

BK 1334 PG 0586

To be Recorded in Real Estate Records Only

State of Mississippi UCC-1 Financing Statement



UCC-01

1. Debtors (Last Name first for individuals)

Book & Page:

Filed with: MS DE SOTO - REAL

Southaven Power, LLC

Last Name	First Name	Middle Name
9405 Arrowpoint Blvd.		
Mailing Address	Mailing Address	
Charlotte	NC	28273
City	State	Cty Cd ZIP
52-2193357		
Tax ID/SSN	<input type="checkbox"/> Transmitting Utility	

Last Name	First Name	Middle Name
STATE MS.-DESOTO CO.	AM	
Mailing Address	Mailing Address	
City	State	Cty Cd ZIP
Tax ID/SSN	BK 1334 586	

2. Secured Party (Last Name first for individuals)

Credit Lyonnais New York Branch, as Security Agent

Business Name	Business Name
1301 Avenue of the Americas	
Mailing Address	Mailing Address
New York	NY 10019
City	State Cty Cd ZIP
Tax ID/SSN	Tax ID/SSN

3. Assignee (Last Name first for individuals)

Business Name	Business Name
Mailing Address	Mailing Address
City	State Cty Cd ZIP
Tax ID/SSN	Tax ID/SSN

4. This financing statement covers the following types (or items) of property:

See Schedule I attached hereto and incorporated herein by reference.

This filing includes a fixture filing and is to be filed in the real estate records of DeSoto County, Mississippi. See legal description of the real property on Annex B attached to Schedule I hereto.

INDEXING INSTRUCTIONS: The land subject to this instrument is located in the SW 1/4 of Section 15 and the SE 1/4 of Section 16, Township 1 South, Range 8 West, DeSoto County, Mississippi.

5. Check if this statement is filed without the Debtor's signature to perfect a security interest in collateral

- already subject to a security interest in another jurisdiction when it was brought into this state or when Debtor's location was changed to this state
- which is proceeds if the security interest in the original collateral was perfected
- acquired after a change of name, identity, or corporate structure of the Debtor
- where the original filing has lapsed
- if lien to secure payment of royalty proceeds (effective 1 year)

Office Use Only

0000041127

00773

6. Check if covered: Products of Collateral

7. Number of additional sheets attached: 48

Southaven Power, LLC

Clay S. Coleman
Signature of Debtor

*[By: Capatrix Southaven Holdings, Inc.,
its Manager]*
Signature of Debtor

Signature of Secured Party

Signature of Secured Party
(Required only when filed without Debtor Signature)

Please Return To: Intercounty Clearance Corporation 440 Ninth Avenue, 5th Floor New York, NY 10001 (212) 594-0020

SCHEDULE I TO UCC-1
FINANCING STATEMENTDebtor's Taxpayer Identification Number: 52-2193357
Secured Party's Taxpayer Identification Number: 13-2674617Debtor: SOUTHAVEN POWER, LLC
9405 Arrowpoint Blvd.
Charlotte, North Carolina 28273Secured Party: CREDIT LYONNAIS NEW YORK BRANCH,
as Security Agent
1301 Avenue of the Americas
New York, NY 10019-6022

The UCC-1 Financing Statement to which this Schedule I is attached covers all of the following property now owned or at any time hereafter acquired, or in which the Debtor now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"):

(1) the contracts described on Annex A hereto (the "Assigned Agreements"), and all rights and interests of the Debtor thereunder or in respect thereof, including, without limitation, (1) all rights of the Debtor to receive moneys due and to become due under or pursuant to the Assigned Agreements, (2) all rights of the Debtor to receive proceeds of any insurance, indemnity, warranty or guaranty with respect to the Assigned Agreements, (3) all claims of the Debtor for damages arising out of or for breach of or default under the Assigned Agreements, (4) all rights of the Debtor to obtain, hold and enforce, and to exercise rights, powers and remedies in respect of, security granted or to be granted in favor of the Debtor under or in respect of the Assigned Agreements (whether relating to real or personal property) and (5) the right of the Debtor to terminate, cancel, suspend, amend, supplement or modify the Assigned Agreements, to perform thereunder and to compel performance and otherwise exercise all remedies thereunder;

(2) all accounts, inventory, goods, fixtures (see legal description of real property on Annex B attached hereto), chattel paper, general intangibles, documents, instruments and securities now owned or hereafter acquired by the Debtor;

(3) the Accounts established and maintained in the name of the Debtor pursuant to the Security Deposit Agreement and all cash, instruments and securities at any time and from time to time on deposit therein;

(4) all certificates, instruments and other documents at any time and from time to time representing or evidencing Permitted Investments or other investments including, without limitation, certificates, instruments and other documents representing or evidencing Permitted Investments or any other instruments reinvested, and all interest, cash, securities and other property at any time and from time to time paid on or distributed with respect to such Permitted Investments or any other instruments, together with all right, title, interest, privilege and preference appertaining or incidental to any of the foregoing;

(5) all Revenues, CSA Delay Payments and Special Payment Account Deposits (each as defined in the Security Deposit Agreement);

(6) all Governmental Approvals (provided that any Governmental Approval that by its terms or by operation of law would become void, voidable, terminable or revocable if mortgaged, pledged or assigned under the Security Agreement or if a security interest therein were granted under the Security Agreement are expressly excepted and excluded from the Lien and terms of the Security Agreement);

(7) all automobiles, trucks, vehicles and other rolling stock or moveable personal property, including any of the foregoing for which the title thereto is evidenced by a certificate of title issued by the United States or a state thereof that permits or requires a lien thereon to be evidenced upon such title, in which the Debtor now or at any time in the future may have an interest;

(8) all equipment, machinery, apparatus, installation facilities and other tangible personal property (including, without limitation, all turbines, generators and electrical interconnection and transmission equipment) now owned or leased by the Debtor or hereafter acquired or leased by the Debtor;

(9) all unearned premiums under insurance policies now or hereafter obtained by the Debtor (including, without limitation, title insurance policies);

(10) all other personal property, rights, interests, assets and fixtures (see legal description of real property on Annex B attached hereto) of any kind or description whatsoever, tangible or intangible, now owned or hereafter acquired by the Debtor, including, without limitation, all money, all natural gas, all personal property constituting part of the Facility, all construction agreements and designs, plans, specifications and license agreements relating to the Project, and all consents, licenses and permits required for the construction and operation of the Project, but excluding any consents, licenses and permits which are not assignable by law or in accordance with their terms, and any right, title or interest of the Debtor under any insurance (including, without limitation, the insurance policies required by Section 8.8 of the Loan Agreement), indemnity, warranty or guaranty in respect of the Project;

(11) the Equity Contribution Agreement (the proceeds of which shall be applied pursuant to the terms thereof and of the other Financing Documents), the Contingent Equity Contribution Guarantee and all rights, powers, privileges, options and other benefits of the Debtor thereunder including, without limitation, all rights of the Debtor to the Equity Contributions payable by the Equity Contributors thereunder, all claims of the Debtor for damages arising out of or for breach of or default under the Equity Contribution Agreement, and all rights of the Debtor to exercise any election or option or to make any decision or determination or to give or receive any notice, consent, waiver or approval or to take any action thereunder;

(12) the Subordinated Loan Agreement (the proceeds of which shall be applied pursuant to the terms thereof and of the other Financing Documents) and all rights, powers, privileges, options and other benefits of the Debtor thereunder including, without limitation, all rights of the Debtor to the Subordinated Loans, all Subordinated Loan Proceeds, all claims of the Debtor for damages arising out of or for breach of or default under the Subordinated Loan Agreement, and all rights of the Debtor to exercise any election or option or to make any decision or determination or to give or receive any notice, consent, waiver or approval or to take any action thereunder; and

(13) all proceeds (including, without limitation, insurance proceeds), products and all additions, substitutions, replacements and accessions of or to any of the foregoing.

Capitalized terms not defined herein shall have the meaning assigned to them in Annex C to this Schedule I to the Financing Statement.

ANNEX A

1. Dependable Capacity and Conservation Services Agreement dated as of June 1, 2000 between Southaven Power, LLC and PG&E Energy Trading - Power, L.P., as amended by the First Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of December 15, 2000, the Second Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of February 28, 2001, the Third Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of March 28, 2001, the Fourth Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of May 24, 2001 and the Fifth Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of May 24, 2001.
2. Guarantee dated as of May 24, 2001 by PG&E National Energy Group, Inc. in favor of Southaven Power, LLC.
3. Construction Agreement made, entered into and effective as of December 22, 2000 by and between Southaven Power, LLC, as Owner, and National Energy Production Corporation, as Contractor.
4. Coordination Agreement made, entered into and effective as of December 22, 2000 by and among Southaven Power, LLC, National Energy Production Corporation and NEPCO Procurement Company, a division of Enron Equipment Procurement Company.
5. Engineering and Equipment Procurement Agreement made, entered into and effective as of December 22, 2000 by and between Southaven Power, LLC, as Owner, and NEPCO Procurement Company, a division of Enron Equipment Procurement Company, as Engineer.
6. Enron Guaranty of Obligations of National Energy Production Corporation and Enron Equipment Procurement Company dated as of December 22, 2000 by Enron Corp. in favor of Southaven Power, LLC.
7. Construction Management Agreement dated as of August 29, 2000 between Southaven Operating Services, LLC and Southaven Power, LLC.
8. Operation and Maintenance Agreement dated as of August 29, 2000 by and between Southaven Power, LLC, as Owner, and Southaven Operating Services, LLC, as Operator.
9. Amended and Restated Interconnection and Operating Agreement dated as of October 20, 2000 by and between Southaven Power, LLC and Entergy Mississippi, Inc.
10. Interconnection Agreement dated as of October 10, 2000 between Tennessee Valley Authority and Southaven Power, LLC.
11. Facility Letter Agreement dated October 23, 2000 by and between Texas Gas Transmission Corporation and Southaven Power, LLC, as amended by the Amendment to Facility Letter Agreement dated May 15, 2001.
12. Municipal Development Agreement dated June 7, 1999 by and between the City of Southaven, Mississippi and Cogentrix Energy, Inc., together with the Assignment and

12. Municipal Development Agreement dated June 7, 1999 by and between the City of Southaven, Mississippi and Cogentrix Energy, Inc., together with the Assignment and Assumption Agreement dated as of December 15, 2000 between Cogentrix Energy, Inc. and Southaven Power, LLC.
13. O&M Support Agreement dated as of May 24, 2001 among Cogentrix Energy, Inc., Southaven Power, LLC and Southaven Operating Services, LLC.
14. Ad Valorem Tax Contract by and among Desoto County, Mississippi; City of Southaven, Mississippi; the Mississippi Department of Economic and Community Development acting for and on behalf of the State of Mississippi; the Desoto County Tax Assessor/Collector and Southaven Power, LLC.
15. Amended and Restated Sewer Agreement dated as of August 23, 2000 by and between The City of Southaven, Mississippi and Southaven Power, LLC.
16. Transmission Line Easement Agreement dated as of November 21, 2000 by and between Entergy Mississippi, Inc. and Southaven Power, LLC.
17. Water Well Easement dated as of December 13, 2000 by and between P&W Properties, LLC and Southaven Power, LLC.
18. Construction Easement Agreement dated as of December 13, 2000 by and between P&W Properties, LLC and Southaven Power, LLC.
19. Tennessee Valley Authority Easement Letter Agreement for the Transmission Line dated November 21, 2000 by Southaven Power, LLC and Tennessee Valley Authority.
20. Transmission Lines Easement dated as of May 24, 2001 by and between Cogentrix Southaven Properties, LLC and Southaven Power, LLC (Mississippi Property).
21. Transmission Line Easement dated as of December 12, 2000 by and between Cogentrix Southaven Properties, LLC and Southaven Power, LLC (Tennessee Property).
22. Loan Agreement dated November 1, 2000 by and among Mississippi Business Finance Corporation, Southaven Power, LLC and Cogentrix Southaven Funding, LLC.
23. Note dated December 6, 2000 in the principal sum of \$525,000,000 executed by Cogentrix Southaven Funding, LLC to the order of Southaven Power, LLC.
24. Gas Metering Equipment Letter Agreement executed October 24, 2000 between Southaven Power, LLC and PG&E Energy Trading - Power, L.P.

Each Additional Contract entered into by Southaven Power, LLC after the execution and delivery hereof.

[Mississippi]

ANNEX B**EXHIBIT "A"****LEGAL DESCRIPTION****FEE PARCEL - LOT 1**

Situated in the Southwest Quarter (SW ¼) of Section 15, Township 1 South, Range 8 West of DeSoto County, Mississippi and being more particularly described as follows:

Commencing at the southwest corner of Section 15, Township 1 South, Range 8 West; thence along the west line of said Section 15, N 00 degrees 16 minutes 18 seconds W, 260.00 feet to a point; thence N 89 degrees 40 minutes 17 seconds E, 40.00 feet to a set iron pin in the east right-of-way line of Tulane Road (40 foot centerline R.O.W.) and the "Point of Beginning" for the property as described herein; thence along said east right of way N 00 degrees 16 minutes 18 seconds W, 899.02 feet to a found iron pin, said point being on the accepted Tennessee-Mississippi state line; thence along said Tennessee-Mississippi state line N 89 degrees 51 minutes 16 seconds E, 1,668.43 feet to a set iron pin, said point being the northeast corner of the property as described herein; thence S 00 degrees 19 minutes 43 seconds E, 1,100.69 feet to a set iron pin in the north right-of-way line of Stateline Road (53' centerline R.O.W.); thence along said north line S 89 degrees 40 minutes 17 seconds W, 304.07 feet to a set iron pin; thence leaving the said north line of Stateline Road N 00 degrees 19 minutes 43 seconds W, 207.00 feet to a set iron pin; thence parallel with the north line of Stateline Road S 89 degrees 40 minutes 17 seconds W, 1,365.25 feet to the "Point of Beginning" and containing 35.786 acres.

LEGAL DESCRIPTION
EXHIBIT "A"
 (continued)

EASEMENT PARCELS:

TOGETHER with the benefits of the Transmission Lines Easement dated May ²⁴~~25~~, 2001 between Cogentrix Southaven Properties, LLC and Southaven Power, LLC recorded May ~~25~~²⁴, 2001 in Deed Book _____ Page _____.

Situated in the Southeast Quarter (SE ¼) of Section 16, Township 1 South, Range 8 West of DeSoto County, Mississippi and being more particularly described as follows:

Commencing at the southeast section corner of Section 16, said corner being the intersection of Tulane Road and Stateline Road centerlines; thence along the south line of Section 16, S89°45'17"W, 909.47 feet to a point; thence N00°14'43"W, 53.00 feet to a set iron pin and the "POINT OF BEGINNING", said point of beginning being the southeast corner of the subject parcel and being on the existing north right-of-way line of Stateline Road (53' CL-ROW); thence along said north line of Stateline Road S89°45'17"W, 415.15 feet to a set iron pin; thence N00°07'01"W and passing through a found iron pin at 0.62 feet for a total distance of 673.50 feet to a found iron pin; thence N89°51'45"E, 434.92 feet to a found iron pin; thence N00°13'57"W, 435.01 feet to a found iron pin on the accepted Mississippi-Tennessee Stateline; thence along said Mississippi- Tennessee Stateline N89°51'16"E, 834.55 feet to a set iron pin on the existing west right-of-way line of Tulane Road (53' CL-ROW); thence along said west line of Tulane Road S00°16'18"E, 206.54 feet to a set iron pin; thence S89°51'16"W a measured distance of 158.75 feet (call=157.00') to a found iron pin; thence S00°24'00"E, 209.15 feet to a found iron pin; thence N89°57'56"E a measured distance of 158.29 feet (call=157.00') to a set iron pin in the west right-of way line of Tulane Road; thence along said west line of Tulane Road S00°16'18"E, 534.82 feet to a set iron pin; thence S89°31'28"W a measured distance of 225.52 feet (call=225.00') to a found iron pin; thence S89°47'11"W, 420.81 feet to a found iron pin; thence N00°03'05"E, 209.27 feet to a found iron pin; thence S89°58'56"W, 209.98 feet to a found iron pin; thence S00°00'37"W, 209.94 feet to found iron pin; thence S00°10'00"E, and passing through a found iron pin at 154.67 feet, a total distance of 154.91 feet to the "Point of Beginning" and containing 23.134 acres more or less. All bearings are relative.

LEGAL DESCRIPTION
EXHIBIT "A"
(continued)

TOGETHER with the benefits of the Transmission Line Easement agreement dated November 21, 2000 between Entergy Mississippi, Inc. and Southaven Power, LLC recorded December 8, 2000 in Deed Book 384 Page 81.

A 1.511 acre portion of the Entergy Mississippi, Inc. property situated in the Southeast Quarter (SE ¼) of Section 16, Township 1 South, Range 8 West, DeSoto County, Mississippi as shown in the records of the Chancery Court Clerk of DeSoto County, Mississippi in deed book 263, page 490 and being more particularly described as follows:

Commencing at the southeast corner of Section 16, Township 1 South, Range 8 West; thence along the south line of said Section line S 89 degrees 45 minutes 17 seconds W, 1,324.73 feet to a point; thence N 00 degrees 07 minutes 01 seconds W, 53.00 feet to a set iron pin in the north right-of-way line of State Line Road and in the east line of the Entergy Mississippi, Inc. property; thence along the east line of the Entergy Mississippi, Inc. property N 00 degrees 07 minutes 01 seconds W, 351.48 feet to the "Point of Beginning" for the property as described herein; thence S 87 degrees 33 minutes 41 seconds W, 417.53 feet to a point; thence N 46 degrees 35 minutes 43 seconds W, 81.72 feet to a point, thence N 43 degrees 24 minutes 17 seconds E, 150 feet to a point; thence S 46 degrees, 35 minutes 43 seconds E, 18.29 feet to a point; thence N 87 degrees 33 minutes 41 seconds E, 360.18 feet to a point in the east line of the aforementioned Entergy Mississippi, Inc. property; thence along said line S 00 degrees 07 minutes 01 seconds E, 150.12 feet to the "Point of Beginning" and containing 1.511 acres.

LEGAL DESCRIPTION
EXHIBIT "A"
(continued)

TOGETHER with the Water Well Easement dated December 13, 2000 between P& W Properties, LLC and Southaven Power, LLC recorded December 27, 2000, in Deed Book 384, Page 751.

Situated in the Southwest Quarter (SW ¼) of Section 15, Township 1 South, Range 8 West of DeSoto County, Mississippi and being more particularly described as follows:

Commencing at the southwest corner of Section 15, Township 1 South, Range 8 West; thence along the south line of said Section 15, N 89°40'17" E, 1,405.51 feet to a point; thence N 00°19'43" W, 53.00 feet to a set iron pin in the north right-of-way line of Stateline Road (53' centerline R.O.W.), said point being the southeast corner of Lot 2 and the "Point of Beginning" for the property as described herein; thence along said north line S 89°40'17" W, 105.00 feet to a point, said point being the southwest corner of the property as described herein; thence parallel with the east line of Lot 2, N 00°19'43" W, 207.00 feet to a point in the north line of Lot 2; thence along said north line

N 89°40'17" E, 105.00 feet to a set iron pin, said point being the northeast corner of Lot 2; thence along the east line of Lot 2, S 00°19'43" E, 207.00 feet to the "Point of Beginning" and containing 0.499 acres.

LEGAL DESCRIPTION
EXHIBIT "A"
(continued)

TOGETHER with the temporary construction easements in Construction Easement Agreement dated December 13, 2000 between P & W Properties, LLC and Southaven Power, LLC recorded December 27, 2000, in Deed Book 384, page 741.

Situated in the Southwest Quarter (SW $\frac{1}{4}$) of Section 15, Township 1 South, Range 8 West of DeSoto County, Mississippi and being more particularly described as follows:

CONSTRUCTION EASEMENT NO. 1

Commencing at the southwest corner of Section 15, Township 1 South, Range 8 West; thence along the south line of said Section 15, N 89°40'17" E, 1,709.57 feet to a point; thence N 00°19'43" W, 53.00 feet to a set iron pin in the north right-of-way line of Stateline Road (53' centerline R.O.W.), said point being the southwest corner of Lot 3 and the "Point of Beginning" for the property as described herein; thence along the west line of Lot 3 N 00°19'43" W, 1,100.69 feet to a set iron pin on the accepted Tennessee-Mississippi state line, said point being the northwest corner of Lot 3; thence along said Tennessee-Mississippi state line N 89°51'16" E, 350.00 feet to a point; thence

S 00°19'43" E, 1,099.57 feet to a point on the north right-of-way line of Stateline Road (53' centerline R.O.W.); thence along said north line S 89°40'17" W, 350.00 feet to the "Point of Beginning" and containing 8.839 acres.

CONSTRUCTION EASEMENT NO. 2

Commencing at the southwest corner of Section 15, Township 1 South, Range 8 West; thence along the west line of said Section 15, N 00°16'18" W, 83.07 feet to a point; thence N 89°43'42" E, 40.00 feet to a point in the east right-of-way line of Tulane Road (40' centerline R.O.W.) and the "Point of Beginning" for the property as described herein; thence along the existing east right-of-way line of Tulane Road N 00°16'18" W, 176.97 feet to a set iron pin, said point being the southwest corner of Lot 1; thence parallel with the north right-of-way line of Stateline Road N 89°40'17" E, 1,365.25 feet to a set iron pin; thence S 00°19'43" E, 207.00 feet to a set iron pin in the north right-of-way line of Stateline Road (53' centerline R.O.W.); thence along said north line S 89°40'17" W, 1,335.42 feet to a point of curvature; thence along a 30 foot radius curve to the right (tangent=30.03 feet), an arc distance of 47.15 feet to a point of tangency which is also the "Point of Beginning" and containing 6.484 acres.

DEFINITIONS

The terms defined herein relate to the Loan Agreement (as defined below) and certain other Financing Documents executed, or to be executed, in connection with the transactions contemplated by the Loan Agreement. If, and to the extent that, the Loan Agreement shall be amended, modified or supplemented from time to time pursuant to the terms thereof, this Annex and the Annex to each Financing Document that incorporates this Annex shall be, or be deemed to have been, amended, modified or supplemented concurrently with the execution and delivery of each such amendment, modification or supplement of the Loan Agreement, in order to conform the definitions herein to the new or amended definitions set forth in or required by each such amendment, modification or supplement of the Loan Agreement.

"Acceleration Event": any event resulting in the acceleration of the maturity of the entire unpaid principal amount of the Loans, causing all such principal and all accrued and unpaid interest thereon to become immediately due and payable, pursuant to the provisions of Section 10.2 of the Loan Agreement.

"Accounts": the Borrower's Security Account, the Borrower Construction Account, the Funding Company Construction Account, the Debt Service Account, the Debt Service Reserve Account, the Eurodollar Loan Prepayment Account, the Borrower Final Completion Escrow Account, Funding Company Final Completion Escrow Account, the Fixed Project Operating Expense Account, the O&M Reserve Account, the Revenue Account, the Special Payment Account, the Spare Parts Account and the Bond Account.

"Actual Project Costs": the sum of (a) Project Costs incurred through and including the Conversion Date and (b) Project Costs expected to be payable after the Conversion Date in respect of punch list and similar items (as such additional Project Costs shall be reasonably determined by the Administrative Agent in consultation with the Independent Engineer).

"Ad Valorem Tax Contract": the Ad Valorem Tax Contract among the Borrower, the County, the City, MDECD and Tax Assessor.

"Additional Contract": any contract entered into by the Borrower after the execution and delivery of the Loan Agreement, providing for (i) the transmission or sale by the Borrower of any of the Facility's electrical output; (ii) the supply, transportation or compression of natural gas to the Facility; (iii) the supply of goods or services in connection with the operation of the Facility or the financing or leasing of equipment in connection with the operation of the Facility (other than employment contracts and contracts involving less than \$1,000,000 annually in the aggregate or having a maximum term (including renewal options) of less than six months); (iv) long term service agreements for (A) maintenance of the Facility or (B) furnishing spare parts; or (v) prior to the Commercial Operation Date, the purchase of electric generation capacity or electric energy by the Borrower.

"Additional Debt Service Reserve Letter of Credit": any letter of credit caused by the Borrower to be issued in favor of the Administrative Agent pursuant to Section 5.7(c) of the Security Deposit Agreement.

“Adjusted Excess Cash Flow”: for any period, Project Revenues less Project Operating Expenses for such period less the amount required in such period to be deposited in the O&M Reserve Account pursuant to clause first of Section 5.3 of the Security Deposit Agreement.

“Administrative Agent”: Credit Lyonnais, in its capacity as administrative agent for the Lenders and the Issuing Bank under the Loan Agreement.

“Administrative Agent Fee”: as defined in Section 5.1(c) of the Loan Agreement.

“Affiliate”: as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, **“control”** (including, with correlative meanings, the terms **“controlling,” “controlled by”** and **“under common control with”**), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting securities or partnership or other ownership interests or by contract or otherwise; **provided** that any Person owning, directly or indirectly, 10% or more of the securities having ordinary voting power for the election of directors or other members of the governing body of a corporation, or 10% or more of the partnership or other ownership interests of any other Person, is deemed to control such corporation or other Person.

“Applicable Margin”: (i) for each Type of (A) Construction Loan or (B) Credit Support Letter of Credit Loan (prior to the Commercial Operation Date), the rate per annum set forth under the relevant column heading below:

<u>Base Rate Loans</u>	<u>Eurodollar Loans</u>
0.500%	1.500%

(ii) for each Type of (A) Term Loan, (B) Credit Support Letter of Credit Loan (on or after the Conversion Date) or (C) Debt Service Reserve Letter of Credit Loan, during any period set forth below, the rate per annum set forth opposite such period under the relevant column heading below:

	<u>Base Rate Loans</u>	<u>Eurodollar Loans</u>
(A) From (and including) the Conversion Date to (and including) the second anniversary of the Conversion Date:	0.625%	1.625%
(B) From (but excluding) the second anniversary of the Conversion Date to (and including) the third anniversary of the Conversion Date:	0.750%	1.75%
(C) From (but excluding) the third anniversary of the Conversion Date to (and including) the fourth anniversary of the Conversion Date:	0.875%	1.875%

“Application”: an application, in the form of Exhibit Q to the Loan Agreement, requesting the Issuing Bank to issue a Credit Support Letter of Credit.

“Arrangers”: the collective reference to the parties named on the signature pages of the Loan Agreement as Arrangers.

“Assignee Lender”: as defined in Section 12.7(a) of the Loan Agreement.

“Assignment and Acceptance”: as defined in Section 12.7(a) of the Loan Agreement.

“Available Amount”: as of any date, (a) with respect to the Debt Service Reserve Letter of Credit, the amount by which the Debt Service Reserve Letter of Credit Amount exceeds the aggregate amount of all drawings made under the Debt Service Reserve Letter of Credit as of such date, (b) with respect to any Credit Support Letter of Credit issued at such time, the amount by which the CS L/C Stated Amount exceeds the aggregate amount of all drawings made under such Credit Support Letter of Credit as of such date, (c) with respect to any Replacement Debt Service Reserve Letter of Credit, the amount by which the stated amount of such Replacement Debt Service Reserve Letter of Credit exceeds the aggregate amount of all drawings made under such Replacement Debt Service Reserve Letter of Credit as of such date, and (d) with respect to any Additional Debt Service Reserve Letter of Credit, the amount by which the stated amount of such Additional Debt Service Reserve Letter of Credit exceeds the aggregate amount of all drawings made under such Additional Debt Service Reserve Letter of Credit as of such date.

"Available Construction Commitment": as to any Lender, at any time, an amount equal to the excess, if any, of (a) the amount of such Lender's Construction Commitment over (b) the aggregate principal amount of all Construction Loans made by such Lender then outstanding; collectively, as to all Lenders, the "Available Construction Commitments".

"Bankruptcy Code": Title 11, United States Code.

"Base Rate": for any day, a rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to the greater of (a) the Prime Rate in effect on such day and (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1%. For purposes hereof: "Prime Rate" shall mean the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime commercial lending rate in effect at its principal office in New York, New York (the Base Rate not being intended to be the lowest rate of interest charged by the Administrative Agent in connection with extensions of credit to debtors); and "Federal Funds Effective Rate" shall mean, for any day, the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it. Any change in the Base Rate due to a change in the Base Rate or the Federal Funds Effective Rate shall be effective as of the opening of business on the effective day of such change in the Base Rate or the Federal Funds Effective Rate, respectively.

"Base Rate Loans": Loans bearing interest at a rate based upon the Base Rate.

"Bond Trustee": First Union National Bank, a national banking corporation, in its capacity as trustee under the MBFC Trust Indenture.

"Bonds": the Industrial Development Revenue Bonds, 2000 Series (Southaven Power, LLC Project), in the principal amount of \$525,000,000, issued pursuant to the MBFC Bond Indenture.

"Borrower": Southaven Power, LLC, a Delaware limited liability company.

"Borrower Construction Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Borrower Final Completion Escrow Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Borrower LLC Agreement": the Limited Liability Company Agreement of the Borrower, dated as of November 29, 2000, entered into by the Borrower Members, as the same made be from time to time amended, supplemented or otherwise modified pursuant to Section 9.15 of the Loan Agreement.

"Borrower Members": (a) on the date of execution and delivery of the Loan Agreement, Cogentrix Southaven I, Cogentrix Southaven II and Funding Company; and (b) thereafter, each owner from time to time of a Borrower Membership Interest.

"Borrower Membership Interests": the limited liability company membership interests in the Borrower.

"Borrower Membership Interest Pledge Agreement I": the Membership Interest Pledge Agreement, dated as of May 24, 2001, made by Cogentrix Southaven I in favor of the Security Agent for the benefit of the Secured Parties, substantially in the form of Exhibit F-1 to the Loan Agreement.

"Borrower Membership Interest Pledge Agreement II": the Membership Interest Pledge Agreement, dated as of May 24, 2001, made by Cogentrix Southaven II in favor of the Security Agent for the benefit of the Secured Parties, substantially in the form of Exhibit F-2 to the Loan Agreement.

"Borrower Membership Interest Pledge Agreement III": the Membership Interest Pledge Agreement, dated as of May 24, 2001, made by Funding Company in favor of the Security Agent for the benefit of the Secured Parties, substantially in the form of Exhibit F-3 to the Loan Agreement.

"Borrower Membership Interest Pledge Agreements": the Borrower Membership Interest Pledge Agreement I, the Borrower Membership Interest Pledge Agreement II and the Borrower Membership Interest Pledge Agreement III.

"Borrower Security Agreement": the Security Agreement, dated as of May 24, 2001, made by the Borrower in favor of the Security Agent for the benefit of the Secured Parties, substantially in the form of Exhibit M to the Loan Agreement.

"Borrower's Security Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Borrowing Date": the Closing Date, the Conversion Date and each Business Day specified in a notice pursuant to Section 2.3, 3.3, or 4.1 of the Loan Agreement as a date on which the Borrower requests (i) the Lenders to make Loans under the Loan Agreement or (ii) the Issuing Bank to issue a Credit Support Letter of Credit.

"Budget Category": as defined in Section 7.1(r) of the Loan Agreement.

"Budget Category Amount": as defined in Section 7.1(r) of the Loan Agreement.

"Business Day": a day other than a Saturday, Sunday or other day on which commercial banks in New York City or Charlotte, North Carolina are authorized or required by law to close; provided, that with respect to Eurodollar Loans only, such day is also a day on which deposits in foreign currencies and exchange between banks may be carried on in London, England.

"Business Interruption Insurance Proceeds": any and all proceeds of any insurance, indemnity, warranty or guaranty payable from time to time on or after the Commercial Operation Date with respect to the partial or complete interruption of the operation of the Project.

"Buy-Down Amount Proceeds": any and all amounts paid to the Borrower (i) by the Construction Contractor pursuant to Section 20.3, 20.4 or 20.6 of the Construction Agreement, (ii) by the Supplier pursuant to Section 20.3, 20.4 or 20.6 of the Procurement Agreement, (iii) by the EPC Parent Guarantor pursuant to the EPC Parent Guaranty in respect of said Sections of the Construction Agreement or the Procurement Agreement or (iv) by the issuer of the LD Letter of Credit in connection with a drawing thereunder in respect of said Sections of the Construction Agreement or the Procurement Agreement.

"Buy-Down Prepayment Notice": as defined in Section 5.3(b) of the Loan Agreement.

"Capital Lease": any lease of property, real or personal, the obligations of the lessee in respect of which are required in accordance with GAAP to be capitalized on a balance sheet of the lessee.

"Cash Sweep Commencement Date": the date that is 18 months after the Conversion Date.

"Casualty Insurance Proceeds": any and all proceeds of any insurance, indemnity, warranty or guaranty payable from time to time with respect to any damage to, or destruction in whole or in part of, the Project.

"CDH": Cogentrix Delaware Holdings, Inc., a Delaware corporation.

"CEI": Cogentrix Energy, Inc., a North Carolina corporation.

"Certification and Notice of Requisition Payment": a Certification and Notice of Requisition Payment in the form attached as Exhibit C to the MBFC Bond Loan Agreement.

"Change Order": as defined in Section 1.13 of the Construction Agreement and Section 1.13 of the Procurement Agreement.

"City": The City of Southaven, an incorporated municipality in the County.

"Closing Date": May 25, 2001.

"Closing Date Projections": as defined in Section 7.1(q) of the Loan Agreement.

"Code": the Internal Revenue Code of 1986, as amended.

"Cogentrix Parties": the collective reference to the Borrower, the Funding Company, CEI, Cogentrix Southaven I, Cogentrix Southaven II, CDH and the Operator.

"Cogentrix Southaven I": Cogentrix Southaven Holdings, Inc., a Delaware corporation.

"Cogentrix Southaven II": Cogentrix Southaven Holdings II, Inc., a Delaware corporation.

"Collateral": the collective reference to all real and personal property of the Borrower, the Funding Company, any Borrower Member or any Funding Company Member, tangible and intangible, and the proceeds thereof, subjected from time to time to the Liens intended to be created by the Loan Agreement or any Security Document.

"Collateral Agents": as defined in Section 1.2 of the Security Deposit Agreement.

"Commercial Operation Date": as defined in Section 1.1 of the Conversion Services Agreement.

"Commitment Percentage": as to any Lender, the percentage set forth opposite such Lender's name on Schedule 1 to the Loan Agreement under the heading "Commitment Percentage", as the same may from time to time be modified or amended in accordance with the terms of Section 12.7 of the Loan Agreement or otherwise in accordance with the terms thereof.

"Commitments": as to any Lender, the collective reference to such Lender's Construction Commitment and Term Loan Commitment and each commitment under the Loan Agreement of such Lender to make loans to the Borrower with respect to drawings under any Letter of Credit.

"Commonly Controlled Entity": an entity, whether or not incorporated, which is under common control with the Borrower within the meaning of Section 4001 of ERISA or is part of a group which includes the Borrower and which is treated as a single employer under Section 414 of the Code.

"Completion Certificate": as defined in Section 7.3(a) of the Loan Agreement.

"Completion Date": the earliest date on which all of the following conditions shall have been satisfied:

- (a) the Commercial Operation Date shall have occurred;
- (b) Performance Test Completion has been achieved and all liquidated damages (including any Delay Damages Proceeds and Buy-Down Amount Proceeds), if any, payable pursuant to the EPC Agreements have been paid in full, other than disputed amounts not in excess of \$250,000 in the aggregate;
- (c) each Lender shall have received a counterpart of the Completion Certificate duly executed and delivered by the Borrower, the Operator and the Independent Engineer;
- (d) the Administrative Agent shall have received evidence in form and substance reasonably satisfactory to the Administrative Agent that all Project Costs necessary to achieve Final Completion of the Facility shall have been paid in full (or, in the case of punch list items or amounts due in respect of retainage payable after Performance Test Completion, funds are on deposit in the Funding Company Final

Completion Escrow Account or the Borrower Final Completion Escrow Account, as the case may be, to pay such items in full) and there shall be no disputes concerning payment for work performed, services rendered or material or equipment furnished with respect to the Project which could reasonably be expected to result in any material potential liability to the Borrower; and

(e) all Governmental Approvals and other consents and approvals referred to in Section 7.1(k) of the Loan Agreement and those listed in Part B of Schedule 3 thereof (other than filings required to be made on a date later than the Conversion Date by the terms of such Governmental Approvals), shall have been duly obtained or made and shall be in full force and effect, none of such Governmental Approvals or other consents or approvals shall be the subject of any pending or, to the best knowledge of the Borrower, threatened judicial or administrative proceedings, and if the applicable statute, rule or regulation provides for a fixed period for judicial or administrative appeal or review thereof, such period shall have expired. In addition, a copy of each such Governmental Approval, consent or approval (together with any correspondence referred to therein) shall have been delivered to the Administrative Agent (with a copy for each Lender).

"Consents to Assignment": collectively, (i) each Consent to Assignment, each substantially in the form of one of Exhibits H-1 to H-11 to the Loan Agreement, to be executed and delivered by each of the parties (other than the Borrower) to each Project Document in effect on the Closing Date, and (ii) with respect to each Additional Contract, the Consent to Assignment to be executed by the parties thereto (other than the Borrower) as provided in Section 8.16 of the Loan Agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent.

"Construction Agreement": the Construction Agreement dated December 22, 2000, between the Borrower and the Construction Contractor.

"Construction Budget": the construction budget delivered to the Lenders pursuant to Section 7.1(r) of the Loan Agreement.

"Construction Commitment": as to any Lender, the obligation of such Lender to make Construction Loans to the Borrower pursuant to Section 2.1(a) of the Loan Agreement, in an aggregate principal amount at any one time outstanding not to exceed the product of (i) such Lender's Commitment Percentage and (ii) the Total Commitment Amount, as such amount may be adjusted from time to time in accordance with the provisions of the Loan Agreement; collectively, as to all Lenders, the "Construction Commitments".

"Construction Commitment Period": the period from (and including) the Closing Date to (and including) the earliest to occur of (i) the Date Certain, (ii) the Conversion Date and (iii) the date on which the Construction Commitments terminate as provided in the Loan Agreement.

"Construction Contractor": National Energy Production Corporation, a Delaware corporation.

"Construction Loan": as defined in Section 2.1 of the Loan Agreement; collectively, the "Construction Loans".

"Construction Management Agreement": the Construction Management Agreement, dated as of August 29, 2000, between the Borrower and the Operator.

"Construction Note": as defined in Section 2.2 of the Loan Agreement; collectively, the "Construction Notes".

"Construction Progress Report": the report of the Borrower required to be delivered pursuant to Section 8.2(a) of the Loan Agreement.

"Construction Schedule": the schedule for the construction of the Facility prepared by the Borrower and the Contractors and approved by the Administrative Agent and the Independent Engineer, as set forth on Schedule 5 to the Loan Agreement, as the same may be amended from time to time with the consent of the Administrative Agent.

"Contingent Equity Contribution": as defined in Section 2.1(a) of the Equity Contribution Agreement.

"Contingent Equity Contribution Guarantee": as defined in Section 1.1 of the Equity Contribution Agreement.

"Contingent Equity Contribution Proceeds": as defined in Section 2.3(d) of the Equity Contribution Agreement.

"Contractors": the Construction Contractor and the Supplier.

"Contractual Obligations": as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Conversion Date": the date on which the conditions precedent set forth in Section 7.3 of the Loan Agreement shall have been satisfied or waived and the Term Loans are made.

"Conversion Date Equity Contribution": as defined in Section 2.1(c) of the Equity Contribution Agreement.

"Conversion Date Equity Contribution Proceeds": as defined in Section 2.3(c) of the Equity Contribution Agreement.

"Conversion Services Agreement": the Dependable Capacity and Conversion Services Agreement, dated as of June 1, 2000, between the Borrower and PGET, as amended by the First Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of December 15, 2000, the Second Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of February 28, 2001, the Third Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of March 28, 2001, the Fourth Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of May

24, 2001 and the Fifth Amendment to the Dependable Capacity and Conservation Services Agreement, dated as of May 24, 2001.

"Coordination Agreement": the Coordination Agreement, dated and effective as of December 22, 2000, among the Borrower, the Construction Contractor and the Supplier.

"County": Desoto County, Mississippi.

"Credit Extension Date": (a) as to any Loan, the Borrowing Date therefor, (b) as to the Debt Service Reserve Letter of Credit, the date of issuance thereof and (c) as to any Credit Support Letter of Credit, the date of issuance thereof.

"Credit Lyonnais": Credit Lyonnais New York Branch.

"Credit Support Letters of Credit": as defined in Section 4.1(a)(i) of the Loan Agreement.

"Credit Support Letter of Credit Fee": as defined in Section 4.2 of the Loan Agreement.

"Credit Support Letter of Credit Loans": as defined in Section 4.4(a) of the Loan Agreement.

"Credit Support Letter of Credit Note": as defined in Section 4.4(e) of the Loan Agreement; collectively, the "Credit Support Letter of Credit Notes".

"Credit Support Termination Date": as defined in Section 1.1 of the Conversion Services Agreement.

"CS L/C Maximum Amount": \$60,000,000.

"CS L/C Stated Amount": on any date with respect to any Credit Support Letter of Credit, the stated amount of such Credit Support Letter of Credit as of such date in accordance with the provisions of Section 4.1(a) of the Loan Agreement.

"CSA Delay Payments": as defined in Section 1.2 of the Security Deposit Agreement.

"CSA Liquidated Damages": any liquidated damages payable by the Borrower to PGET pursuant to Section 2.5 of the Conversion Services Agreement.

"CSA Guarantor": the Person providing the CSA Guaranty, which shall initially be NEG.

"CSA Guaranty": the "Guarantee", as defined in Section 2.6(b) of the Conversion Services Agreement, at any time any such Guarantee is outstanding pursuant to such Section, which shall initially be the Guarantee, dated as of May 24, 2001, made by NEG in favor of the Borrower.

"CSA Purchaser Event of Default": as defined in Section 10.1(e) of the Loan Agreement.

"CSP": Cogentrix Southaven Properties, LLC, a Delaware limited liability company.

"Damage Event": as defined in Section 1.2 of the Security Deposit Agreement.

"Date Certain": the date that is six months prior to the first anniversary of the Designated Start Date; provided that, upon receipt of written evidence satisfactory to the Administrative Agent of an extension of the Designated Start Date pursuant to Section 2.3(a) of the Conversion Services Agreement, the Date Certain shall be extended on a day-for-day basis for every day of such extension, but, notwithstanding any such extension pursuant to the Conversion Services Agreement, in no event shall the Date Certain be later than December 15, 2004.

"Debt Service": for any period, the sum (determined without duplication) of: (a) all amounts payable by the Borrower during such period pursuant to the Loan Agreement and the Notes in respect of principal of, and interest on, the Loans, (b) all amounts, if any, payable by the Borrower (minus the amounts, if any, receivable by the Borrower, to the extent such amounts have actually been received by the Borrower, or may be set off or applied by the Borrower against amounts payable by the Borrower) during such period under any Interest Rate Hedging Transaction, (c) Credit Support Letter of Credit Fees, Fronting Fees, Debt Service Reserve Letter of Credit Fees, commitment fees and administrative agent fees payable pursuant to the Loan Agreement, (d) all Reimbursement Obligations due and payable during such period, (e) all other amounts in respect of principal, interest and other fees and expenses payable by the Borrower during such period to any of the Lenders pursuant to the Financing Documents and (f) all principal, interest and fees payable with respect to any purchase money obligations permitted by Section 9.1(c) of the Loan Agreement. For avoidance of doubt, Debt Service does not include any payment, whether of principal, interest or otherwise, in respect of the Subordinated Loans. For the purpose hereof, if the interest payable on any Loans or other Senior Debt for any period is not determinable in advance because the interest rate is not a fixed rate, it shall be assumed that such Loans or other Senior Debt will bear interest during such period at the average interest rate in effect with respect thereto during the six months immediately preceding such period.

"Debt Service Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Debt Service Coverage Ratio": for any period, the ratio of (i) Project Cash Flow for such period to (ii) the Debt Service for such period.

"Debt Service Reserve Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Debt Service Reserve Letter of Credit": the irrevocable letter of credit, substantially in the form of Exhibit C-3 to the Loan Agreement, to be issued on the Conversion Date by the Issuing Bank in favor of the Security Agent, on behalf of the Lenders, for the

account of the Borrower and in an amount equal to the Debt Service Reserve Letter of Credit Amount.

"Debt Service Reserve Letter of Credit Amount": an amount equal to (i) the Required Debt Service Reserve Amount less (ii) the aggregate principal amount of the DLD Credit Support Letter of Credit Loans outstanding on the Conversion Date.

"Debt Service Reserve Letter of Credit Fee": as defined in Section 4A.6 of the Loan Agreement.

"Debt Service Reserve Letter of Credit Loans": as defined in Section 4A.4(a) of the Loan Agreement.

"Debt Service Reserve Letter of Credit Note": as defined in Section 4A.4(d) of the Loan Agreement; collectively, the "Debt Service Reserve Letter of Credit Notes".

"Default": any of the events specified in Section 10.1 of the Loan Agreement, whether or not any requirement for the giving of notice, the lapse of time, or both, or any other condition set forth in said Section 10.1, has been satisfied.

"Default Rate": the Base Rate plus the Applicable Margin for Base Rate Loans plus 2.0% per annum.

"Delay Damages Proceeds": as defined in Section 1.2 of the Security Deposit Agreement.

"Designated Start Date": as defined in Section 1.1 of the Conversion Services Agreement.

"DLD Credit Support Letter of Credit Loans": as defined in Section 4.4(a) of the Loan Agreement.

"DLD Letter of Credit": as defined in Section 4.1(a)(i) of the Loan Agreement.

"DLD Letter of Credit Termination Date": the date that is 10 days after the Commercial Operation Date.

"Dollars" and "\$": dollars in lawful currency of the United States of America.

"Drawdown Schedule": as defined in Section 7.1(q) of the Loan Agreement.

"DSR L/C Expiration Date": as defined in Section 4A.1 of the Loan Agreement.

"Easement Agreements": the Transmission Line Easement Agreement made and effective as of the 21st day of November, 2000 by and between Entergy and the Borrower; the Construction Easement Agreement made and effective as of the 13th day of December, 2000 between P&W Properties, LLC and the Borrower; the Water Well Easement dated the 13th day of December, 2000 between P&W Properties, LLC and the Borrower; the TVA Letter dated November 21, 2000 between TVA and the Borrower; the Transmission Line Easement

Agreement (Tennessee property) dated as of December 12, 2000 between CSP and the Borrower; and Transmission Lines Easement Agreement (Mississippi property) dated as of May 24, 2001 between CSP and the Borrower; and each other agreement entered into granting or assigning to the Borrower ownership of or other rights in respect of any easement, servitude, license, right-of-way or similar real property interest or right relating to the Facility or the Site or to the transportation and delivery of natural gas, water or electricity to or from the Facility or the Site or to ingress or egress to or from the Facility or the Site, each such agreement to be satisfactory in form and substance to the Administrative Agent.

"Easements": any easement, servitude, license, right-of-way or similar real property interest or right that is the subject of an Easement Agreement.

"Electrical Interconnection Agreements": the collective reference to the Entergy Electrical Interconnection Agreement and the TVA Electrical Interconnection Agreement.

"Entergy": Entergy Mississippi, Inc., a Mississippi corporation.

"Entergy Electrical Interconnection Agreement": the Amended and Restated Interconnection and Operation Agreement dated as of October 20, 2000 between the Borrower and Entergy.

"Entergy Release Date": the earlier of (a) the date on which the balance remaining on the System Upgrade Credits has been reduced to \$1,000,000 and (b) the date on which the Borrower has provided credit support that is (i) in an amount equal to the maximum unreimbursed amount of System Upgrade Credits that is or may with the passage of time become payable to the Borrower, (ii) by its terms, payable or drawable to replace System Upgrade Credits not paid when due, and (iii) in the form of (A) a letter of credit issued by a Person whose long-term unsecured debt securities are rated A or better by Standard & Poor's and A2 or better by Moody's in form reasonably acceptable to the Administrative Agent, (B) a guaranty of payment from a Person whose long-term unsecured debt securities are rated BBB+ or better by Standard & Poor's and Baa1 or better by Moody's in form reasonably acceptable to the Administrative Agent, or (C) such other credit support as has been approved by the Required Lenders.

"Environmental Law": any and all laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any Government Authority or other Requirements of Law (including common law) regulating, relating to or imposing liability or standards of conduct concerning or relating to the regulation, use or protection of the environment, to protection of human health as related to the environment, or to Releases of Hazardous Materials into the environment, or otherwise relating to the generation, use, storage, disposal, handling or transport of Hazardous Materials, as may have previously been, now are, or may at any time hereafter be, in effect.

"EPC Agreements": collectively, the Coordination Agreement, the Construction Agreement and the Procurement Agreement.

"EPC Parent Guarantor": Enron Corp., an Oregon corporation.

"EPC Parent Guaranty": the Enron Guaranty of Obligations of National Energy Production Corporation and Enron Equipment Procurement Company, dated and effective as of December 22, 2000, made by the EPC Parent Guarantor in favor of the Borrower.

"Equity Contribution": as defined in Section 2.1(a) of the Equity Contribution Agreement.

"Equity Contribution Agreement": the Equity Contribution Agreement, dated as of May 24, 2001, among Cogentrix Southaven I, Cogentrix Southaven II, CDH, the Borrower, CEI and the Security Agent, substantially in the form of Exhibit G to the Loan Agreement.

"Equity Contribution Certificate": as defined in Section 2.1(a) of the Equity Contribution Agreement.

"Equity Contribution Letter of Credit": as defined in Section 1.1 of the Equity Contribution Agreement.

"Equity Contribution Proceeds": any and all payments made or due and payable by any Equity Contributor pursuant to the Equity Contribution Agreement.

"Equity Contributors": the collective reference to the Borrower Members and CDH.

"Equity Prepayment Notice": as defined in Section 5.3(e)(ii) of the Loan Agreement.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended.

"Eurodollar Loan Prepayment Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Eurodollar Loans": Loans bearing interest at a rate based upon the Eurodollar Rate.

"Eurodollar Rate": with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate of interest for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on Page 3750 of the Telerate screen as of 11:00 A.M., London time, two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on Page 3750 of the Telerate Service (or otherwise on such service), the "Eurodollar Rate" shall be determined by reference to the London Interbank Fixing Rate as published in the Financial Times, or if normal publication of the Financial Times is suspended for more than two days at a time that a quotation for a "Eurodollar Rate" is sought, the "Eurodollar Rate" shall be determined by reference to the London Interbank Offered Rate as quoted by National Westminster Bank plc (and displayed by Reuters). In the event that none of the foregoing is available, the "Eurodollar Rate" shall instead be the rate per annum (rounded upward to the nearest 1/16th of 1%) at which the Administrative Agent is offered Dollar deposits at or about 11:00 A.M., New York City time, two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where the eurodollar and foreign currency and exchange operations in respect of its Eurodollar Loans are

then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein and in an amount comparable to the amount of its Eurodollar Loan to be outstanding during such Interest Period.

"Eurodollar Tranche": as defined in Section 5.6 of the Loan Agreement.

"Event of Default": any of the events specified in Section 10.1 of the Loan Agreement, provided that any requirement for the giving of notice, the lapse of time, or both, or any other condition, has been satisfied.

"Event of Loss": (a) the actual or constructive total loss of all or substantially all of the Facility, or the condemnation, confiscation or seizure of, or requisition of title to, or requisition by any Government Authority of the use (for a period of time in excess of twelve months) of, all or substantially all of the Facility; or (b)(i) the loss, destruction or damage of, or (ii) the condemnation, confiscation or seizure of, or requisition of title to, or requisition by any Government Authority of the use of (for a period of time in excess of twelve months) such portion of the Project as shall render the Facility unable to operate on a commercially feasible basis, unless (in the case of this clause (b)): (w) no Event of Default shall have occurred and be continuing at the time of occurrence of or immediately after giving effect to any of the events specified in this clause (b), (x) it is feasible to restore, rebuild or replace the affected portion of the Project, (y) in the opinion of the Required Lenders after consultation with the Independent Engineer, sufficient funds are or will be available to the Borrower (A) to restore, rebuild or replace the affected portion of the Project so that the Facility will be able to operate on a commercially feasible basis within twelve months of the occurrence of such Event of Loss and (B) to pay all Debt Service until such restoration, rebuilding or replacement is completed and (z) no party (other than the Borrower) to any Project Document has the right to terminate such Project Document at any time during the period of restoration, rebuilding or replacement as a result of any of the events specified in this clause (b) unless (A) such right has been waived in writing in a manner satisfactory to the Security Agent or (B) with respect to any Additional Contract not essential to the Project, a replacement contract reasonably acceptable to the Administrative Agent has been obtained by the Borrower on or prior to the date that failure to so maintain such Project Document could reasonably be expected to result in a Material Adverse Effect. For the purpose of clause (b) of this definition, the Event of Loss shall be deemed to have occurred on the date on which the Security Agent shall notify the Borrower in writing that one or more of the conditions (specifying the same) set forth in clauses (w), (x), (y) and (z) has not been satisfied.

"Event of Loss Prepayment Date": in the case of an Event of Loss described in clause (a) of the definition thereof, the earlier of (i) the date which is 120 days after the date of such Event of Loss and (ii) the date on which the Casualty Insurance Proceeds or Requisition Proceeds are received with respect to such Event of Loss; and in the case of an Event of Loss described in clause (b) of the definition thereof, the earlier of (i) the date on which the Casualty Insurance Proceeds or Requisition Proceeds are received with respect to such Event of Loss or (ii) the date 120 days after such Event of Loss is deemed to have occurred.

"EWG Status Order": the order issued on January 10, 2000 by FERC, 90 FERC ¶62,008, granting Exempt Wholesale Generator status to the Borrower with respect to the Facility pursuant to the application filed in Docket No. EG00-31-000.

"Excess Cash Flow": for any period, Project Revenues less Project Operating Expenses for such period less Debt Service for such period less the amount required in such period to be deposited in the O&M Reserve Account pursuant to clause first of Section 5.3 of the Security Deposit Agreement less, without duplication, the amount required in such period to be applied to the prepayment of the Term Loans pursuant to clause "second" of Section 5.3 of the Security Deposit Agreement less, without duplication, the amount required in such period to be applied to the prepayment of Debt Service Reserve Letter of Credit Loans pursuant to clause "third" of Section 5.3 of the Security Deposit Agreement.

"Exempt Wholesale Generator": a Person determined by an order of FERC to be an "exempt wholesale generator" as defined in Section 32(a)(1) of PUHCA.

"Extension of Credit": any of (a) the making of a Construction Loan or Term Loan, (b) the issuance of the Debt Service Reserve Letter of Credit or (c) the issuance of any Credit Support Letter of Credit.

"Extension of Credit Request": a written request by the Borrower for an Extension of Credit, substantially in the form of Exhibit B to the Loan Agreement.

"Facility": the approximately 808-megawatt dispatchable, combined cycle natural gas-fired generating facility to be constructed on the Site pursuant to the EPC Agreements.

"Federal Funds Effective Rate": as defined in the definition of "Base Rate".

"Federal Power Act": the Federal Power Act.

"Fee Letter": the Fee Letter Agreement dated as of May 24, 2001, among the Administrative Agent, Credit Lyonnais, the Issuing Bank, the Security Agent and the Borrower setting forth certain fees payable by the Borrower.

"FERC": the Federal Energy Regulatory Commission or any successor or analogous federal Government Authority.

"Final Completion": as defined in Section 1.42 of the Construction Agreement and Section 1.43 of the Procurement Agreement.

"Final Maturity Date": the fourth anniversary of the Conversion Date.

"Final Notice to Proceed": as defined in Section 4.2 of the Construction Agreement and Section 4.2 of the Procurement Agreement.

"Financing Documents": collectively, the Loan Agreement, the Notes, the Fee Letter, each Interest Rate Hedging Agreement, the Equity Contribution Agreement, the Contingent Equity Contribution Guarantee, the Security Documents and the Subordinated Loan Documents.

"Fixed Project Operating Expense Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Force Majeure": with respect to any Project Document, as defined in such Project Document.

"Fronting Fee": as defined in Section 5.1(d) of the Loan Agreement.

"Funding Company": Cogentrix Southaven Funding, LLC, a Delaware limited liability company.

"Funding Company Construction Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Funding Company Final Completion Escrow Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Funding Company LLC Agreement": the Limited Liability Company Agreement of the Funding Company, dated as of November 29, 2000, entered into by the Funding Company Members, as the same made be from time to time amended, supplemented or otherwise modified pursuant to Section 9.15 of the Loan Agreement.

"Funding Company Members": (a) on the date of execution and delivery of the Loan Agreement, Cogentrix Southaven I and Cogentrix Southaven II; and (b) thereafter, each owner from time to time of a Funding Company Membership Interest.

"Funding Company Membership Interests": the limited liability membership interests in the Funding Company.

"Funding Company Membership Interest Pledge Agreement I": the Membership Interest Pledge Agreement, dated as of May 24, 2001, made by Cogentrix Southaven I in favor of the Security Agent for the benefit of the Secured Parties, substantially in the form of Exhibit F-4 to the Loan Agreement.

"Funding Company Membership Interest Pledge Agreement II": the Membership Interest Pledge Agreement, dated as of May 24, 2001, made by Cogentrix Southaven II in favor of the Security Agent for the benefit of the Secured Parties, substantially in the form of Exhibit F-5 to the Loan Agreement.

"Funding Company Membership Interest Pledge Agreements": the collective reference to the Funding Company Membership Interest Pledge Agreement I and the Funding Company Membership Interest Pledge Agreement II.

"Funding Company Security Agreement": the Security Agreement, dated as of May 24, 2001, made by the Funding Company in favor of the Security Agent for the benefit of the Secured Parties, substantially in the form of Exhibit N to the Loan Agreement.

"GAAP": generally accepted accounting principles in the United States of America in effect from time to time.

"Gas Interconnection Agreement": the Facility Letter Agreement, dated as of October 23, 2000, between the Borrower and Texas Gas, as amended by the Amendment to the Facility Letter Agreement dated May 15, 2001.

"Gas Metering Agreement": the Gas Metering Equipment Letter Agreement dated October 24, 2000 between the Borrower and PGET.

"GDP Index": the Gross Domestic Product Implicit Price Deflator as presently issued by the Department of Commerce Bureau of Economic Analysis in the publication entitled "Economic Indicators" published by the Government Printing Office, or, if said historical index is no longer available or is converted to a different standard reference base or is otherwise revised, such historical index as the Borrower and the Administrative Agent may select that measures all goods and services in the economy adjusted for real price change.

"GDP Index Multiplier": for any calendar year, the sum of (a) the Inflation Factor for the calendar year immediately preceding such calendar year and (b) 1.00.

"Governmental Approvals": orders, authorizations, consents, approvals, waivers, exemptions, variances, franchises, permissions, permits and licenses of, and filings and declarations with, any Government Authority.

"Government Authority": any nation or government, any state or other political subdivision thereof, and any entity exercising legislative, judicial, regulatory or administrative functions of or pertaining to government.

"Guarantee Obligation": as to any Person (the "guaranteeing person"), any obligation of (a) the guaranteeing person or (b) another Person (including, without limitation, any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a reimbursement, counter indemnity or similar obligation, in either case guaranteeing or in effect guaranteeing any Indebtedness, lease, dividends or other obligations (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business.

"Hazardous Materials": (a) any petroleum or petroleum products, flammable explosives, radioactive materials, materials containing greater than 1% asbestos in any form that is or could become friable, urea formaldehyde foam insulation and polychlorinated biphenyls (PCB) to the extent regulated under any Environmental Law; and (b) any chemicals, materials or substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous wastes", "restricted hazardous wastes",

“toxic substances”, “toxic pollutants”, “contaminants” or “pollutants”, or words of similar import, under any applicable Environmental Law and any other substance that can result in liability under any applicable Environmental Law.

“Indebtedness”: of any Person at any date, (a) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services, (b) any other indebtedness of such Person which is evidenced by a note, bond, debenture or similar instrument, (c) all obligations of such Person under Capital Leases, (d) all obligations of such Person pursuant to Interest Rate Hedging Transactions, (e) all obligations of such Person in respect of acceptances issued or created for the account of such Person, (f) all Guarantee Obligations of such person in respect of obligations of the kind referred to in clauses (a) through (e) above, and (g) all liabilities of the kind referred to in clauses (a) through (f) above secured by any Lien on any property owned by such Person even though such Person has not assumed or otherwise become liable for the payment thereof.

“Independent Engineer”: R.W. Beck, Inc., or such other nationally recognized engineering firm reasonably acceptable to the Borrower as the Administrative Agent may designate.

“Independent Engineer’s Certificate”: as defined in Section 7.2(d) of the Loan Agreement.

“Independent Engineer’s Report”: the report of the Independent Engineer delivered pursuant to Section 7.1(h) of the Loan Agreement.

“Inflation Factor”: for any calendar year (the “test year”), the quotient obtained by dividing (a) the GDP Index for the test year minus the GDP Index for the calendar year immediately preceding the test year, by (b) the GDP Index for the calendar year immediately preceding the test year.

“Initial Excess Proceeds”: any and all payments in excess of \$15,000,000 received by the Borrower pursuant to Section 8.3.1 of the Entergy Electrical Interconnection Agreement, Section 8.3 of the TVA Electrical Interconnection Agreement and Section 7.1(b) of the Conversion Services Agreement during the period from (and including) the Commercial Operation Date to (but excluding) the Cash Sweep Commencement Date.

“Insurance Consultant”: Marsh USA, Inc., or such other insurance consultant reasonably acceptable to the Borrower as the Administrative Agent may designate.

“Intercompany Note”: the Note dated December 6, 2000 from the Funding Company to the Borrower.

“Intercreditor Agreement”: the Intercreditor and Subordination Agreement dated as of May 24, 2001, among the Administrative Agent, the Subordinated Lender and the Borrower.

“Interest Payment Date”: (a) as to any Base Rate Loan, the last day of March, June, September and December of each year, commencing with the first such day to occur after the Closing Date, and the date on which such Loan is paid or converted into a Loan of another

Type, (b) as to any Eurodollar Loan having an Interest Period of three months or less, the last day of such Interest Period, and (c) as to any Eurodollar Loan having an Interest Period longer than three months, each day which is three months, or a whole multiple thereof, after the first day of such Interest Period, and the last day of such Interest Period.

"Interest Period": with respect to any Eurodollar Loan:

(i) initially, the period commencing on the borrowing or conversion date, as the case may be, with respect to such Eurodollar Loan and ending one, two, three or six months (or, if available to all of the Lenders, twelve months) thereafter, as selected by the Borrower in its notice of borrowing or notice of conversion, as the case may be, given with respect thereto; and

(ii) thereafter, each period commencing on the last day of the immediately preceding Interest Period applicable to such Eurodollar Loan and ending one, two, three or six months (or, if available to all of the Lenders, twelve months) thereafter, as selected by the Borrower by irrevocable notice to the Administrative Agent not less than three Business Days prior to the last day of the then current Interest Period with respect thereto;

provided that the foregoing provisions relating to Interest Periods are subject to the following:

(A) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding Business Day;

(B) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of a calendar month; and

(C) any Interest Period that would otherwise extend beyond (A) in the case of Construction Loans, the end of the Construction Commitment Period and (B) in the case of all other Loans, the Final Maturity Date, shall end on (x) in the case of Construction Loans, the last day of the Construction Commitment Period, and (y) in the case of all other Loans, the Final Maturity Date.

"Interest Rate Election Notice": a written notice by the Borrower delivered in connection with a borrowing of Construction Loans, substantially in the form of Exhibit L to the Loan Agreement.

"Interest Rate Hedging Agreement": any agreement entered into, or to be entered into, by the Borrower and one or more Interest Rate Hedging Counterparties pursuant to Section 8.19 of the Loan Agreement, in form and substance satisfactory to the Administrative Agent, which agreement contemplates an Interest Rate Hedging Transaction.

"Interest Rate Hedging Counterparty": any Lender or any Affiliate thereof whose long-term unsecured debt securities are rated A- or better by Standard & Poor's or A3 or better by Moody's, in each case at the time of such Lender's or such Affiliate's entry into an Interest Rate Hedging Transaction with the Borrower.

"Interest Rate Hedging Transaction": any interest rate protection agreement, interest rate swap transaction, interest rate "cap" or "collar" transaction, interest rate future, interest rate option or other interest rate hedging transaction.

"Issuing Bank": Credit Lyonnais New York Branch, in its capacity as issuer of the Debt Service Reserve Letter of Credit and each Credit Support Letter of Credit under the Loan Agreement, or any other financial institution that becomes the Issuing Bank pursuant to Section 4.9 of the Loan Agreement.

"L/C Issuer Event Equity Contribution": as defined in Section 2.1(d) of the Equity Contribution Agreement.

"L/C Issuer Event Equity Contribution Proceeds": as defined in Section 2.3(d) of the Equity Contribution Agreement.

"L/C Participants": the collective reference to all of the Lenders other than the Issuing Bank.

"LD Equity Contributions": as defined in Section 1.1 of the Equity Contribution Agreement.

"LD Letter of Credit": as defined in Section 6.2 of the Construction Agreement and Section 6.2 of the Procurement Agreement.

"Lenders": each of the banks and other financial institutions from time to time party hereto in their respective capacities as providers of the Commitments; provided that, for purposes of Sections 5.5, 5.8, 5.9, 5.10, 5.11, 5.12 and 5.13 of the Loan Agreement, the term "Lenders" shall also include the Issuing Bank in its capacity as such.

"Letters of Credit": the collective reference to the Debt Service Reserve Letter of Credit and each Credit Support Letter of Credit.

"Lien": any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement and any lease having substantially the same economic effect as any of the foregoing).

"LLC Agreements": the collective reference to the Borrower LLC Agreement and the Funding Company LLC Agreement.

"Loan Agreement": the Loan and Reimbursement Agreement dated as of May 24, 2001, among the Borrower, the Lenders, the Issuing Bank, the Administrative Agent and the Arrangers.

“Loans”: collectively, the Construction Loans, the Term Loans, the Credit Support Letter of Credit Loans and the Debt Service Reserve Letter of Credit Loans.

“Mandatory Equity Contribution”: as defined in Section 2.1(b) of the Equity Contribution Agreement.

“Mandatory Equity Contribution Proceeds”: as defined in Section 2.3(b) of the Equity Contribution Agreement.

“Market Consultant”: Pace Global Energy Services, L.L.C.

“Material Adverse Effect”: a material adverse effect on (a) the business, operations, property, assets, condition (financial or otherwise) of the Borrower, (b) the ability of the Borrower to perform its obligations under the Financing Documents or the Project Documents, (c) the validity or enforceability of the Financing Documents or the Project Documents or the rights, interests and remedies of the Lenders thereunder or (d) the validity or perfection of the security interests in the Collateral granted to the Lenders.

“MBFC”: the Mississippi Business Finance Corporation.

“MBFC Bond Documents”: the collective reference to the MBFC Trust Indenture, the MBFC Bond Loan Agreement and the Intercompany Note.

“MBFC Bond Loan Agreement”: the Loan Agreement, dated as of November 1, 2000, among MBFC, the Borrower and the Funding Company.

“MBFC Trust Indenture”: the Trust Indenture, dated as of November 1, 2000, among MBFC, the Bond Trustee and the Funding Company relating to the Bonds.

“MDECD”: the Mississippi Department of Economic and Community Development, now known as the Mississippi Development Authority.

“Members”: the collective reference to the Borrower Members and the Funding Company Members.

“Member Collateral”: the “Collateral” as defined in Section 2 of each Membership Interest Pledge Agreement.

“Membership Interests”: the Borrower Membership Interests and the Funding Company Membership Interests.

“Mississippi Mortgage”: the Deed of Trust, Security Agreement and Assignment of Leases, Rents and Proceeds, dated as of May 24, 2001, made from the Borrower to W. Rodney Clement, as trustee, for the use and benefit of the Security Agent, substantially in the form of Exhibit E-1 to the Loan Agreement.

“Monthly Operating Disbursement Date”: as defined in Section 1.2 of the Security Deposit Agreement.

"Monthly Payment Date": as defined in Section 1.1 of the Conversion Services Agreement.

"Moody's": Moody's Investor Services, Inc.

"Mortgaged Property": the "Mortgaged Property" as defined in the Mortgages.

"Mortgages": collectively, the Mississippi Mortgage and the Tennessee Mortgage.

"Multiemployer Plan": a Plan which is a multiemployer plan as defined in Section 3(37) of ERISA.

"Municipal Development Agreement": the Municipal Development Agreement, dated as of June 7, 1999, between the City and the Borrower together with the Assignment and Assumption Agreement dated as of December 15, 2000 between CEI and the Borrower.

"NEG": PG&E National Energy Group, Inc., a Delaware corporation.

"Non-Restoration Event": as defined in Section 1.2 of the Security Deposit Agreement.

"Non-Restoration Prepayment Notice": as defined in Section 5.3(c) of the Loan Agreement.

"Non-Restoration Prepayment Proceeds": as defined in Section 5.3(c) of the Loan Agreement.

"Notes": collectively, the Construction Notes, the Term Notes, the Credit Support Letter of Credit Notes and the Debt Service Reserve Letter of Credit Notes.

"O&M Agreement": the Operation and Maintenance Agreement, dated as of August 29, 2000, between the Borrower and the Operator.

"O&M Fee": the Management Fee as defined in Section 6.3(b) of the O&M Agreement.

"O&M Reserve Account": as defined in Section 1.2 of the Security Deposit Agreement.

"O&M Support Agreement": the O&M Support Agreement, dated as of December 15, 2000 among CEI, the Borrower and the Operator.

"Operating Budget": as defined in Section 8.21 of the Loan Agreement.

"Operations Period Credit Support Letter of Credit": as defined in Section 4.1(a)(ii) of the Loan Agreement.

"Operations Period Credit Support Letter of Credit Loans": as defined in Section 4.4(a) of the Loan Agreement.

"Operator": Southaven Operating Services, LLC, a Delaware limited liability company.

"Optional Prepayment Notice": as defined in Section 5.4(a) of the Loan Agreement.

"Participant": as defined in Section 12.7 of the Loan Agreement.

"PBGC": the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA.

"Performance Guarantees": as defined in Section 1.85 of the Construction Agreement and Section 1.86 of the Procurement Agreement.

"Performance Test Completion": as defined in Section 1.87 of the Construction Agreement and Section 1.88 of the Procurement Agreement.

"Permitted Investments": as defined in Section 1.2 of the Security Deposit Agreement.

"Permitted Liens": (i) Liens created pursuant to the Security Documents and the Subordinated Mortgages; (ii) Liens incurred or created in the ordinary course of business in connection with or to secure the performance of bids, tenders, contracts (other than for the payment of money), leases, statutory obligations, surety bonds or appeal bonds; (iii) mechanics', materialmen's, warehousemen's, carriers' or other like Liens arising in the ordinary course of business securing obligations incurred in connection with the Project which are not yet due or which are fully bonded or are being Contested (as defined below); (iv) Liens for taxes, assessments or governmental charges which are not yet due or which are being Contested; (v) Liens in connection with worker's compensation, unemployment insurance, old-age pensions or other social security benefits or obligations; (vi) Liens of judgments or awards fully covered by insurance or with respect to which an appeal or proceeding for review is being prosecuted by a Contest; (vii) the exceptions to title set forth in Schedule B to the Title Policies; and (viii) any easements, servitudes, rights-of-way, licenses and similar encumbrances incurred or created in the ordinary course of business which do not singularly or in the aggregate interfere with the use or impair the value of the Borrower's property or assets or impair the rights or interests of the Lenders with respect to the Collateral. For purposes of this definition, "Contest" means, with respect to any taxes, assessments, governmental charges or levies or any Lien or other claim (each, a "Claim"), a contest pursued in good faith challenging the validity or amount of any such Claim by proper proceedings timely instituted if (a) the Borrower diligently pursues such contest, (b) to the extent the maximum liability of Borrower if such Claim were to be determined adversely to Borrower could exceed \$100,000, the Borrower sets aside cash reserves with respect to the contested Claim which in the reasonable judgment of the Required Lenders are adequate therefor, (c) during the period of such contest the enforcement of any contested Claim is effectively stayed and (d) such contest (i) will not interfere with the construction or operation of

the Project and (ii) does not involve any material risk of a sale, forfeiture or loss of any part of the Project, title thereto or any interest therein.

"Permitted Subordinated Debt": as defined in Section 9.1(d) of the Loan Agreement.

"Permitted Transferee": a Person that has experience as a developer or manager of independent power generating projects or is a financial investor, or an Affiliate of a financial investor, with ownership and/or operating experience with such projects.

"Person": an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, Government Authority or other entity of whatever nature.

"PG&E": PG&E Corporation, a California corporation.

"PGET": PG&E Energy Trading—Power, L.P., a Delaware limited partnership and an indirect wholly owned subsidiary of PG&E.

"Plan": any "employee benefit plan" as defined in Section 3(3) of ERISA.

"Prepayment Subaccount": as defined in Section 1.2 of the Security Deposit Agreement.

"Proceeds": all cash and other property, real, personal or mixed, tangible or intangible, received upon the sale, exchange, collection or other disposition of the Collateral or proceeds thereof, and, in any event, including, but not limited to, Casualty Insurance Proceeds, Business Interruption Insurance Proceeds, Requisition Proceeds, Buy-Down Amount Proceeds, Termination Charges Proceeds, Delay Damages Proceeds, Equity Contribution Proceeds and Equity Contribution Guarantee Proceeds.

"Procurement Agreement": the Engineering and Equipment Procurement Agreement, dated and effective as of December 22, 2000, between the Borrower and the Supplier.

"Project": the Facility, the Site and all licenses, permits, easements, servitudes and other real property interests and rights relating to the Facility or the Site which are owned or leased by the Borrower or in which the Borrower has any rights, including, without limitation, the Easements.

"Project Cash Flow": for any period, the amount, if any, by which Project Revenues for such period exceed Project Operating Expenses for such period.

"Project Costs": all costs and expenses incurred or to be incurred by the Borrower to develop, design, finance, construct, test and start-up the Project in the manner contemplated by the Project Documents and to achieve Final Completion of the Facility, including (a) the amounts payable by the Borrower pursuant to the EPC Agreements, the Electrical Interconnection Agreements and the other Project Documents (other than payment of any CSA Liquidated Damages); (b) startup costs and the costs of acquiring and preparing the

Site and the Easements; (c) the cost of owner-furnished equipment, spare parts, power and water for construction and start-up, and utility interconnection costs, (d) initial working capital of \$2,100,000; (e) the cost of insurance and bonds; (f) consulting fees of the Independent Engineer, the Insurance Consultant and the Market Consultant; (g) legal, accounting and engineering fees and expenses; (h) financing fees and interest during construction with respect to the Loans and the other Secured Obligations; (i) other fees and expenses associated with the financing contemplated by the Loan Agreement, including fees payable pursuant to Section 6.1 of the Loan Agreement, and by the MBFC Bond Documents; (j) ad valorem taxes, real and personal property taxes and sales, use and excise taxes; (k) general and administrative expenses directly attributable to the Project; (l) operations and maintenance costs; (m) project development expenses and fees, construction management fees payable pursuant to the Construction Management Agreement, as shown in the Construction Budget; (n) commitment fees during construction with respect to the Subordinated Loans (but excluding any interest on, or any other fee with respect to, the Subordinated Loans); and (o) the deposit into the Debt Service Reserve Account on the Conversion Date of the Required DSR Conversion Date Deposit Amount, if any.

"Project Documents": collectively:

- (a) the EPC Agreements,
- (b) the EPC Parent Guaranty,
- (c) the Construction Management Agreement,
- (d) the O&M Agreement,
- (e) the O&M Support Agreement,
- (f) the Conversion Services Agreement,
- (g) the CSA Guaranty,
- (h) the Electrical Interconnection Agreements,
- (i) the Easement Agreements,
- (j) the Ad Valorem Tax Contract,
- (k) the MBFC Bond Documents,
- (l) the Sewer Agreement,
- (m) the Municipal Development Agreement,
- (n) the Gas Interconnection Agreement,
- (o) the Gas Metering Agreement, and
- (p) when entered to, each Additional Contract,

together with any replacement or substitute agreement for any of the foregoing; provided, that the CSA Guaranty shall be a Project Document, at any time the CSA Guaranty is required to be in effect pursuant to the terms of Section 2.6(b) of the Conversion Services Agreement.

"Project Equity Contributions": as defined in Section 1.1 of the Equity Contribution Agreement.

"Projected Debt Service": for any future period, the Debt Service projected to be payable by the Borrower during such period.

"Projected Debt Service Coverage Ratio": for any future period, the ratio of (i) projected Project Cash Flow for such period to (ii) Projected Debt Service for such period; provided that any assumptions used in the preparation thereof shall be reasonably acceptable to the Administrative Agent.

"Project Operating Expenses": for any period, the sum of the following for the Borrower (determined without duplication): (i) all salaries, bonuses, employee benefits and other compensation paid; (ii) insurance premiums paid; (iii) costs of operating and maintaining the Project paid, including payments under the O&M Agreement (but excluding the O&M Fee, the Performance Bonus (as defined in the O&M Agreement) and the Overhead Expense Allocation (as defined in the O&M Agreement)) and the O&M Support Agreement (but excluding any Overhead Charge (as defined in the O&M Support Agreement)); (iv) rent paid under leases permitted by Section 10.10 of the Loan Agreement; (v) amounts deposited in the O&M Reserve Account; (vi) ad valorem taxes, real and personal property taxes and sales, use and excise taxes paid; (vii) fees paid for accounting, legal and other professional services; (viii) general and administrative expenses paid (excluding management fees); (ix) capital expenditures paid, except capital expenditures in connection with repairs necessary as a result of casualty events; (x) ongoing fees and expenses of the Collateral Agents, the Administrative Agent, MBFC and the Bond Trustee paid; (xi) amounts paid pursuant to Sections 10 and 12.2(b) of the Conversion Services Agreement, (xii) amounts paid for the purchase of electric generation capacity or electric energy by the Borrower prior to the Commercial Operation Date pursuant to Section 2.5 of the Conversion Services Agreement, and (xiii) all other cash expenditures relating to operating costs of the Project paid; provided that there shall be excluded from the foregoing items federal, state and local income taxes, depreciation, costs that are paid with amounts withdrawn from the O&M Reserve Account and corporate allocation and management fees.

"Project Participants": collectively, the Borrower, the Contractors, the EPC Parent Guarantor, PGET, the CSA Guarantor, the Operator, CEI, CDH, each Borrower Member, each Funding Company Member, Entergy, TVA, Texas Gas, the City, the County, the Tax Assessor, MBFC, MCECD and each other Person from time to time party to a Project Document.

"Project Revenues": for any period, the sum of (i) all revenues received by the Borrower pursuant to the Conversion Services Agreement, (ii) any other operating revenues received by the Borrower for such period, (iii) the earnings on Permitted Investments on deposit in the Accounts to the extent distributed to the Revenue Account pursuant to the Security Deposit Agreement, (iv) all revenue received by the Borrower pursuant to the Electrical Interconnection Agreements (excluding any indemnity payments or other amounts not

constituting revenue received by the Borrower in the ordinary course of business) and (v) any Business Interruption Insurance Proceeds received by the Borrower during such period.

"Prudent Industry Practices": as defined in Section 1.1 of the Conversion Services Agreement.

"PUHCA": the Public Utility Holding Company Act of 1935.

"PURPA": the Public Utility Regulatory Policies Act of 1978.

"Quarterly Calculation Date": the last day of each March, June, September and December of each calendar year, commencing with the first such date to occur after the Conversion Date.

"Quarterly Distribution Date": the fifth Business Day following each date on which the Lenders have received the information described in Sections 8.4(b), (c) and (d) of the Loan Agreement with respect to the immediately preceding Quarterly Calculation Date, commencing on the first such day to occur after the initial Quarterly Calculation Date.

"Reduction Notice": as defined in Section 5.3(i) of the Loan Agreement.

"Reimbursable Expenses": as defined in Section 12.5 of the Loan Agreement.

"Reimbursement Obligations": all obligations of the Borrower under Section 4.4 of the Loan Agreement.

"Release of Hazardous Materials": the release of any Hazardous Material into or upon or under any land or water or air, or otherwise into the environment, including, without limitation, by means of burial, disposal, discharge, emission, injection, spillage, leakage, seepage, leaching, dumping, pumping, pouring, escaping, emptying, placement and the like.

"Remaining Excess Cash Flow": for any period, the amount distributable to the Administrative Agent under clause "seventh" of Section 5.3 of the Security Deposit Agreement.

"Replacement Debt Service Reserve Letter of Credit": any letter of credit caused by the Borrower to be issued in favor of the Administrative Agent pursuant to clause (i) or (iii) of Section 4A.10 of the Loan Agreement, which letter of credit must satisfy all of the requirements of Schedule I to the Security Deposit Agreement.

"Replacement Obligor": a Person satisfactory to the Required Lenders who assumes the obligations of the Project Participant being replaced pursuant to a substitute Project Document in form and substance reasonably satisfactory to the Required Lenders, provided that, in addition to the above requirements, with respect to either Contractor and the EPC Parent Guarantor, the Independent Engineer shall have delivered a certificate stating that the replacement of such Contractor and/or the EPC Parent Guarantor, as the case may be, could not reasonably be expected to adversely affect the Borrower's ability to achieve the Conversion Date prior to the Date Certain.

"Reportable Event": any of the events set forth in Section 4043(c) of ERISA.

"Required Debt Service Reserve Amount": \$10,000,000.

"Required DSR Conversion Date Deposit Amount": an amount equal to the aggregate principal amount of the DLD Credit Support Letter of Credit Loans outstanding on the Conversion Date.

"Required Lenders": at any time prior to the Conversion Date (other than in connection with Section 10.1(l)(A) of the Loan Agreement), Lenders whose Commitment Percentages aggregate at least 66 2/3%, and at any time on or after the Conversion Date (or prior to the Conversion Date in connection with Section 10.1(l)(A) of the Loan Agreement), Lenders whose Commitment Percentages aggregate more than 50%, provided that at all times, a vote of Lenders whose Commitment Percentages aggregate at least 66 2/3% shall be required (i) to accelerate the Loans and terminate the Construction Commitments and Term Loan Commitments and to exercise any other remedies with respect to any Event of Default or (ii) in connection with Section 5.3(i) or 9.17 of the Loan Agreement, or Section 10.1(e) or 10.1(j) of the Loan Agreement with respect to the substitution of an agreement for the Conversion Services Agreement; provided, further, that all times, a vote by Lenders whose Commitment Percentages aggregate at least 80% shall be required in connection with Section 4.10 (b) of the Subordinated Loan Agreement with respect to the release of the Subordinated Lender from its obligation to make any of the Subordinated Loans.

"Requirements of Law": as to any Person, the certificate of incorporation and by-laws or the partnership agreement or other organizational or governing documents of such Person, and any ordinance, law, treaty, rule or regulation or determination of an arbitrator or a court or other Government Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Requisition for Advance": a Requisition for Advance in the form attached as Exhibit B to the MBFC Bond Loan Agreement.

"Requisition Proceeds": any and all payments (in any form whatsoever) made or due and payable from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Project by any Government Authority (or any person acting under color of any Government Authority).

"Responsible Officer": (i) with respect to any Person other than the Borrower and the Funding Company, the president, vice president, treasurer or assistant treasurer of such Person, and (ii) with respect to each of the Borrower and the Funding Company, its chief executive officer, its chief financial officer or any Responsible Officer of Cogentrix Southaven I.

"Restricted Payments": as defined in Section 9.3 of the Loan Agreement.

"Revenue Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Revenues": as defined in Section 1.2 of the Security Deposit Agreement.

“Secured Counterparties”: the one or more Lenders or Affiliates thereof, as parties to the Interest Rate Hedging Agreements, which are or become parties to an Interest Rate Hedging Agreement.

“Secured Obligations”: the principal of and interest on the Loans (including any interest accruing after the filing of a petition initiating any proceeding in bankruptcy, insolvency or like proceeding with respect to the Borrower whether or not the claim for such interest is allowed in such proceeding), the Reimbursement Obligations, all amounts payable from time to time under any Interest Rate Hedging Agreement entered into with an Interest Rate Hedging Counterparty and all other indebtedness, obligations and liabilities of the Borrower to the Secured Parties, whether direct or indirect, absolute or contingent, due or to become due, or now or hereafter existing, which may arise under, out of, or in connection with any of the Financing Documents and any other document made, delivered or given in connection therewith, whether on account of principal, interest, premiums, Reimbursement Obligations, fees, indemnities, costs, expenses or otherwise, and all deferrals, renewals, extensions and refinancings of any indebtedness, obligations or liabilities referred to above.

“Secured Parties”: collectively, the Security Agent, the Security Deposit Agent, the Administrative Agent, the Lenders, the Issuing Bank and the Interest Rate Hedging Counterparties.

“Security Agent”: Credit Lyonnais, in its capacity as security agent for the Secured Parties.

“Security Agent Collateral”: as defined in Section 1.2 of the Security Deposit Agreement.

“Security Deposit Agent”: First Union National Bank, in its capacity as security deposit agent for the Secured Parties.

“Security Deposit Agreement”: the Security Deposit Agreement, dated as of May 24, 2001, among the Borrower, Funding Company, Issuing Bank, Administrative Agent, the Security Agent, the Security Deposit Agent and Securities Intermediary, substantially in the form of Exhibit D to the Loan Agreement.

“Security Deposit Collateral”: as defined in Section 1.2 of the Security Deposit Agreement.

“Security Documents”: collectively, the Security Deposit Agreement, the Borrower Security Agreement, the Funding Company Security Agreement, the Mortgages, the Borrower Membership Interest Pledge Agreements, the Funding Company Membership Interest Pledge Agreements, the Consents to Assignment and any other agreement or instrument entered into by the Borrower or any other Person which secures payment of all or any portion of the Secured Obligations.

“Senior Debt”: collectively, Indebtedness of the Borrower incurred pursuant to (a) the Loan Agreement and (b) Interest Rate Hedging Agreements.

"Sewer Agreement": the Amended and Restated Sewer Agreement dated as of August 23, 2000, between the City and the Borrower.

"Site": the land located in the City of Southaven, Mississippi, which is described in Schedule 2 to the Loan Agreement, on which the Facility is to be located.

"Special Payment Account": as defined in Section 1.2 of the Security Deposit Agreement.

"Standard & Poor's": Standard & Poor's Rating Service.

"Subordinated Construction Loan": as defined in Section 1.1 of the Subordinated Loan Agreement.

"Subordinated Lender": the Subordinated Lender under the Subordinated Loan Agreement.

"Subordinated Loan": as defined in Section 1.1 of the Subordinated Loan Agreement.

"Subordinated Loan Agreement": the Subordinated Loan Agreement dated as of May 24, 2001, between the Borrower, the Subordinated Lender and the Administrative Agent.

"Subordinated Loan Documents": as defined in Section 1.1 of the Subordinated Loan Agreement.

"Subordinated Loan Letter of Credit": as defined in Section 1.1 of the Subordinated Loan Agreement.

"Subordinated Loan Proceeds": any and all payments made or due and payable by the Subordinated Lender pursuant to the Subordinated Loan Agreement

"Subordinated Loan Release Date" as defined in Section 1.1 of the Subordinated Loan Agreement.

"Subordinated Mortgages": as defined in Section 1.1 of the Subordinated Loan Agreement.

"Subordinated Term Loan": as defined in Section 1.1 of the Subordinated Loan Agreement.

"Subsidiary": as to any Person, a corporation, partnership or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

"Supplier": NEPCO Procurement Company, a division of Enron Equipment Procurement Company, a Delaware corporation.

"Swap Obligations": collectively, the payment of (a) all scheduled amounts payable to the Secured Counterparties by the Borrower, as the fixed-rate payor, under the Interest Rate Hedging Agreements with Secured Counterparties (including, without limitation, interest accruing after the date of any filing by the Borrower of any petition in bankruptcy or the commencement of any bankruptcy, insolvency or similar proceeding with respect to the Borrower), net of all scheduled amounts payable to the Borrower by such Secured Counterparties as floating-rate payors, and (b) all other indebtedness, fees, indemnities and other amounts payable by the Borrower to the Secured Counterparties under the Interest Rate Hedging Agreements.

"Swap Termination Obligations": the aggregate amount of Swap Obligations payable to any Secured Counterparty by the Borrower, as the fixed rate payor, upon the early unwind of all or a portion of an Interest Rate Hedging Agreement with such Secured Counterparty, net of all amounts payable to the Borrower by such Secured Counterparty, as floating-rate payor.

"System Upgrade Credits": all payments or credits due the Borrower pursuant to Section 8.3.1 of the Entergy Electrical Interconnection Agreement and Section 8.3 of the TVA Electrical Interconnection Agreement.

"Tax Assessor": the Desoto County Tax Assessor/Collector.

"Taxes": as defined in Section 5.12(a) of the Loan Agreement.

"Tennessee Mortgage": the Deed of Trust, Security Agreement, Assignment of Leases, Rents and Proceeds, and Financing Statement, dated as of May 24, 2001, made from the Borrower to William E. Shofner, as trustee, for the use and benefit of the Security Agent, substantially in the form of Exhibit E-2 to the Loan Agreement.

"Term Loan Commitment": as to any Lender, the obligation of such Lender to make a Term Loan to the Borrower pursuant to Section 3.1(a) of the Loan Agreement, in an aggregate principal amount not to exceed the product of (i) such Lender's Commitment Percentage and (ii) the Total Commitment Amount, as such amount may be reduced from time to time in accordance with the provisions of the Loan Agreement; collectively, as to all Lenders, the "Term Loan Commitments".

"Term Loan Installment Payment Date": each of (i) the last day of each March, June, September and December to occur during the period commencing on (and including) the seventh such date to occur after the Conversion Date and ending on the Final Maturity Date and (ii) the Final Maturity Date.

"Term Loans": as defined in Section 3.1(a) of the Loan Agreement.

"Term Notes": as defined in Section 3.2 of the Loan Agreement.

"Termination Charges Prepayment Notice": as defined in Section 5.3(d) of the Loan Agreement.

"Termination Charges Proceeds": penalty or termination charges paid pursuant to Section 18.2 of the Conversion Services Agreement, other than any CSA Delay Payments, received by the Borrower.

"Texas Gas": the Texas Gas Transmission Corporation.

"Title IV Plan": a Plan that is subject to Title IV of ERISA.

"Title Company": Fidelity National Title Insurance Company of New York, or such other title insurance company approved by the Administrative Agent to insure the priority of the Liens of the Mortgages.

"Title Policy": each policy of title insurance delivered to the Lenders on the Closing Date pursuant to Section 7.1(f) of the Loan Agreement; collectively, the "Title Policies".

"Total Commitment Amount": \$393,551, 979.

"Total Equity Contribution Commitment": as defined in Section 1.1 of the Equity Contribution Agreement.

"Transaction Documents": the collective reference to the Project Documents and the Financing Documents.

"Transfer": any sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of, either voluntarily or involuntarily, or entering into of any contract, option or other arrangement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of, directly or indirectly, any Membership Interest.

"TVA": The Tennessee Valley Authority, a corporation created by and existing under and by virtue of the Tennessee Valley Authority Act of 1933, as amended.

"TVA Electrical Interconnection Agreement": the Interconnection Agreement, dated as of October 10, 2000, between TVA and the Borrower.

"Type": as to any Loan, its nature as a Base Rate Loan or a Eurodollar Loan.

"Uniform Commercial Code": the Uniform Commercial Code as in effect in the State of New York.

"Uniform Customs": the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500.