

BASIS FOR RELIEF

Terms of the Settlement

18. The key terms of the Settlement are as follows:²
- A WPC and Ponderosa shall continue to perform under the GPA from August 19, 2005 through December 31, 2006, the end of the original term of the GPA (the “Remaining Term”) and the terms of the GPA, including without limitation, the pricing terms in Article 5, shall remain in full force and effect through the Remaining Term. During the Remaining Term, Ponderosa’s Daily Gas quantity requirements for receipt of natural gas under the PPA shall be determined (a) from August 19, 2005 through April 1, 2006, as set out in Section 1.2 of the Settlement Agreement and (b) from April 2, 2006, until the expiration of the Remaining Term, pursuant to Article 3 of the GPA.
- B Pursuant to Section 3.2(a) of the GPA, Ponderosa irrevocably submits, with the intent to be bound by such nominations, the following Daily Gas requirements for the following Months (or portions thereof) during the Remaining Term:
- For each Day (as defined in the GPA) of the period August 19, 2005 through September 1, 2005, up to 25,000 MMBtu per day (100% of the DCQ);
 - For each Day of the period September 2, 2005 through November 30, 2005, up to 10,000 MMBtu per Day (40% of the DCQ);
 - For each Day of the period December 1, 2005 through February 28, 2006, up to 6250 MMBtu per Day (25% of the DCQ);
 - For each Day of the period March 1, 2006 through March 31, 2006, up to 12,500 MMBtu per Day (50% of the DCQ);
 - For the Day April 1, 2006, up to 10,000 MMBtu per Day (40% of the DCQ)
- C The Daily Gas Requirements are irrevocable and such quantities may not be adjusted or otherwise modified above such Daily Gas Requirements. In addition, the Daily Gas Requirements are binding on the parties and their respective successors and assigns. Any attempt to modify or adjust the Daily Gas Requirements in contravention of Section 1.2 of the Settlement Agreement by Ponderosa (or any successor in interest, assignee, or any entity claiming by, through, or under Ponderosa) shall be null and void and shall constitute a violation of the Settlement Agreement.
- D WPC reserves and specifically does not waive or release any and all of the rights, claims, counterclaims, defenses and allegations it has raised in the Adversary Proceeding or might otherwise have or raise as they might relate to any parties other than Ponderosa.

² The pertinent terms of the Settlement are set forth herein for the convenience of the Court and all parties. In the event of any inconsistency, the Settlement Agreement shall control.

- E Upon entry of the Approval Order, Ponderosa shall agree to dismiss the Adversary Proceeding, with prejudice, and shall release and withdraw all claims, counterclaims and defenses against each other, and WPC shall withdraw the Termination Letter with respect to Ponderosa only, and specifically not as to Chase.
- F Upon approval of this Settlement Agreement, the Parties shall provide each other releases as more fully set forth in the Settlement Agreement.
- G No later than August 23, 2005, Ponderosa shall file and serve a motion brought pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "9019 Motion"), on expedited notice, seeking an order of this Court finding that (i) the Settlement Agreement is approved; (ii) the Settlement Agreement does not constitute a violation or breach of, or an event of default under (a) the PPA or (b) the Consent and Agreement between WPC, Chase and Ponderosa; and (iii) Chase is bound by the terms of the Settlement Agreement for all purposes related to the Consent and Agreement and that certain Construction and Term Loan Agreement dated as of December 16, 1994 among Ponderosa's predecessor, Tenaska, certain banks and The Chase Manhattan Bank, N.A. (the "Credit Agreement") (the "Approval Order").
- H The form of Approval Order submitted to the Bankruptcy Court shall be consented to by WPC in writing prior to submission. Without limiting the foregoing, the Approval Order shall provide that Ponderosa shall immediately assume the GPA in accordance with section 365 of the Bankruptcy Code, the Assumption Motion and the terms of the Settlement Agreement, including without limitation, the Daily Gas Requirements.
- I Ponderosa and WPC shall use commercially reasonable efforts to cooperate with each other to obtain Bankruptcy Court approval and the entry of the Approval Order in all respects, and shall take no actions inconsistent therewith.
- J Subject to issuance of any stay of the Approval Order, all terms of this Settlement Agreement shall be effective and binding upon the Parties immediately upon entry of the Approval Order, provided that such approval Order is entered on or before September 1, 2005. Unless otherwise provided by written agreement of the Parties, in the event that the Approval Order is not entered on or before September 1, 2005, or in the event of issuance of any stay of the Approval Order (i) the Settlement Agreement shall be deemed null and void, (ii) no Party shall have any rights or obligations under this Settlement Agreement, and (iii) each of the Parties shall retain their respective rights, remedies, defenses, liabilities and obligations as if this Settlement Agreement had never been executed.

Approval of Compromise and Settlement

19. Rule 9019(a) provides, in pertinent part, that upon a motion by a trustee or a debtor-in-possession and after a hearing on notice, the Court may approve a compromise or settlement. Fed. R. Bankr. P. 9019(a). Approval of a compromise or settlement falls within the