

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

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2001  
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OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 1-3701  
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AVISTA CORPORATION  
(Exact name of registrant as specified in its charter)

Washington

91-0462470

-----  
(State or other jurisdiction of  
incorporation or organization)

-----  
(I.R.S. Employer  
Identification No.)

1411 East Mission Avenue, Spokane, Washington

99202-2600

-----  
(Address of principal executive offices)

-----  
(Zip Code)

Registrant's telephone number, including area code: 509-489-0500  
-----

Web site: <http://www.avistacorp.com>

None

-----  
(Former name, former address and former fiscal year,  
if changed since last report)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

At April 30, 2001, 47,318,093 shares of Registrant's Common Stock, no par value (the only class of common stock), were outstanding.

## AVISTA CORPORATION

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CONSOLIDATED STATEMENTS OF INCOME AND COMPREHENSIVE INCOME  
Avista Corporation

For the Three Months Ended March 31  
Thousands of Dollars

	2001	2000
OPERATING REVENUES .....	\$ 2,043,310	\$ 1,381,974
OPERATING EXPENSES:		
Resource costs .....	1,881,736	1,258,665
Operations and maintenance .....	24,172	26,855
Administrative and general .....	37,639	25,274
Depreciation and amortization .....	21,020	19,150
Taxes other than income taxes .....	17,776	16,110
Exit costs - Avista Energy's Eastern energy business .....	--	4,907
Restructuring charges - Pentzer .....	--	1,940
Total operating expenses .....	1,982,343	1,352,901
INCOME FROM OPERATIONS .....	60,967	29,073
OTHER INCOME (EXPENSE):		
Interest expense .....	(21,583)	(14,737)
Net gain on subsidiary transactions .....	2,152	--
Other income-net .....	7,652	3,362
Total other income (expense)-net .....	(11,779)	(11,375)
INCOME BEFORE INCOME TAXES .....	49,188	17,698
INCOME TAXES .....	19,785	7,173
NET INCOME .....	29,403	10,525
DEDUCT-Preferred stock dividend requirements (Note 4) .....	608	21,910
INCOME (LOSS) AVAILABLE FOR COMMON STOCK .....	\$ 28,795	\$ (11,385)
Average common shares outstanding (thousands), Basic (Note 4) ..	47,237	41,297
EARNINGS (LOSS) PER SHARE OF COMMON STOCK, BASIC AND DILUTED (Note 4) .....	\$ 0.61	\$ (0.28)
Dividends paid per common share .....	\$ 0.12	\$ 0.12
NET INCOME .....	\$ 29,403	\$ 10,525
OTHER COMPREHENSIVE INCOME (LOSS):		
Foreign currency translation adjustment .....	(14)	41
Unrealized investment gains/(losses)-net of tax .....	1,565	154
TOTAL OTHER COMPREHENSIVE INCOME .....	1,551	195
COMPREHENSIVE INCOME .....	\$ 30,954	\$ 10,720

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE STATEMENTS.

CONSOLIDATED BALANCE SHEETS  
Avista Corporation

-----  
Thousands of Dollars

	March 31, 2001	December 31, 2000
	-----	-----
<b>ASSETS:</b>		
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents .....	\$ 205,185	\$ 194,365
Temporary investments .....	4,875	1,058
Accounts and notes receivable-less allowances of \$23,046 and \$14,579, respectively ..	536,402	861,308
Energy commodity assets .....	7,842,182	7,956,229
Materials and supplies, fuel stock and natural gas stored .....	23,243	24,496
Prepayments and other .....	78,181	54,244
	-----	-----
Total current assets .....	8,690,068	9,091,700
	-----	-----
<b>UTILITY PROPERTY:</b>		
Utility plant in service-net .....	2,217,077	2,205,230
Construction work in progress .....	39,540	33,535
	-----	-----
Total .....	2,256,617	2,238,765
Less: Accumulated depreciation and amortization .....	733,862	720,453
	-----	-----
Net utility plant .....	1,522,755	1,518,312
	-----	-----
<b>OTHER PROPERTY AND INVESTMENTS:</b>		
Investment in exchange power-net .....	45,150	46,981
Non-utility properties and investments-net .....	265,157	219,450
Non-current energy commodity assets .....	1,628,787	1,367,107
Other-net .....	25,805	21,885
	-----	-----
Total other property and investments .....	1,964,899	1,655,423
	-----	-----
<b>DEFERRED CHARGES:</b>		
Regulatory assets for deferred income tax .....	158,283	156,692
Utility energy commodity derivative assets .....	203,620	--
Power and natural gas deferrals .....	142,108	75,648
Unamortized debt expense .....	28,799	27,874
Other-net .....	53,525	38,275
	-----	-----
Total deferred charges .....	586,335	298,489
	-----	-----
TOTAL .....	\$12,764,057	\$12,563,924
	=====	=====
<b>LIABILITIES AND CAPITALIZATION:</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable .....	\$ 622,387	\$ 892,545
Energy commodity liabilities .....	7,725,175	7,834,007
Current portion of long-term debt .....	65,379	89,901
Short-term borrowings .....	213,000	163,160
Taxes and interest accrued .....	31,970	1,971
Other .....	169,670	143,623
	-----	-----
Total current liabilities .....	8,827,581	9,125,207
	-----	-----
<b>NON-CURRENT LIABILITIES AND DEFERRED CREDITS:</b>		
Non-current liabilities .....	40,359	38,975
Deferred revenue .....	45,705	46,498
Non-current energy commodity liabilities .....	1,535,540	1,272,374
Utility energy commodity derivative liabilities .....	79,104	--
Deferred income taxes .....	467,622	446,310
Other deferred credits .....	203,323	95,530
	-----	-----
Total non-current liabilities and deferred credits .....	2,371,653	1,899,687
	-----	-----
CAPITALIZATION (See Consolidated Statements of Capitalization) .....	1,564,823	1,539,030
	-----	-----
<b>COMMITMENTS AND CONTINGENCIES (Note 5)</b>		
TOTAL .....	\$12,764,057	\$12,563,924
	=====	=====

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE STATEMENTS.

CONSOLIDATED STATEMENTS OF CAPITALIZATION  
Avista Corporation

-----  
Thousands of Dollars

	March 31, 2001	December 31, 2000
	-----	-----
LONG-TERM DEBT:		
First Mortgage Bonds:		
Secured Medium-Term Notes:		
Series A - 625% to 790% due 2002 through 2023 .....	\$ 129,500	\$ 129,500
Series B - 650% to 789% due 2002 through 2010 .....	74,000	74,000
	-----	-----
Total first mortgage bonds .....	203,500	203,500
	-----	-----
Pollution Control Bonds:		
Floating Rate, Colstrip 1999A, due 2032 .....	66,700	66,700
Floating Rate, Colstrip 1999B, due 2034 .....	17,000	17,000
6% Series due 2023 .....	4,100	4,100
	-----	-----
Total pollution control bonds .....	87,800	87,800
	-----	-----
Unsecured Medium-Term Notes:		
Series A - 794% to 899% due 2003 through 2007 .....	13,000	13,000
Series B - 675% to 823% due 2002 through 2023 .....	89,000	89,000
Series C - 599% to 802% due 2007 through 2028 .....	109,000	109,000
Series D - 8625% due 2003 .....	175,000	175,000
	-----	-----
Total unsecured medium-term notes .....	386,000	386,000
	-----	-----
Other .....	2,179	2,506
	-----	-----
Total long-term debt .....	679,479	679,806
	-----	-----
COMPANY-OBLIGATED MANDATORILY REDEEMABLE		
PREFERRED TRUST SECURITIES:		
7 7/8%, Series A, due 2037 .....	60,000	60,000
Floating Rate, Series B, due 2037 .....	40,000	40,000
	-----	-----
Total company-obligated mandatorily redeemable preferred trust securities ..	100,000	100,000
	-----	-----
PREFERRED STOCK-CUMULATIVE:		
10,000,000 shares authorized:		
Subject to mandatory redemption:		
\$695 Series K; 350,000 shares outstanding (\$100 stated value) .....	35,000	35,000
	-----	-----
Total subject to mandatory redemption .....	35,000	35,000
	-----	-----
COMMON EQUITY:		
Common stock, no par value; 200,000,000 shares authorized;		
47,265,979 and 47,208,689 shares outstanding .....	611,837	610,741
Note receivable from employee stock ownership plan .....	(6,730)	(7,040)
Capital stock expense and other paid in capital .....	(11,696)	(11,696)
Other comprehensive income .....	828	(723)
Retained earnings .....	156,105	132,942
	-----	-----
Total common equity .....	750,344	724,224
	-----	-----
TOTAL CAPITALIZATION .....	\$ 1,564,823	\$ 1,539,030
	=====	=====

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE STATEMENTS.

CONSOLIDATED STATEMENTS OF CASH FLOWS  
 Increase (Decrease) in Cash and Cash Equivalents  
 Avista Corporation

For the Three Months Ended March 31  
 Thousands of Dollars

	2001	2000
	-----	-----
<b>OPERATING ACTIVITIES:</b>		
Net income .....	\$ 29,403	\$ 10,525
<b>NON-CASH ITEMS INCLUDED IN NET INCOME:</b>		
Depreciation and amortization .....	21,020	19,150
Provision for deferred income taxes .....	20,939	2,299
Power and natural gas cost deferrals and amortizations .....	(68,019)	(861)
Gain on sale of property and subsidiary investments-net .....	(329)	(41)
Energy commodity assets and liabilities .....	8,699	3,088
Other-net .....	(21,817)	(4,426)
<b>(Increase) decrease in working capital components:</b>		
Sale of customer accounts receivables-net .....	24,000	25,000
Receivables and prepaid expense .....	281,837	76,864
Materials & supplies, fuel stock and natural gas stored .....	1,253	5,504
Payables and other accrued liabilities .....	(224,524)	(85,967)
Other .....	(7,015)	37,006
<b>NET CASH PROVIDED BY OPERATING ACTIVITIES .....</b>	<b>65,447</b>	<b>88,141</b>
	-----	-----
<b>INVESTING ACTIVITIES:</b>		
Construction expenditures (excluding AFUDC-equity funds) .....	(19,438)	(17,835)
Other capital requirements .....	(49,924)	(5,314)
Change in other noncurrent balance sheet items-net .....	(5,419)	6,006
Proceeds from property sales and sale of subsidiary investments ..	98	--
Assets acquired and investments in subsidiaries .....	--	(1,810)
<b>NET CASH USED IN INVESTING ACTIVITIES .....</b>	<b>(74,683)</b>	<b>(18,953)</b>
	-----	-----
<b>FINANCING ACTIVITIES:</b>		
Increase (decrease) in short-term borrowings .....	49,840	(36,030)
Redemption and maturity of long-term debt .....	(25,067)	(16,034)
Sale (repurchase) of common stock .....	1,818	(113)
Cash dividends paid .....	(6,287)	(9,473)
Other-net .....	(248)	(1,489)
<b>NET CASH PROVIDED BY (USED IN) FINANCING ACTIVITIES .....</b>	<b>20,056</b>	<b>(63,139)</b>
	-----	-----
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS .....</b>	<b>10,820</b>	<b>6,049</b>
<b>CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD .....</b>	<b>194,365</b>	<b>40,041</b>
	-----	-----
<b>CASH AND CASH EQUIVALENTS AT END OF PERIOD .....</b>	<b>\$ 205,185</b>	<b>\$ 46,090</b>
	=====	=====
<b>SUPPLEMENTAL CASH FLOW INFORMATION:</b>		
Cash paid (received) during the period:		
Interest .....	\$ 24,722	\$ 15,901
Income taxes .....	(14,243)	6,341
<b>Noncash financing and investing activities:</b>		
Intangibles acquired through issuance of common stock .....	1,286	--
Changes due to FAS 115 adjustment to investments .....	2,407	--
Property purchased under capitalized leases .....	469	--
Series L Preferred Stock converted to common stock .....	--	271,286

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE STATEMENTS.

SCHEDULE OF INFORMATION BY BUSINESS SEGMENTS  
Avista Corporation

For the Three Months Ended March 31  
Thousands of Dollars

	2001	2000
	-----	-----
<b>OPERATING REVENUES:</b>		
Avista Utilities .....	\$ 415,627	\$ 298,542
Energy Trading and Marketing .....	1,744,893	1,106,188
Information and Technology .....	5,411	2,290
Avista Ventures and other .....	5,691	7,114
Intersegment eliminations .....	(128,312)	(32,160)
	-----	-----
Total operating revenues .....	\$ 2,043,310	\$ 1,381,974
	=====	=====
<b>RESOURCE COSTS:</b>		
Avista Utilities:		
Power purchased .....	\$ 243,433	\$ 119,133
Natural gas purchased for resale .....	79,438	42,549
Fuel for generation .....	26,124	13,568
Power and natural gas deferrals .....	(66,451)	344
Other .....	32,174	12,540
Energy Trading and Marketing:		
Cost of sales .....	1,695,330	1,102,691
Intersegment eliminations .....	(128,312)	(32,160)
	-----	-----
Total resource costs (excluding non-energy businesses) ..	\$ 1,881,736	\$ 1,258,665
	=====	=====
<b>GROSS MARGINS:</b>		
Avista Utilities .....	\$ 100,909	\$ 110,752
Energy Trading and Marketing .....	49,563	3,497
	-----	-----
Total gross margins (excluding non-energy businesses) ...	\$ 150,472	\$ 114,249
	=====	=====
<b>OPERATIONS AND MAINTENANCE EXPENSES:</b>		
Avista Utilities .....	\$ 16,085	\$ 16,265
Information and Technology .....	3,669	4,632
Avista Ventures and other .....	4,418	5,958
	-----	-----
Total operations and maintenance expenses .....	\$ 24,172	\$ 26,855
	=====	=====
<b>ADMINISTRATIVE AND GENERAL EXPENSES:</b>		
Avista Utilities .....	\$ 14,528	\$ 14,338
Energy Trading and Marketing .....	11,863	4,349
Information and Technology .....	9,781	4,879
Avista Ventures and other .....	1,467	1,708
	-----	-----
Total administrative and general expenses .....	\$ 37,639	\$ 25,274
	=====	=====
<b>DEPRECIATION AND AMORTIZATION EXPENSES:</b>		
Avista Utilities .....	\$ 16,503	\$ 16,685
Energy Trading and Marketing .....	473	652
Information and Technology .....	3,188	825
Avista Ventures and other .....	856	988
	-----	-----
Total depreciation and amortization expenses .....	\$ 21,020	\$ 19,150
	=====	=====
<b>INCOME (LOSS) FROM OPERATIONS (PRE-TAX):</b>		
Avista Utilities .....	\$ 37,655	\$ 47,606
Energy Trading and Marketing .....	36,083	(6,547)
Information and Technology .....	(11,686)	(8,262)
Avista Ventures and other .....	(1,085)	(3,724)
	-----	-----
Total income from operations .....	\$ 60,967	\$ 29,073
	=====	=====

SCHEDULE OF INFORMATION BY BUSINESS SEGMENTS  
 Avista Corporation

-----  
 For the Three Months Ended March 31  
 Thousands of Dollars

	2001	2000
	-----	-----
INCOME (LOSS) AVAILABLE FOR COMMON STOCK:		
Avista Utilities .....	\$ 12,464	\$ (2,066)
Energy Trading and Marketing .....	27,099	(3,538)
Information and Technology .....	(7,704)	(5,663)
Avista Ventures and other .....	(3,064)	(118)
	-----	-----
Total income available for common stock .....	\$ 28,795	\$ (11,385)
	=====	=====
ASSETS: (2000 amounts at December 31)		
Avista Utilities .....	\$ 2,271,861	\$ 2,129,614
Energy Trading and Marketing .....	10,342,262	10,271,834
Information and Technology .....	86,444	59,632
Avista Ventures and other .....	63,490	102,844
	-----	-----
Total assets .....	\$ 12,764,057	\$ 12,563,924
	=====	=====
CAPITAL EXPENDITURES (excluding AFUDC/AFUCE):		
Avista Utilities .....	\$ 20,187	\$ 18,578
Energy Trading and Marketing .....	40,430	13
Information and Technology .....	9,115	4,827
Avista Ventures and other .....	379	474
	-----	-----
Total capital expenditures .....	\$ 70,111	\$ 23,892
	=====	=====

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THESE STATEMENTS.

## NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

The accompanying financial statements of Avista Corporation (Avista Corp. or the Company) for the interim periods ended March 31, 2001 and 2000 are unaudited but, in the opinion of management, reflect all adjustments, consisting only of normal recurring accruals, necessary for a fair statement of the results of operations for those interim periods. The results of operations for the interim periods are not necessarily indicative of the results to be expected for the full year. These financial statements do not contain the detail or footnote disclosure concerning accounting policies and other matters which would be included in full fiscal year financial statements; therefore, they should be read in conjunction with the Company's audited financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2000 (2000 Form 10-K).

## NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

## RECLASSIFICATIONS

Certain prior year amounts have been reclassified to conform to current statement format. These reclassifications were made for comparative purposes and have not affected previously reported total net income or common shareholders' equity.

## NEW ACCOUNTING STANDARDS

In September 2000, the Financial Accounting Standards Board (FASB) issued FAS No. 140, "Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities", which revises the standards for accounting for securitizations and other transfers of financial assets and collateral and requires certain disclosures. This statement is effective for transfers and servicing of financial assets and extinguishments of liabilities occurring after March 31, 2001. The Statement is effective for recognition and reclassification of collateral and for disclosures relating to securitization transactions and collateral for fiscal years ending after December 15, 2000. FAS No. 140 has been adopted as of April 1, 2001. There was no material financial statement impact resulting from the adoption of this statement.

Avista Utilities adopted FAS No. 133, "Accounting for Derivative Instruments and Hedging Activities," and the corresponding amendments under FAS No. 138, on January 1, 2001. Based on Avista Utilities' current interpretations of FAS No. 133, 138 and the FASB's Derivative Implementation Group (DIG), Avista Utilities believes that the majority of its long-term purchases and sales contracts for both capacity and energy qualify as normal purchases and sales under FAS No. 133. Some of Avista Utilities' contracts for less than one year in duration (short-term) are subject to booking out, whereby power may not be physically delivered. Avista Utilities does not believe that these short-term contracts can be classified as normal purchases and sales. The Washington Utilities and Transportation Commission (WUTC) and the Idaho Public Utilities Commission (IPUC) issued accounting orders requiring Avista Utilities to offset any derivative assets or liabilities with a regulatory asset or liability, thus deferring the unrealized gains or losses.

On January 1, 2001, Avista Utilities recorded a derivative commodity asset of \$252.3 million and a derivative commodity liability of \$36.1 million. The difference of \$216.2 million was recorded as a regulatory liability in accordance with the accounting treatment prescribed by the accounting orders from the WUTC and IPUC discussed above. At March 31, 2001, the derivative commodity asset balance was \$203.6 million, the derivative commodity liability balance was \$79.1 million and the offsetting regulatory liability was \$124.5 million. The asset balance is included in Deferred Charges - Utility Energy Commodity Derivative Assets, the liability balance is included in Non-Current Liabilities and Deferred Credits - Utility Energy Commodity Derivative Liabilities, and the regulatory liability is included in Non-Current Liabilities and Deferred Credits -- Other on the Consolidated Balance Sheets.

## NOTE 2. ENERGY COMMODITY TRADING

The Company's energy-related businesses are exposed to risks relating to changes in certain commodity prices and counterparty performance. In order to manage the various risks relating to these exposures, Avista Utilities utilizes electric, natural gas and related derivative commodity instruments, such as forwards, futures, swaps and options, and Avista Energy engages in the trading of such instruments. Avista Utilities and Avista Energy have adopted policies and procedures to manage the risks, both quantitative and qualitative, inherent in these activities.

## AVISTA CORPORATION

## AVISTA UTILITIES

Avista Utilities sells and purchases electric capacity and energy at wholesale to and from utilities and other entities under firm long-term contracts having terms of more than one year. In addition, Avista Utilities engages in short-term sales and purchases in the wholesale market as part of an economic selection of resources to serve its retail and firm wholesale loads. Avista Utilities makes continuing projections of (1) future retail and firm wholesale loads based on, among other things, forward estimates of factors such as customer usage and weather as well as historical data and contract terms and (2) resource availability based on, among other things, estimates of streamflows, generating unit availability, historic and forward market information and experience. On the basis of these continuing projections, Avista Utilities makes purchases and sales of energy on a quarterly, monthly, daily and hourly basis to match actual resources to actual energy requirements and to sell any surplus at the best available price.

Avista Utilities protects itself against price fluctuations on electric energy by establishing volume limits for the imbalance between projected loads and resources and through the use of derivative commodity instruments for hedging purposes. Any imbalance is required to remain within limits, or management action or decisions are triggered to address larger imbalance situations and limit the exposure to market risk. Avista Energy is responsible for the daily management of gas resources to meet the requirements of Avista Utilities customers. In addition, Avista Utilities utilizes derivative commodity instruments for hedging price risk associated with natural gas. The Risk Management Committee has limited the types of commodity instruments Avista Utilities may trade to those related to electricity and natural gas commodities and those instruments are to be used for hedging price fluctuations associated with the management of resources. Commodity instruments are not generally held by Avista Utilities for speculative trading purposes. The market values of natural gas derivative commodity instruments held by Avista Utilities at March 31, 2001, and December 31, 2000, were a \$1.8 million net liability and a \$1.0 million net asset, respectively.

## AVISTA ENERGY

Contract Amounts and Terms Under Avista Energy's derivative instruments, Avista Energy either (i) as "fixed price payor," is obligated to pay a fixed price or amount and is entitled to receive the commodity or a fixed amount or (ii) as "fixed price receiver," is entitled to receive a fixed price or amount and is obligated to deliver the commodity or pay a fixed amount or (iii) as "index price payor," is obligated to pay an indexed price or amount and is entitled to receive the commodity or a variable amount or (iv) as "index price receiver," is entitled to receive an indexed price or amount and is obligated to deliver the commodity or pay a variable amount. The contract or notional amounts and terms of Avista Energy's derivative commodity investments outstanding at March 31, 2001, are set forth below (in thousands of mMBTUs and MWhs):

	Fixed Price Payor	Fixed Price Receiver	Maximum Terms in Years
	-----	-----	-----
Energy commodities (volumes)			
Natural gas	109,238	97,825	3
Electric	133,599	127,350	20
	Index Price Payor	Index Price Receiver	Maximum Terms in Years
	-----	-----	-----
Energy commodities (volumes)			
Natural gas	631,014	670,942	4
Electric	903	436	4

Contract or notional amounts reflect the volume of transactions, but do not necessarily represent the dollar amounts exchanged by the parties to the derivative commodity instruments. Accordingly, contract or notional amounts do not accurately measure Avista Energy's exposure to market or credit risks. The maximum terms in years detailed above are not indicative of likely future cash flows as these positions may be offset in the markets at any time.

## AVISTA CORPORATION

Fair Value The fair value of Avista Energy's derivative commodity instruments outstanding at March 31, 2001, and the average fair value of those instruments held during the three months ended March 31, 2001, are set forth below (dollars in thousands):

	Fair Value as of March 31, 2001				Average Fair Value for the three months ended March 31, 2001			
	Current Assets	Long-term Assets	Current Liabilities	Long-term Liabilities	Current Assets	Long-term Assets	Current Liabilities	Long-term Liabilities
Natural gas	\$ 365,622	\$ 88,886	\$ 344,983	\$ 88,184	\$ 404,138	\$ 107,096	\$ 388,548	\$ 104,763
Electric	7,475,644	1,539,901	7,380,089	1,447,356	7,494,151	1,390,851	7,390,940	1,299,194
Emission allowances	916	--	103	--	916	--	103	--
Total	\$7,842,182	\$1,628,787	\$7,725,175	\$1,535,540	\$7,899,205	\$1,497,947	\$7,779,591	\$1,403,957

The weighted average term of Avista Energy's natural gas and related derivative commodity instruments as of March 31, 2001, was approximately six months. The weighted average term of Avista Energy's electric derivative commodity instruments at March 31, 2001, was approximately six months. The change in the fair value position of Avista Energy's energy commodity portfolio, net of the reserves for credit and market risk, from December 31, 2000, to March 31, 2001, was a decrease of \$6.7 million and is included in the Consolidated Statements of Income in operating revenues.

## NOTE 3. FINANCINGS

Reference is made to the information relating to financings and borrowings as discussed under the caption "Liquidity and Capital Resources" in Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations".

## NOTE 4. EARNINGS PER SHARE

The computation of basic and diluted earnings per common share is as follows (in thousands, except per share amounts):

	1st Quarter	
	2001	2000
Net income	\$29,403	\$ 10,525
Less: Preferred stock dividends	608	21,910
Income available for common stock-basic and diluted	\$28,795	\$(11,385)
Weighted-average number of common shares outstanding-basic	47,237	41,297
Conversion of Convertible Preferred Stock, Series L	--	7,624
Restricted stock	6	99
Stock options	--	504
Weighted-average number of common shares outstanding-diluted	47,243	49,524
Earnings per common share, Basic and Diluted	\$ 0.61	\$ (0.28)

## AVISTA CORPORATION

## NOTE 5. COMMITMENTS AND CONTINGENCIES

The Company believes, based on the information presently known, that the ultimate liability for the matters discussed in this note, individually or in the aggregate, taking into account established accruals for estimated liabilities, will not be material to the consolidated financial position of the Company, but could be material to results of operations or cash flows for a particular quarter or annual period. No assurance can be given, however, as to the ultimate outcome with respect to any particular lawsuit.

## SECURITIES LITIGATION

On July 27, 2000, John Bain filed a lawsuit in the U.S. District Court for the Eastern District of Washington against the Company and Thomas M. Matthews, the former Chairman of the Board, President and Chief Executive Officer of the Company, and Jon E. Eliassen, a Senior Vice President and the Chief Financial Officer of the Company. On August 2, 2000, Wei Cao and William Dalton filed separate lawsuits in the same Court against the Company and Mr. Matthews. On August 7, 2000, Martin Capetz filed a lawsuit in the same Court against the Company, Mr. Matthews and Mr. Eliassen. On November 9, 2000, the court entered an order consolidating the cases, appointing the lead stockholder-plaintiff, and appointing lead stockholders-plaintiffs' counsel to prosecute the litigation. On February 13, 2001, plaintiffs filed their First Amended and Consolidated Class Action asserting claims on behalf of a purported class of persons who purchased Company common stock during the period April 14, 2000, through June 21, 2000. In their consolidated complaint, plaintiffs assert violations of Section 10(b) of the Securities Exchange Act of 1934, as amended, and Rule 10b-5 thereunder, arising out of various alleged misstatements and omissions in the Company's Annual Report on Form 10-K for the year 1999, its Quarterly Report on Form 10-Q for the quarter ended March 31, 2000, and in other information made publicly available by the Company, and, further, claim that plaintiffs and the purported class suffered damages as a result thereof. Such alleged misstatements and omissions are claimed to relate to the Company's trading activities in wholesale energy markets, the Company's risk management policies and procedures with respect thereto, and the Company's trading losses in the second quarter of 2000. The plaintiffs request, among other things, compensatory damages in unspecified amounts and other relief as the Court may deem proper. On March 29, 2001, the Company filed a Motion to Dismiss the Consolidated Complaint, which will be heard by the Court on May 31, 2001. The Company denies liability and intends to defend the consolidated lawsuit vigorously.

The staff of the Securities and Exchange Commission has requested from the Company certain information regarding Avista Utilities' wholesale trading activities and its risk management policies and procedures with respect thereto. The Company is complying with this request.

## COMMODITY FUTURES TRADING COMMISSION INVESTIGATION

Avista Energy and one or more of its former employees are the subject of an investigation by the Commodity Futures Trading Commission (CFTC) into futures trading of certain Palo Verde and California Oregon Border electricity futures contracts traded on the New York Mercantile Exchange on four separate dates in 1998. The Company has received notice from the CFTC's Division of Enforcement (Division) that the Division will recommend to the CFTC Commissioners that it be authorized to bring charges of manipulation, attempted manipulation and other charges in connection with trading on those four dates. The Company intends to submit what is informally known as a "Wells Submission" setting forth reasons why charges should not be brought.

## STATE OF WASHINGTON BUSINESS AND OCCUPATION TAX

The State of Washington's Business and Occupation Tax applies to gross revenue from business activities. For most types of business, the tax applies to the gross sales price received for goods or services. For certain types of financial trading activities, including the sale of stocks, bonds and other securities, the tax applies to the realized gain from the sale of the financial asset. On an audit for the years 1997 through June 2000, the Department of Revenue (DOR) took the position that approximately 20% of the energy futures trades of Avista Energy should not be treated as securities trades, but rather as energy deliveries. As a result, the DOR applied tax against the gross sales price of the energy contracts at issue. Avista Energy subsequently received an assessment of \$14.5 million for tax and interest related to the disputed issue. It is the position of Avista Energy that all of its futures trading activities are substantively the same and there is no proper basis for the distinction made by the DOR. An administrative appeal has been filed with the DOR and Avista Energy expects a determination before the end of 2001. Avista Energy is prepared to seek relief in the Washington courts if a satisfactory determination is not received.

## AVISTA CORPORATION

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HAMILTON STREET BRIDGE SITE

A portion of the Hamilton Street Bridge Site in Spokane, Washington, (including a former coal gasification plant site which operated for approximately 60 years until 1948) was acquired by the Company through a merger in 1958. The Company no longer owns the property. Initial core samples taken from the site indicate environmental contamination at the site. On January 15, 1999, the Company received notice from the State of Washington's Department of Ecology (DOE) that it had been designated as a potentially liable party (PLP) with respect to any hazardous substances located on this site, stemming from the Company's past ownership of the former gas plant site. In its notice, the DOE stated that it intended to complete an on-going remedial investigation of this site, complete a feasibility study to determine the most effective means of halting or controlling future releases of substances from the site, and to implement appropriate remedial measures. The Company responded to the DOE acknowledging its listing as a PLP, but requested that additional parties also be listed as PLPs. In the spring of 1999, the DOE named two other parties as additional PLPs.

An Agreed Order was signed by the DOE, the Company and Burlington Northern & Santa Fe Railway Co. (another PLP) on March 13, 2000 that provided for the completion of a remedial investigation and a feasibility study. The work to be performed under the Agreed Order includes three major technical parts: completion of the remedial investigation; performance of a focused feasibility study; and implementation of an interim groundwater monitoring plan. During the second quarter of 2000, the Company received comments from the DOE on its initial remedial investigation, then submitted another draft of the remedial investigation, which has been accepted as final by the DOE. The Company also received comments from the DOE pertaining to the feasibility study, which outlines cleanup alternatives. Another feasibility study, which responded to the DOE comments, was submitted to the DOE on October 13, 2000. The Company received final comments and submitted another draft of the feasibility study in November of 2000, which was accepted. The public comment period ran from December 15, 2000 through January 18, 2001. A preliminary draft of a Clean-up Action Plan (CAP) was received from the DOE on April 27, 2001, and is currently being reviewed by the Company and Burlington Northern & Santa Fe Railway Co.

## SALE OF CERTAIN PENTZER CORPORATION (PENTZER) SUBSIDIARIES

On February 26, 2001, IDX Corporation, formerly known as Store Fixtures Group, Inc., filed a complaint against Pentzer in the United States District Court for the District of Massachusetts, alleging breach of contract and negligent misrepresentation relating to a stock purchase agreement. Pursuant to this agreement, Pentzer sold the capital stock of a group of companies on August 31, 1999. Plaintiff alleges that Pentzer breached various representations and warranties concerning financial statements and inventory, contending that reliance on such representations and warranties caused them to pay more for the group of companies than they were worth. In total, plaintiff claims damages in the approximate amount of \$9 million. Pentzer has retained legal counsel and intends to vigorously defend against this action.

On April 7, 2000, Creative Solutions Group, Inc. and Form House Holdings, Inc. filed a complaint against Pentzer in the United States District Court for the District of Massachusetts, alleging misrepresentations and breach of representations and warranties made under a stock purchase agreement. Pursuant to this agreement, Pentzer sold the capital stock of a group of companies on March 31, 1999. Plaintiffs allege that Pentzer breached various representations and warranties concerning financial statements, cost of goods sold and inventory, contending that reliance on such representations and warranties caused them to pay more for the group of companies than they were worth. In total, plaintiffs allege damages in the approximate amount of \$27 million. Pentzer has retained legal counsel and intends to vigorously defend against this action. The Court denied Pentzer's request that the matter be sent to arbitration and Pentzer has appealed that determination to the First Circuit Court of Appeals.

## AVISTA CORPORATION

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Avista Corporation (Avista Corp. or the Company) operates as an energy, information and technology company with a regional utility operation and subsidiary operations located in the Pacific Northwest. The Company's operations are organized into four lines of business - Avista Utilities, Energy Trading and Marketing, Information and Technology, and Avista Ventures and Other. Avista Utilities, which is an operating division of Avista Corp. and not a separate entity, represents the regulated utility operations. Avista Capital, a wholly owned subsidiary of Avista Corp., owns all of the subsidiary companies engaged in the other lines of business.

Avista Utilities is responsible for electric generation, production, and transmission, and electric and natural gas distribution services. Avista Utilities owns and operates eight hydroelectric projects, a wood-waste fueled generating station and two natural gas-fired combustion turbine (CT) generating units. It also owns a 15% share in a two-unit coal-fired generating facility and leases and operates two additional natural gas-fired CT generating units. In addition, Avista Utilities has a number of long-term power purchase and exchange contracts that increase its available resources.

Avista Utilities sells and purchases electric capacity and energy at wholesale to and from utilities and other entities under firm long-term contracts having terms of more than one year. In addition, Avista Utilities engages in short-term sales and purchases in the wholesale market as part of an economic selection of resources to serve its retail and firm wholesale loads. Avista Utilities makes continuing projections of (1) future retail and firm wholesale loads based on, among other things, forward estimates of factors such as customer usage and weather as well as historical data and contract terms and (2) resource availability based on, among other things, estimates of streamflows, generating unit availability, historic and forward market information and experience. On the basis of these continuing projections, Avista Utilities makes purchases and sales of energy on a quarterly, monthly, daily and hourly basis to match actual resources to actual energy requirements, as it operates the lowest-cost resources to serve its load requirements, and to sell any surplus at the best available price.

The Energy Trading and Marketing line of business excludes the regulated utility operations, Avista Utilities, and is comprised of Avista Energy, Inc. (Avista Energy), Avista Power, LLC (Avista Power) and Avista-STEAG, LLC (Avista-STEAG). Avista Energy is an electricity and natural gas marketing and trading business, operating primarily in the Western Systems Coordinating Council (WSCC). Avista Power was formed to develop and own generation assets. Avista-STEAG is a joint venture between Avista Capital and STEAG AG, a German independent power producer, to develop electric generating assets. On April 27, 2001, Avista Capital provided its notice of termination of the Avista-STEAG, LLC, originally formed for the purpose of jointly developing sites for power projects.

The Information and Technology line of business is comprised of Avista Advantage, Inc. (Avista Advantage), Avista Laboratories, Inc. (Avista Labs) and Avista Communications, Inc. (Avista Communications). Avista Advantage is a business-to-business e-commerce portal that provides a variety of energy-related products and services to commercial and industrial customers in North America. Its primary product lines include consolidated billing, resource accounting, energy analysis, load profiling and maintenance and repair billing services. Avista Labs is in the process of developing Proton Exchange Membrane (PEM) fuel cells for power generation at the site of the consumer or industrial user and fuel cell components. See Item 5. Other Information for additional details. Avista Communications is an Integrated Communications Provider (ICP) providing local dial tone, data transport, internet services, voice messaging and other telecommunications services to under-served communities in the Western United States. Avista Corp. is seeking additional partners for Avista Communications as part of its overall strategic focus on generating shareholder value.

The Avista Ventures and other line of business includes Avista Ventures, Inc. (Avista Ventures) and several other minor subsidiaries. This line of business is responsible for investing in business opportunities that have potential value in the lines of business in which the Company is already involved.

## SIGNIFICANT CHANGES IN ENERGY MARKETS

Beginning in the second quarter of 2000, the price of power and natural gas in the Western wholesale market increased considerably and became much more volatile. Price ranges are remaining at levels significantly above historic levels in the Pacific Northwest and throughout the WSCC. Federal and state officials, including the FERC, the California Public Utility Commission and the Attorneys General of California, Oregon and Washington, have commenced reviews to determine the causes of the changes in the wholesale energy markets.

## AVISTA CORPORATION

California's two largest utilities, Southern California Edison (SCE) and Pacific Gas & Electric Company (PG&E), defaulted on several hundred million dollars of payment obligations owed to various creditors in the first quarter of 2001. The PG&E and SCE defaults resulted in subsequent defaults by the California Power Exchange (CalPX), California Independent System Operator (CalISO) and Automated Power Exchange (APX). The latter three parties have defaulted on their payment obligations to Avista Energy. On March 10, 2001, the CalPX filed in the U.S. Bankruptcy Court for the Central District of California a voluntary petition under Chapter 11 of the bankruptcy code. The Bankruptcy Court has appointed Avista Energy and other market participants to a Creditors Committee to participate in the CalPX bankruptcy proceedings.

The Governor of California invoked emergency executive powers to seize certain power contracts (called "block forward contracts") between the CalPX and, respectively, PG&E and SCE after PG&E's and SCE's defaults. The block forward contracts would have been significant assets of the CalPX bankruptcy estate if they had not been so removed by the Governor. The CalPX initiated a claim to the Victim Compensation and Government Claims Board of the State of California for compensation related to the seized block forward contracts. The Creditors Committee is pursuing an agreement with the CalPX to assume control over the Victims Compensation claim and various other litigation on behalf of the CalPX, the CalPX bankruptcy estate and the market participants.

The CalPX began levying backcharges in January 2001 by withholding amounts payable to participants and invoicing additional amounts. On February 9, 2001, Avista Energy obtained a Temporary Restraining Order (TRO) in Federal Court in the Central District of California, suspending the backcharges. On March 5, 2001, the Court issued a preliminary injunction that continued the relief granted by the TRO and required the escrowing of amounts received by the CalPX. Avista Energy joined in a group of nine complainants filing with the FERC to: 1) take action to declare the backcharge practices to be contrary to the tariff's purpose, 2) declare the backcharges to be inoperable because of the removal of the SCE and PG&E block forward contracts, and 3) invoke jurisdiction over the CalPX in winding up its affairs. On April 6, 2001, the FERC issued its order granting a permanent bar from the backcharge practice and ruled the prior backcharges to be invalid. The FERC has been asked to clarify the treatment of previously paid backcharges by any CalPX participants.

At March 31, 2001, Avista Energy's accounts receivable related to defaulting parties in California, net of reserves, were approximately \$24 million.

On April 6, 2001, PG&E filed in the U.S. Bankruptcy Court for the Central District of California a voluntary petition under Chapter 11 of the bankruptcy code. PG&E is a significant debtor to the CalPX and the CalISO which, as described above, has defaulted on obligations to Avista Energy. None of Avista Corp.'s business units is owed obligations directly by PG&E. Avista Energy is actively engaged in the PG&E bankruptcy proceedings to further protect its interests in the CalPX and CalISO debts.

The Company expects to post earnings per share of between \$0.85 and \$1.10 per diluted share for the full year of 2001. These expectations reflect a contribution of between \$0.90 and \$1.00 from Avista Utilities based on current streamflow and weather projections, anticipated purchased power prices and the continued ability to defer excess purchased power costs; Avista Energy's potential to earn between \$0.90 and \$1.00; and partial offsets related to continued support of the Company's information and technology businesses. These projections are subject to a variety of risks and uncertainties that could cause actual results to differ from this estimate, including those described above and listed under "Safe Harbor for Forward Looking Statements." See "Liquidity and Capital Resources" for additional information.

## RESULTS OF OPERATIONS

## OVERALL OPERATIONS

First quarter 2001 net income available for common stock was \$28.8 million, compared to a loss of \$11.4 million in the first quarter of 2000. On February 16, 2000, all outstanding shares of Series L Preferred Stock were converted into shares of common stock, which resulted in a one-time charge of \$21.3 million to preferred stock dividend requirements. The primary reason for the increase in 2001 was income available for common stock of \$27.1 million recorded by the Energy Trading and Marketing line of business, after a loss of \$3.5 million in 2000 recorded by this business segment. Avista Energy continues to benefit from a well-positioned portfolio in the volatile Pacific Northwest and western energy markets. Losses from Avista Energy in 2000 were primarily due to the liquidation of its Eastern electric book and associated operating costs to close its Eastern operations in Houston and Boston.

## AVISTA CORPORATION

Avista Utilities' operations had income available for common stock of \$12.5 million compared to a loss of \$2.1 million in the first quarter of 2000. First quarter 2000 earnings for Avista Utilities were negatively affected by the conversion of the preferred securities. Excluding the effect of the preferred stock conversion, net income available for common stock for the first quarter of 2000 from Avista Utilities would have been \$19.2 million. Increased operating revenues were more than offset by increased resource costs, resulting in lower gross margin related to electric sales compared to the first quarter of 2000. During the first quarter of 2001, a portion of wholesale revenues and higher purchased power costs were offset and deferred through a balancing account approved by the WUTC and IPUC. On April 30, 2001, a settlement was reached between Avista Utilities, the staff of the WUTC, the Public Counsel Section of the Washington Attorney General's Office and the Industrial Customers of Northwest Utilities, which calls for the extension of the Washington deferral accounting mechanism to run through 2003. The Information and Technology line of business incurred a loss of \$7.7 million in the first quarter of 2001 compared to a loss of \$5.7 million in the first quarter of 2000 as these businesses continued to grow their operations. The Avista Ventures and Other line of business incurred a loss of \$3.1 million in the first quarter of 2001 compared to a loss of \$0.1 million in the first quarter of 2000.

Overall reported diluted earnings per share for the first quarter of 2001 were \$0.61, compared to a loss of \$0.28 in 2000. The Energy Trading and Marketing operations contributed \$0.57 per diluted share in the first quarter of 2001 compared to a loss of \$0.09 in the same period in 2000. Avista Utilities contributed \$0.26 per diluted share in 2001 compared to a loss of \$0.05 per share for the first quarter of 2000 as a result of the preferred dividend charge in 2000. Excluding the effect of the preferred stock conversion, Avista Utilities would have reported earnings of \$0.39 per share in 2000. The Information and Technology operations had a loss of \$0.16 per diluted share in 2001 compared to a loss of \$0.14 in 2000. The Avista Ventures and Other operations recorded a loss of \$0.06 for the first quarter of 2001 compared to break even in 2000.

## AVISTA UTILITIES

Avista Utilities' pre-tax income from operations decreased \$10.0 million, or 21%, in the first quarter of 2001 from the same period in 2000. The decrease was primarily the result of decreased gross margin. Avista Utilities' operating revenues and expenses increased \$117.1 million and \$127.0 million, respectively, during the first quarter of 2001 as compared to 2000.

During the first quarter of 2001, Avista Utilities deferred \$21.4 million in power costs in Washington and \$8.3 million in Idaho under the power cost adjustment mechanism currently in place. The total balance of deferral costs for Washington was \$56.0 million and \$11.0 million for Idaho at March 31, 2001.

On April 30, 2001, a settlement agreement was reached between the Company, the staff of the WUTC, the Public Counsel Section of the Washington Attorney General's Office and the Industrial Customers of Northwest Utilities to extend the Washington deferral accounting mechanism through February 2003. Avista Utilities expects to move into a surplus power position by July 2002, ultimately reducing the power-cost deferral balance to zero by the end of February 2003 and minimizing the need to increase retail rates to customers. The power-cost deferral balance reduction is dependent, however, upon streamflow conditions, thermal plant performance, level of retail loads, wholesale market prices and additional generating resources being put into operations as planned during the deferral period. The commission has been requested to approve the agreement by the end of May 2001.

Retail electric revenues decreased \$7.3 million in the first quarter of 2001 from 2000 due to refunds to customers in January 2001 from the gain on the sale of the Company's interest in the Centralia thermal generation plant, which was sold in May 2000. Streamflows in the first quarter of 2001 were 53% of normal compared to 107% in the first quarter of 2000. Wholesale electric revenues increased \$142.2 million, or 130%, while sales volumes decreased 50% during the first quarter of 2001 from 2000, reflecting average sales prices that were 355% higher for purchased power in the region. Natural gas revenues increased \$38.8 million in the first quarter of 2001 from 2000 due to increased prices approved by state commissions and increased therm sales, primarily due to customer growth and increased usage due to weather.

Average purchased power prices in the first quarter of 2001 were 284% higher than in the first quarter of 2000, resulting in a \$124.3 million, or 153%, increase in purchased power expense. The \$56.0 million deferral of power costs pursuant to the WUTC accounting order and the \$11.0 million deferred under the Idaho PCA partially offset

## AVISTA CORPORATION

purchased power expenses. Volume decreased 34% from the first quarter of 2000 to the first quarter of 2001. Purchased natural gas costs increased \$36.9 million in the first quarter of 2001, due to increased prices and increased therm sales for the commodity. Fuel for generation increased \$12.6 million due to increased generation at the thermal plants and the higher cost of natural gas.

As part of the Company's strategy to manage the decrease in electric resources caused by the current poor hydroelectric conditions and volatile energy markets, Avista Utilities is implementing several buy-back and rebate programs for residential, commercial and industrial customers. The programs are designed to encourage conservation. Additionally, Avista Utilities is pursuing the acquisition and construction of several small generation projects throughout its service territory. Avista Power is continuing construction on the 280 MW combined cycle natural gas turbine power plant at the Coyote Springs site near Boardman, Oregon. Permits and contract modifications are being filed to transfer ownership from Avista Power to Avista Utilities. See Item 5. Other Information for additional details.

## ENERGY TRADING AND MARKETING

Energy Trading and Marketing includes the results of Avista Energy, Avista Power and Avista-STEAG. Avista Energy maintains an energy trading portfolio that it marks to fair market value on a daily basis (mark-to-market accounting), and which may cause earnings variability in the future. Market prices are utilized in determining the value of electric, natural gas and related derivative commodity instruments. For longer-term positions, in addition to market prices, a model based on forward price curves is also utilized.

Energy Trading and Marketing's income available for common stock for the first quarter of 2001 was \$27.1 million, compared to a loss of \$3.5 million in the first quarter of 2000. Avista Energy's operations continue to be positively affected by a well-positioned portfolio in the volatile Pacific Northwest and western electric markets. Avista Energy shut down its operations in Houston and Boston during the first and second quarters of 2000.

Energy Trading and Marketing's revenues and operating expenses increased \$638.7 million and \$596.1 million, respectively, in the first quarter of 2001 over 2000. The increase in revenues and expenses is primarily the result of significantly higher prices as electric sales volumes dropped 62% from the first quarter of 2000.

Energy Trading and Marketing's total assets and liabilities increased \$70.4 million from December 2000 to March 2001. The majority of this increase is due to Avista Power's construction in progress increasing as a result of the current construction at the Coyote Springs 2 project. This project will be transferred to Avista Utilities. Energy Trading and Marketing's administrative and general expenses rose \$7.5 million over the first quarter of 2000 due to increased incentive compensation expenses at Avista Energy.

## INFORMATION AND TECHNOLOGY

The Information and Technology line of business includes the results of Avista Advantage, Avista Labs and Avista Communications. Income available for common stock for the first quarter of 2001 was a loss of \$7.7 million, compared to a loss of \$5.7 million in 2000. Operating revenues and expenses for this line of business increased \$3.1 million and \$6.5 million, respectively, during the first quarter of 2001 over 2000, primarily due to growth in each of the individual businesses.

## AVISTA VENTURES

The Avista Ventures line of business includes the results of Avista Ventures and several other minor subsidiaries. Income available for common stock from this line of business was a loss of \$3.1 million in the first quarter of 2001, compared to a loss of \$0.1 million in 2000. Operating revenues and expenses from this line of business decreased \$1.4 million and \$4.1 million, respectively, during the first quarter of 2001, as compared to 2000.

## AVISTA CORPORATION

## LIQUIDITY AND CAPITAL RESOURCES

## OVERALL OPERATIONS

**Operating Activities** Operating activities in the first three months of 2001 provided net cash of \$65.4 million, compared to \$88.1 million for the same period in 2000. Net income for the first three months of 2001 was \$29.4 million compared to \$10.5 million in 2000. Cash expended for power and natural gas, but deferred for later recovery, was the primary reason for the decrease in cash from operating activities. Power and natural gas cost deferrals and amortizations increased \$67.2 million over 2000 primarily due to the effect of increased purchased power prices, fuel for generation and natural gas costs. Working capital components, primarily receivables and payables and other accrued liabilities, continued to change substantially upward in the 2001 period, primarily due to Avista Energy's operations, as a result of increased costs for power and natural gas.

**Investing Activities** Investing activities used net cash of \$74.7 million in the first three months of 2001 compared to \$19.0 million in the same period in 2000. The increase was primarily the result of capital expenditures, including \$29.5 million for the construction of the Coyote Springs 2 generating project.

**Financing Activities** Net cash provided by financing activities totaled \$20.1 million in the first three months of 2001 compared to a \$63.1 million net use of cash in 2000. Short-term borrowings increased \$49.8 million but were offset by \$25.1 million of long-term debt that matured in the first three months of 2001. In the first three months of 2000, short-term borrowings decreased \$36.0 million and \$16.0 million of long-term debt matured or was redeemed.

On April 3, 2001, the Company issued \$400.0 million of 9.75% Senior Notes (Notes) due June 1, 2008. The \$389.3 million in net proceeds will be used to fund a portion of construction expenditures, pay down balances outstanding under the revolving line of credit or for other corporate purposes. The Notes are issued under an indenture that, among other things, restricts the ability of the Company and its subsidiaries from engaging in certain activities, including certain transactions with affiliates.

During the first quarter of 2001, \$15 million of Secured Medium-Term Notes, with rates of 7.59% and 7.60%, and \$10 million of Unsecured Medium-Term Notes, with a rate of 9.57%, matured.

In the first quarter of 2001, the Company issued 92,400 shares of common stock for \$1.5 million under the Dividend Reinvestment Plan and the Employee Investment Plan.

The Company's cash flows have been affected because of the higher power and natural gas costs, as well as cash collateral required for counterparties and trading at Avista Energy. The higher power and natural gas prices are expected to continue to affect cash flows during 2001. The natural gas costs incurred to serve Avista Utility's retail customers are generally recovered or expected to be recovered in retail rates, however, there is a lag between the time the costs are incurred by the Avista Utilities and the time they are collected from customers. Costs in excess of those included in rates are deferred as an asset on the balance sheet. Costs during 2001 are expected to continue to exceed the levels included in rates and, as a result, deferral balances are expected to increase during 2001. Because of the continuing high level of power and natural gas prices, a significant change in Company resource availability (such as hydroelectric generation) or customer demand could have a significant positive or negative impact on expected deferrals and cash flows. On an interim basis, the Company has used its revolving line of credit to fund these costs to the extent that they exceed the cash flows available from operations. The Company is negotiating to finance a majority of the construction costs for the Coyote Springs 2 project with a construction loan that would match the construction period.

The California energy crisis discussed earlier has had an impact on banks' willingness to extend credit to energy and utility companies. Banks are particularly concerned with the credit of companies in California and those in the West with exposure to California or the potential to be impacted by what ultimately happens in California. This may impact the Company's ability to obtain financing from traditional sources. However, the Company currently expects that it will be able to obtain financing required to meet its capital and operating needs on reasonable terms.

The Company funds capital expenditures with a combination of internally-generated cash and external financing. The level of cash generated internally and the amount that is available for capital expenditures fluctuates annually. External financings and cash provided by operating activities remain the Company's primary source of funds for operating needs, dividends and capital expenditures. Capital expenditures are financed on an interim basis with notes

## AVISTA CORPORATION

payable (due within one year). The Company has two committed lines of credit that total \$230 million, and both expire on June 26, 2001. The Company is currently in the process of renewing these committed lines of credit. The Company also has a \$50 million regional commercial paper program that is backed by the committed lines of credit. As of March 31, 2001, \$213 million was outstanding under the committed line of credit.

As part of its ongoing cash management practices and operations, Avista Corp. may, at any time, have short-term notes receivable and payable with Avista Capital. In turn, Avista Capital may also have short-term notes receivable and payable with its subsidiaries. As of March 31, 2001, Avista Corp. had short-term notes receivable of \$176.7 million from Avista Capital of which \$83.7 million of the receivables represents loans to Avista Power for the Coyote Springs 2 project.

On February 16, 2000, the Company exercised its option to convert all the remaining outstanding shares of Series L Preferred Stock into common stock. The RECONS were also converted into common stock on the same conversion date, and each of the RECONS was converted into the following: 0.7205 shares of common stock, representing the optional conversion price; plus 0.0361 shares of common stock, representing the optional conversion premium; plus the right to receive \$0.21 in cash, representing an amount equivalent to accumulated and unpaid dividends up until, but excluding, the conversion date. Cash payments were made in lieu of fractional shares.

## ENERGY TRADING AND MARKETING OPERATIONS

Avista Energy and its subsidiary, Avista Energy Canada, Ltd., as co-borrowers, have a credit agreement with two commercial banks in the aggregate amount of \$80 million, decreasing to \$70 million at the end of the agreement, and expiring May 31, 2001. Avista Energy is in the process of renewing the line of credit. This credit agreement may be terminated by the banks at any time and all extensions of credit under the agreement are payable upon demand, in either case at the banks' sole discretion. This agreement also provides, on an uncommitted basis, for the issuance of letters of credit to secure contractual obligations to counterparties. This facility is guaranteed by Avista Capital and secured by substantially all of Avista Energy's assets. The maximum amount of credit extended by the banks for cash advances is \$30 million, with availability of up to \$70 million (less the amount of outstanding cash advances, if any) for the issuance of letters of credit. At March 31, 2001, there were no cash advances (demand notes payable) outstanding and letters of credit outstanding under the facility totaled approximately \$22 million.

Avista Capital, in the course of business, may provide guarantees to other parties with whom Avista Energy may be doing business. The Company's investment in Avista Capital totaled \$378.4 million at March 31, 2001.

As of March 31, 2001, Avista Capital had loaned \$21.6 million to Avista Energy to support its short-term cash and collateral needs. These loans are subordinate to any obligations to the banks under the credit agreements.

Avista Energy manages collateral requirements with counterparties by providing letters of credit, providing guarantees from Avista Capital and offsetting transactions with counterparties. In addition to the letters of credit and other items included above, cash deposited with counterparties totaled \$50.2 million as of March 31, 2001, and is included in the Consolidated Balance Sheets in prepayments and other. Avista Energy held cash deposits from other parties in the amount of \$114.1 million as of March 31, 2001, and such amounts are subject to refund if conditions warrant because of continuing portfolio value fluctuations with those parties.

At March 31, 2001, the Energy Trading and Marketing operations had \$203.4 million in cash, including the \$114.1 million of collateral posted by other parties, with \$0.8 million in long-term debt outstanding (the current portions of which are included on the Consolidated Balance Sheets in Current portion of long-term debt).

Avista Power, as a 49% owner, and Cogentrix Energy, Inc. are jointly building a 270 megawatt natural gas combustion turbine facility in Rathdrum, Idaho, with 100% of its output contracted to Avista Energy for 25 years. Commercial generation is expected to occur no later than the third quarter of 2001. The total cost of the project is estimated at \$160 million; Avista Power's equity in the project is approximately \$16 million.

## AVISTA CORPORATION

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INFORMATION AND TECHNOLOGY OPERATIONS

At March 31, 2001, the Information and Technology operations had \$1.7 million in cash and temporary investments, with \$2.2 million in long-term debt outstanding (the current portions of which are included on the Consolidated Balance Sheets in Current portion of long-term debt).

## AVISTA VENTURES OPERATIONS

At March 31, 2001, Avista Ventures operations had \$4.1 million in cash and temporary investments with \$0.7 million in long-term debt outstanding (the current portions of which are included on the Consolidated Balance Sheets in Current portion of long-term debt).

## TOTAL COMPANY

The Company's total common equity increased \$26.1 million during the first three months of 2001 to \$750.3 million. The Company's consolidated capital structure, including the current portion of long-term debt and short-term borrowings at March 31, 2001, was 52% debt, 7% preferred securities and 41% common equity, compared to 52% debt, 8% preferred securities and 40% common equity at December 31, 2000.

## BUSINESS RISK

The Company's market risks related to commodity prices, credit, operations, interest rates and foreign currency have not changed materially from those reported in the 2000 Form 10-K.

As described under "Management's Discussion and Analysis of Financial Condition and Results of Operation - Results of Operation - Avista Utilities," hydroelectric conditions in 2001 are significantly below normal, leading to greater than normal reliance on purchased power, thermal plant generation and new generating resources. The earnings impact of these factors is mitigated by regulatory mechanisms that are intended to defer increased costs for recovery in future periods. Avista Utilities' deferred power and natural gas costs are expected to increase further before they begin to decline. Avista Utilities cannot fully predict how the combination of energy resources, energy loads, prices and other factors will ultimately drive deferral costs.

## SAFE HARBOR FOR FORWARD LOOKING STATEMENTS.

The Company is including the following cautionary statement in this Form 10-Q to make applicable and to take advantage of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 for any forward-looking statements made by, or on behalf of, the Company. Forward-looking statements are all statements other than statements of historical fact, including without limitation those that are identified by the use of the words "anticipates," "estimates," "expects," "intends," "plans," "predicts," and similar expressions. Such statements are inherently subject to a variety of risks and uncertainties that could cause actual results to differ materially from those expressed. Such risks and uncertainties include, among others, changes in the utility regulatory environment, the availability and prices of purchased power, volatility and illiquidity in wholesale energy markets, wholesale and retail competition, weather conditions and various other matters, many of which are beyond the Company's control. These forward-looking statements speak only as of the date of the report. The Company expressly undertakes no obligation to update or revise any forward-looking statement contained herein to reflect any change in the Company's expectations with regard thereto or any change in events, conditions, or circumstances on which any such statement is based. See "Safe Harbor for Forward Looking Statements" in the Company's 2000 Form 10-K under Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Future Outlook.

## ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

See "Liquidity and Capital Resources: Business Risk."

## PART II. OTHER INFORMATION

## ITEM 5. OTHER INFORMATION

Avista Utilities On February 27, 2001, Avista Corp. and the Spokane County Air Pollution Control Authority (SCAPCA) reached an agreement to extend the operating hours of Avista Utilities' 60 MWH Northeast Combustion Turbine power plant located in Spokane. The 90-day extended operating period began February 21, 2001. The agreement allows Avista Utilities to use the plant to temporarily bring on added generating capacity for the benefit of its customers and the region during a time of increased energy demand and continued energy market volatility. The plant, which is a reserve unit, has an operating license that limits its use to a specified number of hours during times of peak power demand. Extended operation of the plant was approved after SCAPCA determined, through air emission modeling and projections, that extended operation of the turbine would not adversely impact air quality.

Because emissions from the plant will exceed current permit limits during this period of extended operations, Avista Utilities has agreed to develop an "environmental offset project" to achieve future, verifiable emission reductions in Spokane's federally designated non-attainment areas. The reductions are to be equal to the amount of emissions created by the turbines during the extended operating period. Avista Utilities will bear the cost of the project, with project details to be worked out between the Company and SCAPCA.

Recognizing the ongoing impact of increased natural gas prices and a colder-than-normal winter, Avista Utilities, as part of the agreement with SCAPCA, made an additional contribution to low-income energy assistance funds in its service area. The agreement calls for the contributed amount to be based on the number of hours of plant operation during the 90-day period, which could exceed \$300,000.

The WUTC and IUPC have approved Avista Utilities' plan to pay consumers who reduce electricity use by more than 5% compared with the same billing period last year. The plan is to pay \$0.05 per kilowatt-hour saved beyond the threshold. The program will be in effect May 15, 2001, through October 12, 2001. The WUTC also gave permission to increase a surcharge supporting energy conservation programs and a second surcharge to support low-income energy assistance programs.

Avista Utilities is considering placing several small diesel and natural gas-fired generators around Washington and North Idaho at sites near transmission lines. Site and air-pollution permits are required prior to the facilities' operations. The sites and equipment used could be in place for as long as 10 years.

On May 1, 2001, the IPUC directed the Company to file testimony in response to a petition filed by Potlatch Corporation (Potlatch) with the IPUC requesting that the Commission require Avista Utilities to serve the entirety of its Lewiston facility's electrical requirements (approximately 100 MW) at embedded cost rates. Since 1992 Potlatch has received service under a special contract for entities qualifying under the Public Utility Regulatory Policies Act of 1978 (PURPA) with none of its load served at average embedded cost rates. Additionally, 55 to 59 MW of the 100 MW being requested for service by Potlatch for service after January 1, 2002 would constitute "new load" for Avista Utilities, as Potlatch currently meets this load requirement through self-generation. Potlatch would plan to sell their self-generation on the open market. Avista Utilities believes that previous Commission rulings require denial of Potlatch's request for service at average embedded cost rates. Avista Utilities, in its April 12, 2001, response to Potlatch's petition, alleges that the Commission's intention in such a situation, is for the parties to negotiate a contract reflecting the marginal (incremental) costs of new resources to serve a load of this magnitude. In order to comply with Potlatch's request, it would be necessary for Avista Utilities to acquire more new resources at marginal costs that are at least twice Avista Utilities' average embedded cost of service.

Avista Labs On March 1, 2001, Avista Labs completed the formation of a new company, H2fuel, LLC, to develop and commercialize a new technology for manufacturing hydrogen for fuel cells. Avista Labs owns a 70 percent interest in H2fuel. The remaining interest is owned by Unitel Fuels Technologies, LLC. Avista Labs will transfer its ongoing fuel processor development work to H2fuel.

Regional Transmission Organizations (RTO) Avista Utilities and five other Western utilities have taken steps toward the formation of an Independent Transmission Company (ITC), TransConnect, which would serve six states. TransConnect would be a member of the planned regional transmission organization, RTO West, a non-profit entity. The new for-profit ITC company would own or lease the high voltage transmission facilities currently held by Avista Utilities, Montana Power Co., Puget Sound Energy Corp., Portland General Electric Co., Nevada Power Co. and Sierra



## AVISTA CORPORATION

Pacific Power Co. The proposal was filed October 17, 2000, in response to the FERC's Order No. 2000, which requires utilities subject to FERC regulation to file an RTO proposal, or a description of efforts to participate in an RTO, and any existing obstacles to RTO participation. On April 25, 2001, the FERC issued the RTO West/TransConnect order granting, with modifications, the companies' petition. Avista Utilities will be actively discussing this order to determine the effects of the modifications and the impact to potential ITC development. Outcomes of this process must be resubmitted to the FERC by December 1, 2001. When a final proposal emerges it must be approved by the FERC, the boards of directors of the filing companies and regulators in various states. The companies' decision to move forward with the formation of TransConnect will ultimately depend on the economics and conditions related to the formation of TransConnect, as well as the economics and conditions related to the regulatory approval process.

Lake Coeur d' Alene Court Decision On July 28, 1998, the United States District Court for the District of Idaho issued its finding that the Coeur d' Alene Tribe of Idaho owns portions of the bed and banks of Lake Coeur d' Alene and the St. Joe River lying within the current boundaries of the Coeur d' Alene Reservation. This action had been brought by the United States on behalf of the Tribe against the State of Idaho. While the Company is not a party to this action, the Company is continuing to evaluate the potential impact of this decision on the operation of its hydroelectric facilities on the Spokane River, downstream of Lake Coeur d' Alene. The United States District Court decision was affirmed by the Ninth Circuit Court of Appeals. The United States Supreme Court accepted the State of Idaho's petition for a writ of certiorari. The United States Supreme Court heard oral arguments on April 23, 2001, and a decision is expected within the next few months.

Temporary Price Caps On April 25, 2001, the FERC authorized California's electricity market monitors to impose price caps when they find that the available supply of electricity falls to within 7.5% of demand, a level the state calls a Stage 1 emergency. The caps would be based on what federal and state officials determine to be the highest costs of generation by the least efficient power plants serving the market at the time. The caps are effective on May 1, 2001, and will last one year. It is too early to determine the effects the temporary caps may have on Company earnings.

Spokane River PCBs On March 7, 2001, the Washington State Department of Ecology (DOE) informed Avista Development of a health advisory concerning PCBs found in fish caught in a portion of the Spokane River. The DOE discovered PCBs in fish and sediments in the 1970s and 1980s. In the 1990s, the DOE performed subsequent sampling of the river and identified potential sources of the PCBs, including the Spokane Industrial Park (SIP) and a number of other entities in the area. The SIP, which was renamed Pentzer Development Corporation (Pentzer Development) in 1990, operated a wastewater treatment plant at the site until it was closed December 1993. The SIP's treatment plant discharged to the Spokane River under the terms of a National Pollutant Discharge Elimination System permit issued by the DOE. Pentzer Development sold the property in 1996 and merged with Avista Development in 1998. Avista Development will likely be designated a potentially liable person (PLP) with respect to PCBs located in the Spokane River.

## ADDITIONAL FINANCIAL DATA

At March 31, 2001, the total long-term debt of the Company and its consolidated subsidiaries, as shown in the Company's consolidated financial statements, was approximately \$679.5 million. Of such amount, \$473.8 million represents long-term unsecured and unsubordinated indebtedness of the Company, and \$203.5 million represents secured indebtedness of the Company. The balance of \$2.2 million represents indebtedness of subsidiaries. Consolidated long-term debt does not include the Company's subordinated indebtedness held by the issuers of Company-obligated preferred trust securities. An additional \$213.0 million of the Company's short-term debt outstanding under or backed by the committed lines of credit is secured.

The following table reflects the ratio of earnings to fixed charges:

	12 Months Ended	
	March 31, 2001	December 31, 2000
	----	----
Ratio of Earnings to Fixed Charges	3.46(x)	3.26(x)

AVISTA CORPORATION  
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The Company has long-term purchased power arrangements with various Public Utility Districts and the interest expense components of these contracts are included in purchased power expenses. These interest amounts are not included in the fixed charges and would not have a material impact on fixed charges ratios.

## ITEM 6. EXHIBITS AND REPORTS ON FORM 8-K

## (a) Exhibits.

4(f) 9.75% Senior Notes due June 1, 2008 Indenture, dated as of April 3, 2001.

12 Computation of ratio of earnings to fixed charges and preferred dividend requirements.

## (b) Reports on Form 8-K.

Dated May 2, 2001, regarding a settlement agreement related to the Company's power-cost deferral and recovery plan in Washington.

AVISTA CORPORATION

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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

AVISTA CORPORATION

-----  
(Registrant)

Date: May 15, 2001

/s/ J. E. Eliassen

-----  
J. E. Eliassen  
Senior Vice President and  
Chief Financial Officer  
(Principal Accounting and  
Financial Officer)

-----  
AVISTA CORPORATION

9.75% SENIOR NOTES DUE JUNE 1, 2008

-----  
INDENTURE

Dated as of April 3, 2001

-----  
CHASE MANHATTAN BANK AND TRUST COMPANY, NATIONAL ASSOCIATION

Trustee  
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## CROSS-REFERENCE TABLE\*

Trust Indenture Act Section	Indenture Section
310(a)(1).....	7.10
(a)(2).....	7.10
(a)(3).....	N.A.
(a)(4).....	N.A.
(a)(5).....	7.10
(b).....	7.10
(c).....	N.A.
311(a).....	7.11
(b).....	7.11
(c).....	N.A.
312(a).....	2.05
(b).....	11.03
(c).....	11.03
313(a).....	7.06
(b)(1).....	N.A.
(b)(2).....	7.07
(c).....	7.06;11.02
(d).....	7.06
314(a).....	4.03;11.02
(b).....	N.A.
(c)(1).....	11.04
(c)(2).....	11.04
(c)(3).....	N.A.
(d).....	N.A.
(e).....	11.05
(f).....	N.A.
315(a).....	7.01
(b).....	7.05;11.02
(c).....	7.01
(d).....	7.01
(e).....	6.11
316(a) (last sentence).....	2.09
(a)(1)(A).....	6.05
(a)(1)(B).....	6.04
(a)(2).....	N.A.
(b).....	6.07
(c).....	2.12
317(a)(1).....	6.08
(a)(2).....	6.09
(b).....	2.04
318(a).....	11.01
(b).....	N.A.
(c).....	11.01

N.A. means not applicable.

\* This Cross-Reference Table is not part of the Indenture.

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EXHIBITS

Exhibit A	FORM OF NOTE
Exhibit B	FORM OF CERTIFICATE OF TRANSFER
Exhibit C	FORM OF CERTIFICATE OF EXCHANGE

INDENTURE dated as of April 3, 2001 between Avista Corporation, a Washington corporation (the "Company"), and Chase Manhattan Bank and Trust Company, National Association, as trustee (the "Trustee").

The Company and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of the 9.750% Senior Notes due June 1, 2008 (the "Notes"):

ARTICLE 1.  
DEFINITIONS AND INCORPORATION  
BY REFERENCE

Section 1.01. Definitions.

"144A Global Note" means a global note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

"Acquired Debt" means, with respect to any specified Person:

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

"Additional Notes" means up to \$200 million aggregate principal amount of Notes (other than the Initial Notes) issued under this Indenture in accordance with Sections 2.02 and 4.09 hereof, as part of the same series as the Initial Notes.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; provided that beneficial ownership of 10% or more of the Voting Stock of a Person shall be deemed to be control. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" shall have correlative meanings.

"Agent" means any Registrar, Paying Agent or co-registrar.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in any Global Note, the rules and procedures of the Depositary, Euroclear and Clearstream that apply to such transfer or exchange.

"Asset Sale" means any sale, transfer or other disposition (including by way of merger, consolidation or Sale/Leaseback Transaction) in one or a series of transactions by the Company or any Restricted Subsidiary to any Person other than the Company or any Restricted Subsidiary of the Company, of:

- (1) all or any of the Capital Stock of any Restricted Subsidiary of the Company;
- (2) all or substantially all of the assets of any operating unit, Facility, division or line of business of the Company or any Restricted Subsidiary; or
- (3) any other property or assets or rights to acquire property or assets of the Company or any Restricted Subsidiary of the Company outside of the ordinary course of business of the Company or such Restricted Subsidiary.

Notwithstanding the preceding, the following items shall not be deemed to be Asset Sales:

- (1) any single transaction or series of related transactions that involves assets having a fair market value of less than \$10.0 million;
- (2) an issuance of Equity Interests by a Restricted Subsidiary to the Company or to another Restricted Subsidiary of the Company
- (3) any sale or lease of obsolete equipment or other assets that are no longer being used by the Company or any of its Restricted Subsidiaries;
- (4) any primary offering of Common Stock of Avista Communications, Avista Advantage or Avista Labs, or any Subsidiary of any of them, provided that the issuer of such Common Stock is operating substantially the same business as is conducted by such issuer (or in case of a Subsidiary, all or a portion of the same business as is conducted by the respective parent company named above in this clause (4)) as of the date of this Indenture;
- (5) a Restricted Payment or Permitted Investment that is not prohibited by Section 4.07; and
- (6) any disposition of property or assets by a Restricted Subsidiary of the Company to the Company or by the Company or a Restricted Subsidiary of the Company to a Restricted Subsidiary of the Company.

"Attributable Debt" means, in respect of a Sale/Leaseback Transaction, as of the time of determination, the present value discounted at the interest rate assumed in making calculations in accordance with GAAP of the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale/Leaseback Transaction, including any period for which such lease has been extended or may be extended at the option of the lessor.

"Avista Advantage" means Avista Advantage, Inc., as constituted on the date hereof or any Restricted Subsidiary of the Company that succeeds to all or substantially all of the business of Avista Advantage, as conducted on the date hereof.

"Avista Communications" means Avista Communications, Inc., as constituted on the date hereof or any Restricted Subsidiary of the Company that succeeds to all or substantially all of the business of Avista Communications, as conducted on the date hereof.

"Avista Energy" means Avista Energy, Inc., as constituted on the date hereof or any Restricted Subsidiary of the Company that succeeds to all or substantially all of the business of Avista Energy, as conducted on the date hereof.

"Avista Labs" means Avista Laboratories, Inc., as constituted on the date hereof or any Restricted Subsidiary of the Company that succeeds to all or substantially all of the business of Avista Labs, as conducted on the date hereof.

"Avista Power" means Avista Power, Inc., as constituted on the date hereof or any Restricted Subsidiary of the Company that succeeds to all or substantially all of the business of Avista Power, as conducted on the date hereof.

"Avista-STEAG" means Avista-STEAG, LLC, as constituted on the date hereof or any Restricted Subsidiary of the Company that succeeds to all or substantially all of the business of Avista-STEAG, as conducted on the date hereof.

"Bankruptcy Law" means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act. The terms "Beneficially Owns" and "Beneficially Owned" shall have a corresponding meaning.

"Board of Directors" means:

- (1) with respect to a corporation, the board of directors of the corporation or any duly authorized committee of such board of directors;
- (2) with respect to a partnership, the Board of Directors of the general partner of the partnership; and
- (3) with respect to any other Person, the board or committee of such Person serving a similar function.

"Board Resolution" means a copy of a resolution certified by the Secretary or Assistant Secretary of the Company to have been duly adopted by the Board of Directors of the Company and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"Broker-Dealer" has the meaning set forth in the Registration Rights Agreement.

"Business Day" means any day other than a Legal Holiday.

"Capital Lease Obligation" means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet in accordance with GAAP.

"Capital Stock" of any Person means any and all shares, interests, participations or other equivalents, however designated, of corporate stock or other equity participations, including partnership interests, whether general or limited, of the Person.

"Cash Equivalents" means:

- (1) United States dollars;

- (2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof) having maturities of not more than twelve months from the date of acquisition;
- (3) certificates of deposit and eurodollar time deposits with maturities of twelve months or less from the date of acquisition, bankers' acceptances with maturities not exceeding twelve months and overnight bank deposits, in each case, issued or accepted by any financial institution organized under the laws of the United States or any state thereof or the District of Columbia that either (x) has a long-term deposit rating of at least A-2 from Moody's and A from S&P or (y) is at least "adequately capitalized" (as defined in the regulations of its primary federal banking regulator) and (b) has Tier 1 Capital (as defined in such regulations) of not less than \$100,000,000;
- (4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (3) above;
- (5) commercial paper having the highest rating obtainable from Moody's or S&P (or in their absence an equivalent rating from another nationally recognized securities rating agency) and in each case maturing within twelve months after the date of acquisition; and
- (6) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (5) of this definition.

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

- (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole to any "person" (as that term is used in Section 13(d)(3) of the Exchange Act);
- (2) the adoption of a plan relating to the liquidation or dissolution of the Company other than in a transaction that complies with the provisions of Section 5.01 hereof;
- (3) the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any "person" (as defined above) becomes the Beneficial Owner, directly or indirectly, of more than 35% of the Voting Stock of the Company, measured by voting power rather than number of shares;
- (4) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors; or
- (5) the Company consolidates with, or merges with or into, any Person, or any Person consolidates with, or merges with or into, the Company, in any such event pursuant to a transaction in which any of the outstanding Voting Stock of the Company or such other Person is converted into or exchanged for cash, securities or other property, other than any such transaction where the Voting Stock of the Company outstanding immediately prior to such transaction is converted into or exchanged for Voting Stock (other than Disqualified Stock) of the surviving or transferee Person constituting a majority of the outstanding shares of such Voting Stock of such surviving or transferee Person (immediately after giving effect to such issuance).

"Clearstream" means Clearstream Banking, societ e anonyme.

"Company" means the Person named as the "Company" in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Company" shall mean such successor Person.

"Commodity Price Protection Obligation" means any forward contract, commodity swap, commodity option or other similar financial agreement or arrangement relating to, or the value of which is dependent on, fluctuations in commodity prices entered into in the ordinary course of business.

"Common Stock" of any Person means any class of Capital Stock of such Person that has no preference, as to dividends or upon liquidation, over any other class of Capital Stock of such Person and that is not convertible into or exchangeable for any other class of Capital Stock or other securities of such Person.

"Consolidated Cash Flow" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period plus:

- (1) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; plus
- (2) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued and whether or not capitalized (including, without limitation, amortization of debt issuance costs (other than those in existence on or created on the date of this Indenture) and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations), to the extent that any such expense was deducted in computing such Consolidated Net Income; plus
- (3) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period, and excluding amortization of power and natural gas cost deferrals, to the extent such deferrals were previously financed with Indebtedness permitted by clause (9) of the definition of "Permitted Debt") and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; minus
- (4) non-cash items increasing such Consolidated Net Income for such period (including power and natural gas cost deferrals, but only to the extent not financed with Indebtedness permitted by clause (9) of the definition of "Permitted Debt") in each case, on a consolidated basis and determined in accordance with GAAP.

"Consolidated Net Income" means, with respect to any specified Person for any period, the aggregate of the net income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; provided that:

- (1) the net income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the specified Person or a Wholly Owned Subsidiary thereof;
- (2) the net income of any Restricted Subsidiary shall be excluded to the extent that the declaration or payment of dividends or similar distributions by the Restricted Subsidiary of that net income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders;
- (3) the net income of any Person acquired in a pooling of interests transaction for any period prior to the date of such acquisition shall be excluded;
- (4) the cumulative effect of a change in accounting principles shall be excluded;
- (5) all extraordinary or nonrecurring gains and losses (including without limitation any one-time costs incurred in connection with acquisitions, or regulatory disallowances or write-offs of regulatory assets) shall be excluded; and
- (6) any gain or loss realized upon the sale or other disposition of any property, plant or equipment of the Company or its Restricted Subsidiaries (including pursuant to any sale-and-leaseback arrangement) which is not sold or otherwise disposed of in the ordinary course of business and any gain or loss realized upon the sale or other disposition by the Company or any Restricted Subsidiary of any Capital Stock of any Person shall be excluded.

"Continuing Directors" means, as of any date of determination, any member of the Board of Directors of the Company who:

- (1) was a member of such Board of Directors on the date of this Indenture; or
- (2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board at the time of such nomination or election.

"Corporate Trust Office of the Trustee" shall be at the address of the Trustee specified in Section 11.02 hereof or such other address as to which the Trustee may give notice to the Company.

"Credit Facilities" means one or more debt facilities or commercial paper facilities, in each case with banks or other institutional lenders providing for revolving credit loans, term loans, or letters of credit, in each case, as amended, restated, modified, renewed, refunded, restructured, supplemented, replaced or refinanced in whole or in part from time to time, including without limitation any amendment increasing the amount of Indebtedness incurred or available to be borrowed thereunder, extending the maturity of any Indebtedness incurred thereunder or contemplated thereby or deleting, adding or substituting one or more parties thereto (whether or not with banks or other institutional lenders).

"Currency Hedging Obligations" means any foreign exchange contract, currency swap agreement or other similar agreement or arrangement designed to protect against the fluctuations in currency values entered into in the ordinary course of business and not for speculative purposes.

"Custodian" means the Trustee, as custodian with respect to the Notes in global form, or any successor entity thereto.

"Debt Rating" shall mean the rating assigned to the Notes by Moody's or S&P, as the case may be.

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

"Definitive Note" means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06 hereof, substantially in the form of Exhibit A hereto except that such Note shall not bear the Global Note Legend and shall not have the "Schedule of Exchanges of Interests in the Global Note" attached thereto.

"Depository" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to the Notes, and any and all successors thereto appointed as depository hereunder and having become such pursuant to the applicable provision of this Indenture.

"Disinterested Director" means, with respect to any transaction or series of related transactions, a member of the Board of Directors of the Company who does not have any material direct or indirect financial interest in or with respect to such transaction or series of related transactions.

"Disqualified Stock" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case at the option of the holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part, on or prior to the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale shall not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof.

"Eligible Institution" means a commercial banking institution that has combined capital and surplus of not less than \$500.0 million or its equivalent in foreign currency, whose debt is rated "A" or higher (or the equivalent rating or higher), according to Moody's or S&P (or such similar equivalent rating by at least one "nationally recognized statistical rating organization" (as defined in Rule 436 under the Securities Act)), respectively, at the time as of which any investment or rollover therein is made.

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

"Euroclear" means Euroclear Bank S.A., N.V., as operator of the Euroclear system.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Exchange Notes" means the Notes issued in the Exchange Offer pursuant to Section 2.06(f) hereof.

"Exchange Offer" has the meaning set forth in the Registration Rights Agreement.

"Existing Indebtedness" means Indebtedness of the Company and its Subsidiaries in existence on the date of this Indenture, other than amounts outstanding under Credit Facilities, until such amounts are repaid.

"Facility" means retail electric and natural gas distribution and storage facilities, electric transmission facilities and electric generation and production facilities, and assets related to or used in the operation of such facilities.

"Fixed Charges" means, with respect to any specified Person for any period, the sum, without duplication, of:

- (1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of debt issuance costs (other than those in existence on or created on the date of this Indenture) and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations; plus
- (2) the consolidated interest of such Person and its Restricted Subsidiaries that was capitalized during such period (excluding interest capitalized in connection with the construction of a new Facility or addition to a Facility, in each case, to the extent such interest is capitalized during the construction of such Facility); plus
- (3) any interest expense actually paid on Indebtedness of another Person that is Guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries, whether or not such Guarantee or Lien is called upon; plus
- (4) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of such Person or any of its Restricted Subsidiaries, other than dividends on Equity Interests payable solely in Equity Interests of such Person (other than Disqualified Stock) or to such Person or a Restricted Subsidiary of such Person, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state and local statutory tax rate of such Person, expressed as a decimal; in each case, calculated on a consolidated basis and in accordance with GAAP.

"Fixed Charge Coverage Ratio" means with respect to any specified Person for any period, the ratio of the Consolidated Cash Flow of such Person for such period to the Fixed Charges of such Person for such period. In the event that the specified Person or any of its Subsidiaries incurs, assumes, Guarantees, repays, repurchases or redeems any Indebtedness (other than ordinary working capital borrowings) or issues, repurchases or redeems preferred stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated and on or prior to the date of the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Calculation Date"), including the incurrence of the Indebtedness giving rise to the need to make such calculation, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, Guarantee, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of preferred stock, and the use of the proceeds therefrom including to refinance other Indebtedness as if the same had occurred at the beginning of the applicable four-quarter reference period.

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

- (1) acquisitions that have been made by the specified Person or any of its Subsidiaries, including through mergers or consolidations and including any related financing transactions, during the four-quarter reference period or subsequent to such reference period and on or prior to the Calculation Date shall be given pro forma effect as if they had occurred on the first day of the four-quarter reference period and Consolidated Cash Flow for such reference period shall be calculated on a pro forma basis (calculated in accordance with Regulation S-X under the Securities Act), but without giving effect to clause (3) of the proviso set forth in the definition of "Consolidated Net Income";
- (2) the consolidated interest expense attributable to interest on any Indebtedness computed on a pro forma basis and (a) bearing a floating interest rate shall be computed as if the rate in effect on the date of computation had been the applicable rate for the entire period and (b) that was not outstanding during the period for which the computation is being made but which bears, at the option of such Person, a fixed or floating rate of interest, shall be computed by applying at the option of such Person either the fixed or floating rate;
- (3) the consolidated interest expense attributable to interest on any working capital borrowings under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such working capital borrowings during the applicable period; and
- (4) acquisitions and dispositions that have been made by any Person that has become a Restricted Subsidiary of the Company or been merged with or into the Company or any Restricted Subsidiary of the Company during the four-quarter reference period, or subsequent to the four-quarter reference period but prior to the Calculation Date, shall be calculated on a pro forma basis, including all of the calculations referred to above, assuming that such acquisitions and dispositions had occurred on the first day of the reference period.

In addition, in calculating the Fixed Charge Coverage Ratio, discontinued operations will be given pro forma effect as follows:

- (1) the Consolidated Cash Flow attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of on or prior to the Calculation Date, shall be excluded, and
- (2) the Fixed Charges attributable to discontinued operations, as determined in accordance with GAAP, and operations or businesses disposed of on or prior to the Calculation Date, shall be excluded, but only to the extent that the obligations giving rise to such Fixed Charges will not be obligations of the Company or any of its Restricted Subsidiaries following the Calculation Date.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect (i) with respect to periodic reporting requirements, from time to time, and (ii) otherwise on the date of this Indenture.

"Global Notes" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A hereto issued in accordance with Section 2.01, 2.06(b)(iv), 2.06(d)(ii) or 2.06(f) hereof.

"Global Note Legend" means the legend set forth in Section 2.06(g)(ii), which is required to be placed on all Global Notes issued under this Indenture.

"Government Securities" means securities issued directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (provided that the full faith and credit of the United States is pledged in support thereof).

"Guarantee" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness.

"Hedging Obligations" means, with respect to any specified Person, the obligations of such Person under:

- (1) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements; and
- (2) other agreements or arrangements designed to protect such Person against fluctuations in interest rates.

"Holder" means a Person in whose name a Note is registered.

"Indebtedness" means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent:

- (1) in respect of borrowed money;
- (2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);
- (3) representing banker's acceptances;
- (4) representing Capital Lease Obligations;
- (5) representing the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or
- (6) representing any Hedging Obligations,

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

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

- (1) the accreted value thereof, in the case of any Indebtedness issued with original issue discount; and
- (2) the principal amount thereof, together with any interest thereon that is more than 30 days past due, in the case of any other Indebtedness; provided that for purposes of determining the amount

of any Indebtedness, if recourse with respect to such Indebtedness is limited to such asset, the amount of such Indebtedness shall be limited to the lesser of the fair market value of such asset or the amount of such Indebtedness.

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Indirect Participant" means a Person who holds a beneficial interest in a Global Note through a Participant.

"Initial Notes" means the first \$400 million aggregate principal amount of Notes issued under this Indenture on the date hereof.

"Investments" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees of Indebtedness or other obligations), advances or capital contributions (excluding commission, travel, entertainment, moving and similar advances or loans to officers, directors, consultants and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. The term "Investment" shall exclude extensions of trade credit on commercially reasonable terms in accordance with normal trade terms. If the Company or any Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Subsidiary of the Company, the Company shall be deemed to have made an Investment on the date of any such sale or disposition equal to the fair market value of the Equity Interests of such Subsidiary not sold or disposed of in an amount determined as provided in the penultimate paragraph of Section 4.07 hereof. The acquisition by the Company or any Subsidiary of the Company of a Person that holds an Investment in a third Person shall be deemed to be an Investment by the Company or such Subsidiary in such third Person in an amount equal to the fair market value of the Investment held by the acquired Person in such third Person in an amount determined as provided in the penultimate paragraph of Section 4.07 hereof.

"Lancaster Project" means the 270 MW combined cycle project in Rathdrum, Idaho, in which Avista Power owns an indirect 49% interest through its wholly-owned subsidiary Avista Rathdrum, LLC.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of New York, in the city in which the Corporate Trust Office of the Trustee is located or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

"Letter of Transmittal" means the letter of transmittal to be prepared by the Company and sent to all Holders of the Notes for use by such Holders in connection with the Exchange Offer.

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

"Liquidated Damages" shall have the meaning assigned to such term in the Registration Rights Agreement.

"Liquidity Condition Date" means the date on which the Company obtains funding in cash from completed financing transactions, or contractual entitlement to such funding on such date pursuant to definitive Credit Facilities then in effect and available to be drawn pursuant to arrangements put into effect (or amendments increasing the amount available under existing Credit Facilities) after the date of this Indenture, in an aggregate amount that, when added to the net proceeds of the offering of the Notes, is not less than \$475 million.

"Marketable U.S. Securities" means: (i) any time deposit account, money market deposit and certificate of deposit maturing not more than 365 days after the date of acquisition issued by, or time deposit of, an Eligible Institution; (ii) commercial paper maturing not more than 365 days after the date of acquisition issued by a corporation (other than an Affiliate of the Company) with a rating, at the time as of which any investment therein is made, of "P-1" or higher according to Moody's or "A-1" or higher according to S&P (or such similar equivalent rating by at least one "nationally recognized statistical rating organization" (as defined in Rule 436 under the Securities Act)); (iii) any banker's acceptances or money market deposit accounts issued or offered by an Eligible Institution; (iv) repurchase obligations with a term of not more than 7 days for Government Securities entered into with an Eligible Institution; and (v) any fund investing exclusively in investments of the types described in clauses (i) through (iv) above and/or Government Securities.

"Moody's" mean Moody's Investors Service, Inc., and its successors.

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

"Non-Recourse Debt" means Indebtedness:

- (1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness but excluding any agreement to provide managerial support), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender; and
- (2) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness (other than the Notes) of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity.

"Non-U.S. Person" means a Person who is not a U.S. Person.

"Notes" has the meaning assigned to it in the preamble to this Indenture and shall include Additional Notes and the Exchange Notes. The Initial Notes, the Additional Notes and the Exchange Notes shall be treated as a single class for all purposes under this Indenture.

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

"Offering" means the offering of the Notes by the Company.

"Officer" means, with respect to any Person, the Chairman of the Board, any Vice-Chairman, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Chief Legal Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person and, if a partnership, any General Partner, and, if a limited liability company, any Managing Member.

"Officer's Certificate" means a certificate signed on behalf of the Company by an Officer of the Company, who (for purposes of the Officer's Certificate required by Section 4.04(a)) must be the principal executive officer, the principal financial officer or the principal accounting officer of the Company, that meets the requirements of Section 11.05 hereof, to the extent applicable.

"Opinion of Counsel" means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 11.05 hereof, to the extent applicable. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"Participant" means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

"Peaker Turbine Project" means a 95 MW simple cycle project under development at the date of this Indenture, in respect of which a letter of intent has been signed for the purchase of the output of the facility for five years under a capacity sales contract for a fixed price per kW-month, and at such date expected to be located in southwest Washington and 100% owned by Avista Power.

"Permitted Business" means the business of acquiring, developing, constructing, expanding, managing, improving, owning and operating Facilities, as well as any other activities reasonably related, complimentary or ancillary to the foregoing activities (including acquiring and holding reserves), including but not limited to investing in Persons engaged in one or more Permitted Businesses.

"Permitted Debt" has the meaning set forth in Section 4.09 hereof.

"Permitted Investments" means:

- (1) any Investment in the Company or in a Restricted Subsidiary of the Company; provided, that prior to the Liquidity Condition Date, the Company and its Restricted Subsidiaries will not make Investments in Subsidiaries of the Company (other than Avista Energy or Avista Power) exceeding \$35 million in the aggregate; provided further that the Company may nonetheless make reimbursement to a Subsidiary, pursuant to the Tax Sharing Agreement as in effect on the date of this Indenture, in an amount not to exceed the net tax benefit realized by the Company in any period, as reflected in its consolidated federal income tax return, by reason of losses incurred by such Subsidiary;

- (2) any Investment in cash or Cash Equivalents or Marketable U.S. Securities;
- (3) any Investment by the Company or any Subsidiary of the Company in a Person, if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary of the Company; or
  - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10 hereof;
- (5) any Investment in exchange for the issuance of Equity Interests other than Disqualified Stock of the Company;
- (6) Hedging Obligations;
- (7) Investments in any of the Notes;
- (8) Indebtedness of the Company or a Restricted Subsidiary of the Company described under clause (5) of the definition of "Permitted Debt";
- (9) Investments in existence on the date of this Indenture or made pursuant to a legally binding written commitment in existence on the date of this Indenture;
- (10) Guarantees of Indebtedness of a Restricted Subsidiary of the Company given by the Company or another Restricted Subsidiary of the Company, in each case, in accordance with the terms of this Indenture;
- (11) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and worker's compensation, performance and other similar deposits provided to third parties in the ordinary course of business;
- (12) Hedging Obligations, Currency Hedging Obligations and Commodity Price Protection Obligations permitted by this Indenture that are entered into in the ordinary course of business;
- (13) Investments representing Capital Stock or obligations issued to the Company or any Restricted Subsidiary of the Company (i) in settlement of claims against any other Person by reason of a composition or readjustment of debt or a reorganization of any debtor (including customers and suppliers) of the Company or such Restricted Subsidiary, or (ii) as a result of an Asset Sale in which the Capital Stock of Avista Communications, Avista Advantage or Avista Labs is exchanged for Capital Stock or other securities of another Person, upon completion of which the subject or transferee Person is not a Subsidiary of the Company;
- (14) Investments in the Lancaster Project and the Peaker Turbine Project in an aggregate amount not to exceed \$40 million;
- (15) Investments by the Company or any Restricted Subsidiary in Avista-STEAG, LLC; and

- (16) loans or advances, or performance guarantees in support of Avista Energy or Avista Power to customers or suppliers in the ordinary course of business.

"Permitted Liens" means:

- (1) Liens securing Indebtedness and other Obligations of the Company and its Restricted Subsidiaries under Credit Facilities (to the extent that such Indebtedness and Obligations under such Credit Facilities were permitted by the terms of this Indenture to be incurred);
- (2) Liens in favor of the Company or a Restricted Subsidiary of the Company;
- (3) Liens on assets or Equity Interests of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Restricted Subsidiary of the Company; provided that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Restricted Subsidiary;
- (4) Liens on assets existing at the time of acquisition thereof by the Company or any Restricted Subsidiary of the Company, provided that such Liens were in existence prior to the contemplation of such acquisition;
- (5) Liens to secure the performance of statutory obligations, surety or appeal bonds, performance bonds, performance bids, tenders or contracts, statutory and common law landlord's liens or other obligations of a like nature incurred in the ordinary course of business;
- (6) Liens existing on the date of this Indenture;
- (7) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, provided that any reserve or other appropriate provision as shall be required in conformity with GAAP shall have been made therefor;
- (8) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in the foregoing clauses (3), (4), or (6), provided, however, that (x) such new Lien shall be limited to all or part of the same assets that secured the original Lien (plus improvements on such property) and (y) the Indebtedness secured by such Lien at such time is not increased (other than by an amount necessary to pay fees and expenses, including premiums, related to the refinancing, refunding, extension, renewal or replacement of such Indebtedness);
- (9) any Lien securing Indebtedness permitted to be incurred under Hedging Obligations or otherwise incurred to hedge interest rate risk or risks of commodity price fluctuations;
- (10) Liens securing Indebtedness relating to governmental obligations the interest on which is not included in gross income for purposes of federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (or any successor provision of law), for the purpose of financing or refinancing, in whole or in part, costs of acquisition or construction of property to be used by the Company, to the extent that the Lien which secures such secured Indebtedness is required either by applicable law or by the issuer of such governmental obligations or is otherwise necessary in order to establish or maintain such exclusion from gross income;

- (11) any Lien securing Capital Lease Obligations or other Indebtedness incurred pursuant to clause (8) of the definition of "Permitted Debt"; and
- (12) any Lien securing Indebtedness permitted to be incurred pursuant to clause (9) of the definition of "Permitted Debt."

"Permitted Refinancing Indebtedness" means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, restructure, supplement, defease or refund other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); provided that:

- (1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so extended, refinanced, renewed, replaced, restructured, supplemented, defeased or refunded (plus all accrued interest thereon and the amount of all expenses and premiums incurred in connection therewith);
- (2) if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded is subordinated in right of payment to the Notes, such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes on terms at least as favorable to the Holders of Notes as those contained in the documentation governing the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded; and
- (3) Indebtedness is incurred by the Company if the Indebtedness being extended, refinanced, renewed, replaced, defeased or refunded was Indebtedness of the Company.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government, governmental subdivision or other entity.

"Private Placement Legend" means the legend set forth in Section 2.06(g)(i) to be placed on all Notes issued under this Indenture except where otherwise permitted by the provisions of this Indenture.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Rating Condition" means any period of time when (i) Moody's and S&P have issued credit ratings of the Company's senior unsecured debt of at least Baa2 and BBB, respectively, in each case with a stable or improving outlook and (ii) no Default has occurred and is continuing under this Indenture.

"Registration Rights Agreement" means the Exchange and Registration Rights Agreement, dated as of April 3, 2001, by and among the Company and the other parties named on the signature pages thereof, as such agreement may be amended, modified or supplemented from time to time and, with respect to any Additional Notes, one or more registration rights agreements between the Company and the other parties thereto, as such agreement(s) may be amended, modified or supplemented from time to time, relating to rights given by the Company to the purchasers of Additional Notes to register such Additional Notes under the Securities Act.

"Redemption Date", when used with respect to any Note to be redeemed, means the date fixed for each redemption pursuant to this Indenture.

"Redemption Price", when used with respect to any Note to be redeemed, means the price at which it is to be redeemed pursuant to this Indenture.

"Regulation S" means Regulation S promulgated under the Securities Act.

"Regulation S Global Note" means a permanent global Note in the form of Exhibit A hereto bearing the Global Note Legend, the Private Placement Legend and the Regulation S Global Note Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Regulation S.

"Regulation S Global Note Legend" means the legend set forth in Section 2.06(g)(iv) to be placed on all Global Notes issued under this Indenture and sold or transferred in reliance on Regulation S except as otherwise permitted by the provisions of this Indenture.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Institutional Trust Services department of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Definitive Note" means a Definitive Note bearing the Private Placement Legend.

"Restricted Global Note" means a Global Note bearing the Private Placement Legend.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Period" means the 40-day restricted period as defined in Regulation S.

"Restricted Subsidiary" means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

"RTO Transaction" means an Asset Sale entered into in connection with the formation of a regional transmission organization pursuant to or in a manner consistent with regulatory requirements applicable to the Company.

"Rule 144" means Rule 144 promulgated under the Securities Act.

"Rule 144A" means Rule 144A promulgated under the Securities Act.

"Rule 903" means Rule 903 promulgated under the Securities Act.

"Rule 904" means Rule 904 promulgated the Securities Act.

"Sale/Leaseback Transaction" means an arrangement relating to property owned as of the date of this Indenture or thereafter acquired whereby the Company or a Restricted Subsidiary transfers such property to a Person and leases it back from such Person, other than leases for a term of not more than 36 months or between the Company and a Restricted Subsidiary or between Restricted Subsidiaries.

"S&P" means Standard & Poor's, and its successors.

"SEC" or "Commission" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Shelf Registration Statement" means the Shelf Registration Statement as defined in the Registration Rights Agreement.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date hereof.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, or any redemption or similar payment in respect of Disqualified Stock, the date on which such payment was scheduled to be paid in the original documentation governing such Indebtedness or Disqualified Stock, and shall not include any contingent obligations to repay, redeem or repurchase any such interest or principal, or make such redemption or other payment, prior to the date originally scheduled for the payment thereof.

"Subsidiary" means, with respect to any specified Person:

- (1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and
- (2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are such Person or one or more Subsidiaries of such Person (or any combination thereof).

"Tax Sharing Agreement" means the Tax Sharing Agreement among the Company and its Subsidiaries as in effect on the date of this Indenture.

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C. Sections 77aaa-77bbbb) as in effect on the date on which this Indenture is qualified under the TIA.

"Trustee" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"Unrestricted Definitive Note" means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

"Unrestricted Global Note" means a permanent global Note substantially in the form of Exhibit A attached hereto that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary or its nominee, representing Notes that do not bear the Private Placement Legend.

"Unrestricted Subsidiary" means any Subsidiary of the Company that is designated by the Board of Directors of the Company as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that such Subsidiary:

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

- (2) is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;
- (3) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; and
- (4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries.

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be evidenced to the Trustee by filing with the Trustee a Board Resolution giving effect to such designation and an Officer's Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09 hereof, the Company shall be in default of such Section 4.09. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary, which designation shall be evidenced to the Trustee by filing with the Trustee a Board Resolution giving effect to such designation and an Officer's Certificate certifying that such designation complied with the following conditions and was permitted by Section 4.07 hereof; provided that such designation shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation shall only be permitted if (1) such Indebtedness is permitted under Section 4.09 hereof, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation.

"U.S. Person" means a U.S. person as defined in Rule 902(o) under the Securities Act.

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

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or Disqualified Stock at any date, the number of years obtained by dividing (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment or principal or redemption or similar payment, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment, by (ii) the sum of all such payments.

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

## Section 1.02. Other Definitions.

Term -----	Defined in Section -----
"Affiliate Transaction".....	4.11
"Agent Members".....	2.06
"Applicable Premium".....	3.09
"Asset Sale Offer".....	3.10
"Authentication Order".....	2.02
"Calculation Date".....	1.01
"Change of Control Offer".....	4.14
"Change of Control Payment".....	4.14
"Change of Control Payment Date".....	4.14
"Comparable Treasury Issue".....	3.07
"Comparable Treasury Price".....	3.07
"Covenant Defeasance".....	8.03
"Discount Rate".....	3.07
"DTC".....	2.03
"Event of Default".....	6.01
"Excess Proceeds".....	4.10
"H.15(519).....	3.07
"H.15 Daily Update".....	3.07
"incur".....	4.09
"Independent Investment Banker".....	3.07
"Legal Defeasance".....	8.02
"Offer Amount".....	3.09
"Offer Period".....	3.09
"Paying Agent".....	2.03
"Present Value".....	3.07
"Purchase Date".....	3.09
"Reference Treasury Dealer".....	3.07
"Reference Treasury Dealer Quotation".....	3.07
"Registrar".....	2.03
"Relevant Security".....	3.07
"Restricted Payments".....	4.07
"Treasury Yield".....	3.07

## Section 1.03. Incorporation by Reference of Trust Indenture Act.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

- "indenture securities" means the Notes;
- "indenture security Holder" means a Holder of a Note;
- "indenture to be qualified" means this Indenture;

"indenture trustee" or "institutional trustee" means the Trustee; and

"obligor" on the Notes means the Company and any successor or other obligor upon the Notes.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04. Rules of Construction.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) words in the singular include the plural, and in the plural include the singular;

(e) provisions apply to successive events and transactions;

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(g) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision; and

(h) all references to \$, US\$, dollars or United States dollars shall refer to the lawful currency of the United States.

ARTICLE 2.  
THE NOTES

Section 2.01. Form and Dating.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The Notes shall be in denominations of \$1,000 and integral multiples thereof.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

(b) Global Notes. Each Global Note issued hereunder shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate,

to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06 hereof. The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(c) 144A Global Notes. Notes offered and sold to QIBs in reliance on Rule 144A shall be issued initially in the form of one or more Global Notes in definitive fully registered form without interest coupons with the Global Notes Legend and Private Placement Legend endorsed thereon, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Custodian, and registered in the name of the Depositary or a nominee of the Depositary, duly executed by the Company and authenticated by the Trustee as hereinafter provided.

(d) Regulation S Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of one or more Global Notes in definitive fully registered form without interest coupons with the Global Notes Legend, the Private Placement Legend and the Regulation S Global Note Legend endorsed thereon, which shall be deposited on behalf of the purchaser of the Notes represented thereby with the Custodian, and registered in the name of the Depositary or a nominee of the Depositary, duly executed by the Company and authenticated by the Trustee as hereinafter provided.

(e) The Company shall use commercially reasonable efforts to cause the Depositary to agree that beneficial interests in the Regulation S Global Notes shall be credited to or through accounts maintained by designated agents holding on behalf of Euroclear or Clearstream through and including the 40th day after the later of the commencement of the Notes offering and the closing of the Notes offering (such period through and including such 40th day, the "Restricted Period"), termination of which to be evidenced to the Trustee by an Officer's Certificate, unless transferred to a person that takes delivery through a 144A Global Note in accordance with the transfer and certification requirements set for in this Indenture.

(f) Euroclear and Clearstream Procedures Applicable. The Company and the Trustee contemplate that transfers of beneficial interests in the Regulation S Global Notes that are held by Participants through Euroclear or Clearstream will be subject to the Applicable Procedures of such organizations, as in effect from time to time.

#### Section 2.02. Execution and Authentication.

One Officer shall sign the Notes for the Company by manual or facsimile signature.

If the Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, or does not hold such office on the date of the Notes, the Note shall nevertheless be valid.

A Note shall not be valid until authenticated by the manual signature of an authorized signatory of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee shall, upon a written order of the Company signed by an Officer (an "Authentication Order"), authenticate Notes for original issue up to the aggregate principal amount stated in paragraph 4 of the Notes. The aggregate principal amount of Notes outstanding at any time may not exceed such

amount except as provided in Section 2.07 hereof. Prior to authenticating any Additional Notes, the Company shall deliver to the Trustee an Officer's Certificate stating that such issuance is permitted by Section 4.09.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.

#### Section 2.03. Registrar and Paying Agent.

The Company shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange and an office or agency where Notes may be presented for payment. The Company shall designate one Person to keep a register of the Notes ("Registrar") and of their transfer and exchange, and one Person to pay the principal of and premium or interest or Liquidated Damages, if any, on the Notes on behalf of the Company ("Paying Agent"). The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Trustee will initially act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another Person as Registrar or Paying Agent, the Trustee shall continue to act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company ("DTC") to act as Depositary with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

#### Section 2.04. Paying Agent to Hold Money in Trust.

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent will hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, or any Liquidated Damages payable with respect thereto, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary) shall have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, on or before each due date of the principal of and premium or interest or Liquidated Damages, if any, on the Notes, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent and shall promptly notify the Trustee of any failure by the Company (or any other obligor on such Notes) to make any required payment on such Notes. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes.

#### Section 2.05. Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders and shall otherwise comply with TIA Section 312(a). If

the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders which may be conclusively relied on by the Trustee and the Company shall otherwise comply with TIA Section 312(a); provided that as long as the Trustee is the Registrar, no list need be furnished.

Section 2.06. Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except by the Depositary to a nominee of the Depositary, by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary. All Global Notes will be exchanged by the Company for Definitive Notes if (i) the Company delivers to the Trustee notice from the Depositary that it is unwilling or unable to continue to act as Depositary or that it is no longer a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days after the date of such notice from the Depositary, (ii) the Company in its sole discretion determines that the Global Notes (in whole but not in part) should be exchanged for Definitive Notes and delivers a written notice to such effect to the Trustee or (iii) a Default or Event of Default has occurred and is continuing to occur with respect to the Notes. Upon the occurrence of any of the preceding events in (i) through (iii) above, Definitive Notes shall be issued in such names as the Depositary shall instruct the Trustee. Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10 hereof. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10 hereof, shall be authenticated and delivered in the form of, and shall be, a Global Note. A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a), however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b), (c) or (f) hereof.

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The Company and the Trustee contemplate that, and the Depositary, by its acceptance of a Global Note, shall be deemed to have agreed to use all commercially reasonable efforts to ensure that, and each Person which holds a beneficial interest in a Global Note, by its purchase and acceptance thereof, shall be deemed to have agreed that, the transfer and exchange of beneficial interests in the Global Notes will be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein with respect to the Restricted Global Notes to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i) above, the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) above. Upon consummation of an Exchange Offer by the Company in accordance with Section 2.06(f) hereof, the requirements of this Section 2.06(b)(ii) shall be deemed to have been satisfied upon receipt by the Registrar of the instructions contained in the Letter of Transmittal delivered by the Holder of such beneficial interests in the Restricted Global Notes. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h) hereof.

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(i) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof; and

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(i) above and:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of the beneficial interest to be transferred, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(a) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer or exchange is effected at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred or exchanged pursuant to subparagraph (A), (B), (C) or (D) above.

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a

certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof; or

(E) if such beneficial interest is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof;

the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Restricted Definitive Note in the appropriate principal amount. Any Restricted Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the holder of such beneficial interest, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit C hereto, including the certifications in item (1)(b) thereof; or

(2) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a Definitive Note that does not bear the Private Placement Legend, a certificate from such holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon satisfaction of the conditions set forth in Section 2.06(b)(ii) hereof, the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h) hereof, and the Company shall execute and the Trustee shall authenticate and deliver to the Person designated in the instructions a Definitive Note in the appropriate principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depository and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iii) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (2)(b) thereof;

(B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (1) thereof;

(C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (2) thereof;

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof; or

(E) if such Restricted Definitive Note is being transferred to the Company or any of its Subsidiaries, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(b) thereof;

the Trustee shall cancel the Restricted Definitive Note and increase or cause to be increased the aggregate principal amount of, in each such case, the appropriate Restricted Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(c) thereof; or

(2) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest in an Unrestricted Global Note is effected pursuant to subparagraphs (ii) or (iii) above at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue, and upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate, one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In addition, the requesting Holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e).

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications in item (2) thereof; and

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B hereto, including the certifications, certificates and Opinion of Counsel required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if:

(A) such exchange or transfer is effected pursuant to the Exchange Offer in accordance with the Registration Rights Agreement and the Holder, in the case of an

exchange, or the transferee, in the case of a transfer, certifies in the applicable Letter of Transmittal that it is not (1) a broker-dealer, (2) a Person participating in the distribution of the Exchange Notes or (3) a Person who is an affiliate (as defined in Rule 144) of the Company;

(B) any such transfer is effected pursuant to the Shelf Registration Statement in accordance with the Registration Rights Agreement;

(C) any such transfer is effected by a Broker-Dealer pursuant to the Exchange Offer Registration Statement in accordance with the Registration Rights Agreement; or

(D) the Registrar receives the following:

(1) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit C hereto, including the certifications in item (1)(d) thereof; or

(2) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

and, in each such case set forth in this subparagraph (D), if the Registrar so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) Exchange Offer. Upon the occurrence of the Exchange Offer in accordance with the Registration Rights Agreement, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate (i) one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of the beneficial interests in the Restricted Global Notes tendered and accepted for exchange in the Exchange Offer and (ii) Unrestricted Definitive Notes in an aggregate principal amount equal to the principal amount of the Restricted Definitive Notes tendered and accepted for exchange in the Exchange Offer; provided that each Person tendering beneficial interests or Restricted Definitive Notes shall certify in the applicable Letters of Transmittal that (x) they are not broker-dealers, (y) they are not participating in a distribution of the Exchange Notes and (z) they are not affiliates (as defined in Rule 144) of the Company. Concurrently with the issuance of such Notes, the Trustee shall cause the aggregate principal amount of the applicable Restricted Global Notes to be reduced accordingly, and the Company shall execute and the Trustee shall authenticate and deliver to the Persons designated by the Holders of Definitive Notes so accepted Definitive Notes in the appropriate principal amount.

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture.

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) below, each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

"THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 (THE "SECURITIES ACT") AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (1) TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (2) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT AND (3) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), IN EACH CASE, IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraphs (b)(iv), (c)(ii), (c)(iii), (d)(ii), (d)(iii), (e)(ii), (e)(iii) or (f) to this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY."; and

(iii) DTC Global Note Legend. Each Global Note to be held by DTC shall also bear the following legend:

"UNLESS THIS SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN

AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY A PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

(iv) Regulation S Global Note Legend. The Regulation S Global Note shall bear a legend in substantially the following form:

"THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933 (THE "SECURITIES ACT") AND MAY NOT BE OFFERED, SOLD OR DELIVERED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON, UNLESS THIS SECURITY IS REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS THEREOF IS AVAILABLE."

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.11 hereof. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee (at the direction of the Registrar) or by the Depositary (at the direction of the Registrar) to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee (at the direction of the Registrar) or by the Depositary (at the direction of the Registrar) to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon the Company's order or at the Registrar's request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.10, 3.06, 3.09, 4.10, 4.14 and 9.05 hereof).

(iii) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(iv) The Registrar shall not be required (A) to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of any selection of Notes for redemption under Section 3.02 hereof and ending at the close of business on the day of selection, (B) to register the transfer of or to exchange any Note so selected for redemption in whole or in part, except the unredeemed portion of any Note being redeemed in

part or (C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

(v) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary. Members of, or participants in, the Depository ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or a Custodian or under such Global Note, and the Depository may be treated by the Company, the Trustee and any Agent as the absolute owner of such Note for all purposes whatsoever and none of the Company, the Trustee or any Agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in any Global Note or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any Agent from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of an owner of a beneficial interest in any Global Note.

(vi) The Trustee shall authenticate Global Notes and Definitive Notes in accordance with the provisions of Section 2.02 hereof.

(vii) All certifications, certificates and Opinions of Counsel required to be submitted to the Registrar pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile.

#### Section 2.07. Replacement Notes.

If any mutilated Note is surrendered to the Trustee or the Company, or if the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note if the requirements of the Company and the Trustee are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company may charge for its expenses in replacing a Note.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note.

Every replacement Note shall be an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

#### Section 2.08. Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and any other Notes described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note; however, Notes held by the Company or a Subsidiary of the Company shall not be deemed to be outstanding for purposes of Section 3.02 hereof and the Company shall deliver to the Trustee prior to any selection of Notes for redemption an Officer's Certificate setting forth the numbers and principal amounts of the Notes that are so held.

If a Note is replaced pursuant to Section 2.07 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a bona fide purchaser.

If the principal amount of any Note is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a Redemption Date or maturity date, money sufficient to pay all principal and interest payable on that redemption or maturity date with respect to the Notes (or portions thereof), then on and after that date such Notes shall be deemed to be no longer outstanding and shall cease to accrue interest.

#### Section 2.09. Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee knows are so owned shall be so disregarded.

#### Section 2.10. Temporary Notes.

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes in exchange for temporary Notes.

Holders of temporary Notes shall be entitled to all of the benefits of this Indenture.

#### Section 2.11. Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of canceled Notes in accordance with its customary procedures (subject to the record retention requirement of the Exchange Act). Certification of the disposition of all canceled Notes shall be delivered to the Company. The

Trustee shall provide the Company with a list of all Notes that have been cancelled from time to time as requested by the Company. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12. Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company shall fix or cause to be fixed each such special record date and payment date, provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

ARTICLE 3.  
REDEMPTION AND PURCHASE

Section 3.01. Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it shall furnish to the Trustee, at least 30 days but not more than 60 days before a Redemption Date (unless a shorter notice shall be satisfactory to the Trustee), an Officer's Certificate or Certificates setting forth (i) the Redemption Date, (ii) the principal amount of Notes to be redeemed and (iii) the information contemplated in the first paragraph of Section 2.08 hereof; provided, however, that in the event of a partial redemption, the Company shall furnish such Officer's Certificate or Certificates to the Trustee at least 45 days but no more than 60 days before the contemplated Redemption Date.

Section 3.02. Selection of Notes to Be Redeemed or Purchased.

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Notes to be redeemed or purchased among the Holders of the Notes in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, if the Notes are not so listed, on a pro rata basis, by lot or in accordance with any other method the Trustee considers fair and appropriate, subject, in the case of purchases, to Section 3.09(h). In the event of partial redemption by lot, the particular Notes to be redeemed shall be selected, unless otherwise provided herein, not less than 15 nor more than 60 days prior to the Redemption Date by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. Notes and portions of Notes selected shall be in amounts of \$1,000 or whole multiples of \$1,000. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

### Section 3.03. Notice of Redemption.

At least 15 days but no more than 60 days prior to the Redemption Date, the Company shall mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address.

All notices shall identify the Notes to be redeemed and shall state:

(a) the Redemption Date;

(b) the Redemption Price, or if not then ascertainable, the manner of calculation thereof;

(c) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion shall be issued upon cancellation of the original Note;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price;

(f) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;

(g) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;

(h) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes; and

(i) any other information deemed by the Company to be necessary, desirable or appropriate.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided, however, that the Company shall have delivered to the Trustee, at least 45 days prior to the Redemption Date, an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

### Section 3.04. Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the Redemption Date at the Redemption Price. A notice of redemption may not be conditional. Such notice if mailed in the manner herein provided shall be conclusively presumed to have been given, whether or not the Holder receives such notice.

### Section 3.05. Deposit of Redemption Price.

Prior to 11:00 a.m. (New York City time) on the Redemption Date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the Redemption Price of and accrued interest on all Notes or portions thereof to be redeemed on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the

Company in excess of the amounts necessary to pay the Redemption Price of, and accrued interest on, all Notes to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the Redemption Date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption. If a Note is redeemed on or after an interest payment date, then any accrued and unpaid interest that is due on or prior to the Redemption Date shall be paid to the Person in whose name such Note was registered at the close of business on the related record date. If any Note called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

#### Section 3.06. Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue and, upon the Company's written request, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

#### Section 3.07. Optional Redemption.

(a) Except as set forth in this clause (a) of this Section 3.07, the Company shall not have the option to redeem the Notes prior to maturity. At any time, the Company may on any one or more occasions redeem up to 100% of the aggregate principal amount of Notes issued under this Indenture at a Redemption Price equal to the greater of (i) of 100% of the principal amount of the Notes being redeemed or (ii) the sum of the present values of the remaining scheduled payments of principal of and interest on the Notes being redeemed discounted to the date of redemption on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at a discount rate equal to the Treasury Yield plus 50 basis points, plus, for (i) or (ii) above, whichever is applicable, accrued interest on such notes to the date of redemption.

(b) (i) "Treasury Yield" means, with respect to any Redemption Date, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

(ii) "Comparable Treasury Issue" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of such Notes to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes.

(iii) "Comparable Treasury Price" means, with respect to any Redemption Date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third Business Day preceding such Redemption Date, as set forth in the H.15 Daily Update of the Federal Reserve Bank of New York or (ii) if such release (or any successor release) is not published or does not contain such prices on such Business Day, the Reference Treasury Dealer Quotation for such Redemption Date.

(iv) "H.15(519)" means the weekly statistical release entitled "Statistical Release H.15 (519)", or any successor publication, published by the Board of Governors of the Federal Reserve System.

(v) "H.15 Daily Update" means the daily update of H.15(519) available through the worldwide website of the Board of Governors of the Federal Reserve System or any successor site or publication.

(vi) "Independent Investment Banker" means an independent investment banking institution of national standing appointed by the Company and reasonably acceptable to the Trustee.

(vii) "Reference Treasury Dealer Quotation" means, with respect to the Reference Treasury Dealer and any Redemption Date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount and quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m. on the third Business Day preceding such Redemption Date).

(viii) "Reference Treasury Dealer" means a primary U.S. Government securities dealer in New York City appointed by the Company and reasonably acceptable to the Trustee.

(c) Unless the Company defaults in payment of the Redemption Price, from and after the Redemption Date, the Notes or portions thereof called for redemption shall cease to bear interest, and the holders thereof shall have no right in respect to such Notes except the right to receive the Redemption Price thereof.

(d) Promptly after the calculation thereof, the Company shall give the Trustee written notice of the Redemption Price and the Trustee shall have no responsibility for the calculation thereof.

#### Section 3.08. Mandatory Redemption.

The Company shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

#### Section 3.09. Offer to Purchase by Application of Excess Proceeds.

In the event that, pursuant to Section 4.10 hereof, the Company shall be required to commence an offer to all Holders to purchase Notes (an "Asset Sale Offer"), it shall follow the procedures specified below.

The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Company shall purchase the principal amount of Notes required to be purchased pursuant to Section 4.10 hereof (the "Offer Amount") or, if less than the Offer Amount has been tendered, all Notes tendered in response to the Asset Sale Offer.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest shall be paid on such interest payment date to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

Upon the commencement of an Asset Sale Offer, the Company shall send, by first class mail, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

(a) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer shall remain open;

(b) the Offer Amount, the purchase price and the Purchase Date;

(c) that any Note not tendered or accepted for purchase shall continue to accrue interest;

(d) that, unless the Company defaults in making such payment, any Note accepted for purchase pursuant to the Asset Sale Offer shall cease to accrue interest after the Purchase Date;

(e) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in integral multiples of \$1,000 only;

(f) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed, or transfer their interests in Global Notes by book-entry transfer, to the Company, a depository (the "depository"), if appointed by the Company, or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;

(g) that Holders shall be entitled to withdraw their election if the Company, the depository or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(h) that, if the aggregate principal amount of Notes surrendered by Holders exceeds the Offer Amount, the Trustee shall select the Notes to be purchased on a pro rata basis (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of \$1,000, or integral multiples thereof, shall be purchased); and

(i) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company shall, to the extent lawful, accept for purchase, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and shall deliver to the Trustee an Officer's Certificate stating that such Notes or portions thereof were accepted for purchase by the Company in accordance with the terms of this Section 3.09 and that the Asset Sale Offer has been made in accordance with the provisions of Sections 3.09 and 4.10 of this Indenture. The Company, the depository or the Paying Agent, as the case may be, shall promptly (but in any case not later than five Business Days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee, upon written request from the Company shall authenticate and mail or deliver such new Note to such Holder, in a principal amount

equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on the Purchase Date.

ARTICLE 4.  
COVENANTS

Section 4.01. Payment of Notes.

The Company shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 11:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. The Company shall pay all Liquidated Damages, if any, in the same manner on the dates and in the amounts set forth in the Registration Rights Agreement.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Liquidated Damages (without regard to any applicable grace period) at the same rate to the extent lawful.

Section 4.02. Maintenance of Office or Agency.

The Company shall maintain in the Borough of Manhattan, the City of New York or at the Corporate Trust Office of the Trustee, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, the City of New York or at the Corporate Trust Office of the Trustee for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03 hereof.

Section 4.03. Reports.

(a) Whether or not required by the Commission, so long as any Notes are outstanding, the Company shall furnish to the Holders of Notes, within the time periods specified in the Commission's rules and regulations:

- (1) all quarterly and annual financial information that would be required to be contained in a filing with the Commission on Forms 10-Q and 10-K, including a "Management's Discussion and Analysis of Financial Condition and Results of Operations" and, with respect to the annual information only, a report on the annual financial statements by the Company's certified independent accountants; and
- (2) all current reports that the Company will be required to file with the Commission on Form 8-K.

(b) The Company shall at all times comply with TIA Section 314(a).

(c) In addition, following the consummation of the Exchange Offer contemplated by the Registration Rights Agreement, whether or not required by the rules and regulations of the Commission, the Company shall file a copy of all of the information and reports referred to in clauses (a)(1) and (a)(2) above with the Commission for public availability within the time periods specified in the Commission's rules and regulations (unless the Commission will not accept such a filing) and make such information available to securities analysts and prospective investors upon request. The Company has also agreed that, for so long as any Notes remain outstanding, it will furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

#### Section 4.04. Compliance Certificate.

(a) The Company shall deliver to the Trustee, within 90 days after the end of each fiscal year (which currently ends on December 31), an Officer's Certificate stating that a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of, premium, if any, or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) So long as not contrary to the then current recommendations of the American Institute of Certified Public Accountants, the year-end financial statements delivered pursuant to Section 4.03(a) hereof shall be accompanied by a written statement of the Company's independent public accountants (who shall be a firm of established national reputation) that in making the examination necessary for certification of such financial statements, nothing has come to their attention that would lead them to believe that the Company has violated any provisions of Article 4 or Article 5 hereof or, if any such violation has occurred, specifying the nature and period of existence thereof, it being understood that such accountants shall not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violation.

(c) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officer's Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

## Section 4.05. Taxes.

The Company shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

## Section 4.06. Stay, Extension and Usury Laws.

The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

## Section 4.07. Restricted Payments.

Unless the Rating Condition is satisfied, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly:

- (1) declare or pay any dividend or make any other payment or distribution on account of the Company's Equity Interests (including, without limitation, any payment in connection with any merger or consolidation involving the Company or any of its Restricted Subsidiaries) or to direct or indirect Holders of any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company or dividends or distributions to the Company or a Restricted Subsidiary of the Company);
- (2) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any Equity Interests of the Company or any Person that beneficially owns, directly or indirectly, a majority of the Capital Stock of the Company;
- (3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness that is subordinated in right of payment to the Notes, except a payment of a scheduled installment of interest or principal at the Stated Maturity thereof or a refinancing thereof within one year of the final maturity date thereof; or
- (4) make any Restricted Investment (all such payments and other actions set forth in these clauses (1) through (4) being collectively referred to as "Restricted Payments"),

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

- (1) no Default or Event of Default has occurred and is continuing or would occur as a consequence thereof; and
- (2) the Company would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to

the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof (assuming for this purpose that such additional Indebtedness bore interest at the same rate per annum as the Notes); and

- (3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Subsidiaries after the date of this Indenture (excluding Restricted Payments permitted by clauses (2) through (7) and (9) of the next succeeding paragraph), is less than the sum, without duplication, of:

(a) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing prior to the date of this Indenture to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit), plus

(b) 100% of the aggregate net cash proceeds received by the Company since the date of this Indenture as a contribution to its common equity capital or from the issue or sale of Equity Interests of the Company (other than Disqualified Stock) or upon the exercise of any options, warrants or other rights to purchase Capital Stock (other than Disqualified Capital Stock) of the Company or from the issuance or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company that have been converted into or exchanged for such Equity Interests (other than Equity Interests (or Disqualified Stock or debt securities) sold to a Subsidiary of the Company), plus

(c) 100% of the net reduction in any Restricted Investment that was made after the date of this Indenture resulting from payments of interest on Indebtedness, dividends, repayment of loans or advances, or other transfers of assets, in each case to the Company or any Restricted Subsidiary, and the cash return of capital with respect to any Restricted Investment (less the cost of disposition, if any), plus

(d) to the extent that any Unrestricted Subsidiary of the Company is redesignated as a Restricted Subsidiary after the date of this Indenture, the fair market value of the Company's Investment in such Subsidiary as of the date of such redesignation, plus

(e) any amount which previously qualified as a Restricted Payment on account of any Guarantee entered into by the Company or any Restricted Subsidiary; provided that such Guarantee has not been called upon and the obligation arising under such Guarantee no longer exists; less

(f) the after-tax amount of any power and natural gas cost deferrals for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing prior to the date of this Indenture to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment; plus

(g) the after-tax amount of any amortization of power and natural gas deferrals for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing prior to the date of this Indenture to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment.

So long as no Default has occurred and is continuing or would be caused thereby, the preceding provisions shall not prohibit:

- (1) the payment of any dividend within 60 days after the date of declaration thereof, if at said date of declaration such payment would have complied with the provisions of this Indenture;
- (2) the redemption, repurchase, retirement, defeasance or other acquisition of any subordinated Indebtedness of the Company or of any Equity Interests of the Company in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock); provided that the amount of any such net cash proceeds that are utilized for any such redemption, repurchase, retirement, defeasance or other acquisition will be excluded from clause (3) (b) of the preceding paragraph for purposes of calculating the amount of Restricted Payments that may be made under this Section 4.07;
- (3) the defeasance, redemption, repurchase or other acquisition of subordinated Indebtedness of the Company with the net cash proceeds from an incurrence of Permitted Refinancing Indebtedness;
- (4) the repurchase, redemption, retirement, refinancing, acquisition for value or payment of any Disqualified Stock in exchange for, or out of the net cash proceeds of the substantially concurrent issuance of new Disqualified Stock of the Company; provided that any such new Disqualified Stock:
  - (a) shall have an aggregate liquidation preference that does not exceed the aggregate liquidation preference of the amount so refinanced;
  - (b) shall have a Weighted Average Life to Maturity greater than the remaining Weighted Average Life to Maturity of the Disqualified Capital Stock being refinanced; and
  - (c) shall have a Stated Maturity later than the Stated Maturity of the Disqualified Stock being refinanced;
- (5) the repurchase of any subordinated Indebtedness of the Company at a purchase price not greater than 101% of the principal amount of such subordinated Indebtedness in the event of a Change of Control pursuant to a provision similar to Section 4.14 hereof; provided that prior to consummating any such repurchase, the Company has made the Change of Control Offer required by this Indenture and has repurchased all Notes validly tendered for payment in connection with such Change of Control Offer;
- (6) the repurchase of any subordinated Indebtedness of the Company at a purchase price not greater than 100% of the principal amount of such Indebtedness in the event of an Asset Sale pursuant to a provision similar to Section 4.10 hereof; provided that prior to consummating any such repurchase, the Company has made the Asset Sale Offer required by this Indenture and has repurchased all Notes validly tendered for payment in connection with such Asset Sale Offer;
- (7) repurchases of Capital Stock (or warrants or options convertible into or exchangeable for such Capital Stock) deemed to occur upon exercise of stock options to the extent that shares of such Capital Stock (or warrants or options convertible into or exchangeable for such Capital Stock) represent a portion of the exercise price of such options;

- (8) the declaration and payment of regular quarterly cash dividends in respect of the Company's common stock in a per share amount not to exceed 105% of the quarterly dividend for the immediately preceding calendar quarter, and in respect of the Company's preferred stock in an aggregate amount not to exceed \$2.5 million per calendar quarter; provided that the aggregate amount of such cash dividends will be included as Restricted Payments for purposes of determining the amount of Restricted Payments that may be made pursuant to clause (3) of the preceding paragraph; or
- (9) other Restricted Payments by the Company or any Restricted Subsidiary in an aggregate amount not to exceed \$10 million since the date of this Indenture.

The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued to or by the Company or such Subsidiary, as the case may be, pursuant to the Restricted Payment. The fair market value of any assets or securities that are required to be valued by this Section 4.07 shall be determined by the Board of Directors of the Company pursuant to a Board Resolution.

For purposes of calculating compliance with the covenants set forth in this Section 4.07, if at any time the Rating Condition shall not be satisfied, then the Rating Condition shall be deemed not to have been satisfied since the date of this Indenture.

#### Section 4.08. Dividend and Other Payment Restrictions Affecting Subsidiaries.

Unless the Rating Condition is satisfied, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

- (1) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Company or any of its Restricted Subsidiaries;
- (2) make loans or advances to the Company or any of its Restricted Subsidiaries; or
- (3) transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

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

- (1) Existing Indebtedness and Indebtedness under Credit Facilities, as in effect on the date of this Indenture and any amendments, modifications, restatements, renewals, increases, supplements, refundings, restructurings (including rate increases), replacements or refinancings thereof, provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, restructurings, replacement or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in such Indebtedness, as in effect on the date of this Indenture;
- (2) this Indenture, the Notes and Exchange Notes;
- (3) applicable law or any requirement of any regulatory body;

- (4) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired, provided that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;
- (5) customary non-assignment provisions of (a) any leases governing a leasehold interest, (b) any supply, license or other agreement entered into in the ordinary course of business of the Company or any of its Restricted Subsidiaries or (c) any security agreement relating to a Lien incurred pursuant to clause (10) of the definition of "Permitted Liens";
- (6) purchase money obligations for property acquired in the ordinary course of business that impose restrictions on the property so acquired of the nature described in clause (3) of the preceding paragraph;
- (7) any agreement for the sale or other disposition of a Restricted Subsidiary or assets that restricts distributions by that Subsidiary or of such assets pending such sale or other disposition;
- (8) Permitted Refinancing Indebtedness, provided that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;
- (9) Liens securing Indebtedness that limit the right of the debtor to dispose of the assets subject to such Lien; and
- (10) provisions with respect to the disposition or distribution of assets or property in asset sale agreements entered into in the ordinary course of business.

Section 4.09. Incurrence of Indebtedness and Issuance of Preferred Stock.

Unless the Rating Condition is satisfied, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "incur") any Indebtedness (including Acquired Debt), and the Company shall not issue any Disqualified Stock and shall not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; provided, however, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and the Company's Restricted Subsidiaries may incur Indebtedness or issue preferred stock, if the Fixed Charge Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued would have been at least 2.0 to 1, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the preferred stock or Disqualified Stock had been issued, as the case may be, at the beginning of such four-quarter period.

This Section 4.09 shall not prohibit the incurrence of any of the following items of Indebtedness (collectively, "Permitted Debt"):

- (1) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness and letters of credit under one or more Credit Facilities in an aggregate principal amount at any one time

outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and its Restricted Subsidiaries thereunder) equal to \$600 million outstanding at any one time, less principal repayments of term loans and permanent commitment reductions with respect to revolving loans and letters of credit under any Credit Facility (in each case, other than in connection with an amendment, refinancing, refunding, replacement, renewal or modification) made after the date of this Indenture;

- (2) the incurrence by the Company or any of its Restricted Subsidiaries of the Existing Indebtedness;
- (3) the incurrence by the Company of Indebtedness represented by the Notes to be issued on the date of this Indenture and the issuance of the Exchange Notes to be issued in exchange for those Notes pursuant to the Registration Rights Agreement;
- (4) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to refund, refinance or replace, Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under the first paragraph of this Section 4.09 or clauses (2), (3), (8), (11), or (12) of this paragraph;
- (5) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; provided, however, that:
- (a) if the Company is the obligor on such Indebtedness, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes; and
- (b) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary thereof and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary thereof, shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);
- (6) the incurrence by the Company or any of its Restricted Subsidiaries of:
- (a) Hedging Obligations that are incurred for the purpose of fixing or hedging interest rate risk with respect to any floating rate Indebtedness that is permitted by the terms of this Indenture to be outstanding;
- (b) Currency Hedging Obligations relating to Indebtedness of the Company or any Restricted Subsidiary and/or to obligations to purchase or sell assets or properties; provided that such Currency Hedging Obligations do not increase the Indebtedness or other obligations of the Company or any Restricted Subsidiary other than as a result of fluctuations in foreign currency exchange rates or by reason of fees, indemnities and compensation payable thereunder;
- (c) Commodity Price Protection Obligations; provided that such Commodity Price Protection Obligations do not increase the amount of Indebtedness or other obligations of the Company or any Restricted Subsidiary other than as a result of fluctuations in commodity prices or by reason of fees, indemnities and compensation payable thereunder; and

(d) the Guarantee by any Restricted Subsidiary of the Company of Indebtedness of the Company if such Restricted Subsidiary guarantees the Notes by executing a guarantee and supplemental indenture to this Indenture;

- (7) the Guarantee by the Company or any Subsidiary of the Company of Indebtedness of a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this Section 4.09;
- (8) Indebtedness of the Company or any Restricted Subsidiary of the Company represented by Capital Lease Obligations, or preferred stock of a Restricted Subsidiary issued, or Indebtedness of the Company or a Restricted Subsidiary incurred or assumed (i) to finance capital expenditures or (ii) in connection with the acquisition or development of real property, plant or equipment or the Capital Stock of a Restricted Subsidiary that owns such property, plant or equipment in each case incurred for the purpose of financing all or any part of the purchase price of such property, plant or equipment or Capital Stock, in each case, in an aggregate principal amount (or accreted value, as applicable) at any time outstanding pursuant to this clause (8), including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (8), not to exceed \$275 million;
- (9) Indebtedness incurred to finance power and natural gas cost deferrals pursuant to, and in accordance with, state statutory or public utility commission authorization, in an amount not to exceed the amount of the deferrals so financed;
- (10) Indebtedness of the Company or any of its Restricted Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently (except in the case of daylight overdrafts) drawn against insufficient funds in the ordinary course of business; provided however, that such Indebtedness is extinguished within five Business Days of incurrence;
- (11) shares of preferred stock of a Restricted Subsidiary of the Company issued to the Company or another Restricted Subsidiary of the Company; provided that any subsequent transfer of any Capital Stock or any other event that results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of preferred stock (except to the Company or another Restricted Subsidiary of the Company) shall be deemed, in each case, to be an issuance of preferred stock that was not permitted by this clause (11); and
- (12) the incurrence by the Company or any of its Restricted Subsidiaries of additional Indebtedness (including under a Credit Facility) in an aggregate principal amount (or accreted value, as applicable) at any time outstanding, including all Permitted Refinancing Indebtedness incurred to refund, refinance or replace any Indebtedness incurred pursuant to this clause (12), not to exceed \$25 million.

In addition, the Company shall not incur any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Company unless such Indebtedness is also contractually subordinated in right of payment to the Notes pursuant to terms no less favorable to the Holders of the Notes; provided, however, that no Indebtedness of the Company shall be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company solely by virtue of being unsecured.

For purposes of determining compliance with this Section 4.09:

- (1) in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (12) above, or is entitled to be incurred pursuant to the first paragraph of this Section 4.09, the Company shall be permitted to classify such item of Indebtedness on the date of its incurrence in any manner that complies with this Section 4.09;
- (2) Indebtedness under Credit Facilities outstanding on the date of this Indenture shall be deemed to have been incurred on the date of this Indenture in reliance on the exception provided by clause (1) of the definition of "Permitted Debt";
- (3) the accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock shall not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 4.09; provided, in each such case, that the amount thereof is included in Fixed Charges of the Company as accrued; and
- (4) for purposes of determining compliance with any dollar-denominated restriction on the incurrence of Indebtedness denominated in a foreign currency, the dollar-equivalent principal amount of such Indebtedness incurred pursuant thereto shall be calculated based on the relevant currency exchange rate in effect on the date that such Indebtedness was incurred.

Notwithstanding the foregoing, the Company shall not incur or suffer to exist, or permit any of its Restricted Subsidiaries or Unrestricted Subsidiaries to incur or suffer to exist, any Obligations with respect to an Unrestricted Subsidiary that would violate the provisions set forth in the definition of Unrestricted Subsidiary. Specifically, without limiting the generality of the foregoing, if an Unrestricted Subsidiary incurs Indebtedness that is not Non-Recourse Debt or any Indebtedness of an Unrestricted Subsidiary ceases to be Non-Recourse Debt, such Unrestricted Subsidiary shall then cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary of the Company as of such date.

#### Section 4.10. Asset Sales.

Unless the Rating Condition is satisfied, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

- (1) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the fair market value of the assets or Equity Interests issued or sold or otherwise disposed of, as determined by the Company's Board of Directors and evidenced by a resolution of such Board of Directors set forth in an Officer's Certificate delivered to the Trustee before or a reasonable time after such Asset Sale; and
- (2) at least 75% of the consideration received in such Asset Sale by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents. For purposes of this provision, each of the following shall be deemed to be cash:

(a) any liabilities (as shown on the Company's or such Restricted Subsidiary's most recent balance sheet) of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated in right of payment to the Notes) that

are assumed by the transferee or purchaser of any such assets or a third party on behalf of the transferee or purchaser pursuant to an agreement that releases the Company or such Restricted Subsidiary from further liability; and

(b) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are contemporaneously (subject to ordinary settlement periods) converted by the Company or such Restricted Subsidiary into cash (to the extent of the cash received in that conversion, sale or exchange).

Within 360 days after the receipt of any Net Proceeds from an Asset Sale that is consummated at a time when the Rating Condition is not satisfied, the Company may apply those Net Proceeds:

- (1) to repay Indebtedness (other than intercompany Indebtedness) of the Company or a Restricted Subsidiary of the Company and to correspondingly reduce commitments if such Indebtedness constitutes revolving credit borrowings;
- (2) to make capital expenditures; or
- (3) to acquire other long-term assets that are used or useful in a Permitted Business.

Pending the final application of any Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest Net Proceeds in any manner that is not prohibited by this Indenture.

Any Net Proceeds from Asset Sales that are consummated at a time when the Rating Condition is not satisfied that are not applied or invested as provided above in the preceding paragraph shall constitute "Excess Proceeds." Within five days of the date that the aggregate amount of Excess Proceeds exceeds \$15 million, the Company shall make an Asset Sale Offer to all Holders of Notes (and all holders of other Indebtedness that is pari passu with the Notes containing provisions similar to those set forth in this Indenture relating to the Notes with respect to offers to purchase or redeem with the proceeds of sales of assets) to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 100% of principal amount (or 100% of the accreted value thereof, in the case of Indebtedness sold at a discount) plus accrued and unpaid interest, and Liquidated Damages thereon, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Company shall give the Trustee an Officer's Certificate stating the portions of the Excess Proceeds allocable on a pro rata basis to such other Indebtedness and to the Notes, and the Trustee shall select the Notes to be purchased on a pro rata basis based on the principal amount of Notes tendered. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

Notwithstanding the foregoing,

(1) the Company may (i) dispose of all or any portion of its transmission assets in one or more RTO Transactions, or (ii) effect, or permit any Restricted Subsidiary to effect, an Asset Sale in which the Capital Stock of Avista Communications, Avista Advantage or Avista Labs (provided such Person is operating substantially the same business as at the date of this Indenture) is exchanged for Capital Stock or other securities of another Person if, upon completion thereof, the subject or transferee Person is no longer a Subsidiary of the Company; provided, however, that if the Rating Condition is not

satisfied at the time of such transaction, the Company shall apply any Net Proceeds therefrom in accordance with the foregoing provisions; provided, further, that if the Company or any Restricted Subsidiary thereafter disposes of any Capital Stock or other securities or ownership interest in the subject or transferee Person received in, or retained subsequent to, any such transaction, any cash realized therefrom shall be treated as Net Proceeds from an Asset Sale and applied in accordance with the foregoing provisions; and

(2) these provisions shall not apply to any Asset Sale which constitutes a transfer, conveyance, sale, lease or other disposition of all or substantially all of the Company's properties or assets pursuant to Section 5.01 of this Indenture.

The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with Section 3.09 or this Section 4.10, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under Section 3.09 or this Section 4.10 by virtue of such conflict.

#### Section 4.11. Transactions with Affiliates.

Unless the Rating Condition is satisfied, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate (each, an "Affiliate Transaction"), unless:

- (1) the terms of such Affiliate Transaction or series of related Affiliate Transactions are no less favorable to the Company or such Restricted Subsidiary, as the case may be, than those that would be obtainable in a comparable transaction or series of related transactions in arm's-length dealings with an unrelated third party; and
- (2) the Company delivers to the Trustee (i) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10 million, a resolution of its Board of Directors set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with clause (1) above and that such Affiliate Transaction has been approved by a majority of the disinterested members of its Board of Directors and (ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25 million, shall have received a written opinion of a nationally recognized investment banking, accounting or appraisal firm stating that such transaction or series of transactions is fair to the Holders from a financial point of view.

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

- (1) any employment, compensation or indemnification arrangement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business with employees, directors, officers or consultants;
- (2) loans or advances to officers, directors, consultants and employees in the ordinary course of business or guarantees in respect thereof or otherwise made on their behalf (including any payments on such guarantees);

- (3) any redemption of Capital Stock held by employees upon, death, disability or termination of employment at a price not in excess of the fair market value thereof;
- (4) the grant of stock options or similar rights to employees and directors of the Company;
- (5) payment of reasonable directors fees;
- (6) transactions between or among the Company and/or its Restricted Subsidiaries; and
- (7) Restricted Payments and Permitted Investments that are permitted by the provisions of Section 4.07 hereof.

#### Section 4.12. Liens.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, create, incur, assume or otherwise cause or suffer to exist or become effective any consensual Lien of any kind securing Indebtedness or trade payables (other than Permitted Liens) upon any of their property or assets, now owned or hereafter acquired, unless all payments due under this Indenture and the Notes are secured on an equal and ratable basis with the obligations so secured until such time as such obligations are no longer secured by a Lien; provided, however, that the Company and its Restricted Subsidiaries may incur other Liens to secure Indebtedness or trade payables as long as the sum of (x) the amount of outstanding Indebtedness and trade payables secured by Liens incurred pursuant to this proviso plus (y) the Attributable Debt with respect to all outstanding leases in connection with Sale/Leaseback Transactions entered into pursuant to the second paragraph of Section 4.16 hereof, does not exceed \$25 million.

#### Section 4.13. Corporate Existence.

Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect (i) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary and (ii) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries; provided, however, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors of the Company shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

#### Section 4.14. Offer to Repurchase Upon Change of Control.

(a) In the event of a Change of Control, the Company shall make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part (equal to \$1,000 or an integral multiple of \$1,000) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest, if any, to the date of purchase (the "Change of Control Payment"). Within ten days following any Change of Control, the Company shall mail a notice to each Holder stating: (1) that the Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes tendered will be accepted for payment; (2) the purchase price and the purchase date, which shall be no earlier than 30 days and no later than 60 days from the date such notice is mailed (the "Change of Control Payment Date"); (3) that any Note not tendered will continue to accrue interest; (4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest after

the Change of Control Payment Date; (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed, or transfer their interests in Global Notes by book-entry transfer, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date; (6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the certificate number of the Note in respect of which such notice of withdrawal is being submitted, the principal amount of Notes delivered for purchase by the Holder as to which such notice of withdrawal is being submitted, and a statement that such Holder is withdrawing his election to have the Notes purchased; and (7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof. The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the Change of Control provisions of this Indenture, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 4.14 and all other provisions of this Indenture applicable to a Change of Control Offer made by the Company by virtue of such conflict.

(b) On the Change of Control Payment Date, the Company shall, to the extent lawful:

- (1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;
- (2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and
- (3) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company and stating that the Change of Control Offer has been made in accordance with the provisions of this Section 4.14.

The Paying Agent shall promptly mail to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee shall promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered by such Holder, if any; provided that each new Note shall be in a principal amount of \$1,000 or an integral multiple of \$1,000. The Company shall publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

Notwithstanding anything to the contrary in this Section 4.14, the Company shall not be obligated to repurchase Notes pursuant to a Change of Control Offer in the event it has exercised its right to redeem all of the Notes pursuant to this Indenture on or prior to the date on which the Change of Control Offer is required to be consummated.

In addition, the Company shall not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.14 and all other provisions of this Indenture

applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under such Change of Control Offer.

Section 4.15. Designation of Restricted and Unrestricted Subsidiaries.

The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary so designated shall be deemed to be an Investment made as of the time of such designation and shall either reduce the amount available for Restricted Payments under the first paragraph of Section 4.07 hereof or reduce the amount available for future Investments under one or more clauses of the definition of Permitted Investments, or both, as the Company shall determine. That designation shall be permitted only if such Investment would be permitted at that time and if such Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors of the Company may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if the redesignation would not cause a Default.

Section 4.16. Sale and Leaseback Transactions.

The Company shall not, and shall not permit any of its Restricted Subsidiaries to, enter into any Sale/Leaseback Transaction with respect to any property owned on the date of this Indenture or thereafter acquired unless:

- (1) the Company or such Restricted Subsidiary would be entitled to create a Lien on such property securing Indebtedness in an amount at least equal to the Attributable Debt with respect to such transaction without equally and ratably securing the Notes pursuant to Section 4.12 hereof;
- (2) the Net Proceeds of the sale are at least equal to the fair market value (as determined by the Board of Directors of the Company) of the property sold and the Company or such Restricted Subsidiary applies an amount in cash equal to the Net Proceeds of such sale to the retirement, within 180 days of the effective date of any such arrangement, of Indebtedness of the Company or a Restricted Subsidiary or purchases other property having a fair market value at least equal to the fair market value of the assets or property sold in such transactions; or
- (3) such Sale/Leaseback Transaction is between the Company and any of its Restricted Subsidiaries or between any Restricted Subsidiaries of the Company.

In addition to the transactions permitted pursuant to the preceding paragraph, the Company or any Restricted Subsidiary may enter into any other Sale/Leaseback Transaction as long as the sum of:

(a) the Attributable Debt with respect to such Sale/Leaseback Transaction and all other Sale/Leaseback Transactions entered into pursuant to this proviso, plus

(b) the amount of outstanding Indebtedness secured by Liens incurred pursuant to the final proviso to Section 4.12 hereof,

does not exceed \$25 million.

ARTICLE 5.  
SUCCESSORS

Section 5.01. Merger, Consolidation, or Sale of Assets.

The Company shall not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not the Company is the surviving Person); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person; unless:

(1) either:

(a) the Company is the surviving Person; or

(b) the Person formed by or surviving any such consolidation or merger or to which such sale, assignment, transfer, conveyance or other disposition shall have been made is either (i) a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia or (ii) a partnership or limited liability company organized or existing under the laws of the United States, any state thereof or the District of Columbia, that in the case contemplated in this clause (ii) has at least one Restricted Subsidiary that is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia which corporation becomes a co-issuer of the Notes pursuant to a supplemental Indenture in form reasonably satisfactory to the Trustee;

(2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition shall have been made assumes all the obligations of the Company under the Notes, this Indenture and the Registration Rights Agreement pursuant to agreements in form reasonably satisfactory to the Trustee;

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

(4) either:

(a) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company), or to which such sale, assignment, transfer, conveyance or other disposition shall have been made will, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least \$1.00 of additional Indebtedness either pursuant to the Fixed Charge Coverage Ratio test set forth in the first paragraph of Section 4.09 hereof (assuming for this purpose that such additional Indebtedness bore interest at the same rate per annum as the Notes) or because the Rating Condition is then satisfied; or

(b) on the date of such transaction after giving pro forma effect thereto and any related financing transactions, as if the same had occurred at the beginning of the applicable four-quarter period, the pro forma Fixed Charge Coverage Ratio of the surviving Person (if other than the Company) will exceed the actual Fixed Charge Coverage Ratio of the Company as of such date; and

(5) the Company delivers to the Trustee an Officer's Certificate (attaching the arithmetic computations to demonstrate compliance with clause (4)) and an Opinion of Counsel, in each

case stating that such consolidation, merger or transfer and such supplemental indenture complies with this provision and that all conditions precedent provided for herein relating to such transaction have been complied with. Such Opinion of Counsel shall not be an expense of the Trustee.

In addition, the Company shall not, directly or indirectly, lease all or substantially all of its properties or assets, in one or more related transactions, to any other Person.

Section 5.02. Successor Person Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01 hereof, the successor Person formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor Person and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein and thereafter, the predecessor Person shall be relieved of all obligations and covenants under this Indenture and the Notes.

ARTICLE 6.  
DEFAULTS AND REMEDIES

Section 6.01. Events of Default.

An "Event of Default" occurs if:

(a) the Company defaults in the payment when due of interest on, or Liquidated Damages with respect to, the Notes and such default continues for a period of 30 days;

(b) the Company defaults in the payment when due of principal of, or premium, if any, on the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise;

(c) the Company or any of its Restricted Subsidiaries fails to comply with Section 4.10, 4.14 or 5.01.

(d) the Company fails to observe or perform any other covenant, representation, warranty or other agreement in this Indenture or the Notes for 30 days after written notice to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Notes then outstanding;

(e) there shall have occurred either (i) a default by the Company or any Restricted Subsidiary under any instrument or instruments under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed of the Company or any of its Restricted Subsidiaries (other than the Notes) having an outstanding principal amount of \$25 million or more that has caused the holders thereof to declare such Indebtedness to be due and payable prior to its maturity or (ii) a default by the Company or any Restricted Subsidiary in the payment at maturity of the principal amount under any such instrument, and such unpaid portion exceeds \$25 million and is not paid, or such default is not cured or waived, within any grace period applicable thereto, unless such acceleration is rescinded or annulled or

such Indebtedness is discharged within 20 days of the Company or a Restricted Subsidiary becoming aware of such default, provided, however, that this clause (e) shall not apply to any default on Non-Recourse Debt;

(f) a final judgment or order for the payment of money is rendered by a court or courts of competent jurisdiction against the Company, or any Restricted Subsidiary of the Company that is a Significant Subsidiary, in an amount in excess of \$25 million and such judgment or judgments remain undischarged, and there is any period of 30 consecutive days following entry of the final judgment or order in excess of \$25 million during which a stay of enforcement of such final judgment or order, by reason of a pending appeal or otherwise, is not in effect;

(g) the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(i) commences a voluntary case,

(ii) consents to the entry of an order for relief against it in an involuntary case,

(iii) consents to the appointment of a custodian of it or for all or substantially all of its property,

(iv) makes a general assignment for the benefit of its creditors, or

(v) generally is not paying its debts as they become due; or

(h) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary in an involuntary case;

(ii) appoints a custodian of the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary or for all or substantially all of the property of the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary; or

(iii) orders the liquidation of the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

#### Section 6.02. Acceleration.

If any Event of Default (other than an Event of Default specified in clause (g) or (h) of Section 6.01 hereof with respect to the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary) occurs and is continuing, the Trustee by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes by notice to the Company and the Trustee, may declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (g) or (h) of Section 6.01 hereof occurs with respect to the Company or any Restricted Subsidiary of the Company that is a Significant Subsidiary, all outstanding Notes shall be due and payable immediately without further action or notice. The Holders of a majority in aggregate principal

amount of the then outstanding Notes by written notice to the Trustee may on behalf of all of the Holders rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest, Liquidated Damages or premium that has become due solely because of the acceleration) have been cured or waived.

#### Section 6.03. Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium and Liquidated Damages, if any, and accrued interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or such Holder, then, and in every case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Company, the Trustee and the Holders shall continue as though no such proceeding had been instituted.

#### Section 6.04. Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium and Liquidated Damages, if any, or interest on, the Notes (including in connection with an offer to purchase) (provided, however, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

#### Section 6.05. Control by Majority.

Holders of a majority in principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture, that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability in circumstances where indemnity would not, in the Trustee's sole discretion, be adequate.

#### Section 6.06. Limitation on Suits.

A Holder of a Note may pursue a remedy with respect to this Indenture or the Notes only if:

(a) the Holder of a Note gives to the Trustee written notice of a continuing Event of Default;

(b) the Holders of at least 25% in principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(c) such Holder of a Note or Holders of Notes offer and, if requested, provide to the Trustee indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of indemnity; and

(e) during such 60-day period the Holders of a majority in principal amount of the then outstanding Notes do not give the Trustee a direction inconsistent with the request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

#### Section 6.07. Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium and Liquidated Damages, if any, and interest on the Note, on or after the respective due dates expressed or provided for in the Note (including in connection with a redemption or an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

#### Section 6.08. Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium and Liquidated Damages, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

#### Section 6.09. Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of

reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10. Priorities.

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order, subject to applicable law:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, interest and Liquidated Damages, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, interest and Liquidated Damages, if any, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee, upon prior written notice to the Company, may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11. Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7.  
TRUSTEE

Section 7.01. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall be under a duty to examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder shall have offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

#### Section 7.02. Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit. If the Trustee shall determine to make such further inquiry or investigation, it shall (subject to applicable legal requirement) be entitled to examine the books, records and premises of the Company during normal business hours, personally or by an attorney or agent.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may execute any of the trusts or powers hereunder either directly or by or through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities that might be incurred by it in compliance with such request or direction.

#### Section 7.03. Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 hereof.

#### Section 7.04. Trustee's Disclaimer.

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Notes, the Registration Rights Agreement or the Offering, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication. The Trustee shall not be charged with knowledge or notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless the Trustee has received written notice thereof from the Company or any Holder. The Trustee may conclusively assume that the Rating Condition has not been satisfied unless it has received from the Company written notice that the Rating Condition has been satisfied, which notice the Company agrees to give to the Trustee promptly after the Rating Condition has been satisfied. Thereafter, the Trustee may conclusively assume that the Rating Condition has been satisfied unless it has received from the Company written notice that the Rating Condition has not been satisfied, which notice the Company shall give to the Trustee promptly after the Rating Condition is no longer satisfied.

#### Section 7.05. Notice of Defaults.

If a Default or Event of Default occurs and is continuing and (i) if it is actually known to a Responsible Officer of the Trustee or (ii) written notice of such Event of Default is given to the Trustee by the Company or any of the obligor on the Notes, the Trustee shall mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest on any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

#### Section 7.06. Reports by Trustee to Holders of the Notes.

No later than November 15 beginning with the November 15, 2001, and for so long as Notes remain outstanding, the Trustee shall mail to the Holders of the Notes a brief report dated as of the

preceding September 15 that complies with TIA Section 313(a) (but if no event described in TIA Section 313(a) has occurred within the twelve months preceding such September 15, no report need be transmitted). The Trustee also shall comply with TIA Section 313(b)(2). The Trustee shall also transmit by mail all reports as required by TIA Section 313(c).

A copy of each report at the time of its mailing to the Holders of Notes shall be mailed to the Company and filed with the SEC and each stock exchange on which the Notes are listed in accordance with TIA Section 313(d). The Company shall promptly notify the Trustee when the Notes are listed on any stock exchange.

#### Section 7.07. Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services rendered hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the reasonable compensation for its services, except any such expense, disbursement or advance as may arise from its gross negligence, willful misconduct or bad faith. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel. The Trustee shall provide the Company reasonable notice of any expenditure not in the ordinary course of business so long as there is no default by the Company or Event or Default under this Indenture; provided that prior approval by the Company of any such expenditure shall not be a requirement for the making of such expenditure nor for reimbursement by the Company thereof.

The Company shall indemnify the Trustee against any and all losses, liabilities or expenses (other than taxes applicable to the Trustee's compensation hereunder) incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection herewith, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section 7.07 shall survive the resignation or removal of the Trustee, the satisfaction and discharge of this Indenture and any rejection or termination under any Bankruptcy Law.

To secure the Company's payment obligations in this Section, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(g) or (h) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

The Trustee shall comply with the provisions of TIA Section 313(b)(2) to the extent applicable.

Section 7.08. Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section.

The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(a) the Trustee fails to comply with Section 7.10 hereof;

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may, on behalf of itself and others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

Section 7.09. Successor Trustee by Merger, etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee; provided that such corporation shall be eligible under TIA Section 310(a) and this Article 7.

Section 7.10. Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has (or is a subsidiary of a bank holding company that has) a combined capital and surplus of at least \$100 million as set forth in its (or in such bank holding company's) most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA Section 310(a)(1), (2) and (5). The Trustee is subject to TIA Section 310(b). The Trustee shall not be deemed to have a conflicting interest under the TIA by virtue of being a trustee under the Trust Indentures dated as of September 1, 1999 between City of Forsyth, Montana and the Trustee, under which \$66,700,000 aggregate principal amount of Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 1999A and \$17,000,000 aggregate principal amount of Pollution Control Revenue Refunding Bonds (Avista Corporation Colstrip Project) Series 1999B were issued, the payment of which Bonds are supported by payments made by the Company under Loan Agreements dated as of September 1, 1999 and assigned to the Trustee.

Section 7.11. Preferential Collection of Claims Against Company.

The Trustee is subject to TIA Section 311(a), excluding any creditor relationship listed in TIA Section 311(b). A Trustee who has resigned or been removed shall be subject to TIA Section 311(a) to the extent indicated therein.

Section 7.12. Other Capacities.

All references in this Indenture to the Trustee shall be deemed to refer to the Trustee in its capacity as Trustee and in its capacities as Agent, to the extent acting under such capacities, and every provision of this Indenture relating to the conduct or affecting the liability or offering protection, immunity or indemnity to the Trustee shall be deemed to apply with the same force and effect to the Trustee acting in its capacities as any Agent.

ARTICLE 8.  
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01. Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officer's Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes (or, in the case of Legal Defeasance, a specified principal amount thereof) upon compliance with the conditions set forth below in this Article 8.

Section 8.02. Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from its obligations with respect to all outstanding Notes, or such specified principal amount thereof, on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, or such specified

principal amount thereof, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder: (a) the rights of Holders of outstanding Notes to receive solely from the trust fund described in Section 8.04 hereof, and as more fully set forth in such Section, payments in respect of the principal of, premium, if any, and interest on such Notes, and any Liquidated Damages payable with respect thereto, when such payments are due, (b) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof, (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith and (d) this Article Eight. Subject to compliance with this Article Eight, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03. Covenant Defeasance.

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from its obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.14, 4.15 and 4.16 hereof and clause (4) of Section 5.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes, the Company may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(c) through 6.01(f) hereof shall not constitute Events of Default; provided that Section 6.01(d) shall not constitute an Event of Default to the extent it relates to defaults under those covenants with respect to which Covenant Defeasance has occurred.

Section 8.04. Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance:

(a) the Company shall have irrevocably deposited or caused to be deposited with the Trustee, in trust, for the benefit of the Holders of the Notes (or, in the case of Legal Defeasance, a specified principal amount thereof), cash in United States dollars, non-callable Government Securities, or a combination thereof, in such amounts or carrying such principal and interest, as applicable, as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants to pay the principal of, premium, if any, and interest on the Notes (or, in the case of Legal Defeasance, such specified principal amount thereof), and any Liquidated Damages payable with respect thereto, on the

stated maturity date or on the applicable Redemption Date, as the case may be, and the Company must specify whether the Notes (or, in the case of Legal Defeasance, such specified principal amount thereof) are being defeased to maturity or to a particular Redemption Date;

(b) In connection with a Legal Defeasance election under Section 8.02 hereof, the Company shall have delivered to the Trustee:

(i) an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date of this Indenture, there has been a change in the applicable federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes subject to Legal Defeasance will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred; or

(ii) (A) an instrument wherein the Company, notwithstanding the satisfaction and discharge of its Indebtedness in respect of the Notes, or a portion of the principal amount thereof, shall assume the obligation (which shall be absolute and unconditional) to irrevocably deposit with the Trustee such additional sums of money, if any, or additional Government Securities, if any, or any combination thereof, at such time or times, as shall be necessary, together with the money and/or Government Securities theretofore so deposited, to pay when due the principal of and premium, if any, and interest due and to become due on such Notes or portions thereof; provided, however, that such instrument may state that the obligation of the Company to make additional deposits as aforesaid shall arise only upon the delivery to the Company by the Trustee of a notice asserting the deficiency and showing the calculation thereof and shall continue only until the Company shall have delivered to the Trustee a further opinion of an independent public accountant of nationally recognized standing to the effect that no such deficiency exists and showing the calculation of the sufficiency of the deposits then held by the Trustee; and (B) an opinion of recognized tax counsel in the United States reasonably acceptable to the Trustee to the effect that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of a Covenant Defeasance election under Section 8.03 hereof, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the incurrence of Indebtedness all or a portion of the proceeds of which will be used to defease the Notes pursuant to this Article 8 concurrently with such incurrence) or insofar as Sections 6.01(g) or 6.01(h) hereof is concerned, at any time in the period ending on the 91st day after the date of deposit;

(e) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(f) the Company shall have delivered to the Trustee an opinion of counsel to the effect that (assuming that no Holder of any Notes would be considered an insider of the Company under applicable bankruptcy or insolvency law) after the 123rd day following the deposit, the trust funds will not constitute a "voidable preference" under Section 547 of the Bankruptcy Code;

(g) the Company shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders over any other creditors of the Company or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Company; and

(h) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Opinions of Counsel required to be delivered under this Section 8.04 may have qualifications customary for opinions of the type required and counsel delivering such Opinions of Counsel may rely on certificates of the Company or government or other officials customary for opinions of the type required, including certificates certifying as to matters of fact, including that various financial covenants have been complied with.

**Section 8.05. Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.**

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee pursuant to Section 8.04 hereof in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(a) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

## Section 8.06. Repayment to Company.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Note and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

## Section 8.07. Reinstatement.

If the Trustee or Paying Agent is unable to apply any United States dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium, if any, or interest on any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9.  
AMENDMENT, SUPPLEMENT AND WAIVER

## Section 9.01. Without Consent of Holders of Notes.

Notwithstanding Section 9.02 hereof, the Company, and the Trustee, at any time and from time to time, may amend or supplement this Indenture or the Notes without the consent of any Holder of a Note:

- (a) to cure any ambiguity, defect or inconsistency;
- (b) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (c) to provide for the assumption of the Company's obligations to the Holders of the Notes by a successor to the Company pursuant to Article 5 hereof;
- (d) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder of the Note;
- (e) to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;
- (f) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the date hereof;

(g) to evidence and provide for the acceptance of the appointment of a successor trustee under this Indenture.

Upon the request of the Company accompanied by a Board Resolution authorizing the execution of any such amended or supplemental Indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company in the execution of any amended or supplemental Indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental Indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02. With Consent of Holders of Notes.

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture (including Sections 3.09, 4.10 and 4.14 hereof), and the Notes with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 hereof shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

Upon the request of the Company accompanied by a Board Resolution authorizing the execution of any such amended or supplemental Indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company in the execution of such amended or supplemental Indenture unless such amended or supplemental Indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental Indenture.

It shall not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section becomes effective, the Company shall mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental Indenture or waiver. However, without the consent of each Holder affected, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (a) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (b) reduce the principal of or change the fixed maturity of any Note;
- (c) reduce the rate of or change the time for payment of interest on any Note;

(d) waive a Default or Event of Default in the payment of principal of or premium, if any, or interest on the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(e) make any Note payable in money other than that stated in the Notes;

(f) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of or interest on the Notes; and

(g) make any change in the amendment and waiver provisions of Section 9.01 or 9.02.

#### Section 9.03. Compliance with Trust Indenture Act.

Every amendment or supplement to this Indenture or the Notes shall be set forth in an amended or supplemental Indenture that complies with the TIA as then in effect.

#### Section 9.04. Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

#### Section 9.05. Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

#### Section 9.06. Trustee to Sign Amendments, etc.

The Trustee shall sign any amended or supplemental Indenture authorized pursuant to this Article Nine if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment or supplemental Indenture until its Board of Directors approves it. In executing any amended or supplemental indenture, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, in addition to the documents required by Section 11.04 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture. Such Opinion of Counsel shall not be an expense of the Trustee.

ARTICLE 10.  
SATISFACTION AND DISCHARGE

Section 10.01. Satisfaction and Discharge.

This Indenture shall be discharged and shall cease to be of further effect as to all Notes issued hereunder, when:

- (1) either:
- (a) all Notes that have been authenticated (except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company) have been delivered to the Trustee for cancellation;
  - (b) all such Notes not theretofore delivered to the Trustee for cancellation have become due and payable and the Company has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Notes not theretofore delivered to the Trustee for cancellation, for principal, premium, if any, and interest to the date of such deposit and any Liquidated Damages thereon;
  - (c) a Legal Defeasance has been effected with respect to all Notes that have not been so delivered;
- (2) no Default or Event of Default shall have occurred and be continuing on the date Legal Defeasance has been effected or shall occur as a result of such Legal Defeasance and Legal Defeasance will not result in a breach or violation of, or constitute a default under, any other material instrument to which the Company is a party or by which the Company is bound;
- (3) the Company has paid or caused to be paid all sums payable by it under this Indenture; and
- (4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at the maturity of the Notes.

In addition, the Company must deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Opinions of Counsel required to be delivered under this Section 10.01 may have qualifications customary for opinions of the type required and counsel delivering such Opinions of Counsel may rely on certificates of the Company or government or other officials customary for opinions of the type required, including certificates certifying as to matters of fact, including that various financial covenants have been complied with.

Notwithstanding the satisfaction and discharge of this Indenture, if a deposit has been made pursuant to sub-clause (b) of clause (1) of this Section 10.01 or if Legal Defeasance shall have been effected pursuant to sub-clause (c) of clause (1) of this Section 10.01, the provisions of Section 10.02 and Section 8.06 hereof shall survive.

## Section 10.02. Application of Trust Money.

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 10.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and premium, if any, and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 10.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 10.01 hereof; provided that (a) if the Company has made any payment of principal of, premium, if any, or interest on any Notes following the reinstatement of its obligations, the Trustee or Paying Agent shall promptly pay any such amount to the Holder of such Notes, and the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent and (b) the Trustee or Paying Agent shall return all such money and U.S. Government Securities to the Company promptly after receiving a request therefor at any time, if such reinstatement of the Company's obligations has occurred and continues to be in effect.

ARTICLE 11.  
MISCELLANEOUS

## Section 11.01. Trust Indenture Act Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA Section 318(c), the duties imposed by TIA Section 318(c) shall control.

## Section 11.02. Notices.

Any notice or communication by the Company or the Trustee to the others is duly given if in writing and delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company:

Avista Corporation  
1411 East Mission Avenue  
Spokane, Washington 99202  
Telecopier No.: (509) 482-4879  
Attention: Treasurer

If to the Trustee:

Chase Manhattan Bank and Trust Company,  
National Association  
101 California, Suite 2725

San Francisco, California 94111  
 Telecopier No.: (415) 693-8850  
 Attention: Institutional Trust Services

The Company or the Trustee, by notice to the others may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; when receipt acknowledged, if telecopied; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery (except that a notice of change of address and a Notice to the Trustee shall not be deemed to have been given until actually received by the addressee).

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication shall also be so mailed to any Person described in TIA Section 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Where this Indenture provides for notice of any event to a Holder of a Global Note, such notice shall be sufficiently given if given to the Depository for such Note (or its designee), pursuant to its applicable procedures, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of such notice.

#### Section 11.03. Communication by Holders of Notes with Other Holders of Notes.

Holders may communicate pursuant to TIA Section 312(b) with other Holders with respect to their rights under this Indenture or the Notes. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA Section 312(c).

#### Section 11.04. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officer's Certificate in form reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(b) an Opinion of Counsel in form reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied;

except that, in the case of any such application or request as to which the furnishing of such documents, certificates and/or opinions is specifically required by any provision of this Indenture relating to such particular request, no additional certificates or opinions shall be required.

Opinions of Counsel required to be delivered under this Section 11.04 may have qualifications customary for opinions of the type required and counsel delivering such Opinions of Counsel may rely on certificates of the Company or government or other officials customary for opinions of the type required, including certificates certifying as to matters of fact, including that various financial covenants have been complied with.

#### Section 11.05. Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA Section 314(a)(4)) shall comply with the provisions of TIA Section 314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied and such other opinions as the Trustee may reasonably require.

#### Section 11.06. Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders, subject to the consent of the Company. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

#### Section 11.07. No Personal Liability of Directors, Officers, Employees and Stockholders.

No past, present or future director, officer, employee, incorporator or stockholder of the Company, as such, shall have any liability for any obligations of the Company under the Notes, this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of

the consideration for issuance of the Notes. Upon an Event of Default, Holders of the Notes shall have recourse only to the assets of the Company.

Section 11.08. Obligation of the Company; Creditor's Claims.

The Company and the Trustee on behalf of the Holders acknowledge and agree that (A) the Notes are obligations of the Company only, without recourse to any of its officers or directors or to holders of its capital stock or any of their Affiliates other than the Company, and that, in the event of

(i) a bankruptcy, receivership, liquidation, dissolution, reorganization, marshalling or similar case or proceeding of the Company or in which the Subsidiaries of the Company are debtors; and

(ii) a substantive consolidation of the Company and its Subsidiaries, or any of them;

the Holders (or the Trustee on behalf of the Holders) will have no rights in or to the assets of the Subsidiaries of the Company or in any distribution therefrom that was made in violation of a Credit Facility, until such time as the indebtedness created and evidenced thereby has been irrevocably paid in full in cash,

(B) the holders of indebtedness under a Credit Facility are relying, and, have been deemed to rely, on the acknowledgement and agreement set forth in clause (A) preceding in extending indebtedness under a Credit Facility.

Section 11.09. Governing Law.

THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE AND THE NOTES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 11.10. No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 11.11. Successors.

All agreements of the Company in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 11.12. Severability.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 11.13. Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 11.14. Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[The remainder of this page is intentionally left blank.]

SIGNATURES

Dated as of April \_\_, 2001

AVISTA CORPORATION

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

Attest:  
  
-----  
Name:  
Title:

CHASE MANHATTAN BANK AND TRUST  
COMPANY, NATIONAL ASSOCIATION

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

Attest:  
  
-----  
Authorized Signatory  
Date:

[Face of Note]

CUSIP/CINS \_\_\_\_\_

9.75% Senior Note due June 1, 2008

No. \_\_\_\_\_ \$ \_\_\_\_\_

AVISTA CORPORATION

promises to pay to [CEDE & CO.]\* or registered assigns,

the principal sum of \_\_\_\_\_ Dollars [or such other principal amount as is set forth in the Schedule of Exchanges of Interests in the Global Note attached hereto]\*

on June 1, 2008.

Interest Payment Dates: June 1 and December 1, commencing on December 1, 2001.

Record Dates: Close of business on May 15 and November 15 (whether or not a Business Day).

Dated:

AVISTA CORPORATION

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

This is one of the Notes referred to in the within-mentioned Indenture:

CHASE MANHATTAN BANK AND TRUST COMPANY  
NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

\* Insert in Global Notes only.

[Back of Note]  
9.75% Senior Note due June 1, 2008

[Insert the Private Placement Legend, Global Note Legend, DTC Global Note Legend, and Regulation S Global Note Legend, as applicable]

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. Avista Corporation, a Washington corporation (the "Company"), promises to pay interest on the principal amount of this Note at the rate of 9.75% per annum from April 3, 2001 until maturity. The Company will pay interest and Liquidated Damages semi-annually in arrears on June 1 and December 1 of each year (each an "Interest Payment Date"). Interest on the Notes will accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from the date of original issuance; provided that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; provided, further, that the first Interest Payment Date shall be December 1, 2001. If and to the extent required by Section 2(c) of the Registration Rights Agreement, the Company shall pay Liquidated Damages with respect to the Notes, payable on each Interest Payment Date. The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the foregoing rate of interest; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Liquidated Damages (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

2. METHOD OF PAYMENT. The Company will pay interest on the Notes (except defaulted interest) and Liquidated Damages, if any, to the Persons who are registered Holders of Notes at the close of business on the May 15th or November 15th (whether or not a Business Day) next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest, and any Liquidated Damages, at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest and any Liquidated Damages may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds will be required with respect to principal of and interest, premium and Liquidated Damages on, all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent at least 15 days prior to the payment date. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. PAYING AGENT AND REGISTRAR. Initially, Chase Manhattan Bank and Trust Company, National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Company issued the Notes under an Indenture dated as of April 3, 2001 ("Indenture") between the Company and the Trustee. The terms of the Notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939, as

amended (15 U.S. Code Sections 77aaa-77bbb). The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling to the extent permitted by law. The Notes are obligations of the Company limited to \$600 million in aggregate principal amount, of which \$400 million are Initial Notes and up to \$200 million may be issued as Additional Notes. The Holder of this Note, by its acceptance hereof, shall be deemed to have consented and agreed to all terms and provisions of the Indenture and, further, in the event that such Holder shall not be the sole beneficial owner of this Note, shall be deemed to have agreed to use all commercially reasonable efforts to cause all direct and indirect beneficial owners of this Note to have knowledge of the terms and provisions of the Indenture and of this Note and to comply therewith, including particularly, but without limitation, any provisions or restrictions in the Indenture regarding the transfer or exchange of such beneficial interests and any legend set forth on this Note.

#### 5. OPTIONAL REDEMPTION.

(a) Except as set forth in this paragraph (a) of this Paragraph 5, the Company shall not have the option to redeem the Notes prior to maturity. At any time, the Company may on any one or more occasions redeem up to 100% of the aggregate principal amount of the Notes at a Redemption Price equal to the greater of (i) 100% of the principal amount of the Notes being redeemed or (ii) the sum of the present values of the remaining scheduled payments of principal of and interest on the Notes being redeemed discounted to the date of redemption on a semiannual basis (assuming a 360-day year consisting of twelve 30-day months) at a discount rate equal to the Treasury Yield plus 50 basis points, plus, for (i) or (ii) above, whichever is applicable, accrued interest on such notes to the date of redemption. Notice of redemption shall be given not less than 15 days nor more than 60 days prior to the date fixed for redemption (the "Redemption Date").

(b) (i) "Treasury Yield" means, with respect to any Redemption Date, the rate per annum equal to the semiannual equivalent yield to maturity of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such Redemption Date.

(ii) "Comparable Treasury Issue" means the United States Treasury security selected by an Independent Investment Banker as having a maturity comparable to the remaining term of such Notes to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of comparable maturity to the remaining term of the Notes.

(iii) "Comparable Treasury Price" means, with respect to any Redemption Date, (i) the average of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) on the third Business Day preceding such Redemption Date, as set forth in the H.15 Daily Update of the Federal Reserve Bank of New York or (ii) if such release (or any successor release) is not published or does not contain such prices on such Business Day, the Reference Treasury Dealer Quotation for such Redemption Date.

(iv) "H.15(519)" means the weekly statistical release entitled "Statistical Release H.15 (519)", or any successor publication, published by the Board of Governors of the Federal Reserve System.

(v) "H.15 Daily Update" means the daily update of H.15(519) available through the worldwide website of the Board of Governors of the Federal Reserve System or any successor site or publication.

(vi) "Independent Investment Banker" means an independent investment banking institution of national standing appointed by the Company and reasonably acceptable to the Trustee.

(vii) "Reference Treasury Dealer Quotation" means, with respect to the Reference Treasury Dealer and any Redemption Date, the average, as determined by the Trustee, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount and quoted in writing to the Trustee by such Reference Treasury Dealer at 5:00 p.m. on the third Business Day preceding such Redemption Date).

(viii) "Reference Treasury Dealer" means a primary U.S. Government securities dealer in New York City appointed by the Company and reasonably acceptable to the Trustee.

(c) Unless Avista Corp. defaults in payment of the Redemption Price, from and after the Redemption Date, the Notes or portions thereof called for redemption will cease to bear interest, and the Holders thereof will have no right in respect to such Notes except the right to receive the Redemption Price thereof.

#### 6. MANDATORY REDEMPTION.

The Company shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

#### 7. REPURCHASE AT THE OPTION OF HOLDERS.

(a) In the event of a Change of Control, the Company shall be required to make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part (equal to \$1,000 or an integral multiple of \$1,000) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes plus accrued and unpaid interest and Liquidated Damages thereon, if any, to the date of purchase (the "Change of Control Payment"). Within ten days following any Change of Control, the Company shall mail a notice to each Holder setting forth the procedures governing the Change of Control Offer as required by the Indenture.

(b) If the Company or a Subsidiary consummates any Asset Sales, within five days of each date on which the aggregate amount of Excess Proceeds exceeds \$15 million, the Company shall commence an offer to all Holders of Notes (as "Asset Sale Offer") pursuant to Section 3.09 of the Indenture to purchase the maximum principal amount of Notes and such other pari passu Indebtedness that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount (or 100% of the accreted value thereof, in the case of Indebtedness sold at a discount) plus accrued and unpaid interest and Liquidated Damages thereon, if any, to the date fixed for the closing of such offer, in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes and other Indebtedness tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company (or such Subsidiary) may use such remaining Excess Proceeds for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of Notes and other Indebtedness tendered pursuant to an Asset Sale Offer exceeds the amount of Excess Proceeds, the Company shall allocate such Excess Proceeds on a pro rata basis between such other Indebtedness and the Notes, and the Trustee shall select the Notes to be purchased on a pro rata basis based upon the

principal amount of Notes tendered. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes.

8. NOTICE OF REDEMPTION. Notice of redemption will be mailed at least 15 days but not more than 60 days before the Redemption Date to each Holder whose Notes are to be redeemed at its registered address. Notes in denominations larger than \$1,000 may be redeemed in part but only in whole multiples of \$1,000, unless all of the Notes held by a Holder are to be redeemed. On and after the Redemption Date interest ceases to accrue on Notes or portions thereof called for redemption.

9. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of \$1,000 and integral multiples of \$1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

10. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

11. AMENDMENT, SUPPLEMENT AND WAIVER. Subject to certain exceptions, the Indenture or the Notes may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase or, or tender offer or exchange offer for, Notes) and any existing default or compliance with any provision of the Indenture or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes). Without the consent of any Holder of a Note, the Indenture, or the Notes may be amended or supplemented to cure any ambiguity, defect or inconsistency, to provide for uncertificated Notes in addition to or in place of certificated Notes, to provide for the assumption of the Company's obligations to Holders of the Notes in case of a merger or consolidation or sale of all or substantially all of the Company's assets, to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights under the Indenture of any such Holder, to comply with the requirements of the SEC in order to effect or maintain the qualification of the Indenture under the Trust Indenture Act, to provide for the issuance of Additional Notes in accordance with the limitations set forth in the Indenture and to evidence and provide the acceptance of the appointment of a successor trustee under the Indenture.

12. DEFAULTS AND REMEDIES. Events of Default include: (i) default for 30 days in the payment when due of interest on, or Liquidated Damages with respect, to the Notes; (ii) default in payment when due of principal of, or premium, if any, on the Notes when the same becomes due and payable at maturity, upon redemption (including in connection with an offer to purchase) or otherwise, (iii) failure by the Company or any of its Restricted Subsidiaries to comply with the provisions contained in Sections 4.10, 4.14 and 5.01, (iv) default in performance of any other covenants in the Indenture or in the Notes for 30 days after written notice to the Company by the Trustee or to the Company and the Trustee by the Holders of at least 25% in principal amount on the Notes then outstanding; (v) there shall have occurred either (a) a default by the Company or any Restricted Subsidiary under any instrument or instruments

under which there is or may be secured or evidenced any Indebtedness of the Company or any Restricted Subsidiary (other than the Notes) having an outstanding principal amount of \$25 million or more that has caused the holders thereof to declare such Indebtedness to be due and payable prior to its maturity or (b) a default by the Company or any Restricted Subsidiary in the payment at maturity of the principal under any such instrument, and such unpaid portion exceeds \$25 million and is not paid, or such default is not cured or waived, within any grace period applicable thereto, unless such acceleration is rescinded or annulled or such Indebtedness is discharged within 20 days of the Company or a Restricted Subsidiary becoming aware of such default provided, however, that this clause (v) shall not apply to any default on Non-Recourse Debt; (vi) any final judgment or order for the payment of money shall be rendered against the Company, or any Restricted Subsidiary that is a Significant Subsidiary, in an amount in excess of \$25 million and shall not be discharged, and there shall be any period of 30 consecutive days following entry of the final judgment or order in excess of \$25 million during which a stay of enforcement of such final judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; and (vii) certain events of bankruptcy or insolvency with respect to the Company or any Restricted Subsidiary that is a Significant Subsidiary. If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Notes may declare all the Notes to be due and payable. Notwithstanding the foregoing, in the case of an Event of Default arising from certain events of bankruptcy or insolvency, all outstanding Notes will become due and payable without further action or notice. Holders may not enforce the Indenture or the Notes except as provided in the Indenture. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders of the Notes notice of any continuing Default or Event of Default (except a Default or Event of Default relating to the payment of principal or interest) if it determines that withholding notice is in their interest. The Holders of a majority in aggregate principal amount of the Notes then outstanding by notice to the Trustee may on behalf of the Holders of all of the Notes waive any existing Default or Event of Default and its consequences under the Indenture except a continuing Default or Event of Default in the payment of interest on, or the principal of, the Notes. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture. Upon becoming aware of any Default or Event of Default, the Company is required to deliver to the Trustee a statement specifying such Default or Event of Default.

13. TRUSTEE DEALINGS WITH COMPANY. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

14. NO RECOURSE AGAINST OTHERS. A director, officer, employee, incorporator or stockholder, of the Company, as such, shall not have any liability for any obligations of the Company under the Notes or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes. Upon an Event of Default, Holders of the Notes shall have recourse only to the assets of the Company.

15. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

16. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

17. ADDITIONAL RIGHTS OF HOLDERS OF RESTRICTED GLOBAL NOTES AND RESTRICTED DEFINITIVE NOTES. In addition to the rights provided to Holders of Notes under the Indenture, Holders of Restricted Global Notes and Restricted Definitive Notes shall have all the rights set forth in the Exchange and Registration Rights Agreement dated as of April 3, 2001, between the Company and the parties named on the signature pages thereof (the "Registration Rights Agreement") or, in the case of Additional Notes, Holders of Restricted Global Notes and Restricted Definitive Notes shall have the rights set forth in one or more registration rights agreements, if any, between the Company and the other parties thereto, relating to rights given by the Company to the purchasers of any Additional Notes collectively, the "Registration Rights Agreement").

18. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

19. LEGAL DEFEASANCE. As provided in the Indenture and subject to certain limitations therein set forth, the Company may, at its option and at any time, elect to have all of its obligations discharged with respect to this Note or any portion of the principal amount of this Note, if there has been irrevocably deposited with the Trustee, in trust, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient to pay the principal of, premium if any, and interest on this Note or such portion of this Note, as the case may be, and any Liquidated Damages payable with respect thereto.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture and/or the Registration Rights Agreement. Requests may be made to:

Avista Corporation  
1411 East Mission Avenue  
Spokane, Washington 99202  
Attention: Treasurer

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

-----  
(Insert assignee's legal name)

-----  
(Insert assignee's soc. sec. or tax I.D. no.)

-----  
(Print or type assignee's name, address and zip code)

and irrevocably appoint

-----  
to transfer this Note on the books of the Company. The agent may substitute  
another to act for him.

Date:

-----

Your Signature:

-----  
(Sign exactly as your name appears on the  
face of this Note)

Signature Guarantee\*:

-----

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

[ ] Section 4.10                      [ ] Section 4.14

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased (\$1,000 or an integral multiple thereof):

\$ \_\_\_\_\_

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

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: \_\_\_\_\_

Signature Guarantee\*: \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

## SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\*

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized officer of Trustee or Note Custodian
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\* This schedule should be included only if the Note is issued in global form.

## FORM OF CERTIFICATE OF TRANSFER

Avista Corporation  
1411 East Mission Avenue  
Spokane, Washington 99202

Chase Manhattan Bank and Trust Company,  
National Association  
101 California, Suite 2725  
San Francisco, California 94111

Re: 9.75% Senior Notes due June 1, 2008

Reference is hereby made to the Indenture, dated as of April 3, 2001 (the "Indenture"), between Avista Corporation, as issuer (the "Company"), and Chase Manhattan Bank and Trust Company, National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Transfer"), to \_\_\_\_\_ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believed and believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Definitive Note and in the Indenture and the Securities Act.

2. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the

Securities Act, (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note, and/or the Definitive Note and in the Indenture and the Securities Act.

3. CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act.

4. CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR AN UNRESTRICTED DEFINITIVE NOTE.

(a) CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for the benefit of the Trustee and the Registrar and the benefit of the Company.

-----  
[Insert Name of Transferor]

By: -----  
Name:  
Title:

Dated: -----

## ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) a beneficial interest in the:

(i) 144A Global Note (CUSIP \_\_\_\_\_), or

(ii) Regulation S Global Note (CUSIP \_\_\_\_\_), or

(b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) a beneficial interest in the:

(i) 144A Global Note (CUSIP \_\_\_\_\_), or

(ii) Regulation S Global Note (CUSIP \_\_\_\_\_), or

(iii) Unrestricted Global Note (CUSIP \_\_\_\_\_), or

(b) a Restricted Definitive Note; or

(c) an Unrestricted Definitive Note,

in accordance with the terms of the Indenture.

## FORM OF CERTIFICATE OF EXCHANGE

Avista Corporation  
1411 East Mission Avenue  
Spokane, Washington 99202

Chase Manhattan Bank and Trust Company,  
National Association  
101 California, Suite 2725  
San Francisco, California 94111

Re: 9.75% Senior Notes due June 1, 2008

(CUSIP \_\_\_\_\_)

Reference is hereby made to the Indenture, dated as of April 3, 2001 (the "Indenture"), between Avista Corporation, as issuer (the "Company"), and Chase Manhattan Bank and Trust Company, National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_, (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for

a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

(a) CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] 144A Global Note, Regulation S Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for the benefit of the Trustee and the Registrar and the benefit of the Company.

-----  
[Insert Name of Transferor]

By: -----  
Name:  
Title:

Dated: -----

AVISTA CORPORATION  
 Computation of Ratio of Earnings to Fixed Charges and  
 Preferred Dividend Requirements Consolidated  
 (Thousands of Dollars)

	12 Mos. Ended	Years Ended December 31			
	March 31, 2001	2000	1999	1998	1997
Fixed charges, as defined:					
Interest on long-term debt	\$ 72,001	\$ 65,314	\$ 62,032	\$ 66,218	\$ 63,413
Amortization of debt expense and premium - net	3,568	3,409	3,044	2,859	2,862
Interest portion of rentals	4,320	4,324	4,645	4,301	4,354
Total fixed charges	\$ 79,889	\$ 73,047	\$ 69,721	\$ 73,378	\$ 70,629
Earnings, as defined:					
Net income from continuing ops	\$110,557	\$ 91,679	\$ 26,031	\$ 78,139	\$114,797
Add (deduct):					
Income tax expense	86,073	73,461	16,740	43,335	61,075
Total fixed charges above	79,889	73,047	69,721	73,378	70,629
Total earnings	\$276,519	\$238,187	\$112,492	\$194,852	\$246,501
Ratio of earnings to fixed charges	3.46	3.26	1.61	2.66	3.49