

## **I. SUBMISSION FORM**

**PROJECT:** Legal Advice to the Public Utility Commission of Texas  
Regarding the Auction of Generating Facilities of AEP Texas Central

**THIS PROPOSAL SUBMITTED TO:**

Central Records  
Project No. 27275  
Room G-113  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

## **CONTACT INFORMATION**

Communications concerning this RFI submission should be addressed to Legal Counsel at the address set forth below:

Paul J. Corey, Esq.  
Brown Rudnick Berlack Israels LLP  
CityPlace I  
185 Asylum Street  
Hartford, CT 06103  
Telephone: 860-509-6523  
Cell Phone: 860-798-0659

## **LEGAL COUNSEL'S REPRESENTATIONS**

In submitting this Submission Form, Brown Rudnick Berlack Israels LLP (Brown Rudnick) represents that it has examined and carefully studied the Request for Information (RFI) Project No. 27275 and responds to the subparts of Section 2.1 as follows:

A. Brown Rudnick affirms that senior level legal advisors will be assigned to the PUCT as detailed below and those advisors exceed the minimum qualifications and experience required in the field of utility asset purchases or sales as a legal advisor to the buyer, seller or the involved state or regulatory agency.

B. Brown Rudnick will carry worker's compensation insurance as required by law in each state in which the firm practices and will carry appropriate liability insurance coverage for all damages resulting from the negligent actions of its employees.

C. A description of Brown Rudnick's direct experience with generating asset sales of electric utility companies moving into a deregulated operating environment and representative clients in

connection therewith are set out in the Representative Transactions section below. In addition, Brown Rudnick invites the PUCT to contact the following representatives of the Connecticut Public Utility Commission and the New Hampshire Public Utility Commission, which include the Chairpersons of the Commissions and their respective designated staff team leaders for the Auction of Seabrook Station, to discuss the role played by Brown Rudnick in representing the interests of the Commissions in connection with the Seabrook transaction:

Donald W. Downes  
Chairperson  
Department of Public Utility Control  
10 Franklin Square  
New Britain, CT 06051  
Telephone: (860) 827-2801

Thomas B. Getz  
Chairman  
New Hampshire Public Utilities Commission  
8 Old Suncook Road  
Concord, NH 03301  
Telephone: (603) 271-2431

William J. Palomba  
Executive Director  
Department of Public Utility Control  
10 Franklin Square  
New Britain, CT 06051  
Telephone: (860) 827-2802

Gary M. Epler  
General Counsel  
New Hampshire Public Utilities Commission  
8 Old Suncook Road  
Concord, NH 03301  
Telephone: (603) 271-6005

D. Brown Rudnick has not represented a client before the PUCT within the last six months and the firm will not represent a client before the PUCT within one year after the termination of its engagement with the PUCT.

E. Brown Rudnick or any member or employee of the firm will not counsel, advise or represent any party who is seeking recovery of stranded costs before the PUCT in a matter related to Subchapter F of the Tex. Util. Code, at any time before, during or after the engagement of the firm with the PUCT. Brown Rudnick or an employee of the firm will not counsel, advise or represent AEP Texas Central within one year after the end of the firm's engagement with the PUCT, without first receiving the express written approval of the PUCT, such approval not to be withheld unreasonably.

F. Brown Rudnick or its affiliates will not act as an underwriter or counsel to an underwriter for AEP Texas Central in connection with a future issuance of securitization bonds pursuant to Subchapter G of Tex. Util. Code.

G. Brown Rudnick during the term of the firm's engagement will not serve as an advisor to potential bidders in a purchase of electric utility generating assets, nor advise another utility, state or regulatory agency on a sale of generating assets that may compete with this sale without first receiving the express written approval of the PUCT.

H. Brown Rudnick professional personnel to be employed in this project and a description of their individual qualifications are set out in the Qualifications section below and in Appendix A referred to therein.

## **II. INTRODUCTION**

Brown Rudnick recognizes that the Public Utility Commission of Texas (PUCT) is charged with protecting the interests of the ratepayers, and understands the importance of the proposed sale by Central Power and Light Company (now known as AEP Texas Central) of its generation assets. Brown Rudnick has a proven track record of working for and delivering value to ratepayers and utility commissions. Brown Rudnick is a full service law firm with over 200 attorneys in six offices in Hartford, Boston, Providence, New York, London and Dublin. Brown Rudnick is available immediately and we look forward to the opportunity to represent the PUCT in protecting the interest of ratepayers in this complex transaction.

Brown Rudnick is uniquely qualified to serve as legal counsel to PUCT in this regard. In addition to Brown Rudnick's extensive energy, regulatory and M&A practice, Brown Rudnick attorneys have backgrounds that particularly suit them to represent the PUCT in this matter. Brown Rudnick attorneys have direct experience with the divestiture of electric generation assets through competitive auctions administered by public utility commissions in order to restructure the electric industry. Brown Rudnick has proven experience in achieving highly successful results for the benefit of ratepayers, participating in contested proceedings, advising clients as to the fairness and competitiveness of auction processes and providing expert legal advice and counsel on the myriad of complex issues that affect the auction of generation assets.

Brown Rudnick recently completed its representation as counsel to J. P. Morgan Securities Inc. (JPMorgan) in all aspects of its role as the exclusive asset sales manager, financial advisor and auction advisor for the New Hampshire Public Utilities Commission in coordination with the Connecticut Department of Public Utility Control in the highly successful sale of the 1161 MW Seabrook Nuclear Generating Station to FPL Energy Seabrook for \$836 million.

Brown Rudnick lawyers come from diverse backgrounds and have a broad range of experience. Brown Rudnick has extensive experience practicing before and interacting with regulators and regulatory agencies. For example, one of our attorneys, Paul Corey was the former Executive Director of the Connecticut Department of Public Utility Control (DPUC). Prior to joining Brown Rudnick, Mr. Corey was specially designated by the DPUC to oversee the commission run auctions of three important and successful steps in its deregulation process: the auction of the non-nuclear generation assets of The Connecticut Light and Power Company (CL&P) to NRG Energy and Northeast Generation Co. for a combined total of \$1.3 billion, the auction for the Standard Offer requirements of CL&P to NRG Energy and Duke Energy Trading and Marketing, and the auction of the Millstone Nuclear Generating Station to Dominion Resources for \$1.3 billion.

## **III. QUALIFICATIONS**

### **A. Senior Legal Advisors Assigned**

Brown Rudnick will dedicate an experienced, high-caliber team of professionals who have the necessary expertise and complimentary experience to achieve the PUCT's objectives. The team will be headed by Howard L. Siegel, Managing Partner of the Hartford Office. Mr. Siegel has over 25 years experience as an attorney representing clients in complex areas of business

transactions, acquisitions, divestitures and financings of electric generating facilities, and purchase power and sale agreements. Mr. Siegel is nationally recognized and has been listed in the 1991 through current editions of Woodward/White Inc.'s *The Best Lawyers in America*.

Paul J. Corey, Counselor on Regulatory Affairs, will be responsible for advising on energy and regulatory as well as day-to-day interaction with PUCT staff. As noted above, Mr. Corey was the former Executive Director of the Connecticut Department of Public Utility Control and has extensive experience in drafting, implementing and advising clients on comprehensive electric restructuring initiatives. Mr. Corey is one of the very few legal experts that have direct, extensive experience with the divestiture of electric generation assets involving public utility commissions in the interest of ratepayers. Mr. Siegel and Mr. Corey were lead counsel to JPMorgan in its role as auction advisor for the sale of Seabrook and were involved in all aspects of the transaction.

Brown Rudnick has a full service energy, regulatory and M&A practice, and we have assembled a diverse and highly qualified team to support this assignment as indicated in the biographical materials of those attorney team members attached as Appendix A.

## **B. Representative Transactions**

### **1. Seabrook Station**

Brown Rudnick served as counsel for J. P. Morgan Securities, Inc. in all aspects of its role as the exclusive asset sale manager, financial advisor and auction advisor for the recently completed auction of the Seabrook Station nuclear generating facility. The extent of the legal services provided in that engagement and the comparability of those legal services to those that will be required by the PUCT in this Project are best demonstrated by the following summarized excerpts from the report filed with the NHPUC in connection with the Seabrook sale.

The State of New Hampshire Public Utility Commission (the "Commission" or "NHPUC") in coordination with the State of Connecticut Department of Public Utility Control (the "Department" or "DPUC") (and together with the NHPUC, the "Commissions") retained JPMorgan to act as its exclusive asset sale manager, financial advisor and auction advisor pursuant to that certain Engagement Agreement dated September 27, 2001 between JPMorgan and the NHPUC (the "Engagement Agreement"), which sets forth the terms by which the sale would be conducted in one or a series of transactions (each, a "Transaction").

The Sale was being conducted in accordance with New Hampshire Revised Statutes (Annotated) ("RSA") Chapter 369-B and Chapter 29:15, N.H. Laws 2001 (the "NH Acts"), the "Agreement to Settle PSNH Restructuring," executed on September 22, 2000, as approved in NHPUC Docket No. DE 99-099 (the "Settlement Agreement"), and Connecticut General Statutes § 16-244g (the "CT Act") on behalf of North Atlantic Energy Corporation ("NAEC"), The Connecticut Light and Power Company ("CL&P") and The United Illuminating Company ("UI"). In addition to the ownership interests in Seabrook of NAEC, CL&P and UI, the Commissions authorized JPMorgan to include other minority co-owner interests in the auction process (the "Auction"), and, as indicated below, five additional co-owners did agree to participate in the auction sale process.

000053

As provided in the NH Acts and in the CT Act, both the NHPUC and the DPUC had responsibility for the conduct of the Sale process on behalf of NAEC, CL&P and UI. The NHPUC and the DPUC entered into a Memorandum of Understanding dated July 10, 2001 ("MOU"), which requires the Commissions to coordinate their official duties and activities with respect to the Sale. Pursuant to the MOU, the NHPUC designated certain NHPUC representatives (the "Commission Staff") and the DPUC designated a staff team, the Utility Operations and Management Analysis Unit ("UOMA"), to specifically monitor the Sale process on behalf of their respective agencies. m u

The principal objectives of the Sale were to ensure that the requirements set forth in the NH Acts, the Settlement Agreement and the CT Act has been satisfied. These requirements include: (i) that the Commission administer a public auction conducted in New Hampshire maximizing the net proceeds realized from the Sale in order to mitigate stranded costs and benefit all New Hampshire customers with stranded costs recovery obligations associated with the Seabrook assets (the "Assets"); (ii) that the sale price for Seabrook Station equals or exceeds the minimum bid prices separately established by the NHPUC and the DPUC; (iii) that the Sale is conducted in accordance with certain divestiture plans (the "Divestiture Plans") approved by the Commissions and in a manner consistent with the public good; (iv) that the Buyer is qualified to own and operate the Assets, preserve existing labor agreements and provide certain employee protections; and (v) that the Sale results in a net benefit to ratepayers and customers.

As a result of the Auction NAEC, UI and CL&P, as well as Great Bay Power Corporation ("GBP"), Little Bay Corporation ("LBP"), New Hampshire Electric Cooperative ("NHEC"), New England Power Company ("NEP") and Canal Electric Company ("Canal") (collectively referred to herein as the "Selling Owners") have entered into a Purchase and Sale Agreement, dated April 13, 2002 ("PSA"), for the sale of approximately 88.2% of the controlling interests in Seabrook Station to FPL Energy Seabrook, LLC ("FPL Seabrook"), an indirect, wholly-owned subsidiary of FPL Energy, LLC, the independent power producer subsidiary of FPL Group, Inc. ("FPL"), for \$836.6 million.

The Auction began with an information-gathering stage, during which period JPMorgan solicited interest from entities known or believed to be potential bidders based upon their previous public statements, their position in the industry or their participation in recent sales of nuclear assets. The next step in the Auction, which proceeded concurrently with the solicitation efforts described above, involved the preparation of the OM, describing the Assets and the Auction in detail. JPMorgan provided the OM to potential bidders who met the requirements for eligibility to participate in the Auction established by JPMorgan. To be eligible, potential bidders were required to sign a confidentiality agreement and to submit technical and financial qualifications that demonstrated their ability to purchase and operate the Seabrook Station.

Bidders meeting these eligibility requirements received a copy of the OM and access to the electronic "data room" that was set up for the Auction on a secure Internet site. This electronic data room contained the documents that were compiled for the sale process and a list of answers to "frequently asked questions" regarding Seabrook Station. These documents were also made available to bidders by CD ROM. Most of the due diligence in the Auction was intended to occur, and did occur, during the period leading up to the date designated for bid submittal (the "Due Diligence Phase"). During the Due Diligence Phase, bidders also participated in individual

pre-bid meetings during which JPMorgan and Seabrook management representatives presented major topics, addressed additional bidder questions, and gave bidders the opportunity to make a site visit. Bidders were invited to submit confidential questions regarding the Assets to JPMorgan, and JPMorgan provided answers to each question only to the bidder who submitted the particular question.

During the Due Diligence Phase, JPMorgan prepared and provided to bidders certain prototype transaction documents upon which all bids were required to be based subject to the protocols hereinafter described. The prototype transaction documents included a form of Purchase and Sale Agreement, together with various exhibits and schedules thereto; a form of Interconnection Agreement; and several different forms of optional Power Purchase Agreements (collectively, the "Prototype Transaction Documents"). The Prototype Transaction Documents were developed by JPMorgan with substantial consultation and input from the Sellers under the supervision of JPMorgan's counsel for purposes of the Auction, Brown Rudnick. In order to obtain market input, JPMorgan afforded bidders an opportunity to provide comments on the Prototype Transaction Documents in advance of submitting their final binding bids, and, during the Due Diligence Phase, bidders also provided to JPMorgan other market feedback concerning the Auction procedures and protocol.

Under the Auction protocol originally specified in the OM, bidders were to be given an opportunity to submit limited power purchase agreements (as provided in prototype format by NEP, Canal and GB/LB) with their bids on a totally optional basis. These optional power purchase agreements (each a "PPA" and collectively, "PPAs") could not be linked in any manner to the bid price otherwise offered for the Assets. During the Due Diligence Phase, however, JPMorgan received very strong market feedback from several bidders indicating that a change in Auction protocol to allow for more substantial PPAs that could be linked to the bid price for the Assets would significantly enhance the ability of the bidders to offer a competitive price in the Auction. In response to this strong market feedback, JPMorgan engaged in substantial discussions with the Commission Staff, UOMA and the Sellers culminating in a meeting among all such parties to determine the appropriate manner of response to such market feedback. As a result, it was determined to modify the Auction protocol to permit bidders to include a PPA for the current energy and capacity of Seabrook Station (on a pro rata basis among all Sellers based on their respective ownership shares and pursuant to bilateral contracts) which could be linked to their bids for the Assets. It was also determined that the maximum length of such PPAs would be limited and that, all other factors being equal, bids that were not linked to PPAs would be preferred. Following the determination reached by the parties, an amendment to the OM was prepared to reflect this change and was circulated to prospective bidders. In all other respects, the Auction protocol was maintained in the manner set forth in the original OM.

In response to the pre-bid comments received from bidders on the Prototype Transaction Documents, Brown Rudnick prepared an analysis of all such comments and a summary of the legal issues raised by the comments for the benefit of JPMorgan, the Commission Staff, UOMA and the Sellers. The Sellers were afforded an opportunity to provide their own input on the bidder comments and a meeting was conducted among JPMorgan, the Commission Staff, UOMA and the Sellers to determine which, if any, of the bidder comments would be incorporated into the Prototype Transaction Documents to be included in the final bid package. In undertaking this analysis, the general protocol of JPMorgan, consistent with the position of the Sellers, was to

maintain a bias in favor of not making changes to the Prototype Transaction Documents. However, several changes were made as determined necessary by the parties for clarification purposes, in some cases, and, in other cases, to respond to significant market feedback. Revised Prototype Transaction Documents were then provided to bidders with instructions that such Prototype Transaction Documents be used as the basis for their binding bids with the requirement that they provide mark-ups to said Prototype Transaction Documents to indicate any requested variations from the terms thereof.

Potential bidders agreed in their individual confidentiality agreements with JPMorgan not to contact the Commissions, the Commission Staff, UOMA or any of the owners of the Assets. JPMorgan made it clear to bidders that JPMorgan would handle all contacts to preserve the confidentiality of the bidder identities and the integrity of the Auction. Any potential bidder who failed to observe this protocol could have been disqualified from the Auction by JPMorgan. JPMorgan did not disclose the identity of any potential bidder to any of the Sellers' representatives, or to any other potential bidder, in any phase of the Auction except that JPMorgan necessarily revealed the identity of the leading bidder to the Sellers after the final negotiations were under way. During the Due Diligence Phase, JPMorgan assigned each potential bidder a code name to shield that bidder's identity. To preserve confidentiality and anonymity during site visits and individual pre-bid meetings, bidder representatives could not identify their company affiliation and JPMorgan instructed such bidder representatives not to wear articles of clothing or bring items on site that displayed company logos or otherwise revealed the bidders' identity. In addition, questions submitted by potential bidders were screened to ensure that they did not reveal the bidders' identity to the seller representatives who fielded the questions.

Following the Due Diligence Phase, qualified bidders submitted binding bids that were subject only to on-site verification due diligence. JPMorgan required bids to include specific information, including all of the following:

- A detailed description of the bidder's financial and operational qualifications to purchase and operate Seabrook Station,
- Separate purchase prices for: (a) nuclear fuel, (b) Seabrook Unit 2, (c) the NAEC real property, and (d) the Sellers' ownership shares in all other assets except those identified in (a), (b) and (c);
- Details and evidence of the availability of funds with which to pay the aggregate purchase price in cash, together with evidence of and the form of a guaranty or letter of credit from a satisfactorily creditworthy party to make payment of such purchase price;
- Evidence that the bidder had obtained all necessary internal corporate approvals to enter into and consummate the Transaction;
- A detailed proposal of how the bidder intended to provide the required funding assurance to the New Hampshire Nuclear Decommissioning Financing Committee in connection with the decommissioning of Seabrook together with a demonstration of the financial capability to provide and perform such financial assurance.

000056

- If desired by the bidder, a description of the specific terms to be included in the PPA for the output associated with Sellers' ownership interest in Seabrook;
- A financing plan and operating plan for Seabrook Station;
- A statement of acceptance with regard to the employee protection obligations specified in the draft PSA; and
- A full mark-up showing any proposed changes to the Prototype Transaction Documents.

JPMorgan reviewed and evaluated the bids according to criteria that were specified in the OM. In particular, JPMorgan evaluated bids to determine which potential buyers were most likely to enable JPMorgan and the Seabrook owners to achieve their objectives. These objectives included ensuring that the requirements in the NH Acts and the CT Act were satisfied, which requirements are discussed in detail in Part V below. Other objectives included the desire to transfer all material assets, entitlements, obligations and liabilities associated with the Assets, and to maximize opportunities for current Seabrook Station employees after the sale. An additional objective was to ensure that the transaction would close in a timely manner.

JPMorgan evaluated bids based upon an assessment of each bidder's financial, operational, safety and other qualifications, the present value of its binding bid, and its willingness to accept the material terms of the transaction as reflected in the Prototype Transaction Documents that were distributed to bidders. Brown Rudnick evaluated all requested changes to the Prototype Transaction Documents as reflected in the bidder markups contained with the final bid submittals to assess the legal issues raised by such requested changes and the degree of variance from the terms of the Prototype Transaction Documents proposed by each bidder.

Based on its review and evaluation of the binding bids received as well as its general industry experience and expertise, JPMorgan prepared a written review of the bids which contained an analysis of each bid, a comparison of the bids to each other and certain references to other comparable sale transactions by way of general comparison. JPMorgan initially reviewed this bid analysis with the Commission Staff and UOMA and following that review met with the Commission Staff, UOMA and the Sellers to present and review the bid analysis and to present a recommendation as to the leading bidders. Concurrently, Brown Rudnick prepared and circulated to JPMorgan, the Commission Staff, UOMA and the Sellers an analysis of the requests for changes to the Prototype Transaction Documents made by the different bidders in their final bid submittals. During this entire analysis and recommendation phase, the identities of the bidders were not disclosed to the Sellers.

In advance of conducting a final meeting with the Commission staff, UOMA and the Sellers, JPMorgan made available to the Sellers within a supervised setting, copies of the binding bid submittal documents (with the names of and all references to the potential buyers redacted out of such bids) from each of the bidders. The Sellers were not permitted to make any copies of the bid documents during that review. JPMorgan then convened a meeting of the Commission Staff, UOMA and the Sellers at which it presented its detailed bid analysis, responded to questions from the Sellers and made its recommendation of the leading bids and the procedures



to be followed in connection with seeking to conclude a transaction with one of the leading bidders. Under the terms of the PCI, each of the Sellers was then afforded the designated time period within which to advise JPMorgan whether it accepted the leading bid recommendations and desired to proceed to seek to conclude a transaction with one of the leading bidders. Within the time period designated, each of the Sellers responded to JPMorgan that it consented to seeking to conclude such a transaction and had obtained necessary internal approvals to do so.

Following the receipt of such consents from the Sellers, JPMorgan contacted the leading bidders to commence post-bid negotiations. At the same time, JPMorgan contacted the other bidders to retain their interest in moving forward in the Auction in the event that post-bid negotiations with one of the leading bidders were not successful. Following such initial contact and discussion, on-site verification due diligence was conducted and face-to-face final negotiations of the Prototype Transaction Documents commenced.

Under the terms of the PCI, the negotiating team (the "Negotiating Team") designated to conduct final negotiations with the leading bidders consisted of JPMorgan, the Commission Staff and UOMA who were supported by JPMorgan's Auction counsel, Brown Rudnick. The PCI further provided for the formation of a Selling Owner Committee during these final negotiations to receive and provide input as negotiations progressed and final execution form documents were being proposed. Said face-to-face negotiations led to the execution and delivery of final transaction documents on April 13, 2002. During the course of these negotiations, the Negotiating Team regularly reported to and obtained input from the Selling Owner Committee as to the status of negotiations and the proposed changes to the transaction documents resulting from such negotiations. When these negotiations were concluded, the Sellers were afforded a final opportunity to review and approve the forms of the final transaction documents prior to executing and delivering same. All Sellers approved the final documents and executed and delivered same on April 13, 2002.

The identity of the leading bidder was disclosed to the Sellers for the first time when final negotiations were under way, however, this identity was maintained on a confidential basis by all parties to the Transaction until after the close of the financial markets on April 15, 2002, at which time the Transaction was publicly announced. As indicated, the FPLE Seabrook purchase price for the 88.2% ownership interest in Seabrook is \$836.6 million on the terms and conditions more particularly set out in the PSA.

The total purchase price of \$836.6 million dollars is payable in cash at closing and is allocated under the PSA to the so-called Facility Purchase Price in the amount of \$746,710,000 which includes all of the acquired assets other than Nuclear Fuel, Seabrook Unit 2 and the NAEC Real Property. The purchase price of \$61,900,000 is allocated to Nuclear Fuel; the price of \$25,600,000 is allocated to Seabrook Unit 2; and the price of \$2,400,000 is allocated to the NAEC Real Property. Except for the price for NAEC Real Property which is allocated to NAEC, the separate purchase price for each of these components is allocated among the Sellers in accordance with their respective ownership interests in the different components. Finally, the PSA contains certain adjustment provisions by which the purchase price will be adjusted at the time of closing for such things as certain required expenditures incurred between the date of signing the PSA and the date of closing; a transmission credit; the failure to make certain pre-approved capital expenditures; specific amounts of inventory and supplies on hand at the date of

closing; and, under certain circumstances for casualty loss which may occur between signing of the PSA and closing.

The PSA provides for the transfer by the Sellers of their respective ownership shares of substantially all assets comprising Seabrook Station Unit 1 and Unit 2 and including applicable contracts, leases and permits relating to the operation of Seabrook Station. The PSA provides that the purchaser is to assume a comprehensive list of so called Assumed Liabilities relating to the ownership and/or operation of the facility including environmental liabilities (exclusive of so-called offsite environmental liabilities), nuclear and decommissioning liabilities. The PSA contains a specific listing of liabilities which are not to be assumed by the Buyer, including, offsite environmental liabilities, liabilities of the Sellers under contracts, licenses and/or permits accrued or relating to the period prior to closing and claims by third parties for damages arising from the pre-closing use or ownership of the acquired assets. These are intended by way of example of certain of the more significant provisions of the PSA in this subject area, and a complete list of assumed and excluded assets and liabilities is set out in Section 2.1, 2.2, 2.3 and 2.4 of the PSA.

Section 3 of the PSA provides for a series of representations and warranties to be made from the Sellers and NAESCO in favor of the Buyer. Section 4 of the PSA provides for a series of representations and warranties to be made from the Buyer in favor of the Sellers. The representations and warranties on behalf of the Sellers are made by each Seller on a several basis in accordance with its proportionate ownership. PSA Section 9 addresses liability and indemnification in relation to representations and warranties and provides, with certain exceptions addressed below, that the representations and warranties will survive for a period of twelve (12) months following the closing. With the exceptions noted below, claims for breach of representations and warranties may only be asserted in the event, and only to the extent, that the loss therefrom exceeds one million dollars (\$1,000,000), and the maximum aggregate liability for claims for breach of representations and warranties is limited to twenty million dollars (\$20,000,000). The above limitations shall not apply in regard to any intentional or fraudulent misrepresentation, any breach of the warranty relating to title to the assets and any breach of the warranty relating to the representation that there are no restrictions on the Sellers' ability to transfer their ownership interest in the facility.

As stated above the liability of each of the Sellers in relation to the representations and warranties is several and each of the Sellers also has several liability, based on its proportionate ownership, for representations and warranties made by NAESCO. The PSA provides that there shall be no recourse by any party as against NAESCO in connection with its representations and warranties.

With regard to claims for breach of provisions of the PSA by either the Sellers or the Buyer in regard to PSA provisions other than representations and warranties, the parties have reserved otherwise applicable rights and remedies during the governing statute of limitations period.

These covenants and undertakings may be divided into two general areas. First, the PSA defines an interim period between signing and closing during which the parties will proceed in a diligent and cooperative manner to obtain all regulatory approvals necessary to conclude the

transaction; will continue to operate the facility under appropriate and prudent practices; and will provide reasonable access to the Buyer during the interim period to assist in an orderly transition of ownership and operating responsibility at the time of closing. Secondly, the PSA provides for a series of covenants and obligations to be performed by the parties at or subsequent to the time of closing. Most significantly, the PSA requires that the Buyer offer employment to employees of NAESCO employed in relation to Seabrook in accordance with the required employee protection provision of the NH Acts, the CT Act and the Settlement Agreement. With regard to the decommissioning of the facility, the PSA requires that the Sellers make payment of their respective required top-off amounts to their decommissioning trust funds at or before the time of closing and then transfer their entire decommissioning trust funds to the Buyer at closing. The Buyer undertakes to provide at or before the time of closing the required NDFC funding assurance, and the Buyer also undertakes all future decommissioning responsibility for the facility.

The primary conditions to closing are the obtaining by the Sellers and the Buyer of all necessary regulatory approvals each requires to conclude the PSA transaction. The parties have advised us that they anticipate a period of approximately six (6) months to obtain these approvals. The PSA also requires as closing conditions that all representations and warranties of the parties contained in the PSA be true in all material respects at the time of closing and that all of the material covenants and undertakings to be performed at or before the time of closing are performed by the parties. Finally, in the event that a so-called Plant Material Adverse Effect occurs between the date of signing of the PSA and the closing date of a type which could reasonably be expected to cause a loss requiring an expenditure in excess of Fifty Million Dollars (\$50,000,000) within one (1) year, the Buyer is given the option not to close.

While it is the stated desire of all parties to conduct a single closing, the PSA provides that multiple closings may occur on a coordinated basis under stated terms and conditions so long as at least fifty-one percent (51%) or more of the ownership shares (which must include NAEC's ownership share) participate in the initial closing. Among other things, this staged closing protocol is intended to accommodate, in an orderly manner, certain unique timing issues related to the UI bond redemption.

The Buyer and Sellers' holding fifty-one percent (51%) or more of the aggregate ownership shares may terminate the PSA by mutual consent. The Buyer may terminate the PSA if there is a material breach by the Sellers of their representations and warranties or covenants provided that the Sellers shall have an opportunity to cure any such breach following notice from the Buyer for up to a period of twelve (12) months from the date of signing of the PSA in relation to an initial closing and for up to fifteen (15) months from the date of signing of the PSA with respect to a subsequent closing. In addition, the Buyer shall have the right to terminate the PSA if all closing conditions (including the obtaining of necessary regulatory approvals) are not satisfied within eight (8) months from the date of signing of the PSA provided that the initial closing date may be extended for a period up to twelve (12) months from the date of signing of the PSA if the subject closing conditions can reasonably be satisfied within that additional period. Sellers holding at least eighty percent (80%) of the aggregate ownership shares can terminate the PSA in the event the Buyer fails to satisfy similar conditions to those described above applicable to the Buyer under the PSA.

000060

I believe these describe the primary grounds for termination although the PSA should be consulted for additional termination provisions.

The PSA contains exhibits and detailed disclosure schedules which are on file with the NHPUC. Among the exhibits is the Interconnection and Operating Agreement by and between Public Service Company of New Hampshire and the Buyer. This Agreement will become effective upon the closing and sets forth the terms for providing interconnection service to the Buyer; for the maintenance and operation of the interconnection facilities; and for the demarcation and use of each of the parties' property, assets and facilities in connection therewith. Also included as an exhibit is the Guaranty of FPL Group Capital Inc., the parent company of the Buyer. Under the terms of the PSA the Buyer is required to provide evidence of the availability of funds with which to pay the purchase price provided for in the PSA and to provide a guaranty of that purchase price. The Buyer did provide such evidence to JPMorgan, and Exhibit H to the PSA constitutes the required guaranty. The Buyer provided to JPMorgan as part of its bid response financial information pertaining to FPL Group Capital Inc. demonstrating its financial capability and creditworthiness. FPL Group Capital has senior unsecured debt ratings of A- and A2 by Standard and Poor's and Moody's, respectively. It should be noted as well that the Buyer indicated as part of its bid response that FPL Group Capital Inc. was prepared to provide a guaranty of any funding assurance required of the Buyer by the NDFC.

One of the Sellers, NEP, is subject to a right of first refusal under the JOA with respect to the sale of its ownership interest in the Facility, and the PSA recognizes this circumstance. Specifically, the PSA contemplates that NEP will comply with the right of first refusal provisions of the JOA, and if one or more of the non-selling owners of Seabrook elects to purchase NEP's ownership share, that ownership share shall then be excluded from the PSA, and the PSA purchase price shall be subject to adjustment but the Buyer shall thereafter conclude the PSA with the other Sellers. In the event the non-selling owners fail to exercise the right of first refusal with respect to the NEP ownership share under the terms and within the time provided by the JOA, the sale of NEP's ownership share shall remain included within the terms of the PSA.

The Auction was a formal, competitive process that was open to all qualified bidders. Bidders in the Auction were given complete and non-discriminatory access to data and information. The Auction was structured to obtain the best possible result by identifying a willing buyer who offered the highest price for the Assets and the best overall terms and conditions of the Sale. The Auction was consistent with other asset sales conducted by JPMorgan.

The Auction achieved all of the following results: (i) FPLE Seabrook will purchase 88.2% of Seabrook Station for \$836.6 million, with payment deliverable fully in cash at closing; (ii) FPLE Seabrook will assume the decommissioning liability for the acquired portion of Seabrook, and will also assume the existing decommissioning trust funds of the Sellers; (iii) FPLE Seabrook will not enter into any new power purchase agreement with any of the Sellers for power output from Seabrook after closing; and (iv) FPLE Seabrook will comply with all employee protections required by New Hampshire and Connecticut law, including labor agreements and employment for all Seabrook employees at comparable wages and benefits for one (1) year following the closing of the Sale. For all of the foregoing reasons, the Sale of Seabrook Station provides substantial net benefits to ratepayers.

000061

Brown Rudnick's role also encompassed extensive participation in the state regulatory approval proceedings in New Hampshire, Connecticut and Massachusetts where it prepared pre-filed testimony, prepared and responded to interrogatories and conducted direct and cross examination of all witnesses relevant to the auction process and results obtained. In addition, approvals were required from various federal agencies including FERC, the NRC, the SEC, and the IRS. All such approvals were obtained on a coordinated basis and the sale of Seabrook Station to FPLE Seabrook closed in record time on November 1, 2002.

## **2. DPUC-CL&P Auctions**

Conn. Gen. Stat. Ann. §16-244g(c)(1) requires each electric company that elects to divest itself of generation assets to submit a divestiture plan for approval by the DPUC in order to recover stranded costs. CL&P sought certain rulings in its divestiture plans which were subsequently approved by the DPUC with modifications.<sup>1</sup>

The DPUC approved CL&P's divestiture plan with several modification. The DPUC retained JPMorgan as its exclusive auction manager for the sale of CL&P's non-nuclear generation assets of CL&P as well as the competitive procurement of its standard offer requirements.

The Chairman of the DPUC, in consultation with the Commissioners, appointed a specially designated staff team of five financial, technical and legal staff members led by the Executive Director and charged them with the task of overseeing the auction processes. The auction team was segregated from the Commissioners and their staff, erecting a firewall between the team and the Commissioners who must approve the final sale. To insulate the Commissioners from the day to day activities of the auction, the DPUC has designed a process whereby the auction team acts as its independent supervisory agent during the conduct of the auction. The auction team's responsibilities were to ensure that the terms of the divestiture proceeding and the DPUC's engagement with the auction agent were executed and the requirements in the Restructuring Act were observed. The team was empowered with the discretion to voice an independent position both during the auction and upon its completion. The auction team had the authority to submit testimony, briefs, position papers and the like at its discretion at the time that a final bid(s) was submitted to the DPUC for approval. Finally, the auction team was required to maintain an independence of action in its supervisory role and to work closely with the auction agent and the Company sell team and remain fully apprised of all auction activity.

As Executive Director, Mr. Corey led the staff team in its supervisory role for the non-nuclear auction and the auction for the procurement of standard offer. The designated auction staff participated in all aspects of each auction and worked closely with JPMorgan to ensure that the auctions were fair and competitive and resulted in a net benefit to ratepayers. The DPUC followed a similar auction protocol for the divestiture of CL&P's nuclear assets. Three separate

---

<sup>1</sup> CL&P requested the following rulings in its non-nuclear divestiture plan:

1. CL&P's plan to auction its non-nuclear generating facilities and purchased power obligations is consistent with and satisfies the requirements of the Act;
2. The auction process proposed by the Company is commercially reasonable; and,
3. CL&P is authorized to proceed with the auctions.

The DPUC approved CL&P's divestiture plan with several modifications. The DPUC rejected CL&P's request to administer the auction and also imposed a Code of Conduct for the auction process.

000002

auctions were conducted over several years. Mr. Corey's duties included the following:

- ◆ Ensure a fair, competitive auction
- ◆ Maximize proceeds for ratepayers
- ◆ Enforce a Code of Conduct governing the auction protocol as approved by the DPUC
- ◆ Comply with statutory requirements
- ◆ Comply with orders approved by the DPUC in the divestiture proceedings
- ◆ Minimize environment impacts

In each the Department of Public Utility Control achieved its stated objectives as required by law and maximized value for ratepayers. Highlights of the key results are below:

### **Auction Highlights**

#### **Non-nuclear Auction**

- ◆ Fossil-fueled and hydroelectric generating assets with a total capacity of 3,564 MW
- ◆ Thirteen fossil plants representing 2,235 MW sold for \$460 million, a multiple of 5.3 times greater than book value.
- ◆ Three hydro systems represented a combined installed capacity of 1,329 MW including the 1,179 MW Northfield Mountain System, partially owned by Western Massachusetts Electric Company sold for \$865.5 million, a multiple of 6.9 times greater than book value.

#### **Standard Offer**

- ◆ Procurement of CL&P's standard offer, representing approximately 2,300 MW through a competitive auction process.
- ◆ The standard offer is the default generation service offered to retail electric customers who will not have made a choice or were unable to do so regarding their electric generation supplier.
- ◆ The standard offer auction resulted in a four year fixed price contract with NRG

000063

Energy and Duke Energy Trading and Marketing.

- ◆ Achieved the lowest price for Connecticut ratepayers for standard offer service in New England.

### **Nuclear Auction**

- ◆ Largest generating station in New England.
- ◆ Units 2 and 3 represented over 2,000 MW. Unit 1 was undergoing decommissioning.
- ◆ Units 1 and 2 were 100% owned by Northeast Utilities. Unit 3 was 65% owned by Northeast Utilities, 29% owned by other selling utilities.
- ◆ Sold to Dominion Resources for a combined cash consideration of approximately \$1.3 billion.
- ◆ No new power purchase agreements.
- ◆ Most of the environmental liabilities were transferred to buyer.
- ◆ Retained all employees for 12 months post-closing as required by law.

### **3. Wisvest-Connecticut, LLC**

Brown Rudnick represented Wisvest-Connecticut, LLC, a subsidiary of Wisconsin Energy Corporation, in connection with its April, 1999 acquisition from The United Illuminating Company of the New Haven Harbor Station fuel oil/gas generation facility and the Bridgeport Harbor Station coal facility. These acquisitions aggregating more than 1100 megawatts were conducted under a competitive auction format by which United Illuminating became the first utility in Connecticut to divest its electric generating assets and were subject to DPUC approval.

In December 2002, Wisvest sold those facilities to PSEG Fossil LLC, and Brown Rudnick represented Wisvest in that sale transaction. Credit Suisse First Boston (CSFB) was retained by Wisvest as their financial advisor for the transaction. In connection with the sale, Brown Rudnick worked with CSFB to prepare the Information Memorandum distributed to prospective purchasers; developed and participated in presentations to prospective purchasers; coordinated Data Room documents; responded to due diligence questions; and negotiated various portions of the purchase and sale agreement.

000064

## **C. Overview of Brown Rudnick Berlack Israels LLP**

### **Our Firm**

Brown Rudnick Berlack Israels LLP is a full-service, international law firm with offices in the United States and Europe. We have over 200 attorneys who provide advice across five main areas of the law: Corporate, Banking & Finance, Real Estate, Litigation and Government Law & Strategies. Across these main areas the firm has organized a number of interdisciplinary practice groups to meet specific client needs. Included below is a detailed description of our Energy Practice Group which will have primary responsibility for this project.

All of Brown Rudnick's sections and practice groups are efficient and interconnected. Through the implementation of sophisticated technologies, we provide clients with a breadth and depth of expertise uniquely suited to their legal needs.

Brown Rudnick's extensive involvement with business, financial service industries, real estate, as well as governmental agencies, has broadened its client base to include publicly and privately held corporations and partnerships, nationally and internationally prominent institutions, and Fortune 500 companies. Among the entities represented by the firm:

Asset Managers	Investment Banks
Bank Holding Companies	Manufacturers of High-Tech Products
Banks	Mutual Funds
Educational Institutions	Pension Funds
Financial Institutions	Quasi-Governmental Agencies
Franchisers	Real Estate Developers
Governmental Agencies	Retailers
Hospitals and Health Care entities	Tax-Exempt Organizations
Insurance Companies	Venture Capital Funds

Serving a wide range of clients enables Brown Rudnick to understand and respond to varied and ever-changing needs requiring interdisciplinary legal approaches. Brown Rudnick attorneys practice in one or more of the following areas:

Affordable & Special Needs Housing	Health Care
Alternative Dispute Resolution	Intellectual Property
Bank Regulatory & Compliance	International
Bankruptcy and Creditors' Rights	Leasing
Business Investigations & Criminal Defense	Litigation
Commercial Lending	Mergers and Acquisitions
Domestic Relations	Public and Structured Finance
Employee Benefits	Real Estate
Employment and Labor	Public Offerings
Energy	Publishing, Media & Entertainment
Entrepreneurial Companies	Regulatory
Environment and Land Use	Tax
Estate and Succession Planning	Telecommunications
Government Law and Strategies	Venture Capital

000065



## **D. Energy Practice**

### **Who We Are**

Brown Rudnick's Energy Practice Group is on the cutting edge of providing ongoing legal services to national and regional energy generation, transmission and distribution companies. The Practice Group has been built on an interdisciplinary model combining lawyers from each of Brown Rudnick's regional offices with backgrounds in energy, utility and regulatory matters, government relations, environmental law, mergers and acquisitions, project finance, siting, permitting, land use and real estate to specialize in energy and utility related issues and pool their expertise to service this fast-changing market.

### **Our Clients**

Brown Rudnick has historically represented lenders to, and developers, purchasers and sellers of, energy projects. These include natural gas, oil and coal facilities, hydroelectric plants, waste-to-energy facilities, wind turbine generation facilities, co-generation facilities, alternative fuel projects, distributed generation facilities, natural gas pipelines and LNG facilities. Some of these representations involved syndications, tax exempt bond financings, and energy tax credits. In the course of representing such projects, Brown Rudnick has also applied and enhanced expertise in lending, permitting, environmental, land use planning and state and federal regulatory issues which arise in connection with the often challenging siting of energy generation and transmission projects. Members of the Practice Group also have considerable experience in the ongoing operation of such facilities.

Brown Rudnick has also worked with manufacturers of distributed generation equipment, including micro-turbines and fuel cells, and with end use customers in evaluating and procuring distributed generation solutions. In addition, in response to state mandates to increase renewable energy resources in the region, as well as the creation of state sponsored funds to encourage such development, Brown Rudnick has been in the forefront in working with clients to develop and finance renewable energy projects.

Since the advent of deregulation in New England, the Firm has increasingly represented clients in the transactional and regulatory aspects of acquisition and divestiture of generation facilities, merchant plant development and energy contract matters and increased its representation of regulated utilities as well. Recently, Brown Rudnick's Energy Practice Group achieved notable success on behalf of regulated utilities in proceedings before state regulatory bodies to obtain groundbreaking performance based rate orders for two natural gas utilities.

### **Other Clients**

Brown Rudnick's clients also include companies providing water conservation, wastewater treatment and drinking water management services, and companies involved in the privatization of municipal street lights. Brown Rudnick represents energy service clients who combine sales of electricity and natural gas to end users, and clients who provide financing for energy conservation projects. In addition, the firm has extensive experience with telecommunications

000066

companies and their issues and represents a major carrier constructing its wireless network in Rhode Island, Massachusetts and Connecticut which has involved the seeking and obtaining of hundreds of local and state regulatory approvals for the siting of telecommunications towers.

The following is representative list of experience of the Brown Rudnick Energy Practice Group:

- Counsel to J. P. Morgan Securities Inc. in all aspects of its role as the exclusive asset sales manager, financial advisor and auction advisor for the New Hampshire Public Utilities Commission in coordination with the Connecticut Department of Public Utility Control in the sale of the 1161 MW Seabrook Nuclear Generating Station.
- Served as lender's counsel for ABB Energy Capital LLC. in connection with a number of term financings for various transactions involving more than 50 wind turbine installations. These transactions have involved the development of the wind turbines and related equipment and transmission lines including preparation of all loan documentation, review of project documents, and supervision of the closing process.
- Representation of subsidiary of Wisconsin utility in its acquisition 1143 MW of generation assets divested by The United Illuminating Company and post-acquisition representation for Connecticut matters relating to ongoing operations.
- Represented the lender in connection with the issuance of the \$223,275,000 Massachusetts Industrial Finance Authority, Four Series of Resource Recovery Revenue Bonds.
- Counsel to a leading gas pipeline company in obtaining state permits to construct an interstate gas pipeline across Long Island Sound.
- Served as counsel to secure necessary regulatory and environmental approvals for the first liquefied natural gas facility developed in Massachusetts in over 25 years.
- Provide full range of representation to electric generation and transmission clients concerning state and federal environmental air and water compliance matters both in regard to siting new facilities and ongoing operations of existing facilities.
- Represented Wallingford Resource Recovery Associates, L.P., the developer of a 420-ton per day modular mass burn facility in Wallingford, Connecticut. Brown Rudnick provided counsel on the construction and service contract negotiations, financing negotiations and environmental and regulatory matters.
- Served as lender's counsel in connection with various landfill gas projects in several states, including California, Illinois and New York. Supervised the structuring of these transactions, review and restructuring of project documents, review of due diligence documentation, preparation of loan documentation, and supervision of the closing of the loans.
- Currently representing the project developer of a 500 MW gas-fired merchant electric generation facility in seeking all regulatory permits and approvals for siting, operation, interconnection and local tax agreement.

000067

- Represented the lender in connection with the issuance of the \$52,000,000 Connecticut Resource Recovery Revenue Bonds.
- Served as lead in-house counsel to a subsidiary of a Connecticut utility in connection with the acquisition of 1300 MW of electric generation assets divested by Northeast Utilities.
- Representation of project developer in pursuing the development and financing of fuel cell energy farm project intended to supply electric energy to meet state mandated renewable energy portfolio requirements.
- Recently completed the financing of a steam facility to be located at the University of Rhode Island and financed by the Rhode Island Economic Development Corporation and constructed and operated by a private entity.
- Significant experience in the negotiation and documentation of numerous electric interconnection agreements on behalf of both public utility transmission/distribution and non-utility generation clients.
- Represented GenPower LLC, a developer of power plants, in connection with their project finance. We provide counsel in negotiating engineering procurement & construction (EPC) contracts, gas supply contracts and in general business ventures.
- Brown Rudnick has acted as regulatory counsel representing a joint venture between an American and British utility in the acquisition of a 500 MW nuclear power plant, with 9 utility owners and regulatory approvals spanning all six New England States.
- Acted as counsel to a subsidiary of a Minnesota utility in connection with the acquisition of certain Eastern Utilities Associates generation assets located in southeastern Massachusetts.
- Negotiation of the buy down of two power contracts on behalf of an independent power producer, resulting in the prepayment of more than \$200 million to the IPP. This effort also involved our intervention in hearings before the Massachusetts Department of Telecommunications and Energy relating to the divestiture of the NEES generation assets.
- Representation of a developer of a 500 MW gas-fired merchant power plant who is developing property in Alabama, Arkansas, Maine and South Carolina. Each project is in various stages of completion.
- Representation of a Boston based utility relating to environmental litigation, acted as general counsel to a Massachusetts utility including the sale of the company to NEES, and represented a Rhode Island utility in connection with certain real estate matters.
- Advised a Massachusetts utility concerning certain regulatory issues facing a restructured utility under new, and untested, oversight rules, and have also advised a utility concerning possible securitization strategies, drawing on Brown Rudnick's extensive practice in that area.

000068

#### **IV. HUB AND MINORITY PARTICIPATION**

**(Response to RFI Section 2.3)**

Brown Rudnick believes that it would be cost effective for it and the PUCT to engage and work with local Texas counsel in the performance of its legal services. For this purpose it will seek the assistance of the HUB Coordinator to identify subcontracting opportunities with qualified HUB subcontractors to the extent the same is possible consistent with the provisions of Section 2.1 D of the RFI.

#### **V. POTENTIAL CONFLICTS OF INTEREST**

**(Response to RFI Section 2.4)**

Brown Rudnick has no assignments from, relationships with, or other employment that may create a conflict of interest or the appearance of a conflict of interest in serving as Legal Counsel to PUCT.

Brown Rudnick has significant and varied measures in place to identify, disclose and resolve any possible conflicts. For example, in opening any legal matter, the Brown Rudnick attorney must provide a comprehensive list of the client, and adverse or related parties. The above-referenced entities and individuals would be added to our conflict data base. Any time a new matter is opened, the new client and all related and adverse parties are checked against that conflicts data base. If a conflict is identified the matter will not be opened until it is resolved. Every new client and adverse and related parties are identified in an e-mail that is delivered daily to all staff and attorneys. If any conflicts, concerns or issues are raised, the new matter is not opened unless and until it is resolved. Further, new matters are reviewed by the supervisor of the respective firm legal section (real estate, business, litigation, bankruptcy and finance) to identify and resolve any potential conflicts.

Taken together, we believe that these measures ensure that no conflicts or appearance of a conflict is left unidentified or unresolved. If PUCT has any other suggestions in this most important area, Brown Rudnick would be willing to discuss them.

#### **VI. COST AND PRICE ANALYSIS**

**(Response to RFI Section 2.5)**

##### **A. Professional Fees**

As specified in the introduction of Section 2.5 of the RFI, this portion of the proposal is being submitted under separate seal from the remainder of the proposal.

##### **B. Statement of Independent Price Determination**

000069

**PUBLIC UTILITY COMMISSION OF TEXAS**  
**PROJECT NO. 27275**

**STATEMENT OF INDEPENDENT PRICE DETERMINATION**

I, Paul J. Corey, a duly authorized representative of Brown Rudnick Berlack Israels LLP, being duly sworn, hereby depose and say that:

1. I am over eighteen (18) years of age and believe in the obligations of an oath.
2. The cost and price analysis is submitted in full compliance with the provisions of the section entitled 'Independent Price Determination' in Part 5.1 of the RFI to which this proposal is a response.
3. The information set forth herein is true, complete and accurate to the best of my knowledge and belief under penalty of perjury.

Signed: \_\_\_\_\_

Print Name: Paul J. Corey, Esq.

Title: Counselor on Regulatory Affairs

Subscribed and sworn to before me this 7th day of February 2003.

\_\_\_\_\_  
Notary Public/Commissioner of the Superior Court

000070

# *APPENDIX A*

## ATTORNEY BIOGRAPHIES



## Paul J. Corey

Mr. Corey is Counsel on Regulatory Affairs in the Firm's Government Law Practice, where he concentrates his practice in the areas of Energy and Telecommunications.

Mr. Corey was the Executive Director in the Department of Public Utility Control in Connecticut where he was responsible for organizational planning and administration of the Department. He has experience assisting in the negotiation of legislative proposals with the Governor's office, legislators and constituents; working closely with Commissioners in interpreting legislation, drafting regulations, and developing and implementing Department policy; and assisting with the negotiation, drafting and implementation of comprehensive competitive initiatives in the areas of telecommunications and electric restructuring.

**Counsel on Regulatory Affairs**

Real Estate

(860) 509-6523

pcorey@brbilaw.com

**Practice Focus**

Energy & Utilities

Telecommunications

Government Law

**Education**

University of

Connecticut - J.D., 2000

Purdue University -

M.S.M., 1989

University of

Connecticut - B.S., 1988

**Recent Matters**

- Represented J.P. Morgan Securities Inc. on all matters involving the Sale of Seabrook Nuclear Power Plant including obtaining state regulatory approvals from the DPUC, DTE and NHPUC.
- Represent Comcast Cablevision of Groton before the DPUC on a matter involving the application of Groton Utilities for a CPCN to provide cable services.
- Represent Energy East, Connecticut Natural Gas and Southern Connecticut Gas on multiple matters involving rate setting, performance based rate plans, and generic proceedings involving competitive issues facing the industry.
- Provides general counsel and advice to various companies regarding state and federal energy matters.

**Bar Admissions & Memberships**

- Admitted, Connecticut Bar

**Community Involvement**

- Chairman of the Board, Connecticut Lottery Commission

000072



## Howard L. Siegel

Mr. Siegel is the Managing Partner of the Hartford office of Brown Rudnick Berlack Israels.

Mr. Siegel represents clients in the areas of business transactions, acquisition, divestiture and financing of electric generation facilities, corporate and real estate debt restructuring, commercial, corporate and project finance, power purchase and sale agreements and bankruptcy and reorganization. Recently, Mr. Siegel has represented JP Morgan in the sale of the Seabrook Nuclear Power Plant.

**Partner**  
Banking & Finance  
(860) 509-6519  
hsiegel@brbilaw.com

**Practice Focus**  
Bankruptcy & Creditors' Rights  
Energy & Utilities  
Mergers & Acquisitions

**Education**  
Boston University – J.D., 1974  
- Editor, Boston University Law Review  
Massachusetts Institute of Technology – B.S., 1971

### Bar Admissions & Memberships

- Admitted, Connecticut Bar
- Member, Connecticut Bar Association – Executive Committee, Section of Commercial Law and Bankruptcy
- Member, Energy Bar Association
- Member, Connecticut Power and Energy Society
- Member, Committee on Commercial Financial Services, Business Law Section of the American Bar Association
- Director and former President, Connecticut Chapter of the Turnaround Management Association.
- Past Chairman, Connecticut Bar Association – Business Bankruptcy Committee and Secured Transactions Committee of the

### Awards & Honors

- Listed in the 2002-2003 edition of Woodward/White Inc.'s *The Best Lawyers in America* for Bankruptcy and Creditor-Debtor Rights Law.

000073





## James M. Avery

Mr. Avery has represented a variety of clients in a wide range of regulatory proceedings before the Massachusetts Department of Telecommunications and Energy and the Massachusetts Energy Facilities Siting Board. Mr. Avery has also represented clients in a variety of commercial and financial transactions, including acquisitions, mergers, corporate restructuring, contracts and financings.

**Partner**  
Real Estate  
617-856-8112  
javery@brbilaw.com

**Practice Focus**  
Energy & Utilities  
Corporate & Commercial  
Finance  
Telecommunications

**Education**  
Boston University – J.D., *cum laude*, 1983  
Colgate University – B.A., *cum laude*, 1980

### Recent Matters

- Representation of gas utility in an innovative performance-based rate proceeding resulting in the approval of a ten-year rate plan.
- Representation of gas utility in securing the necessary regulatory and environmental approvals for the first liquefied natural gas facility in Massachusetts in over 25 years and the permanent financing of the facility.
- Representation of an electric utility in the siting of a new electric transmission line.
- Representation of a publicly-traded public utility holding company in a merger.
- Representation of telecommunications entities in the siting of fiber optic facilities, including in-line amplification structures.
- Representation of a gas utility in structuring and securing necessary approvals for a commodity portfolio optimization alliance with other utilities and a major natural gas producer.

### Publications

- Chapter on the Department of Public Utilities (now the Department of Telecommunications and Energy), *Lawyers Cooperative Publishing compilation on Massachusetts Procedure, Volume 9*, (co-authored)
- *State and Federal Deregulation of Electric and Natural Gas Sources in Massachusetts*, National Business Institute, (co-authored)

### Bar Admissions & Memberships

- Admitted, Massachusetts Bar
- Member, Massachusetts and Boston Bar Associations

000074



## Michael J. Camilleri

Mr. Camilleri focuses his practice in the areas of affordable housing, zoning, acquisitions and leasing, as well as energy and utility matters. Mr. Camilleri has been involved in the representation of major clients in various affordable housing redevelopment and rehabilitation projects as well as zoning and permitting matters.

Mr. Camilleri has also assisted in the representation of energy and public utility companies.

**Associate  
Real Estate**  
(860) 509-6561  
mcamilleri@brbilaw.com

**Practice Focus**  
Affordable and Special Needs  
Housing  
Zoning  
Acquisitions & Dispositions  
Leasing  
Energy

**Education**  
University of Connecticut – J.D.,  
with honors, 2000  
Trinity College – B.A., 1995

### Recent Matters

- Involved with the representation of a developer in its redevelopment and rehabilitation of a 66 unit project, with total development costs of approximately \$5,000,000. Financing included \$3,130,000 from the sale of low-income housing tax credits, a first mortgage of \$600,000 from the municipality and a \$1,245,000 loan from the State Department of Economic and Community Development.
- Participated in the negotiation and closing of a \$4,500,000 commercial mortgage loan.
- Involved with the representation of a company seeking an exemption from the New England Power Pool for costs related to a system-wide electric generation information system.
- Assisted with the representation of a developer in its redevelopment and rehabilitation of seventy-seven (77) affordable housing units spread throughout thirteen sites in Hartford, Connecticut.
- Assisted in the representation of an interstate gas pipeline company proposing a natural gas pipeline crossing Long Island Sound.

### Publications

- “Legal Considerations in Developing Assisted Living Facilities”, *Healthcare Review*, February 2002, (co-authored)

### Bar Admissions & Memberships

- Admitted, Connecticut Bar
- Admitted, United States District Court, District of Connecticut
- Member, Connecticut Bar Association

Camilleri/2	<b>Community Involvement</b> <ul style="list-style-type: none"> <li>• Member, Town of Cromwell Charter Revision Commission</li> <li>• Commissioner, Cromwell Fire District Board of Commissioners</li> <li>• Member, Connecticut State Board of Veterinary Medicine</li> </ul>

000076



## Franca L. DeRosa

Ms. DeRosa concentrates her practice on all aspects of energy and environmental law, including counseling and assistance relating to compliance with federal, state and local laws and regulations. She has counseled utility companies on a variety of environmental and regulatory matters. Ms. DeRosa has been involved in the acquisition, restructure and development of various electric generating facilities. She has counseled corporate and institutional clients on the environmental implications of financing, corporate and real estate transactions. Ms. DeRosa has represented numerous clients who have remediated and redeveloped industrial and commercial sites into productive and marketable properties. Ms. DeRosa has represented contractors and construction companies in evaluating and effectively addressing environmental issues for residential, commercial and industrial developments. In addition, Ms. DeRosa has experience with the Connecticut Department of Environmental Protection and Planning and Zoning Board.

**Partner**  
Real Estate  
(860) 509-6539  
fedrosa@brbilaw.com

**Practice Focus**  
Environmental  
Energy & Utilities  
Zoning & Land Use

**Education**  
American University – J.D.,  
1990  
- Editor, American University  
Journal of International Law  
and Policy  
Trinity College – B.A., 1985

### Bar Admissions & Memberships

- Admitted, Connecticut Bar
- Member, Connecticut Bar Association
  - Member of Executive Committee of Environmental Law Section
  - Chair of Environmental Law Section 1999-2000
- Member, American Bar Association
- Board of Directors, Connecticut Housing Investment Fund
- Treasurer, Connecticut Chapter of the Society of Women Environmental Professionals
- Member, State of Connecticut Natural Heritage
- Open Space and Watershed Land Committee

### Awards and Honors

- Listed in the 2002-2003 edition of Woodward/White Inc.'s *The Best Lawyers in America* for Environmental Law.

000077



## David E. Golden

Mr. Golden is engaged in a general corporate practice and concentrates in the areas of mergers and acquisitions, venture capital investments and corporate trust and finance. He represents a broad base of diverse clients in connection with private equity transactions, subordinated debt offerings and corporate governance work. Mr. Golden advises United States and European venture funds and start-up companies with respect to various strategic investments.

**Partner**  
**Business**  
 (860) 509-6579  
 dgolden@brbilaw.com

**Practice Focus**  
 Corporate (General)  
 Mergers and Acquisitions  
 Venture Capital

**Education**  
 New York University School  
 of Law – J.D., 1994  
 Brandeis University – B.A.,  
*magna cum laude*, 1991

Mr. Golden also represents the corporate trust department of several large banks in their capacity as trustee, exchange agent, registrar, paying agent and escrow agent in connection with a wide variety of corporate debt and equity issuances, including both public issuances and private placements.

### Representative Matters

- Transaction Counsel to JPMorgan, the financial advisor, auction advisor and asset sale manager for an \$836.6 million sale of a controlling interest in the Seabrook Nuclear Generating Station.
- Representation of a start-up company in its initial organization, venture capital and equity investment financing negotiations and general corporate governance matters.
- Counsel to a manufacturing company in connection with its acquisition of a metal fabrication company and related financing, debt and equity transactions.
- Representation of an SBIC New England Venture Fund in more than 15 private equity and subordinated debt investments.

### Bar Admissions & Memberships

- Admitted, Connecticut Bar
- Member, Connecticut Bar Association

000078



## Michael E. Kozlik

Mr. Kozlik focuses his practice on energy, public utility, and environmental law. He has been involved in the representation of electric utilities, natural gas companies, and power plant developers in regulatory and commercial matters.

Prior to joining Brown Rudnick, Mr. Kozlik worked for more than 7 years in the independent power industry developing and constructing privately-owned power plants, and was a member of project teams that successfully developed and financed a 56 megawatt combined-cycle project in Senegal, Africa, and a \$600 million liquefied natural gas import terminal and 500 megawatt combined-cycle power project in Puerto Rico.

Associate  
Real Estate  
(860) 509-6570  
mkozlik@brbilaw.com

**Practice Focus**  
Environmental  
Energy & Utilities

**Education**  
University of Connecticut – J.D.,  
2000  
University of Notre Dame –  
B.S., 1990

### Recent Matters

- Assisted in the representation of an interstate gas pipeline company in state siting and permitting proceedings regarding a proposed natural gas pipeline crossing the Long Island Sound.
- Assisted in the representation of state-regulated natural gas utility companies in various proceedings before state regulatory agency.
- Assisted in the representation of state solid waste authority before state environmental agency in obtaining solid waste and wastewater permits for a lined ash residue disposal facility.
- Assisted in the negotiation of interconnection agreements for independent power producers and for electric utilities.

### Bar Admissions & Memberships

- Admitted, Connecticut Bar
- Admitted, United States District Court; District of Connecticut
- Member, Connecticut Bar Association
- Licensed Professional Engineer, Connecticut

000079



## Thomas D. Ritter

Mr. Ritter's practice interacts daily with local, state and federal governments. The practice includes major utilities, real estate developers, banking institutions, cable companies, soft drink and beer companies, numerous vendors, Native American Tribes, auto manufacturers and higher education institutions. A former Speaker of the House in Connecticut, Mr. Ritter is a past President of the National Speaker's Association and has been voted a life-long executive committee member of that body.

### Recent Matters

- Representation of a major utility currently selling two power plants in Connecticut.
- Representation of a major bank with its merger application before the Banking Commission.
- Representation of numerous developers before the Hartford City Council.
- Representation of a recently federally recognized Indian Tribe leading their negotiating team in discussions on their compact with the State.

### Community Development and Honors

- Appointed by Governor Rowland to Chair the Board of Trustees overseeing the Hartford School System, taken over by the State.
- Distinguished alumni award from the University of Connecticut School of Law.
- Honorary Doctor of Law from the University of Connecticut.
- Member, UConn Foundation Board
- Chair of Board, American Leadership Forum

### Bar Admissions and Memberships

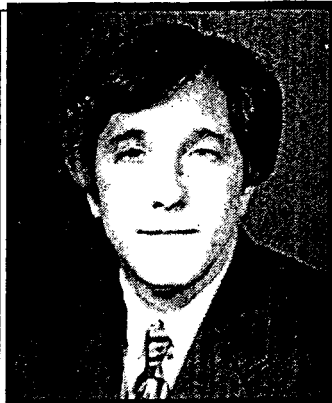
- Admitted, Connecticut Bar

**Partner**  
Government Law & Strategies,  
Chairman  
(860) 509-6571  
tritter@brbilaw.com

**Practice Focus**  
Government Law & Strategies  
Real Estate (General)

**Education**  
University of Connecticut –  
J.D., 1977  
University of Connecticut –  
Honorary Doctor of Law, 2001  
Amherst College – B.A., 1974

000080



## Philip M. Small

Mr. Small has over 20 years of experience in energy and public utility law. His experience includes siting of energy and telecommunications facilities, acquisitions and sales of generating facilities, interconnection equipment sales, operation and maintenance agreements, wholesale and retail energy purchase and sales agreements, major commercial energy transactions, administrative and appellate litigation, utility ratemaking, and electric industry restructuring. Mr. Small also has extensive experience in environmental law including air, hazardous waste, water, litigation and litigation management, enforcement, permitting, siting, and environmental management systems.

**Partner**  
Real Estate  
(860) 509-6575  
psmall@brbilaw.com

**Practice Focus**  
Energy & Utilities  
Environmental & Land Use

**Education**  
George Washington University –  
J.D., Highest Honors, 1978  
- Order of the Coif  
George Washington University –  
M.A., 1979  
University of Pennsylvania –  
B.A., *summa cum laude*, phi  
beta kappa, 1975

Mr. Small represents regulated and unregulated electric utility subsidiaries, project developers, powerplant owners, exempt wholesale generators, natural gas pipelines, equipment manufacturers and vendors, and utility customers in a wide variety of energy regulatory, administrative litigation and commercial matters and in environmental counseling and enforcement matters.

Prior to joining Brown Rudnick, Mr. Small was Assistant General Counsel for Northeast Utilities, the largest utility in New England. He served for two years as its Chief Marketing Counsel and was the primary attorney responsible for all aspects of environmental law and for significant public utility regulatory matters. He represented regulated and unregulated subsidiaries of NU before state regulatory commissions in Connecticut and Massachusetts, and before the Federal Energy Regulatory Commission, in appellate litigation and in commercial transactions on a wide variety of energy and public utility issues. Just prior to joining Brown Rudnick, he served as lead counsel for a successful \$865.5 million, 1,300 megawatts, acquisition of electric generation facilities by an unregulated NU subsidiary. Mr. Small also has extensive experience managing and supervising teams of lawyers providing utility regulatory, environmental, marketing, labor and employment and nuclear legal services.

000081



	<p><b>Recent Matters</b></p> <ul style="list-style-type: none"> <li>• Representation of an interstate gas pipeline company proposing a natural gas pipeline crossing Long Island Sound in state siting and permitting proceedings.</li> <li>• Representation of a party in the state siting proceedings for a proposed merchant electric transmission cable crossing Long Island Sound;</li> <li>• Negotiation of electrical interconnection agreements for independent power producers and for electric utilities.</li> <li>• Representation of an electric utility in renegotiation, regulatory approvals and closing of approximately \$1 billion of buyouts, buydowns and restructurings of over-market qualifying facility contracts.</li> <li>• National energy counsel for a distributed generation equipment manufacturer.</li> </ul>
	<p><b>Bar Admissions &amp; Memberships</b></p> <ul style="list-style-type: none"> <li>• Admitted, Connecticut and District of Columbia Bar</li> <li>• Member, Connecticut Bar Association (Sections of Environmental and Public Utility); American Bar Association (Sections of Administrative Law; Antitrust; Environmental, Energy and Resources; and Public Utility, Communications and Transportation Law); Energy Bar Association</li> </ul>
	<p><b>Community Involvement</b></p> <ul style="list-style-type: none"> <li>• For 10 years, Mr. Small was Chairman of the Bloomfield, Connecticut Inland, Wetlands and Watercourses Commission.</li> <li>• Member, Bloomfield, Connecticut Town Plan and Zoning Commission, and Plan of Development Commission</li> </ul>
	<p><b>Awards and Honors</b></p> <ul style="list-style-type: none"> <li>• Listed in the 2002-2003 edition of Woodward/White Inc.'s <i>The Best Lawyers in America</i> for Environmental Law.</li> </ul>



## John W. Wadsworth

Mr. Wadsworth represents energy companies in connection with acquisitions, permitting, regulatory approvals, and development work, and represents developers and financiers of large projects in connection with permitting, regulatory and environmental risk allocation issues.

Mr. Wadsworth has developed very strong relationships with various environmental agencies and serves on the Solid Waste Advisory Board aiding the Massachusetts Department of Environmental Protection in drafting regulations, and has been asked to advise DEP on the effectiveness of various programs. He has also lectured on compliance with procurement laws in developing environmental facilities in a series of seminars sponsored by DEP.

Partner  
Real Estate  
(617) 856-8596  
jwadsworth@brbilaw.com

**Practice Focus**  
Energy  
Environmental  
Zoning and Land Use

**Education**  
Yale University – J.D., 1987  
Yale Divinity School – M.Div., 1978  
State University of New York, Buffalo – B.A., 1975

### Recent Matters

- Representation of auctioneer and sales advisor of the Seabrook Nuclear Power Station, and coordination of the regulatory approval process.
- Representation of a waste-to-energy company in connection with environmental, zoning and land use permitting, and contracting, and financing matters relating to a 1650 ton per day facility, secured by \$150 million in tax exempt bonds; negotiation of a buyout of the facility power contract; and assistance in finding alternative means of supplying power to former customers of a separate retired waste-to-energy power plant.
- Representation of a major Boston teaching hospital in connection with development of a new research facility, the expansion of an existing clinical building, and the acquisition of a facility from another teaching hospital. Issues involved in the transaction include permitting matters and unique issues involving provision of energy from a private energy company.
- Representation of a large university in development of a dormitory project and acquisition of a 1,400,000 square foot office/research and development complex for in excess of \$275 million, including obtaining waterway and tidelands licenses under Chapter 91 and advising on hazardous waste cleanup, permitting, zoning and insurance issues.

Wadsworth/2

- Representation of a large utility in connection with real estate development projects, development of its corporate headquarters,

	and disposition of various parcels after maximizing the value of those parcels by undertaking zoning, permitting, Chapter 91 licensing, and other predevelopment work.
	<b>Publications</b> <ul style="list-style-type: none"> <li>• <i>International Franchise Law; Franchising in the United States</i>, (Matthew Bender)</li> </ul>
	<b>Bar Admissions &amp; Memberships</b> <ul style="list-style-type: none"> <li>• Admitted, Massachusetts Bar</li> <li>• Member, Massachusetts and Energy Bar Associations</li> </ul>

#40169636 v11 - coreypj - wz3801!.doc - 2/2280

000084

April 28, 2003

Public Utility Commission of Texas  
Attention: Ms. Susan Durso  
William B. Travis Building  
Central Records, Project No. 27275 (Room G-113)  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78711-3326

**Subject: Additional Supplemental Information for Financial and Legal Advisor  
for Divestiture of Generating Assets (Reference: Project Number  
27275)**

Dear Ms Durso:

Pursuant to our recent conversations with Martha Hinkle, please accept this supplemental information from Navigant Consulting, Inc ("Navigant"). This information is being provided in response to a request posed by Ms. Hinkle during a recent conversation and is intended to answer three questions posed:

1. The specific nuclear asset transactions that Navigant has been involved with;
2. The specific transactions that each proposed team member has been involved with; and
3. The areas that on which each proposed team member has testified.

Each of these areas is discussed in detail below.

**Nuclear Transactions**

Navigant has been involved in the majority of nuclear transactions conducted to-date in North America. The specific transactions, as well as our role, are as follows:

Nuclear Transaction	Client(s)	Navigant Role
1. Pilgrim Nuclear Station	➤ Boston Edison Co.	Managed Sale
2. Oyster Creek	➤ GPU	Managed Sale
3. Peach Bottom	➤ Conectiv	Managed Sale

000085

4. Salem Station	➤ Conectiv	Managed Sale
5. Hope Creek	➤ Conectiv	Managed Sale
6. Seabrook Station (1)	➤ Eastern Utilities Assoc.	Managed Sale
7. Nine Mile Pt. 2	➤ Co-Owners	Managed Sale
8. Indian Point	➤ Confidential	Advised Bidder/Buyer
9. Millstone Pts. 1, 2, 3	➤ Confidential	Advised Bidder/Buyer
10. Vermont Yankee	➤ Confidential	Advised Bidder/Buyer
11. Seabrook Station	➤ Confidential	Advised Bidder/Buyer
12. Bruce	➤ Confidential	Advised Bidder/Buyer
13. Miscellaneous Others	➤ Confidential	Advised Potential Bidder/Buyer

(1) Sale of EUA's portion of the Seabrook Station preceded the eventual majority sale of the plant; hence there were several different transactions regarding the Seabrook Station.

In addition to these transactions, Navigant has advised numerous other nuclear facilities and their owners in all facets of their businesses including, but not limited to:

- Determining which options are best to pursue from a business structure perspective
- Decommissioning strategies
- Valuation of acquisition targets
- Management audits
- Competitive market analyses
- Business ownership alternatives
- Portfolio management
- Operational reviews
- Staff augmentation

#### **Team Member Transactions**

The proposed team has a significant amount of experience in managing generation divestiture programs as well as representing bidders and buyers in these programs. A summary of each team member's experience is as follows:

<b>Team Member</b>	<b>Transactions</b>
John Dingle	<ul style="list-style-type: none"> <li>➤ Nine Mile Point 2</li> <li>➤ Boston Edison</li> <li>➤ Eastern Utilities Associates – Assets</li> <li>➤ Eastern Utilities Associates – PPAs</li> <li>➤ Pepco – Generation Business</li> <li>➤ Pepco – Conemaugh Joint Ownership</li> <li>➤ Xcel Energy (postponed)</li> <li>➤ Central Hudson</li> <li>➤ Yallourn Generation Business</li> <li>➤ Hazelwood Generation Business</li> <li>➤ Loy Yang</li> <li>➤ New England Electric System</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Niagara Mohawk</li> <li>➤ United Illuminating</li> <li>➤ Central Maine Power</li> <li>➤ New York State Electric &amp; Gas</li> <li>➤ Consolidated Edison</li> <li>➤ Miscellaneous Others</li> </ul>
Dan Hudson	<ul style="list-style-type: none"> <li>➤ Central Hudson</li> <li>➤ Con Edison – Assets</li> <li>➤ Con Edison - PPAs</li> <li>➤ Connecticut Light &amp; Power – Assets</li> <li>➤ Connecticut Light &amp; Power – PPAs</li> <li>➤ Duke Energy North America (Nine separate transactions)</li> <li>➤ Eastern Utilities Associates – Assets</li> <li>➤ Eastern Utilities Associates – PPAs</li> <li>➤ GPU – Fossil Plants</li> <li>➤ GPU – Homer City</li> <li>➤ Nevada Power</li> <li>➤ Niagara Mohawk - Assets</li> <li>➤ Niagara Mohawk - PPAs</li> <li>➤ Pacific Gas &amp; Electric</li> <li>➤ Southern California Edison</li> <li>➤ United Illuminating</li> <li>➤ Western Massachusetts</li> </ul>
Ross Sollosy	<ul style="list-style-type: none"> <li>➤ Nine Mile Point</li> <li>➤ Vermont Yankee</li> <li>➤ Seabrook Station</li> <li>➤ Bruce</li> <li>➤ Millstone Points 1, 2, 3</li> <li>➤ Indian Point</li> <li>➤ Miscellaneous Others</li> </ul>
Sue Hersey	<ul style="list-style-type: none"> <li>➤ Bangor Hydro – Hydro &amp; Transmission</li> <li>➤ Bangor Hydro – PPAs</li> <li>➤ Central Hudson</li> <li>➤ CH Resources</li> <li>➤ New England Electric System – Supply &amp; Load</li> <li>➤ Miscellaneous Others</li> </ul>
Michael Ballaban	<ul style="list-style-type: none"> <li>➤ Central Hudson</li> <li>➤ Pepco – Generation Business</li> <li>➤ Pepco – Conemaugh Joint Ownership</li> <li>➤ Bangor Hydro – Hydro &amp; Transmission</li> <li>➤ New England Electric System – Supply &amp; Load</li> <li>➤ Miscellaneous Others</li> </ul>
Andrew Greene	<ul style="list-style-type: none"> <li>➤ Pepco – Generation Business</li> <li>➤ Pepco – Conemaugh Joint Ownership</li> <li>➤ Conectiv – Fossil plants</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Conectiv – Nuclear plants</li> <li>➤ Central Hudson</li> <li>➤ Nevada Power/Sierra Pacific</li> <li>➤ City of Denton</li> <li>➤ Xcel Energy (postponed)</li> <li>➤ GPU – Fossil plants</li> <li>➤ GPU – Homer City</li> <li>➤ Miscellaneous Others</li> </ul>
Sandi Hennequin	<ul style="list-style-type: none"> <li>➤ Boston Edison</li> <li>➤ Eastern Utilities Associates</li> <li>➤ GPU – Fossil Plants</li> <li>➤ GPU – Homer City</li> <li>➤ Nevada Power/Sierra Pacific</li> <li>➤ City of Denton</li> <li>➤ Pepco – Generation Business</li> <li>➤ Pepco – Conemaugh Joint Ownership</li> <li>➤ Xcel Energy (postponed)</li> <li>➤ Nine Mile Point 2</li> <li>➤ Miscellaneous Others</li> </ul>
Mathew Campbell	<ul style="list-style-type: none"> <li>➤ Eastern Utilities Associates</li> <li>➤ GPU – Fossil Plants</li> <li>➤ GPU – Homer City</li> <li>➤ Pepco – Generation Business</li> <li>➤ Pepco – Conemaugh Joint Ownership</li> <li>➤ Central Hudson</li> <li>➤ Sithe Energies</li> <li>➤ Miscellaneous Others</li> </ul>

It should be noted that two original proposed team members are no longer with the firm: (1) Danielle Powers; and (2) Perrin McCormack. Navigant is proposing to add Ross Sollosy, Managing Director, to our team in substitution for these team members.

In addition, and as we discussed with Ms. Hinkle during our teleconference call, these team members are just a sub-set of our divestiture team. Our transaction experience spans numerous other individuals that could be added to this team if the Commission deems more resources are necessary.

#### **Team Member Areas of Testimony**

We have proposed several team members for this divestiture that also have experience providing expert witness testimony. In addition to our original information, other team members have provided testimony and, therefore, those areas are also listed here in the interest of completeness.

Team Member	Areas of Testimony
1. John Dingle	<ul style="list-style-type: none"> <li>➤ Generation Divestiture Process</li> <li>➤ Generation Divestiture Results</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Avoided Cost Methodologies</li> <li>➤ Resource Planning</li> </ul>
2. Dan Hudson	<ul style="list-style-type: none"> <li>➤ Transition Power Purchase Agreements</li> <li>➤ Rate Design</li> </ul>
3. Sue Hersey	<ul style="list-style-type: none"> <li>➤ Cost of Service</li> <li>➤ Rate Design</li> <li>➤ Integrated Resource Planning</li> </ul>
4. Gary Torrent	<ul style="list-style-type: none"> <li>➤ Certificates of Convenience &amp; Necessity</li> <li>➤ Load Forecasting</li> <li>➤ Electric Restructuring</li> </ul>
5. Andrew Greene	<ul style="list-style-type: none"> <li>➤ Environmental Factors on Fair Market Value of Generation Facilities</li> <li>➤ Global Climate Change</li> <li>➤ Impact of CAAA on Ratemaking and IRP Implications</li> <li>➤ Vehicular Natural Gas Rates</li> <li>➤ Water Pollution Prevention &amp; Control Act of 1993</li> <li>➤ Making Environmental Protection Work in a More Competitive Environment (several state electric industry restructuring proceedings)</li> <li>➤ Environmental and Consumer Protection Issues in Electric Restructuring</li> </ul>

It should also be noted that Navigant has an entire Regulatory and Litigation practice comprising of entire teams that have provided expert witness testimony in numerous other areas.

I trust that this information is sufficient in answering the outstanding questions posed by Ms. Hinkle during our recent teleconference call. If it is not, please feel free to contact John Dingle (617-699-0684) or myself (713-646-5019) at your convenience. We look forward to hearing further from you on this matter.

Sincerely,



Daniel Hudson  
Managing Director

CC: Martha Hinkle, Texas PUC  
John Dingle

000089



# CP&L Generation Asset Divestiture Discussion Document

Texas PUC  
May 2003

000000

<sup>1</sup> NAVIGANT  
CONSULTING

CONFIDENTIAL  
Navigant Consulting Inc. 2003 All Rights Reserved

BIR BROWN  
BIT RUDNICK  
BERLACK  
ISRAELS

## Discussion Outline

Qualifications of Navigant Consulting (NCI) and Brown Rudnick Berlack  
Israels LLP (BRBI)

CP&L Divestiture Process & Approach

Salient Issues in a Nuclear Divestiture & Comparable Transactions

000091

<sup>2</sup> NAVIGANT  
CONSULTING

CONFIDENTIAL  
Navigant Consulting Inc. 2003 All Rights Reserved

BRBI BROWN  
RUDNICK  
BERLACK  
ISRAELS LLP

Introduction to NCI

Annual Revenue: \$235 million

NAVIGANT Consulting, Inc – NYSE: NCI

## Energy & Water Practice

### Financial & Claims Practice

Consultants: 200+

Annual Revenue: \$87 million

Consultants: 800+

Annual Revenue: \$148 million

<b>Energy Market Assessment</b> Price forecasts; Market forecasts; Market power studies	<b>Financial Advisory Services</b> Strategy; Transactions; Valuation; Portfolio optimization
<b>Energy Delivery</b> Reliability optimization	<b>Electric Generation &amp; Transmission</b> Transmission load flow analysis; Engineering opinions
<b>Customer Strategies</b> Outsourcing strategies; Retail business transformation	<b>Regulation &amp; Litigation Support</b> Cost of service; FERC and PUC expert witness services
<b>Technology and Innovation Management</b> Commercialization strategies for new energy technologies	<b>Advanced Energy Systems</b> Technology assessment; Renewable/distributed generation services
<b>Water</b> Valuation; Planning; Contract negotiation	

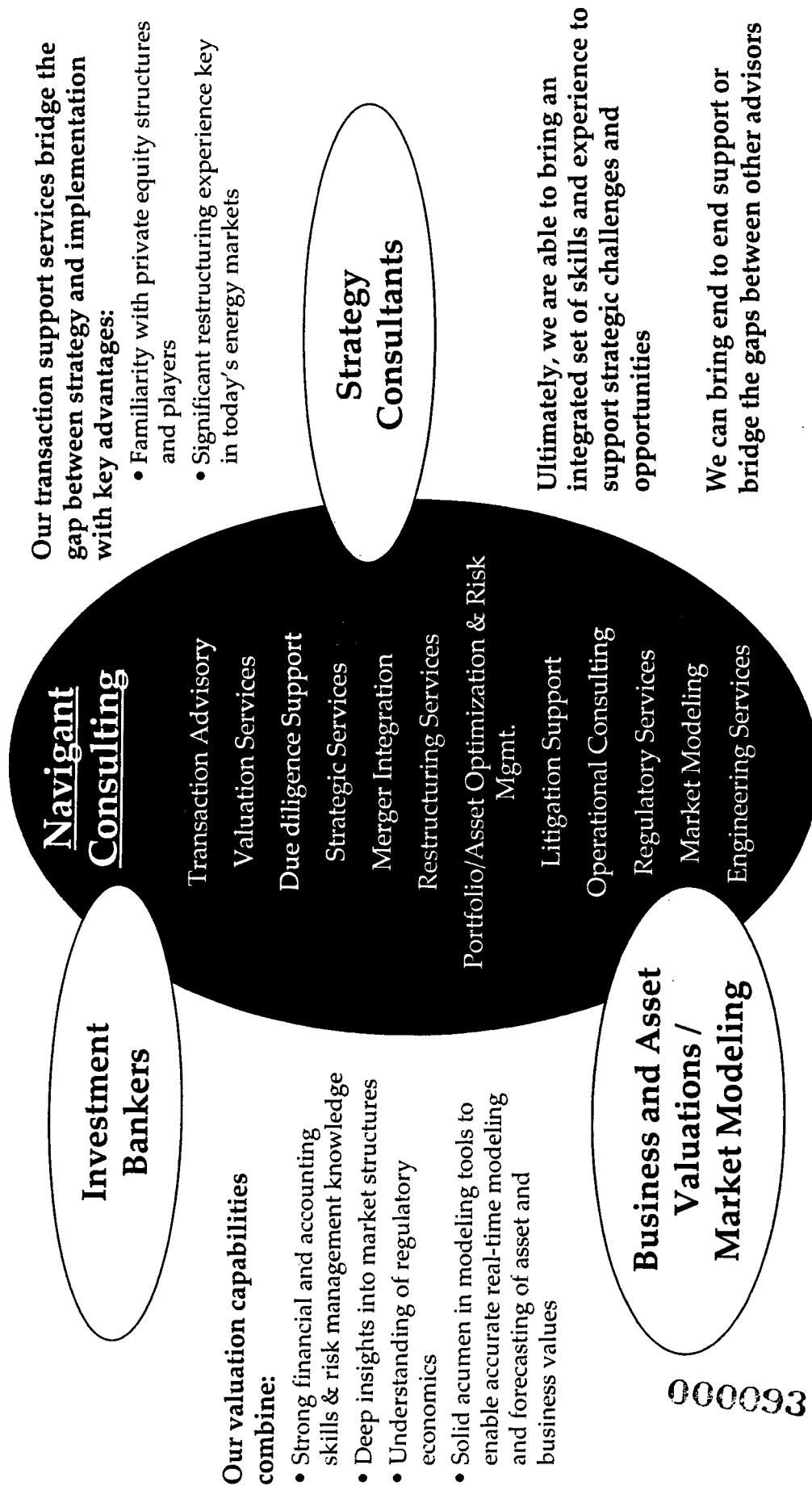
BR  
B1  
BROWN  
RUZNICK  
BERLACK  
ISRAELS

CONFIDENTIAL  
Navigant Consulting Inc. 2003 All Rights Reserved

NAVIGANT  
CONSULTING

0000022

Navigant Consulting offers clients a unique set of integrated services that are delivered by our staff of industry and financial experts.



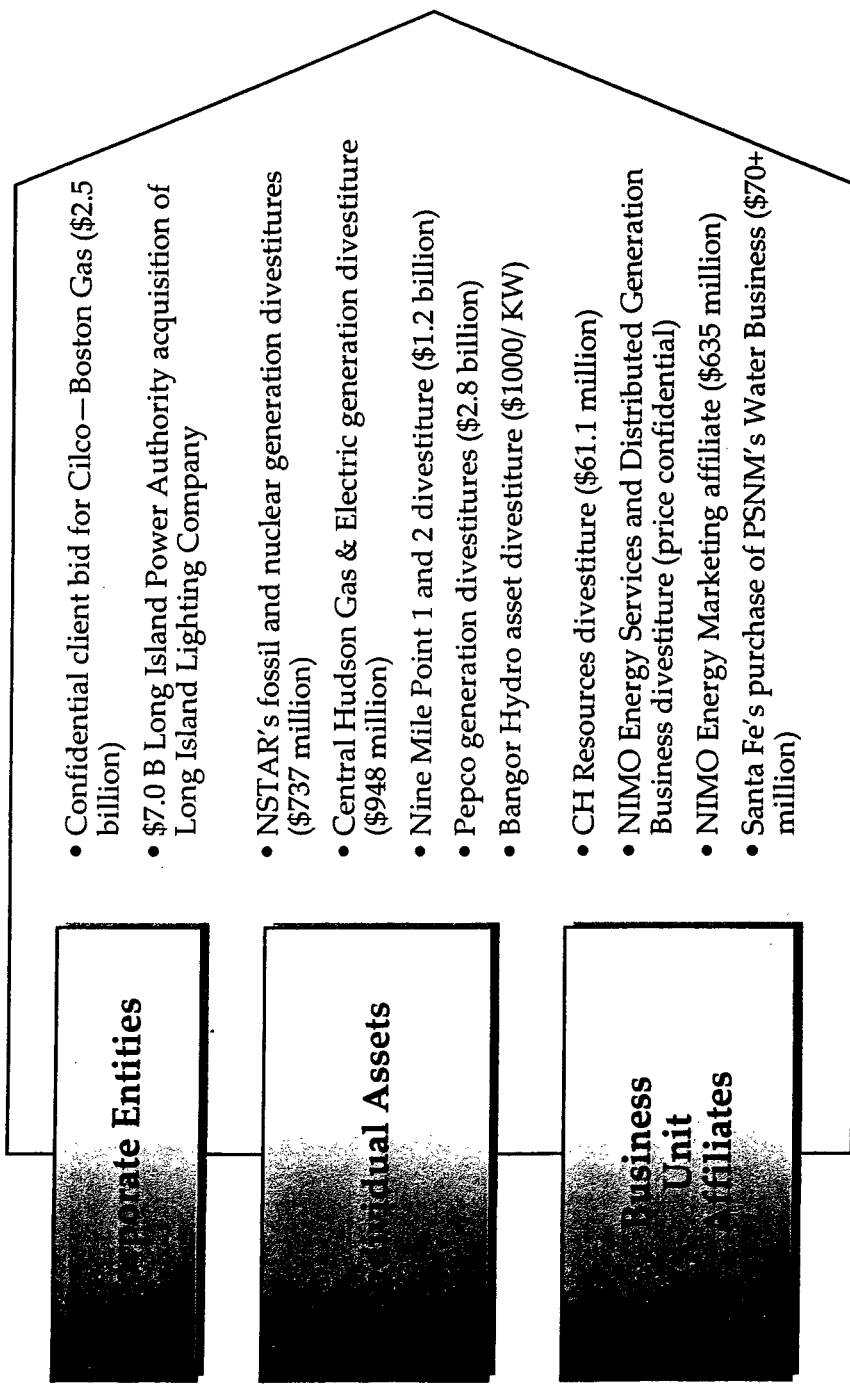
NAVIGANT  
CONSULTING

BIR BROWN  
BIT RUDNICK  
BERLACK  
ISRAELS

CONFIDENTIAL  
Navigant Consulting Inc. 2003 All Rights Reserved

NCI has transaction experience at a variety of levels

# Overview of Various Transaction Types



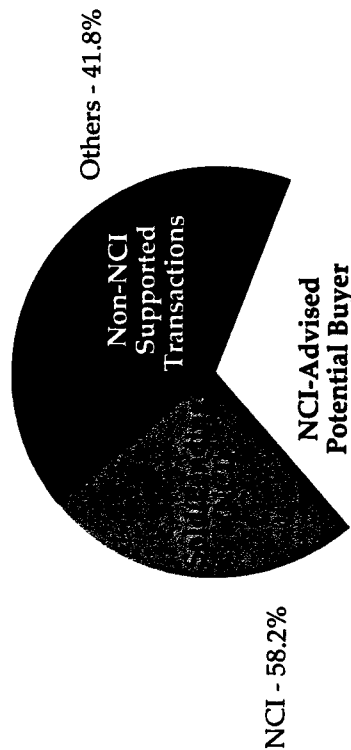
In depth valuation, accounting, regulatory and overall due diligence experience across all energy sectors:

- Fuel supply and transportation
- Generation and distributed generation
- Marketing and trading
- Distribution, pipelines and transmission
- Emerging and renewable technology
- Telecommunications
- Water

NCI's market leadership in regulated generation asset divestitures demonstrates an ability to leverage our expertise to the advantage of our clients

## NCI Market Leadership

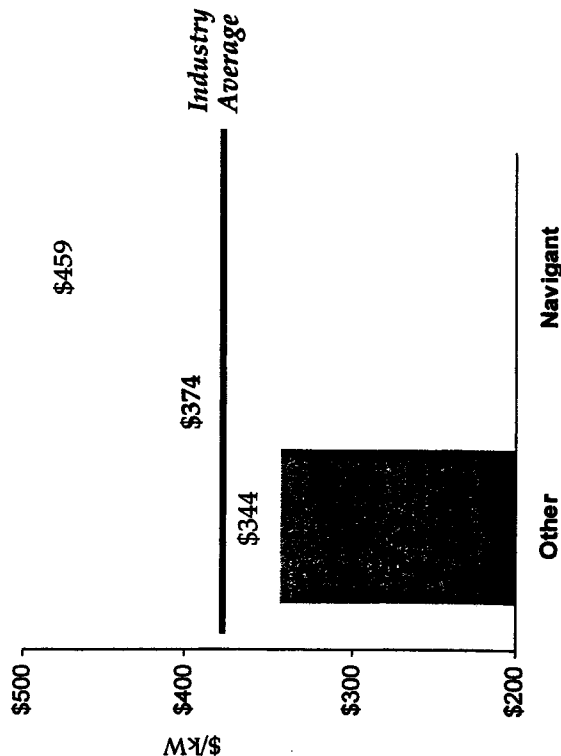
Total 101,787 MW  
(Fossil and Nuclear)



NCI has supported the majority of transactions conducted to-date in this arena

## Value-Added Results

Total Generation Asset Sales



# Example of NCI's role as a divestiture advisor

Introduction to NCI

	Pepco	Conectiv Fossil	Conectiv Nuclear	Nine Mile Point	Central Hudson	Nevada Power/ Sierra Pacific	NStar
Offering Memorandum				 JP Morgan		 CSFB	
Marketing and Bidding	 Merrill Lynch	 Credit Suisse First Boston (CSFB)	 CSFB			 CSFB	
Terms of Sale						 CSFB	
Site Tours/Q&A							
Bid Evaluation/ Final Negotiations	 Merrill Lynch	 CSFB	 CSFB	 JP Morgan		 CSFB	
Regulatory/ Prudence Support							











































**NAVIGANT**  
CONSULTING

CONFIDENTIAL  
Navigant Consulting Inc. 2003 All Rights Reserved

**BIR** BROWN  
**BI** RUDNICK  
BERLACK  
ISRAELS

0000096

# Example of NCI's role as a divestiture advisor (cont'd.)

	Boston Edison	BECo Pilgrim	GPU	GPU/Homer City	Oyster Creek	Bangor Hydro	Pepco (Entitlement)
Offering Memorandum			 Goldman Sachs				
Marketing and Bidding			 Goldman Sachs				
Terms of Sale			 Goldman Sachs				
Site Tours/Q&A			 Goldman Sachs				
Bid Evaluation/ Final Negotiations			 Goldman Sachs				
Regulatory/ Prudence Support			 Goldman Sachs				

**BR**  
**BT**  
BROWN  
RUDNICK  
BERLACK  
ISRAELS <sup>LLP</sup>





































8 **NAVIGANT**  
CONSULTING

CONFIDENTIAL  
Navigant Consulting Inc. 2003 All Rights Reserved



































0000097



# Example of NCI's role as a divestiture advisor (cont'd.)

	EUA	Bangor Hydro PPAs	EUA PPAs	TXU	Sithe PJM	Denton	EMI
Offering Memorandum				Merrill Lynch	Goldman Sachs		 Fieldstone Capital
Marketing and Bidding							
Terms of Sale				 Merrill Lynch	Goldman Sachs		Fieldstone Capital
Site Tours/Q&A							
Bid Evaluation/ Final Negotiations				TBD	Goldman Sachs		
Regulatory/ Prudence Support							

## Example of NCI's role as a divestiture advisor (cont'd.)

	Sithe Independence	BEC Energy/ ComEnergy	XcelEnergy	National Grid	CH Resources	NM Energy Marketing
Offering Memorandum	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	Lehman Brothers	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM
Marketing and Bidding	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM Lehman Brothers	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM
Terms of Sale	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM Lehman Brothers	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM
Site Tours/Q&A	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM
Bid Evaluation/ Final Negotiations	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	N/A	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM
Regulatory/ Prudence Support	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM	 NAVIGANT A POWER RANKING FIRM

**BIR** **BROWN**  
**BI** **RUDNICK**  
**BERLACK**  
**ISRAELS**

CONFIDENTIAL

Navigant Consulting Inc. 2003 All Rights Reserved

**NAVIGANT**  
CONSULTING

000099<sup>10</sup>