

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

)	
In re:)	Chapter 11
)	
EDISON MISSION ENERGY, <i>et al.</i> , ¹)	Case No. 12-[_____] (____)
)	
Debtors.)	(Joint Administration Requested)
)	

NOTICE OF MOTION

PLEASE TAKE NOTICE that on December 17, 2012, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) filed the *Debtors’ Motion to Authorize Continued Performance under Special Trading Contracts* (the “Motion”).

PLEASE TAKE FURTHER NOTICE that the Debtors have requested a hearing on the Motion on Monday, December 17, 2012, at a time to be determined before the Honorable [_____] or any other judge who may be sitting in [**his/her**] place and stead, in Courtroom [___] in the United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, at which time you may appear if you deem fit.

PLEASE TAKE FURTHER NOTICE that the hearing date and time once determined as well as copies of all documents are available free of charge by visiting the case website maintained by GCG, Inc. proposed notice and claims agent for these chapter 11 cases, available at www.edisonmissionrestructuring.com or by calling (866) 241-6491. You may also obtain copies of any pleadings by visiting the Court’s website at www.ilnb.uscourts.gov in accordance with the procedures and fees set forth therein.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Edison Mission Energy (1807); Camino Energy Company (2601); Chestnut Ridge Energy Company (6590); Edison Mission Energy Fuel Services, LLC (4630); Edison Mission Fuel Resources, Inc. (3014); Edison Mission Fuel Transportation, Inc. (3012); Edison Mission Holdings Co. (6940); Edison Mission Midwest Holdings Co. (6553); Midwest Finance Corp. (9350); Midwest Generation EME, LLC (1760); Midwest Generation, LLC (8558); Midwest Generation Procurement Services, LLC (2634); Midwest Peaker Holdings, Inc. (5282); Mission Energy Westside, Inc. (0657); San Joaquin Energy Company (1346); Southern Sierra Energy Company (6754); and Western Sierra Energy Company (1447). The location of parent Debtor Edison Mission Energy’s corporate headquarters and the Debtors’ service address is: 3 MacArthur Place, Suite 100, Santa Ana, California 92707.

Dated: December 17, 2012

/s/ David R. Seligman, P.C.

James H.M. Sprayregen, P.C.
David R. Seligman, P.C.
Sarah Hiltz Seewer
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

- and -

Joshua A. Sussberg
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

*Proposed Counsel to the Debtors
and Debtors in Possession
Other than Camino Energy Company*

- and -

David A. Agay
Joshua Gadharf
MCDONALD HOPKINS LLC
300 North LaSalle
Suite 2100
Chicago, Illinois 60654
Telephone: (312) 280-0111
Facsimile: (312) 280-8232

*Proposed Counsel to Debtor Camino Energy Company
and Conflicts Counsel to the other Debtors
and Debtors in Possession*

UNITED STATES BANKRUPTCY COURT
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EDISON MISSION ENERGY, <u>et al.</u> , ¹)	Case No. 12-[_____] (____)
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DEBTORS’ MOTION TO AUTHORIZE CONTINUED PERFORMANCE UNDER SPECIAL TRADING CONTRACTS

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) state as follows in support of this motion (this “Motion”):²

Relief Requested

1. By this Motion, the Debtors request entry of interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the “Interim Order” and the “Final Order”), authorizing but not directing the Debtors to continue to perform under Special Trading Contracts (as defined herein) and to honor, pay, and/or otherwise satisfy any and all obligations under the Special Trading Contracts in a manner consistent with prepetition

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² The facts and circumstances supporting this Motion are set forth in the *Declaration of Maria Rigatti, Senior Vice President and Chief Financial Officer of Edison Mission Energy, in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”), filed contemporaneously herewith.

practices, and to take any other actions to implement, consummate, and execute transactions under the Special Trading Contracts.

2. The Debtors are not seeking to assume any contracts or agreements, including the Special Trading Contracts or any ancillary agreements entered into with respect thereto at this time. The Debtors simply desire to continue beneficial and cost-effective arrangements related to their Special Trading Contracts on a postpetition basis.

3. The Debtors believe that the relief requested herein is necessary to preserve critical business and trading relationships and to maximize the value of their chapter 11 estates for the benefit of all parties in interest.

Jurisdiction

4. The United States Bankruptcy Court for the Northern District of Illinois (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

5. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

6. The statutory bases for the relief requested herein are sections 105(a) and 363 of title 11 of the United States Code (the "Bankruptcy Code"), and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Background

7. Edison Mission Energy ("EME"), together with its Debtor and non-Debtor affiliates, is a leading independent power producing enterprise specializing in developing, operating, and selling energy and capacity from over 40 generating facilities in 12 states and the Republic of Turkey. The Debtors have approximately 950 employees and maintain headquarters in Chicago, Illinois and Santa Ana, California.

8. On the date hereof (the “Petition Date”), each of the Debtors filed a petition with this Court under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors requested procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these chapter 11 cases, and no committees have been appointed or designated.

Businesses of Non-Debtor Affiliate EMMT

9. EME is the parent of non-Debtor Edison Mission Marketing & Trading, Inc. (“EMMT”), which conducts hedging and trading operations for itself and certain of the Debtors and their non-Debtor affiliates.

10. More specifically, EMMT markets and trades energy capacity, power, fossil fuels, emissions allowances, and other energy-related products and derivatives thereof. EMMT’s trading platform encompasses two categories: (a) sales of the Debtors’ and certain non-Debtor affiliates’ capacity, power production, and related products (either as agent or pursuant to “back-to-back” trades); and (b) market trades for EMMT’s own proprietary trading book. EMMT’s proprietary trading operations are cash-flow-positive and accounted for approximately \$75 million in operating revenues in 2011, and approximately \$50 during the first half of 2012. In addition, EMMT provides certain of the Debtors and their non-Debtor affiliates with administrative and operational support.³

³ Specifically, the administrative and operational support provided by EMMT includes managing power purchase and supply agreement obligations for the Debtors and their non-debtor affiliates on a day-to-day basis. This may include, among other services: (a) scheduling and other contractual administration services; (b) procuring or causing to be procured electric energy, capacity, or transmission services; (c) implementing and maintaining billing and collection procedures for accounts payable and accounts receivable; and (d) keeping records and assisting in the preparation of financial and other reports, budgets, estimates, tax returns, and other information.

11. Power generated from the Debtors' Midwest Generation coal plants is primarily sold into the PJM Interconnection LLC ("PJM") market, which is a regional transmission organization (an "RTO") that coordinates the sale and movement of wholesale electricity in the Pennsylvania-Jersey-Maryland market—which includes all or part of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. PJM is responsible for coordinating, controlling, and monitoring the electricity transmission grid through a wholesale spot energy market; it coordinates the sale of energy from producers, such as Debtor Midwest Generation, LLC ("MWG"), to wholesalers, including utilities (who then resell that electricity to consumers). PJM conducts electricity auctions on an hourly and daily basis and capacity auctions on a three-year, forward-looking basis. Through those auctions, producers (such as MWG) submit bids indicating the minimum price at which they are willing to dispatch and sell energy at a specified time. Wholesalers submit corresponding bids for the purchase of electricity at specified times. Based on these bids, PJM determines the market clearing price and issues directions to producers regarding the dispatch of electricity.

12. EMMT also engages in certain purchase and sale transactions for the benefit of MWG. It does so by entering into a sale or purchase contract with a third party and then a second sale or purchase contract with MWG on the same commercial terms as the contract with the third party. EMMT refers to these contracts as "back-to-back" contracts. The back-to-back contracts cover energy and capacity, fuels (including coal, natural gas, and fuel oil), and other energy-related products and derivatives. The back-to-back contract can derive from an auction (discussed above), a forward energy sale, or a spot-market sale. EMMT only enters into back-to-

back contracts for the benefit of MWG in accordance with certain EME risk management policies and procedures.

13. Many of EMMT's hedging and trading agreements contain defaults and/or other provisions that may enable its hedging and trading partners (collectively, as described in detail below, the "Trading Counterparties") to terminate the agreements or request additional collateral from EMMT in certain circumstances. Indeed, certain of these provisions could have been triggered by the Debtors' chapter 11 filings.

14. During the six months leading to the commencement of these chapter 11 cases, EMMT undertook a significant effort to isolate these defaults and minimize the effects of the Debtors' chapter 11 filings on its businesses and avoid a chapter 11 filing of EMMT. EMMT engaged in extensive negotiations with the Trading Counterparties and other third parties to reach mutually agreeable commercial terms to minimize the impact of these chapter 11 cases on its businesses. For example, EMMT has provided additional collateral and letters of credit, accelerated its performance under certain agreements, transferred various agreements to new clearing brokers, and invoked early termination provisions in an effort to insulate its operations from these chapter 11 cases. In addition, before the Petition Date, EME made a capital contribution of \$75 million to EMMT to enable EMMT to post additional collateral as may be requested by Trading Counterparties from time to time and otherwise operate in the ordinary course. In light of the foregoing efforts, the Debtors and EMMT believe the Trading Counterparties are confident that EMMT will operate its businesses as usual, with little, if any, disruption caused by the Debtors' chapter 11 cases.

15. Nonetheless, the Debtors and EMMT are concerned that counterparties to certain of EMMT's agreements may still take actions adverse to EMMT and the Debtors as a result of

the filing of these chapter 11 cases, absent additional reassurance of the Debtors' and EMMT's continued performance under the Special Trading Contracts. Accordingly, the Debtors believe that the relief sought in this Motion will preserve the Debtors' trading businesses and benefit all stakeholders in these chapter 11 cases.

The Special Trading Contracts

I. The Debtors' Special Trading Contracts and Trading Arrangements

16. The Debtors do not conduct energy or capacity hedging or trading activities directly with third parties. Instead, the Debtors' hedging and trading operations are managed through EMMT. MWG and EMMT are parties to that certain Amended and Restated Master Purchase, Sale and Services Agreement (the "Master Trading Agreement") dated April 27, 2004 (as amended on December 11, 2012), pursuant to which EMMT engages in back-to-back trades on behalf of MWG. Additionally, BP Canada Energy Marketing Corp. ("BP Canada") and MWG (through EMMT, as its agent) are party to that certain Base Contract for Sale and Purchase of Natural Gas dated August 1, 2002 (the "Gas Purchase Agreement"), pursuant to which BP Canada sells natural gas to EMMT on behalf of MWG. MWG uses this natural gas to ignite coal fuel at certain of MWG's coal-fired generating facilities.⁴

17. The general objective of EMMT's hedging activities on behalf of MWG is to sell the output of MWG's facilities on a forward basis or to hedge the risk of future changes in prices or price differences between different locations. From time to time, MWG extends intercompany loans to EMMT to provide collateral support for the trading activities related to the

⁴ Section 10.5 of the Gas Purchase Agreement states that "The parties specifically agree that . . . all transactions pursuant [to the Gas Purchase Agreement] are 'forward contracts' as such term is defined in the United States Bankruptcy Code."

Master Trading Agreement. The types of transactions arranged by EMMT with respect to the hedging activities on behalf of MWG are more fully described below.

II. Special Trading Contracts and Trading Arrangements

18. As described above, EMMT conducts hedging and energy trading activities in various power markets and exchanges and engages in similar hedging activities for EME's other non-Debtor subsidiaries (in addition to those on behalf of MWG) that own or operate generating facilities. Additionally, pursuant to EMMT's proprietary trading activities, EMMT seeks to generate trading profits from volatility in the price of electricity, capacity, fuels and transmission congestion by buying and selling contracts in wholesale markets, subject to EME's risk management policy. Specifically, these contracts include:⁵

- a. ***Clearing Broker Arrangements.*** EMMT is party to customer agreements ("Customer Agreements") with clearing brokers (the "Clearing Brokers") to clear trades and hedges related to the purchase and sale of power, fuel oil, coal, natural gas, emission allowances and other energy-related products and physical and financial derivatives thereof through exchanges, including Intercontinental Exchange, Inc. ("ICE"), New York Mercantile Exchange ("NYMEX") and Nodal Exchange. EME has issued guarantees in favor of certain of EMMT's clearing brokers. In addition to the guarantees, EMMT is required to provide collateral, including initial margin and variation margin, from time to time in such amounts, at such times and in such form (usually cash) as requested by each Clearing Broker in its discretion. The collateral amounts requested by a Clearing Broker may be affected by EMMT's open trading positions and the Clearing Broker's perception of EMMT's credit risk. Generally, each Clearing Broker has broad discretion to terminate its agreement with EMMT, to refuse to enter into future transactions for the benefit of EMMT and/or to cancel or liquidate EMMT's open positions.
- b. ***Over-the-Counter Transactions.*** EMMT enters into over-the-counter derivative and power transactions directly with unrelated third parties ("OTC Counterparties"). These transactions are usually subject to the standard terms and conditions of an ISDA Master Agreement (and related Annexes) or a standard-form Master Purchase and Sale Agreement, in each case, as modified pursuant to

⁵ Because EMMT and certain non-Debtor affiliates are party to the Special Trading Contracts, the Debtors respectfully submit that those entities need no authorization from this Court to continue performing under the Special Trading Contracts. Nonetheless, the Debtors include a description of the non-Debtor Special Trading Contracts in the interest of full disclosure.

negotiations between the parties (the “OTC Agreements”). EME has issued guarantees in favor of certain of the OTC Counterparties. Further, under most of the OTC Agreements, the OTC Counterparty has the right to request additional collateral, in form and amount satisfactory to such OTC Counterparty, in the event that it has reasonable grounds to believe that EMMT’s creditworthiness or performance under the applicable OTC Agreement has become unsatisfactory. As of the date hereof, EMMT has limited open transactions outstanding under the OTC Agreements and instead has moved most of its transactions with the OTC Counterparties to an exchange such as ICE or NYMEX.

- c. ***ISO/RTO Markets.*** EMMT participates in markets organized and managed by various RTOs, including the PJM, Midwest Independent Transmission System Operator, and New York Independent System Operator markets, as well as with California Independent System Operator (“CAISO”) and Electric Reliability Council of Texas (“ERCOT”).

In most RTOs, EMMT participates in (1) auctions for the purchase and sale of financial transmission rights, which are contracts that allow a party to hedge against transmission congestion costs in the applicable RTO’s day-ahead energy market, and (2) virtual transactions which are used by traders to profit from differences in prices between the day-ahead energy market and real time energy market.

Additionally, in PJM, EMMT sells into the day ahead and real time energy markets, and bids into the capacity market (called the Reliability Pricing Model (“RPM”)) on behalf of Midwest Generation. The RPM market was implemented to obtain commitments for future availability of capacity resources to ensure PJM’s operating reliability. Because PJM conducts capacity auctions on a three-year, forward-looking basis, EMMT has committed capacity through May 2016.

Each RTO in which EMMT participates has credit requirements for market participants to reduce the risk of default. To participate in the markets, particularly the auctions for financial transmission rights, each RTO requires that EMMT provide cash collateral and/or letters of credit in an aggregate amount to cover EMMT’s potential exposure for non-payment associated with its trading activities in the applicable RTO. Additionally, EMMT is required to comply with certain credit evaluations, including financial statement reporting requirements and notification requirements in the event of a material change in or affecting its financial condition.

- d. ***Purchase and Sale of Renewable Energy Certificates.*** EMMT and the Debtors’ non-Debtor affiliates that own or operate wind facilities (the “Wind Subsidiaries”) engage in the purchase and sale of renewable energy certificates (“RECs”), either on an independent basis or with EMMT as agent (“REC Transactions,” and the agreements entered into connection therewith, the “REC Agreements”). RECs are produced by renewable-based electricity generators and represent the property rights to the environmental, social and other nonpower qualities of renewable

electricity generation (distinct from the physical electricity generated by the facility). Most of the Wind Subsidiaries sell RECs directly to unrelated third parties with EMMT serving as agent pursuant to transaction confirmations. However, EMMT remains responsible pursuant to back-to-back transactions for the sale of RECs from the facilities owned by Big Sky Wind, LLC, Goat Wind, LP and Lookout Windpower, LLC—all indirect subsidiaries of Debtor EME. Most of the REC Transactions to which EMMT is party do not have collateral or credit support obligations; however, under certain of the outstanding REC Transactions, the counterparty (each, a “REC Counterparty,” and collectively with OTC Counterparties and Clearing Brokers, the “Trading Counterparties”) may request collateral, in the form of cash or letters of credit, in the event that EMMT’s credit rating falls below a certain threshold or EMMT’s creditworthiness becomes unsatisfactory to the counterparty.

19. The Debtors and their non-Debtor affiliates intend to (and are able to) honor their obligations under the Master Trading Agreement, the Gas Purchase Agreement, the Customer Agreements, the OTC Agreements, and the REC Agreements (collectively, the “Special Trading Contracts”). The Debtors are concerned, however, that because the Trading Counterparties may believe they are entitled to certain safe-harbor provisions with respect to the automatic stay (described in more detail below), the Trading Counterparties may seek to terminate the Special Trading Contracts or take other adverse actions against the Debtors or their non-Debtor affiliates. The Debtors intend through this Motion to provide assurances to the Trading Counterparties that the Debtors may continue trading activity without further order from the Court.

20. Accordingly, by this Motion, the Debtors request authority but not direction to continue honoring their obligations under the Master Trading Agreement and any other of the Debtors’ Special Trading Contracts.

Basis for Relief

I. Some of the Special Trading Contracts May Be Entitled to Special Treatment Under the Bankruptcy Code.

21. The Debtors believe that some Trading Counterparties may be reluctant to continue trades with EMMT without specific authorization from the Court, particularly where EMMT trades on behalf of a Debtor or engages in back-to-back transactions with a Debtor. And because of the unique rights available for certain hedging and trading contracts, the Debtors also believe that certain Trading Counterparties may prematurely seek to terminate the Special Trading Contracts or take other adverse actions against the Debtors or their non-Debtor affiliates, whether or not any special rights actually apply to any Special Trading Contracts.

22. Certain hedging and trading contracts are governed primarily by sections 546, 555, 556, and 559 of the Bankruptcy Code. Specifically, sections 546(e)–(g) (providing relief from certain avoidance actions), section 555 (providing for the liquidation of certain security accounts), section 556 (providing for the liquidation of forward and commodity contracts), section 559 (providing for the liquidation of certain repurchase agreements) of the Bankruptcy Code, in combination with sections 362(b)(6), (7) and (17) of the Bankruptcy Code—often referred to as the “safe harbors”—contain special protections granted to counterparties to future, forward, and financial contracts that enable financial contract counterparties to:

- a. terminate, liquidate and apply collateral held under a commodity and forward contract upon the bankruptcy filing of the other party, notwithstanding the anti-*ipso-facto* protections of section 365(e)(1) of the Bankruptcy Code;
- b. protect prepetition payments made under a commodity and forward contract by the debtor to the non-debtor party from the avoidance powers of a trustee or debtor in possession, except in particular cases of actual intent to defraud other creditors; and
- c. provided the underlying agreement allows for such setoff, to setoff mutual debts and claims against the debtor under a commodity contract without the need to obtain relief from the automatic stay.

23. The Debtors believe that preservation of the Special Trading Contracts can only be maintained by assuring Trading Counterparties that the Debtors will perform. Accordingly, the Debtors request authority but not direction to continue to perform under the Special Trading Contracts.

II. Section 363 of the Bankruptcy Code Authorizes the Debtors to Continue Performance under the Special Trading Contracts.

24. The Debtors should be permitted to continue performance under the Special Trading Contracts as the Debtors' continued performance under the Special Trading Contracts is part of their ordinary business practice and maximizes the value of the Debtors' estates. Section 363 of the Bankruptcy Code provides, in relevant part, that a debtor in possession "may enter into transactions . . . in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing." 11 U.S.C. § 363(c)(1).

25. Section 363(c)(1)'s ordinary course of business standard was intended to allow a debtor in possession the flexibility to run its business. Moore v. Brewer (In re HMH Motor Servs., Inc.), 259 B.R. 440, 448–49 (Bankr. S.D. Ga. 2000). A debtor in possession may therefore use, sell, or lease property of the estate without the need for prior court approval if the transaction is in the ordinary course of business. Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.), 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (holding that ordinary course of business use of estate property does not require a prior hearing); Armstrong World Indus. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.), 29 B.R. 391, 394 (S.D.N.Y. 1983) (holding that where a debtor in possession is merely exercising the privileges of its status, there is no general right to notice and a hearing concerning particular transactions conducted in the ordinary course of business).

26. The Bankruptcy Code does not define the “ordinary course of business.” In re Commercial Mortg. and Fin. Co., 414 B.R. 389, 393 (Bankr. N.D. Ill. 2009). Courts in this district apply the “reasonable expectations” test to determine whether a specific transaction is in the ordinary course of business. Id. (citing In re Garofalo’s Finer Foods, Inc., 186 B.R. 414, 424 (Bankr. N.D. Ill. 1995)). Under the reasonable expectations test, the court must analyze a debtor’s prepetition conduct as a means to inform and develop expectations of its postpetition conduct while considering the changing circumstances inherent in a debtor’s efforts to operate its business under chapter 11. Id. The test seeks to discern “any significant alterations” in a debtor’s prepetition and postpetition activities. Id. at 393–94. A fundamental characteristic of an “ordinary” postpetition business transaction is its similarity to a prepetition business practice. Id. at 394.

27. Here, the Debtors seek only to continue performing under the Special Trading Contracts in accordance with their terms in the ordinary course of business. The Debtors propose to use estate property and to expend funds to perform under the Special Trading Contracts in the ordinary course of business postpetition in the same manner as they used such property and expended such funds to perform prepetition.

28. The Special Trading Contracts are typical arrangements and ubiquitous among companies in the Debtors’ industry. Companies in the Debtors’ industry routinely enter into hedging and trading transactions similar to those contemplated by the Special Trading Contracts. See, e.g., In re Dynegy Holdings, LLC, No. 11-38111 (CGM) (Bankr. S.D.N.Y. Nov. 9, 2011); In re Boston Generating, LLC, No. 10-14419 (SCC) (Bankr. S.D.N.Y. Sept. 23, 2010); In re Aurora Oil & Gas Corp., No. 09-08254 (SWD) (Bankr. W.D. Mich. Aug. 11, 2009); In re Calpine Corp., No. 05-60200 (BRL) (Bankr. S.D.N.Y. Dec. 21, 2005); In re Androscoggin

Energy LLC, No. 04-12221 (LHK) (Bankr. D. Me. Nov. 30, 2004); In re Mirant Corp., No. 03-46590 (DML) (Bankr. N.D. Tex. Feb. 24, 2004). Accordingly, the Debtors believe that performing under and entering into Special Trading Contracts is within the ordinary course of business and should be permitted.

29. The Debtors' performance under the Special Trading Contracts is essential to the continued operation of the Debtors' coal, wind, and gas portfolios and a principal source of revenue for the Debtors and certain of their affiliates. If the Debtors are unable to provide assurance to Trading Counterparties that they will continue to perform under the Special Trading Contracts, Trading Counterparties may attempt to exercise termination rights or other remedies under the Special Trading Contracts. Because the trades under the Master Trading Agreement and the Special Trading Contracts are from time to time subject to price fluctuation, under certain of the Special Trading Contracts, the Debtors may continue to be required to (a) post cash collateral or letters of credit, (b) pledge certain of the Debtors' assets or (c) make a prepayment to the counterparty in circumstances where the Debtors' obligations to the counterparty exceeds a predetermined threshold. These security obligations are not unduly burdensome on the Debtors and, more importantly, are necessary to continue with the Debtors' business and hedging activities. Therefore, to preserve the value of the Debtors' estates, the Debtors request the express authority to continue performing under the Special Trading Contracts and pledge collateral as appropriate and in accordance with the Special Trading Contracts.

III. Continued Performance Under the Special Trading Contracts Is a Sound Exercise of the Debtors' Business Judgment.

30. Even if continued performance under the Special Trading Contracts were not in the ordinary course of business, the Debtors are still authorized to perform under the Special Trading Contracts pursuant to section 363(b) of the Bankruptcy Code because continued

performance of the Special Trading Contracts is a sound exercise of the Debtors' business judgment.

31. Section 363(b) of the Bankruptcy Code authorizes a bankruptcy court, after notice and a hearing, to authorize a debtor to "use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). A debtor may use, sell, or lease property of the estate where a sound business purpose justifies such actions. Contrarian Funds LLC v. Aretex LLC (In re WestPoint Stevens, Inc.), 600 F.3d 231, 248 n.8 (2d Cir. 2010); Fulton State Bank v. Schipper (In re Schipper), 933 F.2d 513, 515 (7th Cir. 1991) (noting that the criteria for approval of a transaction under section 363(b) is whether the debtor has "an articulated business justification"); Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1070 (2d Cir. 1983); In re Borders Grp., Inc., 453 B.R. 459, 473 (Bankr. S.D.N.Y. 2011). Specifically, once a debtor articulates a valid business justification for a particular form of relief, the court reviews the debtor's request under the business judgment rule. See Commercial Mortg. and Fin. Co., 414 B.R. at 394 (noting that a debtor in possession "has the discretionary authority to exercise his business judgment in operating the debtor's business similar to the discretionary authority to exercise business judgment given to an officer or director of a corporation").

32. The business judgment rule is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the company. See In re Abbott Labs. Derivative S'holders Litig., 325 F.3d 795, 807 (7th Cir. 2003). Consequently, a debtor's business decision "should be approved by the court unless it is shown to be 'so manifestly unreasonable that it could not be based upon sound business judgment, but only on bad faith, whim, or caprice.'" In

re Aerovox, Inc., 269 B.R. 74, 80 (Bankr. D. Mass. 2001) (quoting In re Logical Software, Inc., 66 B.R. 683, 686 (Bankr. D. Mass. 1986) (citations omitted)).

33. The decision to continue providing services under the Special Trading Contracts, including posting collateral or other forms of security, is in the sound business judgment of the Debtors because it is essential to the continued operation of the projects and generates revenue for the Debtors' estates. The Debtors' and their non-Debtor affiliates' performance under the Special Trading Contracts historically has been a strong source of revenue for the Debtors, and so the benefits outweigh the costs of the Special Trading Contracts. By contrast, a limitation on the Debtors' ability to enter into and perform under the Special Trading Contracts will (a) cause disruption to the Debtors' operations, (b) require the immediate attention of the Debtors' management at a time when their resources are limited and better spent on the restructuring, (c) effectively prevent the Debtors from entering into Special Trading Contracts because counterparties will require credit support in the form of collateral and security and (d) compromise the Debtors' ability to successfully reorganize because of its new exposure to previously-hedged fluctuations in energy and related commodities prices.

34. The relief sought in this Motion is intended to preserve the value of assets of these chapter 11 estates. To effectively manage the financial risks inherent to the Debtors' businesses and fluctuating price of energy-related trades, the Debtors must be able to continue performing under the Special Trading Contracts. The Debtors believe that the Court's authorizing the Debtors to continue performance under the Special Trading Contracts will underscore the Debtors' intent and ability to continue performing under the Special Trading Contracts and minimize disruption by premature, unilateral termination by Trading Counterparties.

Accordingly, the Debtors believe the relief requested herein will yield benefits that are in the best interests of the Debtors, their estates and creditors.

35. In light of the foregoing, the Debtors believe that the relief requested in this Motion is appropriate and is in the best interests of the Debtors, their estates and their creditors.

The Requirements of Bankruptcy Rule 6003 are Satisfied

36. Under Bankruptcy Rule 6003, the Court may grant the relief requested in this Motion because such relief is necessary to avoid immediate and irreparable harm. FED. R. BANKR. P. 6003.

37. As described above, the Debtors believe that without relief authorizing continued performance under the Special Trading Contracts in the ordinary course, the Debtors will jeopardize critical business and trading relationships. These trading relationships are extremely important to the Debtors as they contribute to a significant amount of the Debtors' profits. Any disruption in the Debtors' capacity trading activity at this crucial junction may severely impact the Debtors' business operations. In fact, even a brief disruption in trading activities can result in a permanent loss of value and the possible unwinding of numerous contracts and trades. Accordingly, the Debtors submit that cause exists to support immediate payment on account of any obligations related to the Debtors' Special Trading Contracts under Bankruptcy Rule 6003.

Satisfaction of Bankruptcy Rule 6004(a) and Waiver of Bankruptcy Rule 6004(h)

38. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

39. This Motion is not and should not be deemed to be an admission or concession that any of the Special Trading Contracts are governed by section 546, 555, 556, and/or 559 of the Bankruptcy Code or that such provisions in any way apply to any of the Special Trading Contracts. The Debtors reserve all rights to object to a claim or assertion by any party that any of the Special Trading Contracts are governed by section 546, 555, 556, and/or 559 of the Bankruptcy Code or that such provisions in any way apply to any of the Special Trading Contracts. In addition, the Debtors reserve all rights (including, without limitation, any right of setoff or recoupment), claims, counterclaims, and defenses in any way relating to the Special Trading Contracts and/or the Trading Counterparties.

Notice

40. The Debtors have provided notice of this Motion to: (a) the Office of the U.S. Trustee for the Northern District of Illinois; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims; (c) the indenture trustee for the Debtors' senior unsecured notes; (d) counsel to the ad hoc committee of certain holders of the Debtors' senior unsecured notes; (e) the indenture trustee for the lessor notes related to the Debtors' Powerton generating station in Pekin, Illinois, and units 7 and 8 of the Debtors' Joliet, Illinois, generating station and the pass-through trustee for the related pass-through certificates; (f) counterparties to the Debtors' Special Trading Contracts; (g) counsel to the ad hoc committee of certain holders of pass-through certificates related to the Debtors' Powerton and Joliet generating stations; (h) the owner trusts and the equity investors for the Debtors' Powerton and Joliet generating stations (and their respective counsel, if known); (i) the lender under Debtor Edison Mission Energy's letter-of-credit facility; (j) the state attorneys general for states in which the Debtors conduct business; (k) United States Attorney for the Northern

District of Illinois; (l) the Internal Revenue Service; (m) the Securities and Exchange Commission; and (n) the Environmental Protection Agency and similar state environmental agencies for states in which the Debtors conduct business. In light of the nature of the relief requested herein, the Debtors respectfully submit that no further notice is necessary.

No Prior Request

41. No prior request for the relief sought in this Motion has been made to this or any other court.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtors respectfully request that the Court enter interim and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B**, granting the relief requested herein and such other and further relief as the Court deems appropriate.

Dated: December 17, 2012

/s/ David R. Seligman, P.C.

James H.M. Sprayregen, P.C.
David R. Seligman, P.C.
Sarah Hiltz Seewer
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

- and -

Joshua A. Sussberg
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

*Proposed Counsel to the Debtors
and Debtors in Possession
Other than Camino Energy Company*

- and -

David A. Agay
Joshua Gadharf
MCDONALD HOPKINS LLC
300 North LaSalle
Suite 2100
Chicago, Illinois 60654
Telephone: (312) 280-0111
Facsimile: (312) 280-8232

*Proposed Counsel to Debtor Camino Energy Company
and Conflicts Counsel to the other Debtors
and Debtors in Possession*

EXHIBIT A

Proposed Interim Order

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

In Re:)	BK No.: 12-49219
EDISON MISSION ENERGY, et al.,)	
)	Chapter: 11
)	
)	
)	
Debtor(s))	

**DEBTORS' MOTION TO AUTHORIZE CONTINUED
PERFORMANCE UNDER SPECIAL TRADING CONTRACTS**

Upon the motion (the "Motion") of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order") authorizing but not directing the Debtors to continue, in the ordinary course of business, the marketing, sale and trading of energy through Special Trading Contracts, all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and the Court having found that the Debtors provided appropriate notice of the Motion and the opportunity for a hearing on the Motion under the circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.
2. The final hearing (the "Final Hearing") on the Motion shall be held on _____, 2013 at __: __ m. (Central Time). Any objections or responses to entry of a final order shall be filed and served on or before _____, 2013 at 4:00 p.m. (Central Time).
3. The Debtors are authorized but not directed to continue operating, in the ordinary course of business, under the terms of the Special Trading Contracts.
4. The Debtors are authorized but not directed to pledge collateral for any transactions under the Special Trading Contracts as and when necessary and appropriate in the ordinary course under the Special Trading Contracts. The Debtors are authorized to extend intercompany loans or make additional capital contributions to EMMT as the Debtors deem necessary and appropriate.
5. In accordance with this Order and any other order of this Court, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is directed to receive, process, honor, and pay any and all checks, drafts, wire transfers, and

automated clearing house transfers issued, whether before or after the Petition Date, for payment of obligations described in the Motion to the extent that sufficient funds are on deposit in such amounts.

6. All postpetition payments from a Debtor to another Debtor are hereby accorded superpriority administrative expense status and shall have priority over any administrative claims that arise under section 503(b) of the Bankruptcy Code in accordance with the Court's order approving continued use of the Debtors' cash management system.

7. Notwithstanding anything contained in the Motion, the relief granted in this Order, and any actions taken pursuant to such relief, the Debtors shall reserve: (a) all rights to object to a claim or assertion by any party that any of the Special Trading Contracts are governed by section 546, 555, 556, and/or 559 of the Bankruptcy Code or that such provisions in any way apply to any of the Special Trading Contracts; and (b) all rights (including, without limitation, any right of setoff or recoupment), claims, counterclaims, and defenses in any way relating to the Special Trading Contracts and/or the Trading Counterparties.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion.
10. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules of the United States Bankruptcy Court for the Northern District of Illinois are satisfied by such notice.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

13. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Enter:

Dated:

United States Bankruptcy Judge

Prepared by:

James H.M. Sprayregen, P.C.
David R. Seligman, P.C.
Sarah Hiltz Seewer
KIRKLAND & ELLIS LLP
300 North LaSalle

Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

- and -

Joshua A. Sussberg
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Proposed Counsel to the Debtors
and Debtors in Possession
Other than Camino Energy Company

- and -

David A. Agay
Joshua Gadharf
MCDONALD HOPKINS LLC
300 North LaSalle
Suite 2100
Chicago, Illinois 60654
Telephone: (312) 280-0111
Facsimile: (312) 280-8232

Proposed Counsel to Debtor Camino Energy Company
and Conflicts Counsel to the other Debtors
and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

In Re:)	BK No.: 12-49219
EDISON MISSION ENERGY, et al.,)	
)	Chapter: 11
)	
)	
)	
Debtor(s))	

**FINAL ORDER AUTHORIZING CONTINUED
PERFORMANCE UNDER SPECIAL TRADING CONTRACTS**

Upon the motion (the “Motion”) of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) authorizing but not directing the Debtors to continue, in the ordinary course of business, the marketing, sale and trading of energy through Special Trading Contracts, all as more fully set forth in the Motion; and upon the First Day Declaration; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and the Court having found that the Debtors provided appropriate notice of the Motion and the opportunity for a hearing on the Motion under the circumstances; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the “Hearing”); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is granted on a final basis as set forth herein. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion.
2. The Debtors are authorized but not directed to continue operating, in the ordinary course of business, under the terms of the Special Trading Contracts.
3. The Debtors are authorized but not directed to pledge collateral for any transactions under the Special Trading Contracts as and when necessary and appropriate in the ordinary course under the Special Trading Contracts. The Debtors are authorized to extend intercompany loans or make additional capital contributions to EMMT as the Debtors deem necessary and appropriate.
4. In accordance with this Order and any other order of this Court, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is directed receive, process, honor, and pay any and all checks, drafts, wire transfers, and automated clearing house transfers issued, whether before or after the Petition Date, for payment of obligations described in the Motion to the extent that sufficient funds are on deposit in such amounts.
5. The Debtors are authorized to issue postpetition checks, or to effect postpetition wire transfer

requests, in replacement of any checks or wire transfer requests in respect of payments of prepetition obligations described in the Motion that are dishonored or rejected.

6. All postpetition payments from a Debtor to another Debtor are hereby accorded superpriority administrative expense status and shall have priority over any administrative claims that arise under section 503(b) of the Bankruptcy Code in accordance with the Court's order approving continued use of the Debtors' cash management system.

7. Notwithstanding anything contained in the Motion, the relief granted in this Order, and any actions taken pursuant to such relief, the Debtors shall reserve: (a) all rights to object to a claim or assertion by any party that any of the Special Trading Contracts are governed by section 546, 555, 556, and/or 559 of the Bankruptcy Code or that such provisions in any way apply to any of the Special Trading Contracts; and (b) all rights (including, without limitation, any right of setoff or recoupment), claims, counterclaims, and defenses in any way relating to the Special Trading Contracts and/or the Trading Counterparties.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied by the contents of the Motion.
10. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules of the United States Bankruptcy Court for the Northern District of Illinois are satisfied by such notice.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity of any claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

13. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Enter:

Dated:

United States Bankruptcy Judge

Prepared by:

James H.M. Sprayregen, P.C.
David R. Seligman, P.C.
Sarah Hiltz Seewer
KIRKLAND & ELLIS LLP
300 North LaSalle

Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

- and -

Joshua A. Sussberg
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4611
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Proposed Counsel to the Debtors
and Debtors in Possession
Other than Camino Energy Company

- and -

David A. Agay
Joshua Gadharf
MCDONALD HOPKINS LLC
300 North LaSalle
Suite 2100
Chicago, Illinois 60654
Telephone: (312) 280-0111
Facsimile: (312) 280-8232

Proposed Counsel to Debtor Camino Energy Company
and Conflicts Counsel to the other Debtors
and Debtors in Possession

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)
) Chapter 11
)
EDISON MISSION ENERGY, et al.,¹) Case No. 12-[_____] (____)
)
)
Debtors.) (Joint Administration Requested)
)

CERTIFICATE OF SERVICE

I, David R. Seligman, P.C., an attorney, certify that on the date hereof, I caused to be served by GCG, Inc. (the proposed notice and claims agent for these chapter 11 cases) on behalf of the above-captioned debtors and debtors in possession, in the manner and to the parties set forth on the attached service lists, a true and correct copy of the foregoing pleading.

Dated: December 17, 2012

/s/ David R. Seligman, P.C.

David R. Seligman, P.C.

KIRKLAND & ELLIS LLP

300 North LaSalle

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Edison Mission Energy (1807); Camino Energy Company (2601); Chestnut Ridge Energy Company (6590); Edison Mission Energy Fuel Services, LLC (4630); Edison Mission Fuel Resources, Inc. (3014); Edison Mission Fuel Transportation, Inc. (3012); Edison Mission Holdings Co. (6940); Edison Mission Midwest Holdings Co. (6553); Midwest Finance Corp. (9350); Midwest Generation EME, LLC (1760); Midwest Generation, LLC (8558); Midwest Generation Procurement Services, LLC (2634); Midwest Peaker Holdings, Inc. (5282); Mission Energy Westside, Inc. (0657); San Joaquin Energy Company (1346); Southern Sierra Energy Company (6754); and Western Sierra Energy Company (1447). The location of parent Debtor Edison Mission Energy's corporate headquarters and the Debtors' service address is: 3 MacArthur Place, Suite 100, Santa Ana, California 92707.

PARTIES SERVED VIA OVERNIGHT DELIVERY

ABB, INC.
ATTN JOHN JOHNSON
29801 EUCLID AVENUE
WICKLIFFE OH 44092

ALTORFER INC.
ATTN TIM KIRCHNER
1 CAPITAL DRIVE
EAST PEORIA IL 61611

ARCH COAL SALES COMPANY, INC.
ATTN ROWDY SMITH
PO BOX 96828
CHICAGO IL 60603

ARKANSAS DEPT ENVIRONMENTAL QUALITY
ATTN DIRECTOR OF CHIEF OF LEGAL DIVISION
5301 NORTHSHORE DR
NORTH LITTLE ROCK AR 72118

BEEEMSTERBOER, INC.
ATTN SIMON BEEEMSTERBOER
22013 S. SCHOOLHOUSE RD
NEW LENOX IL 60451

BP CANADA ENERGY
ATTN SANDRA ONSTOTT
3464 SOLUTIONS CENTER
CHICAGO IL 60677

BP CANADA ENERGY MARKETING CORP.
C/O BP CANADA ENERGY COMPANY
240 4 AVENUE, PO BOX 200
ATTN: NATURAL GAS MARKETING
CALGARY ALBERTA T2P 2H8

CADWALADER, WICKERSHAM & TAFT LLP
ATTN GEORGE A. DAVIS
ONE WORLD FINANCIAL CENTER
NEW YORK NY 10281

CALIFORNIA ENERGY COMMISSION
ATTN ROBERT OGLESBY, EXECUTIVE DIRECTOR
1516 NINTH ST
MS-29
SACRAMENTO CA 95814-5512

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
ATTN SECRETARYFOR ENVIRONMENTAL PROTECTION
OR GENERAL COUNSEL
1416 9TH ST
SACRAMENTO CA 95814

CALIFORNIA PUBLIC UTILITY COMMISSION
ATTN MICHAEL PEEVEY, COMMISSIONER-PRESIDENT
505 VAN NESS AVE
SAN FRANCISCO CA 94102

CITICORP
ATTN KEVIN DAVENPORT
390 GREENWICH ST
1SH FLOOR
NEW YORK NY 10013

CLENNON ELECTRIC
ATTN LARRY CLENNON OWNER
210 NORTH MAIN ST., PO BOX 368
WILMINGTON IL 60481

COMMONWEALTH EDISON COMPANY
ATTN ALISON HAVENS
THREE LINCOLN CENTER
OAKBROOK TERRACE IL 60181-4260

COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL
ATTN JACK CONWAY
700 CAPITOL AVENUE
CAPITOL SUITE 118
FRANKFORT KY 40601

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE ATTORNEY GENERAL
ATTN WILLIAM H. RYAN, JR.
1600 STRAWBERRY SQUARE
HARRISBURG PA 17120

DNB BANK A.S.A.
ATTN MARYBELLE ORTIZ
200 PARK AVE
31ST FLR
NEW YORK NY 10166-0396

EDISON MISSION ENERGY
ATTN CRYSTAL NEEDHAM
3 MACARTHUR PLACE
STE 100
SANTA ANA CA 92707

EDISON MISSION ENERGY
ATTN AARON MOSS
3 MACARTHUR PLACE
STE 100
SANTA ANA CA 92707

EDISON MISSION MARKETING & TRADING, INC.
ATTN: GENERAL COUNSEL
160 FEDERAL ST
BOSTON MA 02110

ENVIRONMENTAL PROTECTION AGENCY
ATTN RICHARD L. NAGLE
BANKRUPTCY CONTACT
USEPA REGION 5
MAIL CODE: C-14J
CHICAGO IL 60604

ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF GENERAL COUNSEL
1300 PENNSYLVANIA AVE, NW
U.S. EPA MAILCODE 2377R
WASHINGTON DC 20004

ENVIRONMENTAL PROTECTION AGENCY
ATTN DIANA SAENZ
1200 PENNSYLVANIA AVE, NW
STE 4209
WASHINGTON DC 20004

ENVIRONMENTAL PROTECTION AGENCY
REGION 5
OFFICE OF THE REGIONAL ADMINISTRATOR
77 W JACKSON BLVD
CHICAGO IL 60604

FEDERAL ENERGY REGULATORY COMMISSION
ATTN KIMBERLY D. BOSE, SECRETARY
888 1ST ST NORTHEAST
WASHINGTON DC 20426

GCG, INC.
ATTN ISABEL BAUMGARTEN
1985 MARCUS AVE
STE 200
LAKE SUCCESS NY 11042

ILLINOIS COMMERCE COMMISSION
ATTN DOUG SCOTT, CHAIRMAN
527 E CAPITOL AVE
SPRINGFIELD IL 62701

ILLINOIS DEPARTMENT OF REVENUE
ATTN BANKRUPTCY UNIT
100 W RANDOLPH ST
#7-400
CHICAGO IL 60601

ILLINOIS DEPARTMENT OF REVENUE
ATTN BANKRUPTCY SECTION
PO BOX 64338
CHICAGO IL 64338

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
ATTN DIRECTOR OR CHIEF LEGAL COUNSEL
1021 N GRAND AVE E
SPRINGFIELD IL 62794

ILLINOIS POLLUTION CONTROL BOARD
ATTN CHAIRMAN OR SENIOR ATTORNEY
1021 N GRAND AVE E
PO BOX 19274
SPRINGFIELD IL 62794

INDIANA DEPT OF ENVIRONMENTAL MGMT
ATTN COMMISSIONER OR LEGAL COUNSEL
100 N SENATE AVE
MAIL CODE 50-01
INDIANAPOLIS IN 46204

INTER-CON SECURITY SYSTEMS
ATTN GERARD NEVILLE
210 SOUTH DE LACEY AVE
PASADENA CA 91105-2048

INTERNAL REVENUE SERVICE
TERRITORY MANAGER, INSOLVENCY TERRITORY 7
230 S DEARBORN ST
MAIL STOP 5000 CHI
ROOM 3022
CHICAGO IL 60604

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATION
11601 ROOSEVELT ROAD
MAIL DROP N781
PHILADELPHIA PA 10154

INTERNAL REVENUE SERVICE
CENTRALIZED INSOLVENCY OPERATION
PO BOX 7346
PHILADELPHIA PA 19101-7346

JOLIET TRUST II
C/O WILMINGTON TRUST COMPANY
ATTN ROBERT HINES, JR., CORPORATE TRUST ADMIN
RODNEY SQUARE NORTH
1100 NORTH MARKET STREET
WILMINGTON DE 19890

JOLIET TRUST II
C/O RICHARDS, LAYTON & FINGER, P.A.
ATTN: MICHAEL F. COLLINS
ONE RODNEY SQUARE
920 NORTH KING STREET
WILMINGTON DE 19801

KENTUCKY DEPT FOR ENVIRONMENTAL PROTECTION
ATTN COMMISSIONER OR LEGAL COUNSEL
300 FAIR OAKS LN
FRANKFORT KY 40601

KENTUCKY DEPT FOR NATURAL RESOURCES
ATTN COMMISSIONER OR LEGAL COUNSEL
#2 HUDSON HOLLOW
FRANKFORT KY 40601

KENTUCKY ENVIRONMENTAL QUALITY COMMISSION
ATTN EXECUTIVE DIRECTOR OR LEGAL COUNSEL
58 WILKINSON BLVD
FRANKFORT KY 40601

KERN RIVER GAS TRANSMISSION COMPANY
ATTN KRISTIN GILLETTE
2755 EAST COTTONWOOD PARKWAY
SALT LAKE CITY UT 84121

KIRKLAND & ELLIS LLP
ATTN JAMES H.M. SPRAYREGEN, P.C.
300 N LA SALLE DR
CHICAGO IL 60654

KIRKLAND & ELLIS LLP
ATTN DAVID R. SELIGMAN, P.C.
300 N LA SALLE DR
CHICAGO IL 60654

KIRKLAND & ELLIS LLP
ATTN SARAH HILTZ SEEWER
300 N LA SALLE DR
CHICAGO IL 60654

KIRKLAND & ELLIS LLP
ATTN JOSHUA A. SUSSBERG
601 LEXINGTON AVE
NEW YORK NY 10022

LAFARGE NORTH AMERICA
ATTN: DAVE DIEDRICK
30600 TELEGRAPH ROAD
BINGHAM FARMS MI 48025-4530

MCDONALD HOPKINS LLC
ATTN DAVID A. AGAY
300 N LASALLE
STE 2100
CHICAGO IL 60654

MCDONALD HOPKINS LLC
ATTN JOSHUA GADHARF
300 N LASALLE
STE 2100
CHICAGO IL 60654

MISSOURI DEPT OF CONSERVATION
ATTN COMMISSIONER OR GENERAL COUNSEL
2901 W TRUMAN BLVD
JEFFERSON CITY MO 65109

MISSOURI DEPT OF NATURAL RESOURCES
ATTN DIRECTOR OR GENERALCOUNSEL
DIVISION OF ENVIRONMENTAL QUALITY
PO BOX 176
JEFFERSON CITY MO 65102

MITSUBISHI POWER SYSTEMS, INC
ATTN RICHARD D. SIDKOFF, ESQ.
NEW YORK BRANCH (USA)
100 BAYVIEW CIRCLE
NEWPORT BEACH CA 92660

MONTANA DEPT OF ENVIRONMENTAL QUALITY
ATTN DIRECTOR OR CHIEF LEGAL COUNSEL
1625 ELEVENTH AVE
HELENA MT 59620

NESBITT ASSET RECOVERY SERIES J-1
C/O WILMINGTON TRUST COMPANY
ATTN ROBERT HINES, JR., CORPORATE TRUST ADMIN
RODNEY SQUARE NORTH
1100 NORTH MARKET STREET
WILMINGTON DE 19890

NESBITT ASSET RECOVERY SERIES J-1
C/O U.S. BANK NATIONAL ASSOCIATION, AS OWNER TRUST
ATTN: MILDRED SMITH, U.S. BANK CORPORATE TRUST
300 DELAWARE AVENUE, 9TH FLOOR
MAIL CODE: EX-DE-WDAW
WILMINGTON DE 19801

NESBITT ASSET RECOVERY SERIES J-1
JENNER & BLOCK LLP
ATTN: DANIEL R. MURRAY & MELISSA M. HINDS
353 N. CLARK STREET
CHICAGO IL 60654

NESBITT ASSET RECOVERY SERIES P-1
C/O WILMINGTON TRUST COMPANY
ATTN ROBERT HINES, JR., CORPORATE TRUST ADMIN
RODNEY SQUARE NORTH
1100 NORTH MARKET STREET
WILMINGTON DE 19890

NESBITT ASSET RECOVERY SERIES P-1
C/O U.S. BANK NATIONAL ASSOCIATION, AS OWNER TRUST
ATTN: MILDRED SMITH, U.S. BANK CORPORATE TRUST
300 DELAWARE AVENUE, 9TH FLOOR
MAIL CODE: EX-DE-WDAW
WILMINGTON DE 19801

NESBITT ASSET RECOVERY SERIES P-1
C/O JENNER & BLOCK LLP
ATTN: DANIEL R. MURRAY & MELISSA M. HINDS
353 N. CLARK STREET
CHICAGO IL 60654

NORIT AMERICAS INC
ATTN ROB NEBERGALL, BUSINESS MANAGER
3200 UNIVERSITY AVENUE
MARSHALL TX 75670

NORTH AMERICAN ELECTRIC RELIABILITY CORPORATION
ATTN GENERAL COUNSEL
1325 G ST NW #600
WASHINGTON DC 20005

OFFICE OF THE UNITED STATES TRUSTEE
FOR THE NORTHERN DISTRICT OF ILLINOIS
ATTN
219 S DEARBORN ST
RM 873
CHICAGO IL 60604

PATTEN INDUSTRIES, INC.
ATTN CLYDE KESSEL
635 WEST LAKE STREET
ELMHURST IL 60126

PEABODY COAL SALES
ATTN MIKE SIEBERS
701 MARKET STREET
ST. LOUIS MO 63101-1826

PENNSYLVANIA DEPT OF CONSERVATION
AND NATURAL RESOURCES
ATTN SECRETARY OF CONSERVATION & NATURAL RESOURCES
400 MARKET ST
PO BOX 8767
HARRISBURG PA 17105

PENNSYLVANIA DEPT OF ENVIRONMENTAL PROTECTION
ATTN SECRETARY OF ENVIRONMENTAL PROTECTION
OR CHIEF COUNSEL
RACHEL CARSON STATE OFFICE BUILDING
400 MARKET ST
HARRISBURG PA 17101

PEOPLES GAS
ATTN JOSIE LEWIS
CHICAGO IL 60687-0001

POWERTON TRUST II
C/O WILMINGTON TRUST COMPANY, AS OWNER TRUSTEE
ATTN: ROBERT HINES, CORPORATE TRUST ADMIN
RODNEY SQUARE NORTH
1100 NORTH MARKET STREET
WILMINGTON NY 10013

POWERTON TRUST II
C/O RICHARDS, LAYTON & FINGER, P.A.
ATTN: MICHAEL F. COLLINS
ONE RODNEY SQUARE
920 NORTH KING STREET
WILMINGTON DE 19801

PSEG RESOURCE
ATTN JOAN MACDONALD
80 PARK PLZ
STE T-22
NEWARK NJ 07101

ROPES & GRAY LLP
ATTN KEITH H. WOFFORD
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036

ROWELL CHEMICAL CORP
ATTN KIP COCO, ACCT MGR
15 SALT CREEK LANE SUITE 205
HINSDALE IL 60521

SAFWAY SERVICES, LLC
ATTN SCOTT METZ, ACCT MGR
OS 490 ROUTE 83
OAKBROOK TERRACE IL 60181

SOUTHERN ENVIRONMENTAL
ATTN MICK CHAMBERS, DIRECTOR OF CONTRACTS
6690 WEST NINE MILE ROAD
PENSACOLA FL 32526

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
ATTN: DUSTIN MCDANIEL
323 CENTER STREET, SUITE 200
LITTLE ROCK AR 72201

STATE OF CALIFORNIA
OFFICE OF THE ATTORNEY GENERAL
ATTN KAMALA HARRIS
1300 I ST
STE 1740
SACRAMENTO CA 95814

STATE OF ILLINOIS
OFFICE OF THE ATTORNEY GENERAL
ATTN LISA MADISON
500 S 2ND ST
SPRINGFIELD IL 62706

STATE OF INDIANA
OFFICE OF THE ATTORNEY GENERAL
ATTN GREG ZOELLER
INDIANA GOVERNMENT CENTER SOUTH
302 W. WASHINGTON ST.
INDIANAPOLIS IN 46204

STATE OF MISSOURI
OFFICE OF THE ATTORNEY GENERAL
ATTN CHRIS KOSTER
SUPREME COURT BUILDING
207 W HIGH ST
JEFFERSON CITY MO 65102

STATE OF MONTANA
OFFICE OF THE ATTORNEY GENERAL
ATTN STEVE BULLOCK
215 N SANDERS
JUSTICE BUILDING
HELENA MT 59620

STATE OF WYOMING
OFFICE OF THE ATTORNEY GENERAL
ATTN GREGORY PHILLIPS
123 CAPITOL
200 W 24TH ST
CHEYENNE WY 82002

STOCK EQUIPMENT
ATTN TONY LEGAN
SOLVERA PARTICULATE CONTROLS INC
16490 CHILLICOTHE ROAD
CHAGRIN FALLS OH 44023-4398

THE BANK OF NEW YORK
ATTN CHRIS GRELL
385 RIFLE CAMP RD
WEST PATERSON NJ 07424

THE CALIFORNIA FRANCHISE TAX BOARD
BANKRUPTCY SECTION MS A340
PO BOX 2952
SACRAMENTO CA 95812-2952

U.S. BANK, N.A.
ATTN ANNETTE MORGAN
300 DELAWARE AV
9TH FLR
MAIL CODE: EX-DE-WDAW
WILMINGTON DE 19801

U.S. SECURITIES AND EXCHANGE COMMISSION
CHICAGO REGIONAL OFFICE
ATTN REGIONAL DIRECTOR
175 W JACKSON BLVD
STE 900
CHICAGO IL 60604

U.S. SECURITIES AND EXCHANGE COMMISSION
SEC HEADQUARTERS
ATTN CHAIRMAN OR GENERAL COUNSEL
100 F ST, NE
WASHINGTON DC 20549

UNION PACIFIC RAILROAD
ATTN BILL STAHLHEBER
PO BOX 502453
ST. LOUIS MO 63150-2453

UNITED STATES ATTORNEY
FOR THE NORTHERN DISTRICT OF ILLINOIS
ATTN JOEL R. NATHAN, ESQ.
219 S DEARBORN ST
5TH FLR
CHICAGO IL 60604

WELLS FARGO BANK NATIONAL ASSOCIATION
707 WILSHIRE BIVD
17TH FLR
LOS ANGELES CA 90017

WELLS FARGO BANK, NA., AS INDENTURE TRUSTEE
ATTN: MADDY HALL
CORPORATE TRUST ADMINISTRATION
707 WILSHIRE BLVD, 17TH FLOOR
LOS ANGELES CA 90017

WILMINGTON TRUST COMPANY
ATTN ROBERT HINES
RODNEY SQUARE N
1100 N MARKET STREET
WILMINGTON DE 19890

WYOMING DEPT OF ENVIRONMENTAL QUALITY
ATTN DIRECTOR OR LEGAL COUNSEL
HERSCHLER BUILDING, 4TH FLR W
122 W 25TH ST
CHEYENNE WY 82002

YARA NORTH AMERICA, INC
ATTN DAN HEFFERNAN
100 NORTH TAMPA ST. SUITE 3200
TAMPA FL 33602