,000), the Board obtains an opinion as to the fairness to the Corporation or such Subsidiary of such Affiliate Transaction from a financial point of view issued by an Acceptable Financial Advisor.

Notwithstanding the foregoing, the transactions set forth in Section []⁴ of the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect), will not constitute an Affiliate Transaction hereunder and, therefore, will not be subject to the provisions of the prior paragraph. Notwithstanding anything to the contrary contained in this Section 9, this Section 9 shall not prohibit or apply to any Affiliate Transaction if (x) the consummation of such Affiliate Transaction (or, in the case of any contract, agreement or understanding that is an Affiliate Transaction, the underlying transaction that is the subject of such contract, agreement or understanding) is expressly conditioned on all of the shares of Series A Preferred Stock outstanding at such time being redeemed in whole

⁴ Note to draft: Referenced section is those transactions not constituting Affiliate Transactions pursuant to the indenture governing the Plan Secured Notes.

substantially simultaneously with the consummation of such Affiliate Transaction and (y) all of the shares of Series A Preferred Stock outstanding at such time are redeemed in whole substantially simultaneously with the consummation of such Affiliate Transaction (or, in the case of any contract, agreement or understanding that is an Affiliate Transaction, the underlying transaction that is the subject of such contract, agreement or understanding).

10. Issuances of Permitted Stock.

(a) Subject to compliance with this Section 10, the Corporation may, without the consent of the holders of shares of Series A Preferred Stock, issue and sell shares of Permitted Stock pursuant to a firm commitment, underwritten (or backstop underwritten, including, without limitation, underwritten or backstopped by an Affiliate of the Corporation) issuance of Permitted Stock at a price per share equal to or greater than the Minimum Price measured as of the date immediately prior to the date of the relevant underwriting agreement, if immediately following such issuance and sale, all of the outstanding shares of Permitted Stock issued from and after the Effective Date shall comprise (together with Permitted Stock that is convertible into Common Stock (whether or not such Permitted Stock is actually convertible or converted at such time)) in total less than thirty percent (30%) of the issued and outstanding Common Stock of the Corporation, calculated on a fully diluted basis at the time of such issuance and sale (including as issued and outstanding for this purpose all shares of Common Stock issuable in connection with the conversion or exercise of any Common Stock Derivative other than any Common Stock Derivative issued or granted to directors, officers or employees of the Company or its Subsidiaries pursuant to benefit or compensation plans or agreements).

(b) Prior to any issuance and sale to any Person of shares of Permitted Stock after the Effective Date that is not registered pursuant to the Securities Act, the Corporation may send or cause the Transfer Agent to send to each holder of Series A Preferred Stock, a QIB Letter. Prior to any issuance and sale to any Person of shares of Permitted Stock after the Effective Date, the Corporation shall send or cause the Transfer Agent to send, (i) if such issuance and sale is not registered pursuant to the Securities Act, to each holder of Series A Preferred Stock who certifies that it is a QIB on the QIB Questionnaire and delivers such QIB Questionnaire to the Corporation prior to 5:00 pm New York City time on the tenth (10th) Business Day after the date of the relevant QIB Letter, and (ii) if such issuance and sale is registered pursuant to the Securities Act, written notice (the “Sale Notice”), disclosing in reasonable detail the amount of shares of Permitted Stock to be issued and the other material terms and conditions of such issuance, including the purchase price (determined in accordance with this Section 10) of each share that the Corporation would be willing to accept in respect of such shares of Permitted Stock and the anticipated time of the closing of the transaction. Notwithstanding anything in this Section 10 to the contrary, in no event shall the Corporation be entitled to (i) deliver a Sale Notice with respect to an issuance and sale of Permitted Stock (whether or not such issuance and sale is actually consummated) pursuant to this Section 10 more than three (3) times or (ii) consummate more than two (2) separate transactions for the issuance and sale of Permitted Stock pursuant to this Section 10, in each case, in any twelve-month period.

(c) Each holder of Series A Preferred Stock (or, in the case of any transaction that is not registered pursuant to the Securities Act, each holder that is a QIB) (a “ROFO

Rightholder”) shall have the right for a period ending at 5:00 pm New York City time on the fifteenth (15th) Business Day after the date of the relevant QIB Letter (or such longer period, as required by law or by the rules or policies of any relevant securities exchange) (the “ROFO Rightholder Option Period”) to purchase their Pro Rata Portion of the shares of Permitted Stock (subject to the applicable Beneficial Ownership Limitation, unless such holder has previously obtained all approvals or authorizations from the Federal Energy Regulatory Commission and any other governmental or regulatory authorities necessary for the purchase by such holder of any shares of Permitted Stock in excess of the Beneficial Ownership Limitation). If any ROFO Rightholder does not fully subscribe for the number of shares of Permitted Stock it is entitled to purchase, then each other participating ROFO Rightholder shall be allocated that percentage of the remaining shares of Permitted Stock not so subscribed for (up to the maximum number of shares of Permitted Stock that such ROFO Rightholder is willing to purchase as set forth in the notice provided pursuant to Section 10(d)) determined by dividing (x) the aggregate Liquidation Value of Series A Preferred Stock held by such ROFO Rightholder at such time by (y) the aggregate Liquidation Value of Series A Preferred Stock held by the ROFO Rightholders who elected to purchase such remaining shares of Permitted Stock. The procedure described in the preceding sentence shall be repeated until there are no remaining shares of Permitted Stock to be allocated. Notwithstanding anything herein to the contrary, no ROFO Rightholder shall be entitled to assign its rights under this Section 10 (in whole or in part) to any one or more Persons without the prior written consent of the Corporation.

(d) The right of each ROFO Rightholder to purchase Permitted Stock under this Section 10 shall be exercisable by delivering written notice of the exercise thereof, prior to the expiration of the ROFO Rightholder Option Period, to the Corporation. Each such notice shall state (x) the number of shares of Series A Preferred Stock held by such ROFO Rightholder and (y) the maximum number of shares of Permitted Stock that such ROFO Rightholder is willing to purchase pursuant to this Section 10. The failure of a ROFO Rightholder to respond within the ROFO Rightholder Option Period to the Corporation shall be deemed to be a waiver of such ROFO Rightholder’s rights under this Section 10. Each ROFO Rightholder may waive its rights under this Section 10 prior to the expiration of the ROFO Rightholder Option Period by giving written notice to the Corporation.

(e) If the ROFO Rightholders have not collectively elected to purchase all of the shares of Permitted Stock specified in the Sale Notice, the Corporation may, during the sixty (60)-day period immediately following the expiration of the ROFO Rightholder Option Period, issue and sell the remaining shares of Permitted Stock not subscribed for by the ROFO Rightholders to any Person, in accordance with applicable U.S. securities laws, at a price per share equal to or greater than the price specified in the Sale Notice (but in no event less than the Minimum Price measured as of the date immediately prior to the date of the relevant underwriting agreement) and on other terms no more favorable to the purchaser thereof than those specified in the Sale Notice. Any shares of Permitted Stock not sold during such sixty (60)-day period shall be subject to the provisions of this Section 10 upon a subsequent proposed sale.

(f) If the ROFO Rightholders have agreed to purchase all or a portion of the shares of Permitted Stock set forth in the Sale Notice, the closing of such purchase shall occur on the fifteenth (15th) Business Day following the date the most recent notice regarding such

election to purchase was delivered to the Corporation, or the earliest later date necessary to comply with the requirements of applicable law or any relevant securities exchange (or on such other date as agreed by the Corporation and the ROFO Rightholders acquiring a majority of the Permitted Stock being purchased by all ROFO Rightholders). At such closing, if the Permitted Stock will be represented by certificates, the Corporation shall deliver to each ROFO Rightholder participating in such sale certificates representing the purchased shares of Permitted Stock (subject to the applicable Beneficial Ownership Limitation, unless such ROFO Rightholder has previously obtained all approvals or authorizations from the Federal Energy Regulatory Commission and any other governmental or regulatory authorities necessary or for the purchase by such ROFO Rightholder of any shares of Permitted Stock in excess of the Beneficial Ownership Limitation), which will, upon issuance by the Corporation, be duly and validly issued, fully paid and nonassessable, not issued in violation of any preemptive or similar rights arising under law or contract and free from all taxes, liens and charges with respect to the issuance thereof. At the closing, each ROFO Rightholder participating in such sale shall deliver payment in full in immediately available funds for the shares of Permitted Stock purchased by it. Any issuance of Permitted Stock that is convertible into Common Stock which results in the number of authorized but unissued shares of Common Stock being insufficient to effect the conversion of all then outstanding shares of Series A Preferred Stock, shall be null and void *ab initio*. Notwithstanding the foregoing, nothing contained herein shall prohibit the Corporation from determining, at any time, not to issue or sell any Permitted Stock or to withdraw such issuance or sale or terminate or abandon the offering related thereto (whether or not a Sale Notice has been delivered to the holders of shares of Series A Preferred Stock or a notice by any ROFO Rightholder has been delivered to the Company pursuant to Section 10(d)).

(g) Notwithstanding anything to the contrary contained in this Section 10, this Section 10 shall not prohibit or apply to any sale or issuance of shares of Permitted Stock if (x) the proceeds of such sale or issuance shall be used to redeem in accordance with Section 8 hereof, all of the shares of Series A Preferred Stock outstanding at such time in whole and (y) all of the shares of Series A Preferred Stock outstanding at such time are redeemed in whole in accordance with Section 8 hereof, substantially simultaneously with the consummation of such sale or issuance.

(h) The proceeds obtained by the Corporation from the issuance and sale of any Permitted Stock shall be used solely by the Corporation or its Subsidiaries to (i) acquire assets, businesses or Persons (whether by merger or consolidation, purchase of substantial assets or equity interests or by any other manner, in a single transaction or a series of related transactions) to the extent such acquisitions are otherwise permitted pursuant to the terms of this Certificate of Designation, including, without limitation, Section 6(c)(iii)(E) or (ii) redeem shares of Series A Preferred Stock in accordance with Section 8.

11. Purchases of Series A Preferred Stock. Without the consent of the Required Majority Holders, notwithstanding anything else contained herein, the Corporation shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, purchase or otherwise acquire for value any shares of Series A Preferred Stock in the open market, pursuant to tender or exchange offers, in privately negotiated transactions or otherwise, except as permitted pursuant to the provisions of the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect); provided,

however, that notwithstanding anything else contained herein, the foregoing purchases or acquisitions for value may not be made (x) through the exchange of any shares of Series A Preferred Stock for debt or equity securities of the Corporation or any Subsidiary of the Corporation, (y) with the proceeds, directly or indirectly, of any issuances of debt or equity securities by the Corporation or any of its Subsidiaries or (z) through privately negotiated tender offers.

12. Exclusivity. Except as expressly set forth herein or in the Certificate of Incorporation, the holders of Series A Preferred Stock shall have no rights other than those provided by applicable law.

13. Amendments. Subject to Section 6(c), Section 7(k) and Section 11, the terms, conditions, rights and preferences contained in this Certificate of Designation may be amended, modified, waived, or replaced in its entirety upon the approval of the Board with the consent of the Majority Holders.

14. Transfer Agent. The duly appointed Transfer Agent for the Series A Preferred Stock will be [_____] (the “Transfer Agent”). The Corporation may, in its sole discretion, remove the Transfer Agent in accordance with the agreement between the Corporation and the Transfer Agent as long as the Corporation will appoint a successor transfer agent who will accept such appointment prior to the effectiveness of such removal.

15. Severability. If any right, preference or limitation of the Series A Preferred Stock set forth in this Certificate of Designation is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other rights, preferences and limitations set forth in this Certificate of Designation which can be given effect without the invalid, unlawful or unenforceable right, preference or limitation shall, nevertheless, remain in full force and effect, and no right, preference or limitation herein set forth shall be deemed dependent upon any other such right, preference or limitation unless so expressed herein.

16. Remedies. The remedies provided to a holder of Series A Preferred Stock in this Certificate of Designation shall be cumulative and in addition to all other remedies available to such holder of Series A Preferred Stock under this Certificate of Designation at law or in equity (including without limitation a decree of specific performance and/or other injunctive relief). No remedy contained herein shall be deemed a waiver of compliance with the provisions giving rise to such remedy and nothing contained herein shall limit such holder’s right to pursue actual damages for any failure by the Corporation to comply with the terms of this Certificate of Designation. The Corporation acknowledges that a breach by it of its obligations hereunder would cause irreparable harm to the holders of Series A Preferred Stock and that the remedy at law for any such breach would be inadequate. The Corporation agrees, in the event of any such breach or threatened breach, each holder of Series A Preferred Stock shall be entitled, in addition to all other available remedies, to specific performance and other equitable relief to prevent breaches of this Certificate of Designation, without the necessity of showing economic loss and without any bond or other security or indemnity being required. Nothing herein shall be deemed to expand, abridge or otherwise amend or alter the fiduciary duties of the Board or any Person’s rights or remedies with respect thereto.

17. Confirmation of Compliance. So long as any share of Series A Preferred Stock remains outstanding, the Corporation shall deliver, or cause to be delivered not more than ninety (90) days following the end of each calendar year following the Effective Date, to each holder of shares of Series A Preferred Stock, a written statement, duly signed by both the Chief Financial Officer of the Corporation and any other authorized Officer of the Corporation, stating that the Corporation is then in compliance with the covenants and agreements contained in this Certificate of Designation, or if the Corporation is not then in compliance with the covenants and agreements, a reasonably detailed explanation of each such failure to comply.

18. Notices. All notices or communications in respect of Series A Preferred Stock shall be in writing and shall be deemed delivered (a) three (3) Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid, (b) one (1) Business Day after being sent via a reputable nationwide overnight courier service guaranteeing next business day delivery, (c) on the date of delivery if delivered personally, or (d) if by facsimile, upon written confirmation of receipt by facsimile. Notwithstanding the foregoing, if Series A Preferred Stock is issued in book-entry form through The Depository Trust Company or any similar facility, such notices may be given to the beneficial holders of Series A Preferred Stock in any manner permitted by such facility.

19. Headings. The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

20. Definitions; Gender.

(a) As used in this Certificate of Designation, and unless the context requires a different meaning, the following terms have the meanings indicated:

“Acceptable Financial Advisor” means any of the following firms [*TBD*] or any successor of such firm.

“Affiliate” of any Person shall mean any other Person directly or indirectly controlling, controlled by, or under common control with, such Person; provided, that, for the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities (other than shares of Series A Preferred Stock), by contract or otherwise; provided, further, that (a) an Affiliate of any Person shall also include any other Person that Beneficially Owns, or in which such Person Beneficially Owns, twelve and a half percent (12.5%) or more of any class of capital stock or other equity interest of the relevant Person (excluding ownership of any shares of Series A Preferred Stock), and (b) for the purpose of Section 9, each of the following shall be deemed an Affiliate of the Corporation: (i) any director of the Corporation; (ii) any spouse, parent, sibling or child or lineal descendant of any individual described in clause (i) above; and (iii) any trust for the benefit of any individual described in clauses (i) and (ii) above.

“Affiliate Transaction” shall have the meaning set forth in Section 9.

“Aggregate Conversion Shares” shall have the meaning set forth in Section 7(a).

“Aggregate Redemption Price” shall have the meaning set forth in Section 8(a).

“Asset Sale” shall have the meaning ascribed to such term in the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect).

“Bankruptcy Event” shall mean any of the following events: (a) the Corporation or any Significant Subsidiary thereof commences a case or other proceeding, or consents to entry of an order for relief or commencement of a case or other similar proceeding, or has an order for relief entered with respect to it, under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law in effect at any time of any jurisdiction relating to the Corporation or any Significant Subsidiary thereof; (b) there is commenced against the Corporation or any Significant Subsidiary thereof any such case or proceeding that is not dismissed within forty five (45) days after commencement; (c) the Corporation or any Significant Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered; (d) the Corporation or any Significant Subsidiary thereof consents to or suffers any appointment of any receiver, trustee, custodian, liquidator or the like for it or any substantial part of its property that is not discharged or stayed within sixty (60) calendar days after such appointment; (e) the Corporation or any Significant Subsidiary thereof makes a general assignment for the benefit of creditors; (f) the Corporation or any Significant Subsidiary thereof generally fails or admits in writing to its inability generally to pay its Indebtedness for borrowed money when due; or (g) the Corporation or any Significant Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

“Beneficial Ownership” shall have the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act), such “person” will be deemed to have beneficial ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms “Beneficially Own” and “Beneficially Owned” have a corresponding meaning.

“Beneficial Ownership Limitation” shall have the meaning set forth in Section 7(m).

“Board” shall have the meaning set forth in the first paragraph hereof.

“Business Day” shall mean any day other than a Saturday, Sunday or a day on which banking institutions in the State of New York or the State of Texas are authorized or obligated by law or executive order to close.

“Bylaws” shall mean the bylaws of the Corporation, as amended from time to time.

“Capital Lease Obligation” shall mean, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP.

“Certificate of Incorporation” shall have the meaning set forth in the recitals hereof.

“CoalCo Credit Facility” shall mean that certain \$600 million, five-year secured term loan facility, dated as of August 5, 2011, among Dynegy Midwest Generation, LLC, a Delaware limited liability company, Dynegy Coal Investments Holdings, LLC, a Delaware limited liability company, the lenders from time to time party thereto and Credit Suisse AG, Cayman Islands Branch, as administrative agent and collateral trustee (as amended, restated, replaced, refinanced, supplemented or otherwise modified or waived from time to time).

“Common Stock” shall mean the common stock of the Corporation, par value \$0.01 per share, designated as such in the Certificate of Incorporation

“Common Stock Derivative” shall mean any option, right, warrant or security of the Corporation (other than the Series A Preferred Stock) which is convertible into or exercisable or exchangeable for Common Stock.

“Conversion” shall have the meaning set forth in Section 7(a).

“Conversion Date” shall have the meaning set forth in Section 7(a).

“Conversion Rate” shall have the meaning set forth in Section 7(b).

“Corporation” shall have the meaning set forth in the first paragraph hereof.

“Daily VWAP” means the volume-weighted average price per share of Series A Preferred Stock (or per minimum denomination or unit size in the case of any security other than Series A Preferred Stock) as displayed under the heading “Bloomberg VWAP” on the Bloomberg page for the “<equity> AQR” page corresponding to the “ticker” for such Series A Preferred Stock or such other unit (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of such Series A Preferred Stock (or per minimum denomination or unit size in the case of any security other than Series A Preferred Stock)) on such Trading Day. The “volume weighted average price” shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

“Dividend Rate” shall have the meaning set forth in Section 4(a).

“Disclosure Statement” shall mean the disclosure statement in respect of the Plan of Reorganization.

“Effective Date” shall have the meaning set forth in the Plan of Reorganization.

“Excess Shares” shall have the meaning set forth in Section 7(m).

“Exchange Act” shall mean the Securities Exchange Act of 1934, or any similar United States statute, and the rules and regulations of the Securities and Exchange Commission thereunder, all as the same shall be in effect at the time.

“Fair Market Value” shall mean the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board (unless otherwise provided in the indenture governing the Plan Secured Notes, as in effect on the Effective Date (whether or not such indenture remains in effect)).

“Fundamental Change” shall have the meaning set forth in Section 7(g).

“GAAP” shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time.

“GasCo” shall mean Dynegy Gas Investments Holdings, LLC.

“GasCo Credit Facility” shall mean that certain \$1.1 billion, five-year secured term loan facility, dated as of August 5, 2011, among Dynegy Power, LLC, GasCo, the lenders from time to time party thereto, Credit Suisse AG, Cayman Islands Branch as Administrative Agent and collateral trustee for the Lenders, Credit Suisse Securities (USA) LLC and Goldman Sachs Lending Partners, LLC, as Joint Bookrunners and Joint Lead Arrangers and Credit Suisse Securities (USA) LLC and Goldman Sachs Lending Partners, LLC, as Joint Syndication Agents and Co-Documentation Agents (as amended, restated, replaced, refinanced, supplemented or otherwise modified or waived from time to time).

“Hedging Obligations” shall have the meaning ascribed to such term in the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect).

“Indebtedness” shall mean, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses or trade payables), whether or not contingent (without duplication): (a) in respect of borrowed money; (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or reimbursement agreements in respect thereof; (c) in respect of banker’s acceptances; (d) representing Capital Lease Obligations and Synthetic Lease Obligations; (e) representing the balance deferred and unpaid of the purchase price of any property or services due more than six (6) months after such property is acquired or such services are completed; or (f) representing any Hedging Obligations, if and to the extent any of the preceding items (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term “Indebtedness” includes all Indebtedness of others secured by a lien or other encumbrance on any asset of the specified Person (whether or not such Indebtedness is assumed

by the specified Person) and, to the extent not otherwise included, the guarantee by the specified Person of any Indebtedness of any other Person.

“Investment” shall have the meaning ascribed to such term in the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect).

“Junior Stock” shall have the meaning set forth in Section 3.

“Liquidation Event” shall mean any liquidation, dissolution or winding up of the Corporation.

“Liquidation Preference” shall have the meaning set forth in Section 5(a).

“Liquidation Value” shall mean, with respect to any share of Series A Preferred Stock (A) the then-effective Stated Value of such share of Series A Preferred Stock plus (B) the aggregate amount of all accrued and unpaid dividends or distributions with respect to such share of Series A Preferred Stock.

“Majority Holders” shall mean, at any time, holders of shares of Series A Preferred Stock holding shares of Series A Preferred Stock representing a majority of aggregate Liquidation Value held by all holders of Series A Preferred Stock at such time; provided, that for purposes of such calculation, shares of Series A Preferred Stock Beneficially Owned by the Corporation or any Affiliate of the Corporation shall be treated as not outstanding.

“Marketing Entities” shall mean each of Dynegy Power Marketing, LLC, Dynegy Marketing and Trade, LLC and Dynegy Coal Trading and Transportation, LLC.

“Minimum Price” shall mean, (a) with respect to shares of Permitted Stock that are Preferred Stock, a price per share equal to the Thirty Day VWAP of the shares of Series A Preferred Stock, or (b) with respect to shares of Permitted Stock that are Common Stock, a price per share equal to the quotient obtained by dividing (i) the Thirty Day VWAP of the shares of Series A Preferred Stock, by (ii) the then-current Conversion Rate.

“Officer” shall mean the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of the Corporation.

“Original Issue Date” shall mean, with respect to a share of Series A Preferred Stock, the date on which such share is first issued by the Corporation; provided, that the Original Issue Date of any shares of Series A Preferred Stock issued on the Effective Date shall be deemed to be, solely for the purpose of Section 4, November 7, 2011.

“Ownership Approval” shall have the meaning set forth in Section 7(m).

“Permitted Business” shall mean any business that is the same as, or substantially related to, any of the businesses in which the Corporation and its Subsidiaries are engaged on the Effective Date.

“Permitted Investments” means:

(1) any Investment by the Corporation or any Subsidiary in a Person engaged in a Permitted Business, if as a result of such Investment:

(a) such Person becomes a Subsidiary in which the Corporation, directly or indirectly, owns 80% of each class of equity securities or a Qualified Joint Venture; or

(b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Corporation or a Subsidiary in which the Corporation, directly or indirectly, owns 80% of each class of equity securities or a Qualified Joint Venture;

(2) any Investment made as a result of the receipt of consideration from an asset sale (including the sale of any equity interests of any Subsidiary of the Corporation) that is permitted by any other provision of this Certificate of Designation of Series A Preferred Stock and which consideration is invested or applied pursuant to and in compliance with the requirements of the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect).

(3) any Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Corporation or any of its Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes;

(4) Investments represented by Hedging Obligations in the ordinary course of business;

(5) repurchases, redemptions or exchanges of Series A Preferred Stock or the Plan Secured Notes, in each case as permitted under the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect) and any other provision of this Certificate of Designation of Series A Preferred Stock;

(6) any Investment existing on, or made pursuant to binding commitments existing on, the Original Issue Date and any Investment consisting of an extension, modification or renewal of any Investment existing on, or made pursuant to a binding commitment existing on, the Original Issue Date; provided, that the amount of any such Investment may be increased as required by the terms of such Investment as in existence on the Original Issue Date;

(7) subject, in the case of any transaction involving the issuance of capital stock, to Section 6(c)(ii)(A), Investments acquired after the Original Issue Date as a result of the acquisition by the Corporation or any of its Subsidiaries of another Person, including by way of a merger, amalgamation or consolidation with or into the Corporation or any of its Subsidiaries in a transaction that is not prohibited by this Certificate of Designation of Series A Preferred Stock

to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation;

(8) receivables owing to the Corporation or any of its Subsidiaries, if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; provided, that such trade terms may include such concessionary trade terms as the Corporation or such Subsidiary deems reasonable under the circumstances;

(9) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(10) Investments made as a result of (i) the incurrence by the Corporation or any of its Subsidiaries of Indebtedness issued and (ii) the payment by the Corporation of cash consideration in an amount not to exceed the maximum amount of cash consideration to be paid in connection with the restructuring contemplated by the Plan of Reorganization and described in the Disclosure Statement less the amount of cash consideration actually paid in connection with such restructuring, in either case, in exchange for or the proceeds of which are used to renew, refund, refinance, replace, defease or discharge the Indebtedness of Dynegy Holdings, LLC and its Subsidiaries outstanding as of the Original Issue Date;

(11) the transfer from time to time of any or all assets of and equity interests in the Marketing Entities to Dynegy Gas Investments Holdings, LLC or Dynegy Coal Investments Holdings, LLC (or any direct or indirect Subsidiary of those entities);

(12) other Investments by the Corporation or any of its Subsidiaries in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (12) that are at the time outstanding, not to exceed fifty million dollars (\$50,000,000);

(13) any Investment in Cash Equivalents (including, without limitation, any Investments in the Plan Secured Notes Debt Service Account), as such terms are defined in the indenture governing the Plan Secured Notes (as in effect on the Effective Date, whether or not such indenture remains in effect);

(14) loans or advances to employees made in the ordinary course of business of the Corporation or any of its Subsidiaries in an aggregate principal amount not to exceed one million dollars (\$1,000,000) at any one time outstanding;

(15) any guarantee of Indebtedness permitted by this Certificate of Designation to be incurred by the Corporation or its Subsidiaries other than a guarantee of Indebtedness of an Affiliate of the Corporation that is not a 80% owned Subsidiary or a Qualified Joint Venture of the Corporation; and

(16) Investments made as a result of the sale of equity interests of any Subsidiary of the Corporation such that, after giving effect to any such sale, such Person is no longer a Subsidiary of the Corporation, if the sale of such equity interests constitutes an asset sale that is not prohibited or restricted by Section 6(c)(iii)(B) or (F).

“Permitted Stock” shall mean any Common Stock and any capital stock of the Corporation (other than Series A Preferred Stock) that: (a) is on parity with or junior to the Series A Preferred Stock with respect to the payment of dividends, redemption payments, rights (including as to the distribution of assets) upon liquidation, dissolution or winding-up of the Corporation; (b) if not Common Stock, shall automatically convert into Common Stock, such that in no event shall any Permitted Stock (other than Common Stock) remain outstanding following the conversion of the Series A Preferred Stock in accordance with Section 7; and (c) shall not have any voting, consent or governance rights, including, without limitation, board representation rights, whether provided by contract or otherwise, greater than those provided to the holders of Series A Preferred Stock as set forth in this Certificate of Designation, or after conversion, have any such rights other than as Common Stock.

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

“Plan of Reorganization” shall mean the Plan of Reorganization of Dynegy Holdings, LLC and all exhibits thereto, as the same may be amended, supplemented, or otherwise modified and approved by the United States Bankruptcy Court for the Southern District of New York.

“Plan Secured Notes” shall have the meaning ascribed to such term in the Plan of Reorganization.

“Preferred Stock” shall have the meaning set forth in the recitals hereof.

“Pro Rata Portion” with respect to any holder of shares of Series A Preferred Stock at any time shall mean a fraction, the numerator of which is the aggregate Liquidation Value of Series A Preferred Stock held by such holder at such time, and the denominator of which is the aggregate Liquidation Value of Series A Preferred Stock outstanding at such time.

“QIB” shall mean a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act.

“QIB Letter” shall mean the Letter Regarding QIB Status attached hereto as Annex A.

“QIB Questionnaire” shall mean the QIB Questionnaire included in the QIB Letter attached hereto as Annex B.

“Qualified Joint Venture” shall mean any Subsidiary of the Corporation (a) that is acquired or held, directly or indirectly by the Corporation, for a valid investment purpose (which

shall include any Permitted Business) and (b) in which the Corporation, directly or indirectly, owns less than 80% of each class of equity securities, but excluding any Subsidiary of the Corporation in which any Affiliate of the Corporation owns, directly or indirectly (other than indirectly through ownership of capital stock of the Corporation), any of the equity securities of such Subsidiary; provided, that for the purpose of this definition, the term “Affiliate” shall not include any direct or indirect wholly owned Subsidiary of the Corporation.

“Redemption Date” shall have the meaning set forth in Section 8(b).

“Remaining Assets” shall have the meaning set forth in Section 5(a).

“Required Majority Holders” shall mean, at any time, holders of shares of Series A Preferred Stock holding shares of Series A Preferred Stock representing two-thirds (2/3) of the aggregate Liquidation Value held by all holders of Series A Preferred Stock at such time; provided, that for purposes of such calculation, shares of Series A Preferred Stock Beneficially Owned by the Corporation or any Affiliate of the Corporation (other than a direct or indirect wholly owned Subsidiary of the Corporation) shall be treated as not outstanding.

“ROFO Rightholder” shall have the meaning set forth in Section 10(c).

“ROFO Rightholder Option Period” shall have the meaning set forth in Section 10(c).

“Sale Notice” shall have the meaning set forth in Section 10(b).

“Sale of the Business” shall mean any sale, merger, reorganization, consolidation, share exchange or other business combination which, in one transaction or a series of related transactions, results in (i) the Common Stock and Series A Preferred Stock being converted into less than a majority of the combined voting power of the voting stock of the surviving or acquiring entity or (ii) a transfer of all or substantially all of the assets of the Corporation and its Subsidiaries, taken as a whole.

“Securities Act” shall mean the Securities Act of 1933, or any similar United States statute, and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

“Series A Conversion Price” shall have the meaning set forth in Section 7(b).

“Series A Preferred Stock” shall have the meaning set forth in Section 2.

“Significant Subsidiary” shall mean any subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the Effective Date.

“Specified Sections” means Section 4(a), Section 5(a), Section 6(b), Section 6(c)(i), Section 7(a), Section 7(b), Section 7(g), Section 8(a) and Section 13, but solely to the extent it relates to any amendment of this definition of Specified Sections or the sections specified in this definition.

“Stated Value” shall mean \$[1,000].

“Subsidiary” means, with respect to any specified Person: (1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of capital stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and (2) any partnership or limited liability company of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Super Majority Holders” shall mean, at any time, holders of shares of Series A Preferred Stock holding shares of Series A Preferred Stock representing 90% of the aggregate Liquidation Value held by all holders of Series A Preferred Stock at such time; provided, that for purposes of such calculation, shares of Series A Preferred Stock Beneficially Owned by the Corporation or any Affiliate of the Corporation shall be treated as not outstanding.

“Synthetic Lease” shall mean, as to any Person, any lease (including, without limitation, leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) (a) that is accounted for as an operating lease under GAAP, for the purposes of this definition as in effect and consistently applied by the Corporation on the Effective Date, and (b) in respect of which the lessee retains or obtains ownership of the property so leased for U.S. federal income tax purposes, other than any such lease under which such Person is the lessor.

“Synthetic Lease Obligations” shall mean, as to any Person, an amount equal to the capitalized amount of the remaining lease payments under any Synthetic Lease that would appear on a balance sheet of such person in accordance with GAAP if such obligations were accounted for as Capital Lease Obligations.

“Thirty Day VWAP” means, with respect to a security, the average of the Daily VWAP of such security for each day during a thirty (30) consecutive Trading Day period ending immediately prior to the date of determination.

“Trading Day” shall mean a day on which the principal national securities exchange on which the shares of Common Stock, Series A Preferred Stock or other security, as the case may be, are listed or admitted to trading is open for the transaction of business or, if the shares of the Common Stock, Series A Preferred Stock or other security, as the case may be, are not listed or admitted to trading on any national securities exchange, a day in which the bid and ask prices of Common Stock, Series A Preferred Stock or other security, as the case may be, are published in an automated transaction reporting system, or if not reported through such a system, a Business Day.

“Transfer Agent” shall have the meaning set forth in Section 14.

“Trigger Event” shall mean (i) December 31, 2015 with respect to any share of Series A Preferred Stock that the Corporation has not converted or deemed to be converted in accordance with the provisions of Section 7 and (ii) the date of the occurrence of a Bankruptcy Event.

“Voting Stock” of any Person shall mean outstanding equity securities entitled generally to vote in the election of directors of such Person without reference to any terms of any equity securities providing for special voting rights or restrictions with respect to particular matters.

Words expressed in the masculine shall include the feminine and neuter gender and vice versa.

* * * * *

IN WITNESS WHEREOF, the foregoing Certificate of Designation has been duly executed on behalf of the Corporation by the undersigned on this []th day of [], 201[].

DYNEGY INC.

By: _____
Name:
Title:

[Signature Page to Certificate of Designation]

ANNEX A

QIB Letter

ANNEX B

QIB Questionnaire