

(Clean Version)

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(As Revised, March 11, 2008)

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**STATE OF NEW HAMPSHIRE
BEFORE THE ENERGY FACILITY SITE EVALUATION COMMITTEE**

**Energy Facility Site Evaluation
Committee (“Committee” and/or “EFSEC”)**

Docket No. SEC 2008-01

**Joint Application of Newington Energy, LLC (“NEL”) and
North American Energy Alliance, LLC (“NAEA”) for approval of transfer
of membership interests in NEL**

(As Revised, March 11, 2008)

I. Introduction and Background

The Project

NEL operates a nominal 525 megawatt (MW) combined-cycle, dual fuel merchant electric generation facility situated near the Piscataqua River in Newington, New Hampshire, pursuant to a Certificate of Site and Facility issued in Docket No. 98-01 effective May 25, 1999 (“Certificate”). The facility consists of two GE 7FA combustion turbines, two heat recovery steam generators with supplemental firing, and one steam turbine in combined-cycle configuration. The facility has low NOx burners and selective catalytic reduction for emissions control. The primary fuel is natural gas and the secondary fuel is ultra-low sulfur diesel.

In addition to the site proper, the facility includes a water supply pipeline and intake structure in the Piscataqua River, and an electric transmission line interconnecting the facility to the substation at the Public Service of New Hampshire (“PSNH”) Newington Power Station. A natural gas pipeline runs from the Portland Natural Gas Transmission System and Maritimes Northeast (joint facilities) interconnection point to the site to transport the primary fuel. An oil transfer pipeline, which is owned by Sprague Energy, transmits the alternate diesel oil fuel to the

site. One above ground diesel fuel storage tank (“AST”), with one million gallons of storage capacity, is also located on site. The NEL facility is hereinafter referred to as “the Project.”

The Current Operator

NEL currently operates the Project. NEL is a wholly-owned subsidiary of CED/SCS Newington, LLC, a Delaware limited liability company (“CED/SCS”). Consolidated Edison Development, Inc. (“CED”) has an approximate 99.5% capital interest in CED/SCS. It also has a 95% profit interest in CED/SCS, subject to certain adjustments. The remaining approximate 0.5% capital interest, and 5% profit interest, is owned by SCS Energy, LLC. CED is a 100% owned subsidiary of Consolidated Edison, Inc. (“Con Ed”).¹

The Transaction

On December 10, 2007, Con Ed announced that CED and CED/SCS had entered into purchase and sale agreements to sell their ownership interests in certain entities owning power generating properties, amounting to approximately 1,706 megawatts, to NAEA (the “Transaction”). As part of the Transaction, NAEA would purchase 100% of the ownership interests in these entities, including NEL. The sale is subject to federal and state regulatory approvals, including the EFSEC approval, and other terms and conditions. The Project is part of a total of 29 individual generator units subject to the sale. The other generator units are located on 11 different sites in Massachusetts, New Jersey, and Maryland. The Project, along with 8 other generating sites (in MA) in the sale portfolio, is located in the New England Power Pool (“NEPOOL”).

¹ Effective February 4, 2008, CED owns 100% of CED/SCS having acquired SCS Energy, LLC's membership interest therein.

The Buyer

NAEA, the Buyer, is a newly formed Delaware limited liability company and a wholly-owned subsidiary of North American Energy Alliance Holdings, LLC (“NAEAH”). NAEA is a newly formed Delaware limited liability company. Industry Funds Management (Nominees) Limited (“IFM”) as trustee for IFM (International Infrastructure) Wholesale Trust (“IFM Trust”), holds a 100% member interest in NAEA. Upon completion of the Proposed Transaction, Codan Trust Company (Cayman) Limited as trustee of IFM Global Infrastructure (Cayman) Fund (“Cayman Fund”) (IFM owns the units in the Cayman Fund) will hold more than 99% of NAEA and IFM Trust will hold less than 1%. Subsequently, IFM Trust will transfer its less than 1% interest in NAEA to Cayman Fund. Exhibit A contains additional information on IFM. Exhibit B contains the NAEA group ownership structure upon consummation of the acquisition of NEL and other assets from Consolidated Edison.

IFM is an Australian investment company ultimately owned by forty major Australian not-for-profit pension funds. As discussed in the attached informational material, IFM is an experienced investor in assets in the energy and infrastructure sectors. In addition to the generation projects being acquired in the Transaction, IFM has invested in other US projects, as follows:

- Colonial Pipeline, a major long-distance pipeline carrying refined petroleum products from refining infrastructure in the Texas and Louisiana Gulf Coast region to major consumer markets in the south east USA and along the Atlantic eastern seaboard as far north as New York; and
- Duquesne Light Holdings, an electricity transmission and distribution business in Pittsburgh, PA.

In addition, as described in Exhibit A, and as further described in the February 29, 2008 Data Request Responses (Response Number 7), IFM also has experience managing power generation assets similar to the Newington Project.

For example, Ecogen Energy Pty Ltd (“EE”) operates two gas-fired power plants in Victoria, Australia. IFM acquired a 28% interest in EE in February 2003. The EE assets consist of the Newport Power Station (“NPS”), located 6 km south-west of Melbourne, Australia and the Jeeralang Power Station (“JLS”), located 6 km south of Morwell in the Latrobe Valley, Victoria, Australia. NPS is a 500MW intermediate thermal plant commissioned in 1980. Jeeralang is a 480MW peaking Open Cycle Gas turbine commissioned in 1979.

In April 2006, IFM acquired a 34% stake in Zespól Elektrociepłowni w Łódzki S.A. (“Dalkia Łódź”) from a subsidiary of Dalkia S.A. (“Dalkia”), the French energy management and conversion group. Dalkia Łódź’s core business is the generation and distribution of heat in the form of hot water and steam, as well as the generation of electricity. With an installed thermal capacity of 2,560 MW and electrical capacity of 487 MW, Dalkia Łódź is the second largest combined heat and power complex in Poland. The Company is a single-division enterprise operating three combined heat and power plants producing heat and electricity on a cogeneration basis. It also operates a District Heating System distributing heat throughout the City of Łódź which is 130 Km from Warsaw.

IFM is also the 100% owner of Pacific Hydro Limited (“Pacific Hydro”), an Australian renewable energy company. Pacific Hydro has over 1800 MW of hydroelectric and wind farm projects at varying stages of development, construction and generation across Australia, Asia-Pacific and Latin America. Being a business of comparable size and complexity to CED and

NEL, IFM intends to use a similar management and operational model for NAEA that has been very successful for Pacific Hydro. A general description of that model is provided below:

Governance

Given that IFM manages pension funds on behalf of millions of Australians, it treats governance matters in relation to its investments with the highest priority. IFM takes an active role in managing its investments and appoints representatives to its investment company Boards. In these circumstances, IFM insists that the governance standards that are adopted are of the highest order. This philosophy will be applied to NAEA.

IFM is also regulated by the Australian government's prudential regulatory body, the Australian Prudential and Regulatory Authority ("APRA") and Australia's equivalent to the Securities and Exchange, the Australian Securities and Investments Commission ("ASIC"). In order to comply with the relevant regulatory standards imposed by APRA and ASIC, IFM must meet very high standards of governance, accounting and general management in relation to its investments.

Board Structure

The model that IFM uses in several of its investments, including Pacific Hydro, is to appoint independent directors (members who are not employed by IFM or its affiliates) who are industry experts and that have management experience in the relevant sector. These individuals provide direction and guidance to the relevant entity Board and Management. IFM will adopt a similar approach and structure to NAEA.

IFM has engaged a leading executive recruitment firm to identify appropriate candidates for the Board and discussions with these candidates have already commenced. The NAEA Board will also adopt a charter which will set out its key responsibilities. The NAEA Board

Charter will be similar to that of the Pacific Hydro Board Charter which is attached as Exhibit C. As identified in the Pacific Hydro Board Charter, the Pacific Hydro Board has a number of established permanent committees. These include the

- Audit and Risk Committee;
- Appointments and Remuneration Committee;
- Major Contracts Committee; and
- Health, Safety and Environment Committee.

It is IFM's intention to establish similar Board Committees for NAEA.

Management

As with Pacific Hydro, IFM intends to appoint a highly qualified and capable management team within NAEA. IFM is currently holding interviews with potential candidates for the Chief Executive Officer role and other senior management positions. This includes persons currently employed by CED. It is IFM's intention to establish the management team as quickly as possible.

External Consultants

NAEA is currently in negotiations with Competitive Power Ventures, Inc. ("CPV") regarding the provision of asset management services to NAEA. CPV (or another organization with similar experience and expertise), will be engaged by NAEA to provide advice and resources to both the NAEA Board and its management team. It is envisioned that such an organization will be engaged shortly to assist with transition planning and implementation.

General Electric International, Inc. ("GE"), the current day-to-day third-party operator of the Project, will remain in place and will continue in its role of day-to-day operation and maintenance of the Project. The oversight and asset management function for the Project will be

conducted by NAEA, utilizing individuals with many years of experience in the domestic (US) power generation industry.

II. NEL Certificate of Site and Facility and Commercialization

On July 2, 1998, NEL filed an application with the Committee for approval to construct and operate the Project. The Committee issued a written Order on Acceptance of the Application on August 28, 1998. Following a site inspection on September 17, 1998, the Committee held an Informational Hearing for the public. A public Adversarial Hearing was held before the Committee on February 16 and 17, 1999, following which the Committee ordered the record of the proceeding to remain open until March 15, 1999, so that the parties could file responses to record requests made during the proceedings, and so that limited interveners and members of the public could submit questions to the Applicant or other witnesses.

The public was represented by Public Counsel from the Attorney General's Office. The Town of Newington was an active participant in the proceeding and sponsored two witnesses. PSNH participated by cross examining witnesses and presenting its position on various issues through counsel, but offered no direct testimony. Two labor unions also participated during at least portions of the docket. As a result of the Applicant's (NEL's) disclosure of a change to its ownership² on the first day of the adversarial hearing, the Committee issued an additional set of record requests to Applicant on April 19, 1999, to which Applicant responded on April 19, 1999.

By Order dated May 25, 1999, and only after having considered available alternatives and having fully considered the environmental impacts of the Project, the Committee issued NEL a Certificate of Site and Facility to construct and operate the 525 megawatt electric production facility, including a pipeline and intake structure in the Piscataqua River, an electric transmission

² The Project was initially a Southern Company sponsored undertaking but it was acquired by Con Edison affiliates shortly prior to commencement of the Adversarial Hearing.

line from the site to the substation at the PSNH Newington Power Station, and a gas pipeline from the PNGTS and Maritime and Northeast main transmission pipeline to the site. In issuing the Certificate, the Committee found that NEL had adequate financial, technical and managerial capability to assure construction and operation of the facility in compliance with the terms and conditions of the Certificate. After giving due consideration to the views of municipal and regional planning commissions and municipal legislative bodies, the Committee found the project would not unduly interfere with the orderly development of the region. It further found that, upon compliance with the conditions attached to the Certificate, the Project would not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, or public health and safety. The Project was also deemed consistent with the state energy policy established in RSA 378:37. See Decision, SEC Docket No. 98-01 at page 26.

By Order dated January 24, 2001, the Committee authorized NEL to construct a 345kV overhead transmission line along the route described as Option 2 among the two alternative routes for the transmission corridor described in the Certificate of Site and Facility. This Order was revised by subsequent Order dated April 17, 2001, pursuant to NEL's request to conform the Order's description of the alignment of Option 2 to the Meridian plan, Revision W, dated September 15, 2000, as submitted by NEL.

NEL filed a Conditional Request with the Committee on or about April 30, 2001, requesting revision to the Certificate of Site and Facility to authorize construction of one AST for back-up fuel storage, where construction of two AST's was originally authorized. NEL determined that it no longer required two AST's, after entering into a terminal agreement with Sprague Energy Corp., in which Sprague proposed to construct and operate a fuel transfer

pipeline to the Facility and lease additional fuel storage capacity to NEL. The Committee approved NEL's Conditional Request by Decision and Order dated June 29, 2001.

Construction of the Project commenced on or about April 2000, and was substantially completed on or about September 25, 2002. The Project commenced commercial operation and began selling power into the NEPOOL wholesale market, as administered by ISO-New England ("ISO-NE"), during November, 2002. The Project has operated successfully by generating environmentally friendly, clean, reliable and efficient electricity, on a competitive basis, in compliance with the Certificate of Site and Facility and its various conditions. The true dual fuel capability (e.g. natural gas, backed-up by oil via a pipeline, not trucks) of the Project makes it an excellent and dependable resource of electricity for NH and all of ISO-NE. NEL has an excellent operational and environmental record and enjoys a good working relationship with its environmental regulators. The Project has operated successfully under the day-to-day direction of GE, pursuant to an Operation and Maintenance Agreement between NEL and GE, dated as of December 20, 1999 ("GE Agreement"). (*See* Exhibit D, "GE Agreement" and Appendix A, Article 2 thereto describing the "Responsibilities of Contractor"). Significantly, this Agreement will continue in force after transfer of the membership interests in NEL to NAEA.

III. NEL Transaction/Transfer of Membership Interests

The membership interests of NEL are currently owned by CED/SCS. CED/SCS will transfer the membership interests in NEL to NAEA. The transfer of the membership interests in NEL from CED/SCS to NAEA will be in consideration of the payment of the purchase price of US\$736,000,000, as adjusted pursuant to the Purchase and Sale Agreement, dated December 10, 2007 attached as Exhibit E. The end result is that NAEA will be the new owner of the Project. NEL will continue to be the owner of the Certificate of Site and Facility for the Project. In this

respect, the transfer of membership interests in NEL is similar to the transfer of membership interests approved by the Committee in Docket No. 2004-01, whereby AES Holdings Londonderry, LLC transferred its membership interests in AES Londonderry LLC (which owned and operated a 720 MW combined cycle facility in Londonderry) to Granite Ridge I, SPE, LLC, an entity formed for that purpose by the consortium of lenders which financed the AES facility. This transaction was an interim step enabling the AES lenders to take ownership of the AES plant through foreclosure with the intent to sell the plant to a yet-to-be-identified permanent owner operator. In this Application, the new owner is a permanent owner/operator.

The Project was financed by NEL through a synthetic lease which was arranged by Merrill Lynch (“ML”). Hawkeye Funding, Limited Partnership (“Hawkeye”), a special purpose entity, was established by ML solely for the purpose of serving as the financing vehicle for the Project. Hawkeye would essentially be a construction lender and mortgagee in the traditional financing context. NEL will cause the synthetic lease with Hawkeye to be “collapsed” in conjunction with the Closing and transfer of the membership interests in NEL from CED/SCS to NAEA, resulting in NAEA owning the Project by virtue of its 100% ownership of NEL. Thereafter, the name of NEL is expected to be changed to NAEA Newington Energy, LLC. However, the same entity will continue to own and hold the Certificate.

IV. Committee Jurisdiction, Scope and Standard of Review

The Co-Applicants, NEL and NAEA, seek Committee approval of the transfer of the membership interests in NEL from CED/SCS to NAEA as described above, pursuant to RSA 162-A:5, et.seq. and General Condition No. 6, Attachment A, to the Certificate issued to NEL in Docket 98-01, effective May 25, 1999, which provides:

“Any change in ownership of the Applicant, Newington Energy, LLC, without the approval of this Committee, shall render the Certificate subject to revocation. The

Certificate itself shall not be transferred or assigned to any other person or entity without the approval of the Committee. RSA 162-H:5-I.”

In the context of approving the transfer of membership interests in the AES facility, the Committee found “... where the Project (AES) has been substantially completed, many of the siting issues implicated by the original application for a certificate are moot ...” noting in a footnote that such matters are addressed before issuing the certificate. See Docket No. 2004-01, Decision and Order, at p. 6.

In this case, the Project is not only complete, but has been operating successfully and in compliance with its Certificate and component permit conditions since November, 2002. In issuing the Certificate to NEL, the Committee made the requisite environmental, land use and other findings concerning siting issues. In the AES transfer of membership interests (Docket 2004-01), the Committee found:

“... when a change in ownership is proposed, it is important for the Committee to investigate the financial, technical and managerial capability of the proposed new owner. This information is vital for the Committee and other state agencies to be able to ensure that the conditions of the certificate are continuously met. Ongoing environmental compliance and the safe operation of the facility are of the utmost concern to the Committee and the State of New Hampshire. ***Thus, the Committee’s focus in this Docket is on the financial, technical and managerial capability of the proposed new owner of AESC.***” See Docket No. 2004-01, Decision and Order at p. 6. (Emphasis supplied)

The Co-Applicants, NEL and NAEA will next establish that NAEA has the financial, technical and managerial capability to assure continued operation of the Project in compliance with the Certificate and component permit conditions.

V. Transferee/Buyer Financial Capability

As noted previously, IFM has significant experience as an investor in infrastructure and energy projects. (See Exhibit A). IFM has agreed to contribute up to \$597 million of equity through NAEAH to NAEA. Together with a debt facility which is

fully underwritten by Barclays Capital, this will be sufficient to fund the \$1,477 million acquisition price for the entire portfolio of generation facilities, including the Project.

The debt facility includes a senior secured term loan that will be used to finance the payment of a portion of the purchase price on the Closing Date, with the remaining portion of the purchase price paid with the equity contributions referred to above.

Thereafter, the debt facility will contain working capital lines of credit and letter of credit facilities that will be available for use by NAEA in order to provide it additional financial resources to operate and maintain the power generation facilities. These debt facilities have been fully underwritten by Barclays Capital, a bank that has been active in the financing of power generation assets and portfolios of assets over the past several years.

The Project is currently being run as a merchant facility with an affiliate, Con Edison Energy, actively trading the plant output over relatively short time frames (for example the day ahead and month ahead markets) in the New England market. The Project will continue to compete based on the price of electricity and will only operate when its output is competitive and required by the market. If tolling agreements are used, the counter-party would be responsible for acquiring fuel and marketing power. If financial hedges are used, NAEA will retain an energy manager to handle those functions. In either case, the persons responsible for fuel acquisition and power marketing will be highly experienced in those fields and have available to them the full support of NAEA.

NAEA and its affiliates conducted extensive due diligence on the Project in conjunction with a team of engineering, operations, environmental, legal and market consultants. As a result, NAEA has a high level of confidence that the revenues from these arrangements will be sufficient to fund the anticipated operating and capital expenditures required at the Project for the

foreseeable future. The Project is not expected to require substantial capital expenditures other than regular maintenance for some years to come.

VI. Transferee/Buyer Managerial and Technical Capability

Day-to-day responsibility for facility operations will remain with GE. Pursuant to the GE Contract, GE has had such responsibility since the commercial operation date of the Project (i.e., since November 2002) and has successfully operated the Project. GE is well established as a plant operator and manager with over 20 years of experience, as more particularly described in Exhibit F. Under the terms of the Transaction, the GE Contract will remain in effect with GE. NAEA will assume management of the GE Contract and will continue the GE relationship.

Also under the terms of the Transaction, NAEA will acquire from Con Edison its subsidiary, CED Operating Company, LLC (“CED OpCo”). CED OpCo has approximately thirty-five employees working at three other power generation facilities being acquired by NAEA in the Transaction. CED OpCo performs operation and maintenance services at these plants. Those services will be available to the Project as deemed necessary.

Certain asset managers will report to officers of NAEA. In addition, NAEA is considering making offers of employment to certain asset management employees of CED. The addition of any of these employees would serve to bolster the already strong team of NAEA asset managers. While these matters continue to be the subject of ongoing discussions among NAEA, CED and certain CED employees, it is possible that prior to the hearing those people will be known and their resumes will be provided to the Committee.

Furthermore, NAEA is also acquiring an operations and plant management staff of 33 people at CED's "CEEMI" facility in West Springfield, Massachusetts. Personnel of CEEMI and CED OpCo will be available to assist at NEL as necessary. Furthermore, plant management personnel of CEEMI, CED OpCo and GE (at NEL) meet periodically to discuss overall plant management issues.

NAEA will have overall responsibility for managing the entire portfolio of energy assets acquired in the Transaction, including the Project.

As discussed under Section I above, NAEA is in discussions with CPV regarding the provision of asset management services. Details of these arrangements will be provided to the Committee once they are finalized.

The continued operation of the Newington facility by GE staff provides a very capable complement of resources to ensure prudent and effective management and operation of the Newington facility.

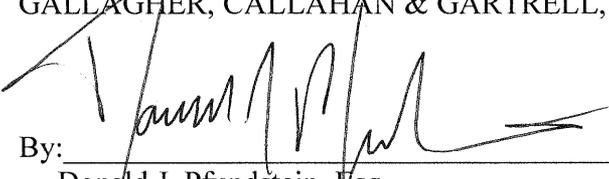
VII. Request for Expedited Approval

The NEL transaction is one part of a much larger transaction involving several other generator units currently owned by Con Ed affiliates. The Project has operated successfully since commercialization in November 2002, and has provided environmentally friendly, clean, reliable and efficient electricity to the ISO-NE grid since that time. The focus of this docket, as in the AES transfer of membership interests docket, is on the capabilities of the buyer to assure continued operation of the Project in compliance with the Certificate and its component permit conditions. NAEA is maintaining the "day-to-day" operator of the Project in place, through the GE Agreement. NAEA has financial resources of substantial enough scope to continue the successful

operation of the Project, as well as personnel with significant power industry experience already on its management staff.

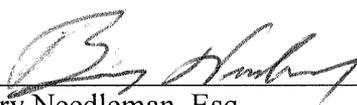
WHEREFORE, the Co-Applicants respectfully request expedited approval of the transfer of membership interests in NEL and such other and further relief as may be just and proper.

NEWINGTON ENERGY, LLC,
Co-Applicant
By Its Counsel
GALLAGHER, CALLAHAN & GARTRELL, PC

By: 

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P. O. Box 1415
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Concord, New Hampshire 03302-1415
(603) 228-1181

NAEA, Co-Applicant
By Its Counsel
McLANE, GRAF, RAULERSON & MIDDLETON

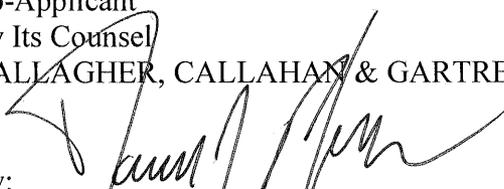
By: 

Barry Needleman, Esq.
11 South Main Street, Suite 500
Concord, New Hampshire 03301
(603) 226-0400

Certification of Service

I hereby certify that a copy of the foregoing was this date forwarded via hand delivery or U.S. first class mail, postage prepaid, to the EFSEC Service List, Attorney General as Counsel for the Public, and the Newington Board of Selectmen.

NEWINGTON ENERGY, LLC,
Co-Applicant
By Its Counsel
GALLAGHER, CALLAHAN & GARTRELL, PC

By:  3/12/08

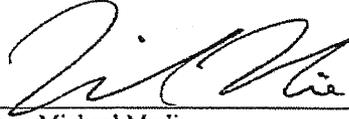
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Concord, New Hampshire 03302-1415
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List of Exhibits

Exhibit A	Information on IFM
Exhibit B	Ownership Structure Upon Closing
Exhibit C	Pacific Hydro Board Charter
Exhibit D	O&M Agreement with GE for the Newington Project
Exhibit E	Purchase and Sale Agreement
Exhibit F	GE Background Materials

Certification

Applicant Newington Energy, LLC hereby swears and affirms to the best of its knowledge and belief, that all the materials and representations contained in this Application are true and accurate.



Name: Michael Madia
Title: VP and Chief Operating Officer
Newington Energy, LLC

STATE OF NEW YORK
COUNTY OF new york, SS.

On this the 12 day of March, 2008, personally appeared before me the above-named Michael Madia, Vice President and Chief Operating Officer of Newington Energy, LLC and swore and affirmed that the materials and representations contained in the attached Application are true and accurate to the best of his knowledge and belief.



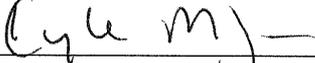
Notary Public/Justice of the Peace

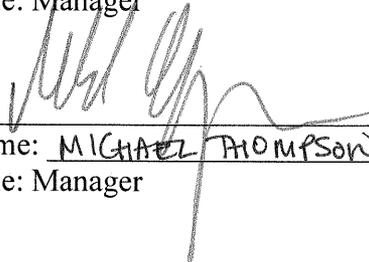
CYNTHIA A. LANE
Notary Public, State of New York
Qualified in New York County
No. 01LAG086737
Commission Expires November 26, 2009

Certification

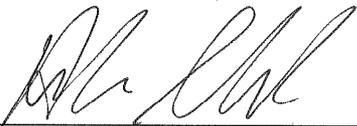
Applicant North American Energy Alliance, LLC, by North American Energy Alliance Holdings, LLC, its manager, hereby swears and affirms, to the best of its information, knowledge and belief, that all materials and representations contained in this Application are true and accurate.

NORTH AMERICAN ENERGY
ALLIANCE, LLC,
By North American Energy Alliance
Holdings, LLC, its manager


Name: KYLE MANGINI
Title: Manager


Name: MICHAEL THOMPSON
Title: Manager

Subscribed and sworn to before me
on this 11th day of March 2008.


Witness

Adam David Clark
of Level 29, 2 Lonsdale Street
Melbourne, Victoria
being an Australian legal practitioner
within the meaning of the
Legal Profession Act 2004