

- (a) Qualification as Bidder. Seller, after detailed consultation with the Committee, will determine whether any entity (a “Potential Bidder”) that wishes to make an offer is a “Qualified Bidder.” For a Potential Bidder to be considered to be a Qualified Bidder, it must provide Seller with: (i) an executed confidentiality agreement in form and substance satisfactory to Seller which is no less favorable to Seller than the confidentiality agreement executed by

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Buyer (which shall automatically include all confidentiality agreements submitted to Debtor on or before August 6, 2004); (ii) current audited financial statements of the Potential Bidder or, if the Potential Bidder is an entity formed for the purpose of making a Qualified Bid (an “Acquisition Entity”), current audited financial statements of the equity holder(s) of the Potential Bidder or such other financial disclosure acceptable to Seller, after detailed consultation with the Committee, demonstrating such Potential Bidder’s ability to close a proposed transaction; (iii) a written statement that it agrees to be bound by the terms and conditions of these Bidding Procedures; (iv) a written statement by the Potential Bidder that it will assume all or substantially all of the Assumed Liabilities to be assumed by Buyer under the Purchase Agreement and accept an assignment of all or substantially all of the Assigned Contracts and Leases to be assumed and assigned to Buyer pursuant to the Purchase Agreement; and (v) if the Potential Bidder is an Acquisition Entity, a written guarantee, letter of credit or other form of credit enhancement acceptable to Seller (after detailed consultation with the Committee) pursuant to which the equity holder(s) of the Potential Bidder guarantee the Potential Bidder’s obligations in connection with the Sale. The Potential Bidder also must establish that it has the ability to consummate its proposed transaction within the timeframe contemplated for consummation of the Purchase Agreement. Buyer is, and shall at all times be deemed to be, a Qualified Bidder.

(b) Bid Requirements.

- i. Seller, after detailed consultation with the Committee, will determine whether any bid qualifies as a “Qualified Bid.” To constitute a Qualified Bid: (a) the bid must be a written irrevocable offer from a Qualified Bidder containing written evidence of a commitment for financing or other evidence of an ability to consummate the Sale (in either event satisfactory to Seller after detailed consultation with the Committee), subject to no conditions other than those set forth in the Purchase Agreement; (b) the bid must contemplate the purchase of only all or substantially all of the Transferred Assets, including the assumption of the Assumed Liabilities and the assumption and assignment of the Assigned Contracts and Leases, (c) the bid must be subject to, and include the assumption of Seller’s obligations relating to, the Bellows Falls Option, including, without limitation, the assumption of Seller’s obligations under the Bellows Falls Option Agreement and, if any, the Bellows Falls Agreements; (d) the bid must not contain any terms or conditions that are materially more burdensome

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than the terms of the Purchase Agreement with respect to the Transferred Assets; (e) the bid must not request or entitle the Qualified Bidder to any termination or break-up fee, expense reimbursement or similar type of fee or payment; and (f) the bid must acknowledge and represent that the Qualified Bidder: (1) has had an opportunity to conduct any and all due diligence regarding Seller's businesses and assets prior to making its offer; (2) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or Seller's assets in making its bid; and (3) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express, implied, by operation of law or otherwise, or the completeness of any information provided in connection therewith or the Auction (as defined below), except as expressly stated in these Bidding Procedures or the Purchase Agreement.

- ii. All bids must include clean and blacklined versions of the Purchase Agreement reflecting any proposed changes thereto (the "Bidder Purchase Agreement"), with (x) the clean version of the Bidder Purchase Agreement being a duly executed original of the Bidder Purchase Agreement, signed by a duly authorized officer of the Qualified Bidder and (y) the blacklined version showing the proposed changes from the Purchase Agreement executed by Buyer.
- iii. Deposit. Each bid must be accompanied by a deposit in an amount that is four percent (4%) of the cash portion of the purchase price (the "Deposit"). Prior to the Bid Deadline (as defined below), the Deposit must be delivered by the Qualified Bidder to the escrow agent under the Deposit Escrow Agreement in the form of a wire transfer to:

[Bank]  
[ABA #]

- iv. Additional Requirements for Bids. Bids must be: (a) in writing; (b) signed by an individual authorized to bind the Qualified Bidder; and (c) received no later than 12:00 noon (EST) on December 3, 2004 (the "Bid Deadline") by (i) general counsel for Debtor, USGen New England, Inc., 7600 Wisconsin Avenue, Bethesda, MD 20814, Attention: General Counsel; (ii) counsel for Debtor, Blank Rome LLP, The Chrysler Building, 405 Lexington Avenue, New York, NY 10174, Attention: Marc E. Richards, Esquire; (iii) Blank Rome LLP, One Logan Square, Philadelphia, PA

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19103, Attention: Ronald Fisher, Esquire; (iv) counsel for the Committee, Reed Smith LLP, 435 Sixth Avenue, Pittsburgh, PA 15219, Attention: Eric Schaffer, Esquire; (v) Reed Smith LLP, 2500 One Liberty Place, 1650 Market Street, Philadelphia, PA 19103, Attention: Claudia Z. Springer, Esquire; and (vi) financial advisors to Debtor, Lazard LLC, 30 Rockefeller Plaza, New York, NY 10020, Attention: J. Blake O'Dowd, Managing Director.

- v. No Conditions. Any bid must not be subject to financing, due diligence or any other material condition or material contingency less favorable to Seller than those set forth in the Purchase Agreement, as determined by Seller in its sole discretion after detailed consultation with the Committee.
- vi. Initial Overbid. Any bid for all or substantially all of the Transferred Assets must provide for (i) the assumption of all or substantially all of the Assumed Liabilities, (ii) the assignment of all or substantially all of the Assigned Contracts and Leases, and (iii) payment of cash in an amount that exceeds the cash amount payable under the Purchase Agreement by at least \$22,750,000.00 (the "Initial Overbid"), which excess represents an amount equal to the amount of the Break-Up Fee (\$12,750,000), plus the maximum amount of the Expense Reimbursement (\$5,000,000.00) plus \$5,000,000.
- vii. Qualified Bid. Only a bid submitted by a Qualified Bidder that meets each of the requirements set forth in this section (b) shall be considered a "Qualified Bid."
- viii. Bankruptcy Court Approval. All bids, including that of Buyer (whether through the Purchase Agreement or otherwise), shall be subject to the approval of the Bankruptcy Court.

(c) Due Diligence.

- i. Diligence and Confidentiality Agreement. Qualified Bidders will be provided with a Confidential Information Memorandum. Seller has established a "data room" containing "due diligence" information and documents related to Seller's businesses and assets as well as the Assigned Contracts and Leases and Assumed Liabilities. Seller will provide each Qualified Bidder compact discs containing the information and documents contained in the data room. Seller will designate an employee or other

Representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders. If and to the extent that Seller provides any Qualified Bidder with any due diligence information that is not included in the data room, Seller shall promptly provide a copy of such information to Buyer. No due diligence will be permitted or provided after the Bid Deadline. Neither Seller, its affiliates nor any of their respective Representatives shall be obligated to furnish any information to any Person other than a Qualified Bidder. Any Qualified Bidder who desires to conduct due diligence should contact Lazard LLC, 30 Rockefeller Center, New York, New York 10020, (212) 632-6000, Attention: J. Blake O'Dowd, financial advisors to Seller, for the due diligence procedures.

(d) Auction.

- i. Auction Date and Time. If any Qualified Bids are submitted prior to the Bid Deadline, Seller shall conduct an auction (the "Auction"). The Auction will be held on December 9, 2004, commencing at 12:00 noon (EST) at the offices of Blank Rome LLP, The Chrysler Building, 405 Lexington Avenue, New York, New York, or such other time and place as may be established by Seller, after detailed consultation with the Committee (and is reasonably acceptable to Buyer), prior to the Sale Hearing Date, for consideration of Qualified Bids that may be presented to Seller. Seller shall schedule the Sale Hearing Date as soon as reasonably practicable after the later of the Bid Deadline or the Auction (in the Event Qualified Bids are submitted prior to the Bid Deadline), but in no event more than ten (10) Business Days after such date (or no later than January 6, 2005 in the case where Buyer is not the Winning Bidder). Only the authorized Representatives of each of the Qualified Bidders, the Committee, Buyer and Sellers shall be permitted to attend or otherwise participate in the Auction.
- ii. Auction Procedures. All Qualified Bidders participating in the Auction must be physically present at the Auction. At the Auction, the Seller, in its reasoned business judgment, may adopt rules for the Auction that will promote the goals of the Auction and that are not inconsistent with any other provisions of this Order or the Purchase Agreement. Any such additional rules shall provide that: (a) all procedures must be fair and open with no participating Qualified

Bidder materially disadvantaged as compared to any other participating Qualified Bidder; (b) all bids shall be made on an open basis, and participating Qualified Bidders shall be entitled to be present for all bidding; and (c) the principals of each participating Qualified Bidder shall be fully disclosed to all other participating Qualified Bidders throughout the entire Auction. In addition, Seller, upon detailed consultation with the Committee, may, except as set forth in this paragraph and in paragraph 6(d)(xii), waive requirements or modify the auction procedures (collectively, "Modifications") set forth herein, if the same are necessary (in Seller's reasonable discretion) to permit consideration of a bid that Seller (in detailed consultation with the Committee) reasonably believes is a better offer than the offer submitted by Buyer. Seller shall provide Buyer with prompt notice of any proposed Modifications.

- iii. Adjournment of Auction. The Auction may be adjourned as Seller, after detailed consultation with the Committee, deems appropriate. Reasonable notice of such adjournment and the time and place for the resumption of the Auction shall be given to Buyer, all Qualified Bidders and the Committee.
- iv. Evaluation of Highest and Best Offer. Seller shall promptly after the Bid Deadline, after detailed consultation with the Committee, (a) evaluate all bids, if any, received, and (b) determine which bids, if any, constitute Qualified Bids. Seller shall provide Buyer and the Committee with copies of all Qualified Bids at least two (2) Business Days prior to the date of the Auction. During the course of the Auction, Seller shall inform each participant which Qualified Bid or Bids reflect, in Seller's view, upon detailed consultation with the Committee, the highest and best offer. To the extent that such bid has been determined to be the highest or best bid entirely or in part because of the addition, deletion or modification of a provision or provisions in the Purchase Agreement, or for any reason other than an increase in the cash purchase price included in such bid, Seller shall use its best efforts to provide prompt notice to each participant in the Auction of the value reasonably ascribed by Seller to such added, deleted or modified provision or provisions or to such other non-cash term of such bid if and to the extent the same is capable of being reduced to a dollar amount in the reasonable discretion of Seller (after detailed consultation with the Committee).

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- v. Subsequent Bids. Seller shall not consider any subsequent bid for the Transferred Assets unless the bid exceeds the previous highest bid by at least \$5,000,000.
- vi. Subsequent Buyer Bids. Buyer shall have the right to include the amount of the Break-Up Fee and the Expense Reimbursement in the amount of any subsequent bid that it makes at the Auction. If Buyer makes the Winning Bid by virtue of a subsequent bid, Buyer shall be entitled to a credit against the purchase price payable at closing equal to the amount of the Break-Up Fee (\$12,750,000.00) and the Expense Reimbursement.
- vii. Other Terms. All Qualified Bids, the Auction, and the Bidding Procedures are subject to such other reasonable terms and conditions as are announced by Seller, after detailed consultation with the Committee, not inconsistent with this Order. At the conclusion of the Auction, the Winning Bid or Bids shall be the bid or bids made pursuant to the Bidding Procedures Order that represent, in Seller's sole discretion, upon detailed consultation with the Committee, the best offer for the Transferred Assets. Seller will not be deemed to have accepted any bid until the bid has been approved by the Bankruptcy Court at the Sale Hearing.
- viii. Irrevocability of Certain Bids. The bid of the Qualified Bidder that is chosen as the highest or otherwise best bid pursuant to the procedures set forth herein (such bidder, a "Winning Bidder") shall remain irrevocable in accordance with the terms of the purchase agreement executed by such Winning Bidder. The bid of the Qualified Bidder that submits the next highest or otherwise best bid (including the Buyer, if applicable, hereafter the "Back-Up Bidder") shall be irrevocable until the earlier of (a) 75 days after entry of the Sale Order (the "Initial Period"); or (b) closing of the sale to the Winning Bidder or the Back-Up Bidder. If the Back-Up Bidder does not receive a Notice from Seller prior to 11:59 p.m. New York City time on the seventy second (72<sup>nd</sup>) day of the Initial Period or any Extension Period (as hereinafter defined, "Seller Election Notice") stating that the Seller elects to have the Back-Up Bidder remain the Back-Up Bidder pursuant to this Section 6(d)(viii), then the Back-Up Bidder's status as the Back-Up Bidder shall cease at the end of the Initial Period or such Extension Period and the purchase agreement to which the Back-Up Bidder is a party shall terminate in accordance

with its applicable terms or, in the case of Buyer, in accordance with the terms of Section 13.1(h)(iii) of the Purchase Agreement. If the Back-Up Bidder receives a timely Seller Election Notice, then the Back-Up Bidder, at the end of the Initial Period (and at the end of each successive 75-day period for which a Back-Up Bidder elects to remain the Back-Up Bidder pursuant to this sentence (each such successive 75-day period being referred to as an “Extension Period”)), shall have the right to provide Notice to Seller (notwithstanding the delivery of the Seller Election Notice) stating that the Back-Up Bidder elects not to remain the Back-Up Bidder for an additional 75-day period in accordance with the terms hereof, which such Notice must be delivered to Seller on or before 11:59 p.m. New York City time on the last day of such Initial Period or Extension Period. If the Back-Up Bidder elects not to remain the Back-Up Bidder, then the Back-Up Bidder’s status as the Back-Up Bidder shall cease and the purchase agreement to which the Back-Up Bidder is a party shall terminate in accordance with its applicable terms, or in the case of Buyer, in accordance with the terms of Section 13.1(h)(ii) of the Purchase Agreement. Seller shall not be permitted to designate the Back-Up Bidder as the Winning Bidder pursuant to the terms of Section 6(d)(xi) on the last day of the Initial Period or any Extension Period. For purposes of clarification, though the Back-Up Bidder may be obligated to remain the Back-Up Bidder during the Initial Period and any Extension Period as described in this Section 6(d)(viii), the Back-Up Bidder shall not be precluded during the Initial Period and any Extension Period from exercising any right of termination that may otherwise be available to a Back-Up Bidder under the terms of the purchase agreement to which it is a party.

- ix. Supplemental Deposit Payment. If, upon conclusion of the Auction, the amount of the Deposit delivered by each of the Winning Bidder and the Back-Up Bidder is less than an amount equal to four percent (4%) of the purchase price agreed to be paid by the Winning Bidder and the Back-Up Bidder, respectively, as a result of the Auction, then the Winning Bidder and/or the Back-Up Bidder, as applicable, shall, within three (3) Business Days after the conclusion of the Auction, wire an amount equal to such difference (“Supplemental Deposit Amount”) to the escrow agent for deposit under the Deposit Escrow Agreement in accordance with the wiring instructions set forth above.



- x. Retention of Deposit. The Deposit (including any Supplemental Deposit Amount) of any Winning Bidder shall be retained by Seller in accordance with the terms of the purchase agreement executed by the Winning Bidder. The Deposit of any Back-Up Bidder (including any Supplemental Deposit Amount) shall be held until the earlier of (a) the last to expire of the 75-day periods described in Section 6(d)(viii), (b) the termination of the purchase agreement to which such Back-Up Bidder is a party; or (c) closing of the sale to the Winning Bidder, at which point such Deposit (including any Supplement Deposit Amount and any interest earned on such amounts) shall be returned to the Back-Up Bidder. The Deposit, together with all interest earned thereon, of each Qualified Bidder other than the Winning Bidder and the Back-Up Bidder shall be paid to the Qualified Bidder within three (3) Business Days after the entry of the Sale Order.
- xi. Failure to Close. In the event a bidder is the Winning Bidder (as determined by Seller, upon detailed consultation with the Committee and as approved by the Bankruptcy Court), and such Winning Bidder defaults by failing to consummate the Sale in accordance with the terms of the purchase agreement executed by the Winning Bidder, Seller shall: (i) retain the Winning Bidder's Deposit (including any Supplemental Deposit Amount) and reserve all of its rights against the Winning Bidder; and (ii) upon detailed consultation with the Committee, elect (in Seller's discretion) to consummate the Sale with the Back-Up Bidder at the highest price bid by the Back-Up Bidder at the Auction (or, if the Back-Up Bidder is unable to consummate the Sale at that price, Seller, upon detailed consultation with the Committee, may consummate the Sale with the next highest Qualified Bidder at the Auction) without the need for an additional hearing or Order of the Bankruptcy Court, provided that Seller agrees it shall make such election in the event Buyer is the Back-Up Bidder (and provided further the Buyer has not otherwise properly terminated the Purchase Agreement prior to such election). If Seller makes an election of the type described in clause (ii) of the previous sentence, the Back-Up Bidder shall become the Winning Bidder for all purposes.
- xii. Non-Conforming Bids. Notwithstanding anything to the contrary in this Procedures Order, Seller, upon detailed consultation with the Committee, shall have the right to entertain bids that do not conform to one or more of the

requirements specified herein and deem such bids Qualified Bids; provided, however, that no non-conforming bid may be deemed to be a Qualified Bid unless (i) such bid is irrevocable in accordance with the terms of this Procedures Order; (ii) such bid is submitted with a Deposit in the amount specified in paragraphs 6(b)(iii) and 6(d)(ix) above; (iii) such bid is only for all or substantially all of the Transferred Assets; (iv) such bid is in an amount equal to or greater than the amount (including the Initial Overbid amount) required by paragraph 6(b)(vi) above; and (v) the identity of the bidder has been adequately described to participants at the Auction, prior to the commencement of the Auction.

- (e) Expenses. Any bidders (other than Buyer) shall bear their own expenses in connection with their bid and the proposed sale, whether or not such sale is ultimately approved, in accordance with the terms of the purchase agreement executed by such bidders. Buyer may recover its expenses in accordance with the provisions of the Purchase Agreement.
- (f) Conflict. Any conflict between the terms and conditions of this Procedures Order and any purchase agreement executed by Seller and any of the bidders (including Buyer's Purchase Agreement) shall be resolved in favor of this Order.