

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	Docket Nos.
	)	
Consolidated Edison Company of	)	50-3
New York, Inc. and Northeast	)	50-245
Utilities, et al.	)	50-247
	)	50-336
Indian Point Unit 1 and 2,	)	50-423
Millstone Unit 1, 2 and 3,	)	50-443
and Seabrook Station Unit 1	)	

**NOTIFICATION OF MERGER/APPLICATION  
FOR TRANSFERS OF CONTROL REGARDING  
INDIAN POINT 1 AND 2, MILLSTONE 1, 2 AND 3,  
AND SEABROOK NUCLEAR POWER STATIONS**

**INTRODUCTION AND BACKGROUND**

Consolidated Edison Company of New York, Inc. is the holder of NRC Facility License Nos. DPR-5 dated March 26, 1962, and DPR-26 dated September 28, 1973. The operating licenses authorize the holder to possess the Indian Point Nuclear Generating Station Units 1 and 2, respectively, and authorize Consolidated Edison Company of New York, Inc. to use and operate Indian Point 1 and 2 in accordance with the conditions and requirements set forth in the respective operating licenses. Consolidated Edison Company of New York, Inc. is the sole license holder for Indian Point 1 and 2.

Northeast Utilities subsidiaries The Connecticut Light and Power Company (“CL&P”) and Western Massachusetts Electric Company (“WMECO”) are the holders of NRC Facility License Nos. DPR-21 dated October 7, 1970, and DPR-65 dated September 26, 1975. The operating licenses authorize the holders to possess the Millstone Nuclear Generating Station Units 1 and 2, respectively, and authorize Northeast Utilities’ (“NU”) subsidiary Northeast Nuclear Energy Company (“NNECO”) to possess, use and operate Millstone Units 1 and 2 in accordance with the conditions and requirements set forth in the respective operating licenses. The referenced NU subsidiaries are the sole license holders for Millstone 1 and 2.

NU subsidiaries CL&P, WMECO and Public Service Company of New Hampshire (“PSNH”), together with eleven other investor-owned and municipal entities unaffiliated with NU, are the holders of NRC Facility License No. NPF-46 dated January 31, 1986. The operating license authorizes the holders to possess Millstone Nuclear Generating Station Unit 3, and authorizes NNECO to use and operate Millstone 3 in accordance with the operating license conditions and requirements.

NU subsidiaries CL&P and North Atlantic Energy Corporation (“NAEC”), together with nine other investor-owned and municipal entities unaffiliated with NU, are the holders of NRC Facility License No. NPF-86 dated March 15, 1990. The operating license authorizes CL&P and NAEC to possess Seabrook Station Unit No. 1 (“Seabrook”), and authorizes another NU subsidiary, North Atlantic Energy Service Corporation (“NAESCO”),

to possess, use and operate Seabrook in accordance with the conditions and requirements set forth in the operating license.

CL&P, WMECO and PSNH are wholly-owned subsidiaries of NU. The primary business of these three companies is the transmission, distribution and generation of electric energy in the states of Connecticut, Massachusetts, and New Hampshire, respectively. CL&P has ownership interests in the Millstone and Seabrook units, WMECO has ownership interests in the Millstone units, and PSNH has an ownership interest in Millstone 3.

NAEC is a wholly-owned, special-purpose operating subsidiary of NU that owns a 35.98 percent interest in Seabrook, and sells its share of the capacity and output from Seabrook to PSNH under two life-of-unit, full-cost recovery contracts. NNECO and NAESCO are wholly-owned subsidiaries of NU. They act as agents for NU affiliated companies and other New England entities in operating the Millstone and Seabrook nuclear units, respectively, but have no ownership interests.

The parent companies and the assignment of operating and ownership responsibilities for the Indian Point, Millstone and Seabrook units as described above have previously been recognized by the Commission. Consolidated Edison Company of New York, Inc. is a wholly-owned subsidiary of Consolidated Edison, Inc. ("CEI"). The restructuring leading to the formation of CEI as the corporate parent of Indian Point 1 and 2 license holder Consolidated Edison Company of New York, Inc. was approved by the NRC in an Order dated December 4, 1997. NU was formed in 1966 with Millstone license holders

CL&P and WMECO as wholly-owned subsidiaries. The NRC approved PSNH as a licensee of Millstone 3 in its January 31, 1986 order authorizing full power operation of Millstone 3. The NRC approved CL&P as a licensee of Seabrook in its March 15, 1990 order authorizing full power operation of Seabrook. In two May 29, 1992 orders the NRC approved NAEC as a licensee of Seabrook, and further authorized NAESCO to act as the managing authority for Seabrook.

The purpose of this notification/application is to describe the proposed merger transaction between CEI and NU pursuant to a merger agreement dated October 13, 1999, and to the extent required by Section 184 of the Atomic Energy Act, as amended, and 10 CFR § 50.80, to seek the Commission's consent to any indirect transfer of control of the operating licenses for the referenced nuclear units that the Commission may deem associated with the merger. The October 13, 1999 CEI/NU merger agreement provides for the combination of CEI and NU to occur through two simultaneous mergers: the merger of CEI into New CEI, a Delaware corporation, and the merger of an indirect wholly-owned subsidiary of New CEI with NU. Upon the completion of all of the related merger transactions New CEI will own all of the assets of CEI (substantially all of which is the stock of its subsidiaries, including Consolidated Edison Company of New York, Inc.), and NU will be a wholly-owned subsidiary of New CEI. The related merger transactions are described in more detail in the October 13, 1999 merger agreement which is appended to and filed with this notification/application as an exhibit. A copy of the merger Joint Proxy Statement will also

be filed with the commission as a further exhibit to this notification/application as soon as it is available.

The merged companies anticipate achieving significant cost savings and efficiencies, principally through the consolidation of duplicative activities, increased scale, and improved purchasing power. These changes will reduce the operating costs of the merged companies to the benefit of their customers, employees, shareholders and the communities they serve. The merger will therefore enhance the licensees' financial resources to possess and operate the Indian Point 1 and 2, Millstone 1, 2 and 3, and Seabrook nuclear plants.

The merger will have no adverse effect on the management or operation of the affected nuclear plants. The technical qualifications of the plant operators -- Consolidated Edison Company of New York, Inc. for Indian Point 1 and 2, Northeast Nuclear Energy Company for Millstone 1, 2 and 3, and North Atlantic Energy Service Corporation for Seabrook -- will not be diminished, since the technical management and nuclear organizations currently responsible for operating and maintaining these plants will not be changed as a result of the merger and will remain responsible for their operation and maintenance.

In addition to NRC review, the merger will be reviewed or approved by numerous other federal and state agencies. Among the federal agencies reviewing the merger are the Federal Energy Regulatory Commission ("FERC"), the Securities and Exchange Commission ("SEC"), the U.S. Department of Justice ("DOJ"), and the Federal Trade Commission ("FTC"). New CEI will be required to register under Section 5 of the Public

Utility Holding Company Act within 30 days of the merger effective date, and will thereafter become subject to the restrictions imposed on registered holding companies.

Among the matters that will be considered by these agencies are the competitive aspects of the merger. The NRC need not undertake any additional antitrust review related to the merger because (1) no such review is necessary or appropriate in accordance with the Commission's decision in Kansas Gas and Electric Company (Wolf Creek Generating Station, Unit 1), CLI-99-19 (June 19, 1999), (2) the licensees do not seek any change to the terms, conditions or provisions of the affected NRC licenses, (3) no significant changes in the activities of the licensees have occurred since prior NRC antitrust reviews, nor will any such changes occur as a result of the merger, and (4) the competitive aspects of the merger will be thoroughly reviewed by other federal agencies.

Part I below sets forth the information required by 10 CFR § 50.80 pertaining to the proposed merger. Part II discusses the likely effective date of the merger, and thus the desired timing of such review as the NRC determines to conduct.

## **I. INFORMATION FOR TRANSFERS OF CONTROL**

### **A. General Information Concerning Consolidated Edison Company of New York, Inc.**

#### **1. Name and Address**

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, New York 10003

2. Description of Business

Consolidated Edison Company of New York, Inc., is a wholly-owned subsidiary of Consolidated Edison, Inc. (“CEI”), a New York corporation and exempt holding company under the Public Utility Holding Company Act (“PUHCA”). CEI’s stock is publicly held. Following the merger, Consolidated Edison Company of New York, Inc. will be a wholly-owned subsidiary of New CEI, which will succeed CEI. Consolidated Edison Company of New York, Inc.’s principal business will remain the same as it is now, which is to provide electric energy in New York City and Westchester County to residential, commercial and industrial customers for their own use, and in New York and elsewhere for resale.

3. Organization and Management

Consolidated Edison Company of New York, Inc. is, and after the merger will remain, a corporation organized and existing under the laws of the State of New York. All of Consolidated Edison Company of New York, Inc.’s officers are citizens of the United States. All of the directors and officers of CEI are also citizens of the United States.

Upon completion of the merger, New CEI and NU will be the surviving companies, and the former holders of CEI and NU common stock will together own all of the outstanding shares of common stock of New CEI. The merger agreement contemplates that four members of the New CEI Board of Directors will be recommended by NU, and that the remaining directors will be designated by CEI. The merger agreement provides that Eugene R. McGrath (Chairman, President and Chief Executive Officer of CEI) will be the Chairman

and Chief Executive Officer of New CEI. Michael G. Morris (Chairman and Chief Executive Officer of NU) will become President of New CEI. Neither CEI nor NU has designated the Board of Directors for New CEI, however all members of the New CEI Board will be U.S. citizens. Once the Board members have been nominated their names will be provided to the Commission.

Following the proposed merger New CEI will not be owned, controlled or dominated, directly or indirectly, by an alien, foreign corporation or foreign government. Consolidated Edison Company of New York, Inc. is not acting as an agent or representative of any other person in this notification of (or, to the extent deemed necessary by the NRC, application for consent to) the proposed merger.

B. General Information Concerning Northeast Utilities

1. Name and Address

Northeast Utilities  
174 Brush Hill Avenue  
West Springfield, Massachusetts 01090

and

107 Selden Street  
Berlin, Connecticut 06037

2. Description of Business

NU is a registered holding company under PUHCA. NU's stock is publicly held. Following the proposed merger, NU will be a wholly-owned subsidiary of New CEI. Its principal business will remain the same as it is now, which is to provide through its subsidiaries and affiliates electric energy in the states of Connecticut, Massachusetts and New



Hampshire to residential, commercial and industrial customers for their own use, and in these states and elsewhere to wholesale customers for resale.

3. Organization and Management

NU is, and will remain after the merger, a business trust organized and existing under the laws of the State of Massachusetts. All of NU's trustees and officers are citizens of the United States.

Following the proposed merger NU will not be owned, controlled or dominated by an alien, foreign corporation or foreign government. NU is not acting as an agent or representative of any other person in this notification/application.

C. Technical Qualifications

The proposed merger will have no adverse effect on either the management organization or technical personnel of either: Consolidated Edison Company of New York, Inc., the entity currently responsible for operating and maintaining Indian Point 1 and 2; Northeast Nuclear Energy Company, the entity currently responsible for operating and maintaining Millstone 1, 2 and 3; or North Atlantic Energy Service Corporation, the entity currently responsible for operating and maintaining Seabrook. The technical qualifications of these plant operating entities will be undiminished by the merger since the current nuclear organizations and personnel will continue to be responsible for the operation and maintenance of the affected nuclear facilities after the merger. The merger may also present enhanced opportunities to share specialized expertise and best practices among various organizations.

The present Indian Point 1 and 2 organization consists of fifteen departments staffed by Consolidated Edison Company of New York, Inc. personnel: Operations, Maintenance, Radiation Protection, Nuclear Safety and Licensing, Corrective Action Group, Site Engineering, Environmental Health and Safety, Test and Performance, Nuclear Projects, Nuclear Training, Design Engineering, Outage Planning, Configuration Management and Control, Reactor and Fuel Engineering, and Emergency Planning. These departments report to either the Consolidated Edison Company of New York, Inc. Vice President, Nuclear Operations or the Consolidated Edison Company of New York, Inc. Vice President, Nuclear Engineering, who in turn both report to the Consolidated Edison Company of New York, Inc. Senior Vice President, Nuclear.

The merger does not involve any change in these reporting relationships. The nuclear organization will continue to have well-delineated lines of authority, and the technical and administrative competency of the organization will not be changed as a consequence of the merger transaction. Therefore, the technical qualifications of Consolidated Edison Company of New York, Inc. to carry out its responsibilities under the Indian Point 1 and 2 operating licenses will not be adversely affected by the proposed merger.

The present Millstone 1, 2 and 3 organization consists of 15 departments staffed by NNECO personnel: Business Services, Design Engineering, Employee Concerns Program, Human Resources, Information Technology, Maintenance Services, Materials & Document Control, Nuclear Communications, Nuclear Engineering, Operations, Oversight & Regulatory Affairs, Plant Engineering, Site Services, Training, Work Management, and a

Millstone 1 decommissioning organization. These departments report to either the NNECO Vice President - Nuclear Operations, the NNECO Vice President - Nuclear Technical Services, the NNECO Vice President - Nuclear Work Services, or the NNECO Vice President, Human Services - Nuclear, who in turn all report to the NNECO Senior Vice President & Chief Nuclear Officer. The NNECO Senior Vice President & Chief Nuclear Officer in turn reports to the Chief Executive Officer of NNECO, who also holds the NU title of President - Generation Group.

The merger does not involve any change in these reporting relationships. The NNECO organization will continue to have clear and direct lines of responsibility and authority, and the overall technical and administrative abilities of the organization will remain unchanged after the merger. Therefore, the technical qualifications of NNECO to carry out its responsibilities under the Millstone Units 1, 2 and 3 operating licenses will not be adversely affected by the proposed merger.

In its May 29, 1992 order the Commission concluded that NAESCO is technically qualified to operate Seabrook. The NAESCO organization consists of three divisions: the Station, Engineering and Support Services. Each of these divisions is headed by a Director who reports to the Executive Vice President and Chief Nuclear Officer at Seabrook Station. Also reporting directly to the Executive Vice President and Chief Nuclear Officer are Nuclear Oversight and several other support departments such as Human Resources and Organizational Development, and Environmental, Government and Owner Relations.

After the merger, NAESCO will continue to serve as the managing agent for Seabrook and the internal reporting relationships will be unchanged as a result of the merger. The merger will not alter the staffing of NAESCO nor its reporting relationship within NU in such a manner that the Commission's earlier conclusion would be affected. The Executive Vice President and Chief Nuclear Officer for Seabrook will continue to report directly to the Chief Executive Officer of NAESCO, who also holds the NU title of President - Generation Group, and will continue to operate under the oversight and control of the Seabrook joint owners.

The merger will therefore leave fully intact the technical and operational capabilities of the three nuclear operating organizations to carry out their respective license obligations.

D. Financial Qualifications

The subsidiaries and affiliates of CEI and NU that currently possess either operational or ownership responsibilities for the affected nuclear plants are at present all electric utilities within the definition set forth in 10 CFR § 50.2, and the status of each such entity will remain unchanged as a result of the merger. After the proposed merger Consolidated Edison Company of New York, Inc. and the NU subsidiaries and affiliates occupying an ownership and/or operational role with respect to the affected nuclear plants will continue to recover their costs through rates authorized by applicable state public utility commissions and by the FERC. As part of electric industry restructuring initiatives, some or

all of the affected nuclear facilities may become increasingly dependent on operating revenues from wholesale electric sales, however the timing and full extent of such developments are currently uncertain, largely dependent on future events, and unrelated to the proposed merger. The financial qualifications of each such CEI and NU affiliate is presumed by 10 CFR § 50.33(f) since the electric utility status of each such entity under 10 CFR § 50.22 is unaffected by the merger.

E. Decommissioning Funding

NRC regulations require information showing “reasonable assurance . . . that funds will be available to decommission the facility,” 10 CFR §50.33(k). Consolidated Edison Company of New York, Inc., Northeast Nuclear Energy Company and North Atlantic Energy Service Corporation have filed decommissioning funding status reports with the NRC pursuant to 10 CFR § 50.75(b) for the Indian Point 1 and 2, Millstone 1, 2 and 3, and Seabrook nuclear plants, respectively, most recently as of March 31, 1999. Each CEI and NU subsidiary and affiliate is providing financial assurance for decommissioning their respective ownership interest(s) in the affected nuclear plant(s) in accordance with those reports through external nuclear decommissioning trusts into which deposits are made at least annually. After the merger the applicable CEI and NU subsidiaries and affiliates will remain responsible for the decommissioning liabilities associated with their respective nuclear plant ownership interests, and will continue to fund their respective decommissioning trusts in

accordance with applicable NRC regulations. Thus no change in current decommissioning funding practices will occur as a result of the merger.

F. Antitrust Considerations

The licensees do not seek changes to any antitrust conditions contained in the affected licenses, and are of the view that antitrust review by the NRC associated with the merger is unnecessary. Recent developments generally pertaining to FERC-mandated open-access tariffs requiring utilities to provide unaffiliated entities with access to transmission lines on terms comparable to owned generation have enhanced the ability of alternative sources of generation to compete in markets where generation from the affected nuclear plants is sold. The NRC has now determined that the conduct of antitrust reviews subsequent to the initial issuance of operating licenses is not required by the Atomic Energy Act, and that from both public policy and legal perspectives such reviews should not be conducted, see Kansas Gas and Electric Company (Wolf Creek Generating Station, Unit 1), CLI-99-19 (June 18, 1999). The Commission's conclusions in Wolf Creek were to a great extent driven by the recognition that antitrust reviews would as a matter of course be conducted by other federal agencies. In connection with the CEI/NU merger the approval of the FERC is necessary, and there will also be review by the DOJ or FTC pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

In sum, the proposed merger of CEI and NU will not result in any significant changes in the competitive environments in which any of the affected nuclear plants operate so as to require any further antitrust review by the NRC in connection with the merger.

G. Restricted Data and Classified National Security Information

This notification/application does not contain any restricted data or other classified defense information, and it is not expected that any such data will be implicated in connection with the NRC's review of the proposed merger. Were any such information to become involved, Consolidated Edison Company of New York, Inc. and the affected subsidiaries and affiliates of NU agree that they will appropriately safeguard such information consistent with NRC determinations pursuant to 10 CFR Parts 25 and 95 that access by any person will not endanger the common defense and security of the United States.

H. No Environmental Impact

The Commission's regulations, at 10 CFR § 51.22(c)(21), provide that Commission consideration of direct or indirect transfers of a NRC license are entitled to a categorical exclusion from environmental review. Commission actions within the scope of the environmental categorical exclusions require a showing of special circumstances before an environmental review is appropriate. The CEI/NU merger fully qualifies as a categorical exclusion under 10 CFR § 51.22. However, even if this were not the case, the complete absence of any environmental impacts is apparent. The merger does not involve any changes

to the operations of the affected nuclear plants or equipment and does not change or modify any environmental impact previously evaluated in the Final Environmental Statements for the affected facilities. No amendments or changes to the operating licenses for the plants are associated with the merger. Effectuation of the merger will not result in any increase in the amounts, or a change in the types, of any radiological or non-radiological effluents that may be allowed to be released to the off-site environment. No increase in individual or cumulative occupational radiation exposures is associated with the proposed merger. Accordingly, this notification/application does not involve any significant environmental impact warranting NRC review.

## II. **EFFECTIVE DATE**

As noted, the proposed merger of CEI and NU is subject to DOJ or FTC review pursuant to Hart-Scott-Rodino, and also requires the approval of other federal regulatory authorities in addition to the NRC, including SEC and FERC. Certain state regulatory filings will also be made either to provide notice or to seek acknowledgement, endorsement or consent. Merger filings will be made with the following state regulatory agencies:

- the Connecticut Department of Public Utility Control,
- the Maine Public Utilities Commission,
- the Massachusetts Department of Telecommunications and Energy and the Massachusetts Department of Revenue,



- the New Hampshire Public Utilities Commission,
- the New Jersey Board of Public Utilities,
- the New York State Public Service Commission,
- the Pennsylvania Public Utility Commission, and
- the Vermont Public Service Board.

Approval by CEI's and NU's shareholders is also required. Until all of the approvals deemed necessary by CEI and NU have been obtained, the merger cannot be implemented.

CEI and NU intend to consummate the merger as soon as practicable after all the requisite approvals have been obtained. The merger is currently projected to close in mid-2000. Therefore, the NRC is requested to review this notification/application on a schedule that will permit it to act as promptly as possible on and provide its final merger consent to the extent the NRC deems such consent to be necessary, and in any event no later than by June 15, 2000. CEI and NU also request that such consent as the NRC may deem necessary be immediately effective upon issuance and allow the merger to be consummated at any time within twelve (12) months following the date of such NRC consent in order to accommodate other regulatory approvals and administrative activities associated with the merger.

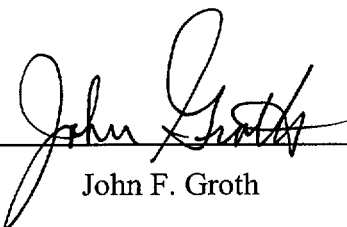
## **CONCLUSION**

For the foregoing reasons the NRC is requested to consider whether pursuant to the Atomic Energy Act and the Commission's rules and regulations, its consent is required for the merger of CEI and NU on the terms set forth herein and in the accompanying merger agreement, and if such consent is deemed necessary that it be granted on the bases set forth herein.

**CERTIFICATION**

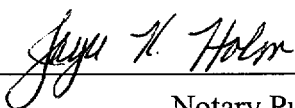
I, John F. Groth, being duly sworn, state that:

- (1) I am Senior Vice President, Nuclear, of Consolidated Edison Company of New York, Inc.;
- (2) I am duly authorized to execute and file this certification on behalf of said company;
- (3) The statements set forth in the attached notification/application are true and correct to the best of my information, knowledge and belief.

  
\_\_\_\_\_  
John F. Groth

Sworn and subscribed to before me

this 13<sup>th</sup> day of January, 2000.

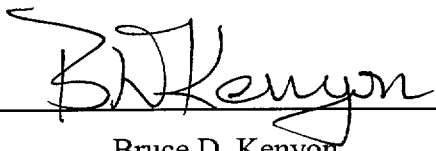
  
\_\_\_\_\_  
Notary Public

JOYCE K. HOLM  
Notary Public, State of New York  
No. 01HO5081494  
Qualified in Nassau County  
Commission Expires July 7, ~~1999~~ 2001

**CERTIFICATION**

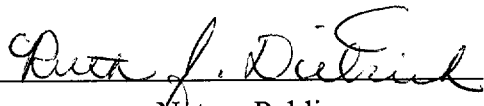
I, Bruce D. Kenyon, being duly sworn, state that:

- (1) I am President - Generation Group of Northeast Utilities;
- (2) I am duly authorized to execute and file this certification on behalf of said company;
- (3) The statements set forth in the attached notification/application are true and correct to the best of my information, knowledge and belief.

  
\_\_\_\_\_  
Bruce D. Kenyon

Sworn and subscribed to before me

this 13<sup>th</sup> day of January, 2000.

  
\_\_\_\_\_  
Notary Public

My commission expires 11/31/2000

AGREEMENT AND PLAN OF MERGER

among

CONSOLIDATED EDISON, INC.,

NORTHEAST UTILITIES,

CWB HOLDINGS, INC.,

and

N ACQUISITION LLC

Dated as of October 13, 1999

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Exhibit A	Form of Certificate of Incorporation of the Company as of the Effective Time
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Exhibit D-1	Form of NU Affiliate Letter
Exhibit D-2	Form of CEI Affiliate Letter
Exhibit E	Form of CEI Tax Representations
Exhibit F	Form of NU Tax Representations
Exhibit G	Form of the Company Tax Representations

AGREEMENT AND PLAN OF MERGER dated as of October 13, 1999 (this "Agreement"), among CONSOLIDATED EDISON, INC., a New York corporation ("CEI"), NORTHEAST UTILITIES, a Massachusetts business trust ("NU"), CWB HOLDINGS, INC., a Delaware corporation (the "Company") and a wholly owned subsidiary (as defined in Section 8.03) of CEI, and N ACQUISITION LLC, a Massachusetts limited liability company ("Merger LLC"), 99% of which is owned by the Company and 1% of which is owned by X HOLDING LLC, a Massachusetts limited liability company ("LLC Holding Sub"), 99% of which is owned by the Company and 1% of which is owned by Merger LLC.

WHEREAS the Board of Trustees of NU, the respective Boards of Directors of CEI and the Company and the members of Merger LLC have approved the business combination provided for in this Agreement, whereby (i) CEI will merge with and into the Company (the "CEI Merger") and each share of common stock, par value \$.10 per share, of CEI (the "CEI Common Stock") shall be converted into the right to receive one share of common stock, par value \$.10 per share, of the Company (the "Company Common Stock") and (ii) Merger LLC will merge with and into NU (the "NU Merger", and together with the CEI Merger, the "Mergers") and each common share of beneficial interest, par value \$5.00 per share, of NU (the "NU Common Shares"), shall be converted into, at the option of the holder thereof, either (x) the right to receive Company Common Stock or (y) the right to receive cash, in each case subject to the terms and conditions set forth in this Agreement, as a result of which the holders of the CEI Common Stock and NU Common Shares will together own all of the outstanding shares of Company Common Stock and the Company will, in turn, own all of the outstanding NU Common Shares;

WHEREAS the Board of Directors of CEI has determined that the CEI Merger and the other transactions contemplated hereby are consistent with, and in furtherance

of, the best interest of CEI and its shareholders (the "CEI Shareholders");

WHEREAS the Board of Trustees of NU has determined that the NU Merger and the other transactions contemplated hereby are consistent with, and in furtherance of, the best interest of NU and the holders of the NU Common Shares (the "NU Shareholders");

WHEREAS CEI and the Company desire to set forth for purposes of Section 902(a) of the New York Business Corporation Law (the "NYBCL") the following information with respect to CEI and the Company as of the date of this Agreement: (i) the name of each of CEI and the Company is as set forth in the recitals to this Agreement and each of CEI and the Company was formed under such name, (ii) the name of the Company following the CEI Merger shall be as set forth in Section 1.08(a), (iii) the designation and number of outstanding shares of each class and series of capital stock of CEI, and the voting rights thereof with respect to the CEI Merger, are set forth in Section 3.02(c) and Section 3.02(m), and the designation and number of outstanding shares of capital stock of CEI is subject to change in accordance with the terms of CEI's Restated Certificate of Incorporation and the NYBCL and (iv) the Company has designated and has outstanding 1,000 shares of its common stock, par value \$.01, of which the holders thereof have unanimously approved the CEI Merger by written consent, and the designation and number of outstanding shares of capital stock of the Company is subject to change in accordance with the terms of the Company's Certificate of Incorporation, the terms of this Agreement (including the exhibits attached hereto) and the Delaware General Corporation Law (the "DGCL");

WHEREAS CEI and NU desire to make certain representations, warranties, covenants and agreements in connection with the Mergers and also to prescribe various conditions to the Mergers;

WHEREAS, for Federal income tax purposes, it is intended that the Mergers will constitute a transaction described in Section 351 of the Internal Revenue Code of 1986, as amended (the "Code"), and the CEI Merger will constitute a transaction described in Section 368(a) of the Code.

NOW, THEREFORE, in consideration of the foregoing and of the representations, warranties, covenants and agreements contained in this Agreement, the parties agree as follows:

ARTICLE I

The Mergers I      The Mergers I      The Mergers

SECTION 1.01. The Mergers SECTION 1.01. The Mergers SECTION 1.01. The Mergers. On the terms and subject to the conditions set forth in this Agreement:

(a) At the CEI Effective Time (as defined in Section 1.03), CEI shall be merged with and into the Company in accordance with the DGCL and the NYBCL. The Company shall be the surviving entity in the CEI Merger and shall continue its existence under the laws of the State of Delaware and shall succeed to and assume all of the rights and obligations of the Company and CEI in accordance with the relevant provisions of the DGCL and the NYBCL.

(b) At the NU Effective Time (as defined in Section 1.03), Merger LLC shall be merged with and into NU in accordance with the Massachusetts General Law (the "MGL"). NU shall be the surviving entity in the NU Merger and shall continue its existence under the laws of the Commonwealth of Massachusetts and shall succeed to and assume all of the rights and obligations of NU and Merger LLC in accordance with the MGL. As a result of the NU Merger, the entire equity interest of NU, which shall be represented by new certificates issued at the NU Effective Time, shall be owned by the Company.

SECTION 1.02. Closing SECTION 1.02. Closing SECTION 1.02. Closing. The closing of the Mergers

(the "Closing") will take place at the offices of Cravath, Swaine & Moore, Worldwide Plaza, 825 Eighth Avenue, New York, New York 10019 (or at such other location in The City of New York as is agreed to by CEI and NU) at 10:00 a.m., local time, on a date to be specified by CEI and NU (the "Closing Date"), which shall be no later than the second business day after satisfaction or waiver of the conditions set forth in Article VI, unless another time or date is agreed to by CEI and NU. CEI and NU agree to coordinate the Closing Date with the mailing of the Form of Election and the Election Time (each as defined in Section 2.02(b)).

SECTION 1.03. Effective Time of the MergersSECTION 1.03. Effective Time of the Mergers.  
 SECTION 1.03. Effective Time of the Mergers.  
 Subject to the provisions of this Agreement, as soon as practicable on or after the Closing Date, (i) with respect to the CEI Merger, the parties hereto shall (A) deliver a certificate of merger executed in accordance with, and containing such information as is required by, Section 907(e)(2) of the NYBCL to the Department of State of the State of New York (the "CEI New York Certificate of Merger") and (B) file a certificate of merger executed in accordance with, and containing such information as is required by Section 252(c) of the DGCL with the Secretary of State of the State of Delaware (the "CEI Delaware Certificate of Merger", and collectively with the CEI New York Certificate of Merger, the "CEI Certificates of Merger"), and (C) make all other filings or recordings as may be required under the NYBCL and the DGCL, and (ii) with respect to the NU Merger, the parties hereto shall file a certificate of merger (the "NU Certificate of Merger") with the Secretary of State of the Commonwealth of Massachusetts and shall make all other filings or recordings required under the MGL. The CEI Merger shall become effective at such time as (i) the CEI New York Certificate of Merger is duly delivered to the Department of State of the State of New York and (ii) the CEI Delaware Certificate of Merger is filed with the Secretary of State of the State of Delaware, or at such subsequent date or time, not to exceed 30 days after the date of filing of the CEI New York Certificate of

Merger or 90 days after the date of filing of the CEI Delaware Certificate of Merger, as CEI shall specify in the CEI Certificates of Merger (the time the CEI Merger becomes effective being hereinafter referred to as the "CEI Effective Time"), and the NU Merger shall become effective at such time as the NU Certificate of Merger is duly filed with the Secretary of State of the Commonwealth of Massachusetts, or at such subsequent date or time as CEI and NU shall agree and specify in the NU Certificate of Merger (the time the NU Merger becomes effective being hereinafter referred to as the "NU Effective Time"). The CEI Effective Time shall be the same date and time as the NU Effective Time (such date and time referred to herein as the "Effective Time").

SECTION 1.04. EffectsSECTION 1.04. Effects. The CEI Merger shall have the effects set forth in the DGCL and the NYBCL, including Section 259 of the DGCL and Section 906 of the NYBCL, and the NU Merger shall have the effects set forth in the MGL, including Section 62 of Chapter 156C of the MGL.

SECTION 1.05. Certificate of Incorporation and By-lawsSECTION 1.05. Certificate of Incorporation and By-lawsSECTION 1.05. Certificate of Incorporation and By-laws of the Company. The parties shall take all appropriate action so that, at the Effective Time, (a) the certificate of incorporation of the Company shall be in the form attached as Exhibit A hereto and (b) the By-laws of the Company shall be in the form attached as Exhibit B hereto. Each of CEI and NU shall take all actions necessary to cause the Company and Merger LLC to take any actions necessary in order to consummate the Mergers and the other transactions contemplated hereby.

SECTION 1.06. Trust Agreement. 1.06. Trust Agreement. The Declaration of Trust dated as of January 15, 1927, relating to NU (as amended through the date of this Agreement, the "Trust Agreement") shall be amended, subject to the NU Shareholder Approval (as defined in Section 3.01(o)), to include the amendments and modifications contained in Exhibit C hereto (the "Trust



Agreement Amendments"), and the Trust Agreement as so amended shall be filed by the parties hereto with the Secretary of State of the Commonwealth of Massachusetts. Upon receipt of the NU Shareholder Approval and completion of such filing, the Trust Agreement as so amended shall be the governing instrument of NU until thereafter changed or amended as provided therein or by Applicable Law (as defined in Section 3.01(d)(ii)).

SECTION 1.07. Directors, Trustees and OfficersSECTION 1.07. Directors, Trustees and OfficersSECTION 1.07. Directors, Trustees and Officers.

(a) The parties hereto will take such action as may be necessary to cause the number of directors comprising the entire Board of Directors of the Company at the Effective Time to include four persons designated by NU and reasonably acceptable to CEI (the "NU Designees"). The NU Designees shall be allocated as evenly as practicable among the three classes of the Company's directors. All other members of the Board of Directors of the Company shall be designated by CEI. From and after the Effective Time, such persons designated by CEI and NU shall be the directors of the Company until the earlier of their resignation or removal or until, their respective successors are duly elected and qualified, as the case may be.

(b) The officers of CEI shall, from and after the Effective Time, be the officers of the Company until the earlier of their resignation or removal or until their respective successors are duly elected and qualified, as the case may be; provided, however, that, from and after the Effective Time, Michael G. Morris shall be President of the Company.

(c) The managers of Merger LLC at the Effective Time shall, from and after the Effective Time, be the trustees of NU as the surviving entity in the NU Merger until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the Trust Agreement and the number of trustees of NU shall be fixed from and after the Effective Time at a number equal to the number of managers

of Merger LLC at the Effective Time until such time as the Trust Agreement is further amended in accordance with its terms.

SECTION 1.08. Post-Merger OperationsSECTION 1.08. Post-Merger Operations. Following the Effective Time, the Company shall conduct its operations in accordance with the following:

(a) Name. At the Effective Time, the Company's name shall be Consolidated Edison, Inc.

(b) Service Company. From and after the Effective Time, the Company may have one or more service companies (collectively, the "Service Company") to provide shared services to the businesses of the Company and its prospective subsidiaries.

(c) Corporate Offices. (i) The Company shall maintain (A) its corporate headquarters in New York City, (B) the headquarters for the operations in the New England States of the Service Company in the State of Connecticut and (C) the headquarters for the Company's unregulated businesses in the State of Connecticut, (ii) CEI's subsidiaries shall maintain offices for utility operations in the State of New York, the State of New Jersey and the Commonwealth of Pennsylvania, consistent with their current or contemplated operations, and (iii) NU's subsidiaries shall maintain offices for utility operations in New England in the State of Connecticut, the Commonwealth of Massachusetts and the State of New Hampshire, consistent with their current or contemplated operations.

(d) Charities. The parties agree that provision of charitable contributions and community support in the respective service areas of their respective subsidiaries serves a number of important goals. After the Effective Time, the Company and its subsidiaries taken as a whole intend to continue to provide charitable contributions and community support within the service areas of each of their respective subsidiaries at levels substantially comparable to the levels of charitable contributions and community

support provided, directly or indirectly, by CEI, NU and their respective subsidiaries within their subsidiaries' respective service areas during the two-year period immediately prior to the Effective Time.

SECTION 1.09. Transfer to NU of Company Common Stock. Upon receipt by NU of the necessary approval under PUHCA (as defined in Section 3.01(b)), CEI shall, so long as such approval is received prior to the Effective Time, sell to NU at a price equal to the par value thereof 400 shares of the common stock, par value \$.01 per share, of the Company representing 40% of the outstanding capital stock of the Company.

## ARTICLE II

### Effect of the Mergers; Exchange of Certificates II Effect of the Mergers; Exchange of Certificates II Effect of the Mergers; Exchange of Certificates

SECTION 2.01. Effect on Capital Stock. 2.01.  
Effect on Capital Stock. 2.01. Effect on Capital Stock.

(a) At the CEI Effective Time, by virtue of the CEI Merger and without any action on the part of the holder of any shares of capital stock of the Company or CEI:

(i) Cancelation of Certain CEI Common Stock.

Each share of CEI Common Stock that is owned by CEI or the Company shall automatically be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(ii) Conversion of CEI Common Stock. Subject to Section 2.01(a)(i), each issued and outstanding share of CEI Common Stock and each share of CEI Common Stock held by Consolidated Edison Company of New York, Inc. ("CECONY") shall be converted into the right to receive one fully paid and nonassessable share of Company Common Stock.

(iii) Cancelation of CEI Common Stock. As of the CEI Effective Time, all shares of CEI Common Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any shares of CEI Common Stock shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration (as defined in Section 2.01(c)) upon the surrender of such certificate in accordance with Section 2.04, without interest.

(b) At the NU Effective Time, by virtue of the NU Merger and without any action on the part of any holder of any equity interest in NU or Merger LLC:

(i) Cancelation of Certain NU Common Shares. Each NU Common Share together with each associated right (each, a "NU Right") under the NU Rights Agreement (as defined in Section 3.01(x)) that is owned by NU or the Company shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(ii) Conversion of NU Common Shares. Subject to (x) Sections 2.01(b)(i) and 2.04(e), (y) the allocation and proration provisions set forth in 2.03 and (z) adjustment in accordance with Section 2.05(a), each issued and outstanding NU Common Share together with each associated NU Right shall be converted into the right to receive, at the election of the holder thereof, one of the following:

(A) for each NU Common Share and associated NU Right with respect to which an election to receive Company Common Stock ("Stock Consideration") has been effectively made, and not revoked or lost, or deemed to have been made, pursuant to Section 2.02 (a "Stock Election"), the right to receive a number of shares of Company Common Stock equal to the Exchange Ratio. If the Closing Date occurs on or prior to August 5, 2000 (the "Adjustment Date"), the "Exchange Ratio"

shall be equal to the quotient (rounded to the nearest thousandth, or if there shall not be a nearest thousandth, the next higher thousandth) of \$25 (the "Base Numerator") divided by the Market Price (as defined below) of CEI Common Stock (the "Denominator"); provided, however, that if (I) the Market Price is less than \$36, the Denominator shall be \$36 and (II) the Market Price is greater than \$46, the Denominator shall be \$46. If the Closing Date is after the Adjustment Date, the Exchange Ratio shall be equal to the quotient (rounded to the nearest thousandth, or if there shall not be a nearest thousandth, the next higher thousandth) of the Adjusted Numerator (as defined below) divided by the Denominator. The "Adjusted Numerator" shall be equal to the Base Numerator increased, for each day after the Adjustment Date up to and including the day which is one day prior to the Closing Date, by an amount equal to \$0.0034 (the Base Numerator and the Adjusted Numerator are herein collectively referred to as the "Numerator"). The "Market Price" of CEI Common Stock means the average (rounded to the nearest thousandth, or if there shall not be a nearest thousandth, the next higher thousandth) of the volume weighted averages (rounded to the nearest thousandth, or if there shall not be a nearest thousandth, the next higher thousandth) of the trading prices of CEI Common Stock on the NYSE (as defined in Section 2.04(e)(ii)), as reported by Bloomberg Financial Markets (or such other source as the parties shall agree in writing), for the 20 trading days randomly selected by lot by CEI and NU together from the 40 consecutive trading days ending on the fifth trading day immediately preceding the Closing Date (excluding the Closing Date).

(B) for each such NU Common Share and associated NU Right with respect to which an election to receive cash consideration (the "Cash Consideration") has been effectively made, and not

revoked or lost, or deemed to have been made, pursuant to Section 2.02 (a "Cash Election"), the right to receive cash, in an amount equal to \$25.

If the Closing Date is after the Adjustment Date, the Cash Consideration shall be increased, for each day after the Adjustment Date up to and including the day which is one day prior to the Closing Date, by an amount equal to \$0.0034.

(iii) Cancellation of NU Common Shares. As of the NU Effective Time, all NU Common Shares together with the associated NU Rights shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of a certificate representing any NU Common Shares and associated NU Rights shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration upon surrender of such certificate in accordance with Section 2.04, without interest.

(iv) Conversion of Merger LLC Equity Interests. All of the equity interests in Merger LLC issued and outstanding immediately prior to the NU Effective Time (the only holders of which are the Company and LLC Holding Sub) shall (A) with respect to such interests held by LLC Holding Sub, be automatically canceled and retired and cease to exist and (B) with respect to such interests held by the Company, be converted into 1,000 duly authorized and issued and fully paid common shares of beneficial interest, par value \$5.00 per share, of NU.

(c) The shares of Company Common Stock to be issued pursuant to Section 2.01(a)(ii) in the case of the CEI Shareholders, and the Stock Consideration or the Cash Consideration to be issued and paid pursuant to Section 2.01(b)(ii) in the case of the NU Shareholders, in each case, shall be referred to, as applicable, as the "Merger Consideration".

(d) At the Effective Time, by virtue of the Mergers and without any action on the part of any holder of

any capital stock of CEI or the Company or any equity interest of NU, each share of Company Common Stock issued and outstanding immediately prior to the Effective Time shall be canceled, and no consideration shall be delivered in exchange therefor.

SECTION 2.02. NU Shareholder ElectionsSECTION 2.02. NU Shareholder ElectionsSECTION 2.02. NU Shareholder Elections. (a) Each person who, on or prior to the Election Date referred to in (b) below, is a record holder of NU Common Shares and associated NU Rights shall be entitled, with respect to all or any portion of such shares, to make a Stock Election or a Cash Election on or prior to such Election Date, on the basis hereinafter set forth.

(b) The Company, CEI and NU shall prepare and mail, at least 15 but no more than 60 days prior to the Closing Date, a form of election (the "Form of Election") to the record holders of NU Common Shares and associated NU Rights as of a record date five business days prior to such mailing, which Form of Election shall be used by each record holder of NU Common Shares and associated NU Rights who wishes to elect to receive the Stock Consideration or the Cash Consideration for any or all of the NU Common Shares and associated NU Rights held by such holder. NU will use its reasonable best efforts to make the Form of Election available to all persons who become record holders of NU Common Shares and associated NU Rights during the period between such record date and the Closing Date. Any such holder's election to receive the Stock Consideration or Cash Consideration shall have been properly made only if the Exchange and Paying Agent (as defined in Section 2.04(a)) shall have received at its designated office, by 5:00 p.m., New York City time, on the fifth business day immediately preceding the Closing Date or such other date as may be agreed to by CEI and NU (the "Election Time"), a Form of Election properly completed and accompanied by the Certificates (as defined in Section 2.04(b)) for the NU Common Shares and associated NU Rights to which such Form of Election relates, duly endorsed in blank or otherwise in form acceptable for transfer on the books of NU (or by an

appropriate guarantee of delivery), as set forth in such Form of Election.

(c) Any Form of Election may be revoked by the NU Shareholder who submitted such Form of Election to the Exchange and Paying Agent only by written notice received by the Exchange and Paying Agent prior to the Election Time. In addition, all Forms of Election shall automatically be revoked if the Exchange and Paying Agent is notified in writing by CEI that either of the Mergers has been abandoned. If a Form of Election is effectively revoked, the Certificate or Certificates (or guarantees of delivery, as appropriate) for the NU Common Shares and associated NU Rights to which such Form of Election relates shall be promptly returned to the NU Shareholder submitting the same to the Exchange and Paying Agent. A revoked election cannot be reinstated without valid resubmission, by the Election Time of a valid Election Form, and a revocation will not constitute an election for any other consideration. Once a Form of Election is effectively revoked by a NU Shareholder, such NU Shareholder may make an effective election to receive the Stock Consideration or the Cash Consideration only if such NU Shareholder delivers a new Form of Election to the Exchange and Paying Agent at its designated office, by the Election Time, together with all other documents required by, and in compliance with the procedures set forth in or contemplated by, Section 2.02(b). In the case of multiple Forms of Election received by the Exchange Agent in respect of the same NU Common Shares and associated NU Rights, the last dated (or, if not dated, the last received) will govern.

(d) The good faith determination of the Company whether or not elections to receive the Stock Consideration or Cash Consideration has been properly made or revoked pursuant to this Section 2.02 with respect to NU Common Shares and associated NU Rights and when elections and revocations were received by the Exchange and Paying Agent shall be binding. If no Form of Election is received with respect to NU Common Shares and associated NU Rights, or if the Company determines that any election to receive the Stock Consideration or Cash Consideration was not properly



made with respect to NU Common Shares and associated NU Rights, (i) in the event that Oversubscribed Consideration (as defined in Section 2.03(a)) exists, an election for the Undersubscribed Consideration (as defined in Section 2.03(a)) shall be deemed to have been made with respect to such NU Common Shares and associated NU Rights and such NU Common Shares and associated NU Rights shall be exchanged in the NU Merger for the Undersubscribed Consideration pursuant to Section 2.01(b)(ii)(A) or Section 2.01(b)(ii)(B), as the case may be, and (ii) in the event that no Oversubscribed Consideration exists, an election for Cash Consideration shall be deemed to have been made with respect to such shares and such shares shall be exchanged in the NU Merger for Cash Consideration pursuant to Section 2.01(b)(ii)(B), until the point where such an exchange would make the Cash Consideration an Oversubscribed Consideration, following which any such NU Common Shares and associated NU Rights that have not been so exchanged for Cash Consideration shall be exchanged for Stock Consideration in accordance with Section 2.01(b)(ii)(A). With respect to any situation in which deemed elections pursuant to the immediately preceding two sentences require elections for both Cash Consideration and Stock Consideration to be deemed made, the Company shall to the extent possible allocate such deemed elections pro rata among such NU Common Shares and associated NU Rights.

(e) The Company shall make all computations as to the allocation and the proration contemplated by Section 2.03 and any such computation shall be conclusive and binding on the NU Shareholders. CEI and NU may mutually agree to make such rules as are consistent with this Section 2.02 for the implementation of the elections provided for herein as shall be necessary or desirable fully to effect such elections.

SECTION 2.03. Allocation and Proration of Cash and Company Common Stock  
SECTION 2.03. Allocation and Proration of Cash and Company Common Stock  
SECTION 2.03. Allocation and Proration of Cash and Company Common Stock.

(a) Notwithstanding anything in this Agreement to the contrary, the number of NU Common Shares and associated NU Rights to be converted into the right to receive (i) the Stock Consideration at the Effective Time (the "Maximum Stock Election Number") shall not exceed 50% of the NU Outstanding Shares (as defined below) and (ii) the Cash Consideration at the Effective Time (the "Maximum Cash Election Number") shall not exceed 50% of the NU Outstanding Shares. If the aggregate number of NU Common Shares and associated NU Rights in respect of which elections have been made or deemed made pursuant to Section 2.02 exceeds the Maximum Stock Election Number or the Maximum Cash Election Number, as the case may be, the consideration for which such elections have been made or deemed made shall be referred to herein as the "Oversubscribed Consideration". In the event that an Oversubscribed Consideration exists, the form of consideration that is not the Oversubscribed Consideration shall be referred to herein as the "Undersubscribed Consideration". "NU Outstanding Shares" shall mean the NU Common Shares and associated NU Rights outstanding immediately prior to the NU Effective Time minus NU Common Shares and associated NU Rights that will be canceled pursuant to Section 2.01(b)(i).

(b) If the aggregate number of NU Common Shares and associated NU Rights in respect of which Stock Elections have been made or deemed made, in each case in accordance with Section 2.02 (the "Requested Stock Amount") exceeds the Maximum Stock Election Number, each holder making or deemed to be making such a Stock Election shall receive, with respect to each NU Common Share and associated NU Right for which such a Stock Election has been made or deemed made, (x) such number of shares of Company Common Stock (together with cash in lieu of fractional shares determined pursuant to Section 2.04(e)) equal to the product of (A) the Exchange Ratio and (B) the Stock Proration Factor (as defined below) and (y) cash in an amount equal to the product of (A) one minus the Stock Proration Factor and (B) \$25. The "Stock

Proration Factor" shall be equal to a fraction (expressed as a decimal) the numerator of which is the Maximum Stock Election Number and the denominator of which is the Requested Stock Amount.

(c) If the aggregate number of NU Common Shares and associated NU Rights in respect of which Cash Elections have been made or deemed made, in each case in accordance with Section 2.02 (the "Requested Cash Amount") exceeds the Maximum Cash Election Number, each holder making or deemed to be making such a Cash Election shall receive, with respect to each NU Common Share and associated NU Right for which such a Cash Election has been made or deemed made, (x) cash in an amount equal to the product of (A) \$25 and the Cash Proration Factor (as defined below) and (y) such number of shares of Company Common Stock (together with cash in lieu of fractional shares determined pursuant to Section 2.04(e)) equal to the product of (A) one minus the Cash Proration Factor and (B) the Exchange Ratio. The "Cash Proration Factor" shall be equal to a fraction (expressed as a decimal) the numerator of which is the Maximum Cash Election Number and the denominator of which is the Requested Cash Amount.

SECTION 2.04. Exchange of CertificatesSECTION 2.04. Exchange of CertificatesSECTION 2.04. Exchange of Certificates.

(a) Exchange and Paying Agent. Promptly following the Effective Time, the Company shall deposit with such bank or trust company as may be designated by the Company (the "Exchange and Paying Agent"), for the benefit of the CEI Shareholders and the NU Shareholders, for exchange in accordance with this Article II, through the Exchange and Paying Agent, certificates representing the shares of Company Common Stock and immediately available funds in amounts and at the times necessary to pay the Merger Consideration (such shares of Company Common Stock and funds, together with any dividends or distributions with respect thereto with a record date after the Effective Time, being hereinafter referred to as the "Exchange Fund") in exchange for outstanding shares of CEI Common Stock (or CEI

Common Stock held by CECONY) or outstanding NU Common Shares together with the associated NU Rights, as the case may be.

(b) Exchange Procedures. As soon as reasonably practicable after the Effective Time, the Exchange and Paying Agent shall mail to each holder of record of a certificate or certificates which immediately prior to the Effective Time represented outstanding shares of CEI Common Stock (or CEI Common Stock held by CECONY) or outstanding NU Common Shares together with the associated NU Rights (the "Certificates") whose shares were converted into the right to receive the Merger Consideration pursuant to this Article II, (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange and Paying Agent and shall be in such form and have such other provisions as CEI and NU may reasonably specify) and (ii) instructions for use in surrendering the Certificates in exchange for the Merger Consideration. Upon surrender of a Certificate for cancelation to the Exchange and Paying Agent, together with such letter of transmittal, duly executed, and such other documents as may reasonably be required by the Exchange and Paying Agent, the holder of such Certificate shall be entitled to receive and the Exchange and Paying Agent shall deliver, as the case may be, in exchange therefor (i) a certificate representing that number of whole shares of Company Common Stock (together with certain dividends or other distributions in accordance with Section 2.04(c), cash in lieu of fractional shares in accordance with Section 2.04(e) and any cash payable pursuant to Section 2.03) that such holder has the right to receive or (ii) the amount of cash that such holder is entitled to receive, in each case pursuant to the provisions of this Article II, and the Certificate so surrendered shall forthwith be canceled. In the event of a transfer of ownership of CEI Common Stock or NU Common Shares and the associated NU Rights that is not registered in the transfer records of CEI or NU, as the case may be, a certificate representing the proper number of shares of Company Common Stock may be issued to a person other than the person in

whose name the Certificate so surrendered is registered if such Certificate shall be properly endorsed or otherwise be in proper form for transfer and the person requesting such issuance shall pay any transfer or other taxes required by reason of the issuance of shares of Company Common Stock to a person other than the registered holder of such Certificate or establish to the satisfaction of the Company that such tax has been paid or is not applicable. Until surrendered as contemplated by this Section 2.04, each Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender the Merger Consideration, which the holder thereof has the right to receive in respect of such Certificate pursuant to the provisions of this Article II, certain dividends or other distributions in accordance with Section 2.04(c) and cash in lieu of any fractional shares of Company Common Stock in accordance with Section 2.04(e). No interest shall be paid or will accrue on the Merger Consideration or any cash payable to holders of Certificates pursuant to the provisions of this Article II.

(c) Distributions with Respect to Unexchanged Shares. No dividends or other distributions with respect to Company Common Stock with a record date after the Effective Time shall be paid to the holder of any unsurrendered Certificate with respect to the shares of Company Common Stock issuable hereunder in respect thereof and no cash payment in lieu of fractional shares shall be paid to any such holder pursuant to Section 2.04(e), and all such dividends, other distributions and cash in lieu of fractional shares of Company Common Stock shall be paid by the Company to the Exchange and Paying Agent and shall be included in the Exchange Fund, in each case until the surrender of such Certificate in accordance with this Article II. Subject to the effect of applicable escheat or similar laws, following surrender of any such Certificate there shall be paid to the holder of the certificate representing whole shares of Company Common Stock issued in exchange therefor, without interest, (i) as soon as practicable after such surrender, the amount of dividends or other distributions with a record date after the Effective Time theretofore paid with respect to such whole shares of

Company Common Stock and the amount of any cash payable in lieu of a fractional share of Company Common Stock to which such holder is entitled pursuant to Section 2.04(e) and (ii) at the appropriate payment date, the amount of dividends or other distributions with a record date after the Effective Time but prior to such surrender and with a payment date subsequent to such surrender payable with respect to such whole shares of Company Common Stock.

(d) No Further Ownership Rights in CEI Common Stock or NU Common Shares. All shares of Company Common Stock issued upon the surrender for exchange of Certificates in accordance with the terms of this Article II (including any cash paid pursuant to this Article II) shall be deemed to have been issued (and paid) in full satisfaction of all rights pertaining to the shares of CEI Common Stock or the NU Common Shares and the associated NU Rights, as the case may be, theretofore represented by such Certificates, subject, however, to CEI and NU's respective obligations to pay any dividends or make any other distributions with a record date prior to the Effective Time that may have been declared or made by CEI or NU, as the case may be, on such shares and which remain unpaid at the Effective Time, and there shall be no further registration of transfers on the stock transfer books of CEI or NU of the shares of CEI Common Stock or the NU Common Shares and the associated NU Rights, respectively, that were outstanding immediately prior to the Effective Time. If, after the Effective Time, Certificates are presented to the Company, CEI, NU or the Exchange and Paying Agent for any reason, they shall be canceled and exchanged as provided in this Article II, except as otherwise provided by Applicable Law.

(e) No Fractional Shares. (i) No certificates or scrip representing fractional shares of Company Common Stock shall be issued upon the surrender for exchange of Certificates, no dividend or distribution of the Company shall relate to such fractional share interests and such fractional share interests will not entitle the owner thereof to vote or to any rights of a shareholder of the Company.

(ii) As promptly as practicable following the Effective Time, the Exchange and Paying Agent shall determine the excess of (A) the number of whole shares of Company Common Stock delivered to the Exchange and Paying Agent by the Company pursuant to Section 2.04(a) over (B) the aggregate number of whole shares of Company Common Stock to be distributed to former NU Shareholders pursuant to this Article II (such excess being herein called the "Excess Shares"). Following the Effective Time, the Exchange and Paying Agent shall, on behalf of former NU Shareholders, sell the Excess Shares at then-prevailing prices on the New York Stock Exchange, Inc. (the "NYSE"), all in the manner provided in Section 2.04(e)(iii).

(iii) The sale of the Excess Shares by the Exchange and Paying Agent shall be executed on the NYSE through one or more member firms thereof and shall be executed in round lots to the extent practicable. The Exchange and Paying Agent shall use reasonable best efforts to complete the sale of the Excess Shares as promptly following the Effective Time as, in the Exchange and Paying Agent's sole judgment, is practicable consistent with obtaining the best execution of such sales in light of prevailing market conditions. Until the net proceeds of such sale or sales have been distributed to the holders of Certificates formerly representing NU Common Shares and the associated NU Rights the Exchange and Paying Agent shall hold such proceeds in trust for such holders (the "Common Shares Trust"). The Company shall pay all commissions, transfer taxes and other out-of-pocket transaction costs, including the expenses and compensation of the Exchange and Paying Agent incurred in connection with such sale of the Excess Shares. The Exchange and Paying Agent shall determine the portion of the Common Shares Trust to which each former NU Shareholder is entitled, if any, by multiplying the amount of the aggregate net proceeds composing the Common Shares Trust by a fraction, the numerator of which is the amount of the fractional share interest to which such former NU Shareholder is entitled and the denominator of which is the aggregate amount of fractional share interests to which all former NU Shareholders are entitled.

(iv) Notwithstanding the provisions of Section 2.04(e)(ii) and (iii), the Company may elect at its option, exercised prior to the Effective Time, in lieu of the issuance and sale of Excess Shares and the making of the payments hereinabove contemplated, to pay each former NU Shareholder an amount in cash equal to the product obtained by multiplying (A) the fractional share interest to which such former NU Shareholder would otherwise be entitled by (B) the closing price for a share of CEI Common Stock as reported on the NYSE Composite Transaction Tape (as reported by Bloomberg Financial Markets, or, if not reported thereby, any other authoritative source) on the business day immediately prior to the Closing Date, and, in such case, all references herein to the cash proceeds of the sale of the Excess Shares and similar references shall be deemed to mean and refer to the payments calculated as set forth in this Section 2.04(e)(iv).

(v) As soon as practicable after the determination of the amount of cash, if any, to be paid to holders of Certificates formerly representing NU Common Shares and the associated NU Rights with respect to any fractional share interests, the Exchange and Paying Agent shall make available such amounts to such holders of Certificates formerly representing NU Common Shares and the associated NU Rights subject to and in accordance with the terms of Section 2.04(c).

(f) Termination of Exchange Fund. Any portion of the Exchange Fund which remains undistributed to the holders of the Certificates for six months after the Effective Time shall be delivered to the Company, upon demand, and any holders of the Certificates who have not theretofore complied with this Article II shall thereafter look only to the Company for payment of their claim for Merger Consideration, any dividends or distributions with respect to Company Common Stock, and any cash in lieu of fractional shares of Company Common Stock.

(g) No Liability. None of CEI, NU, the Company, Merger LLC or the Exchange and Paying Agent shall be liable



to any person in respect of any shares of Company Common Stock, any dividends or distributions with respect thereto, any cash in lieu of fractional shares of Company Common Stock or any cash from the Exchange Fund, in each case delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. If any Certificate shall not have been surrendered prior to two years after the Effective Time (or immediately prior to such earlier date on which any Merger Consideration, any dividends or distributions payable to the holder of such Certificate or any cash payable to the holder of such Certificate formerly representing CEI Common Stock or NU Common Shares and the associated NU Rights, as the case may be, pursuant to this Article II, would otherwise escheat to or become the property of any Governmental Entity (as defined in Section 3.01(d)), any such Merger Consideration, dividends or distributions in respect of such Certificate or such cash shall, to the extent permitted by Applicable Law, become the property of the Company, free and clear of all claims or interest of any person previously entitled thereto.

(h) Investment of Exchange Fund and Common Shares Trust. The Exchange and Paying Agent shall invest any cash included in the Exchange Fund and Common Shares Trust, as directed by the Company, on a daily basis. Any interest and other income resulting from such investments shall be paid to the Company.

(i) Lost Certificates. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by the Company, the posting by such person of a bond in such reasonable amount as the Company may direct as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange and Paying Agent shall issue in exchange for such lost, stolen or destroyed Certificate, the Merger Consideration and, if applicable, any unpaid dividends and distributions on shares of Company Common Stock deliverable in respect thereof and any cash in

lieu of fractional shares, in each case pursuant to this Agreement.

(j) Withholding Rights. The Company shall be entitled to deduct and withhold from the consideration otherwise payable to any CEI Shareholder or any NU Shareholder, as the case may be, pursuant to this Agreement such amounts as may be required to be deducted and withheld with respect to the making of such payment under the Code, or under any provision of state, local or foreign tax law. To the extent that amounts are so withheld and paid over to the appropriate taxing authority, the Company will be treated as though it withheld an appropriate amount of the type of consideration otherwise payable pursuant to this Agreement to any CEI Shareholder or any NU Shareholder, as the case may be, and if such consideration is not cash, sold such consideration for an amount of cash equal to the fair market value of such consideration at the time of such deemed sale, and paid such cash consideration or proceeds to the appropriate taxing authority.

SECTION 2.05. Adjustments for Sale of Certain NU Nuclear Facilities. (a) Certain Adjustments to the Stock Consideration and the Cash Consideration. If after the date of this Agreement and on or prior to the Closing Date, (i) the relevant NU Subsidiaries have entered into one or more legally binding agreements providing for the sale to one or more third parties which are not Affiliates of NU of both Millstone Station 2 and Millstone Station 3, which agreements need not include any interest therein owned by Public Service Company of New Hampshire ("PSNH"), in accordance, in all material respects, with applicable legislation and the rules, regulations and policies of DPUC (existing as of, or established after, the date of this Agreement) for approval of such agreements (the "NU Nuclear Facilities Sales Agreements") and (ii) the Utility Operations and Management Unit ("UOMA") of DPUC (as defined in Section 3.01(d)(iii)) has submitted a formal written recommendation to DPUC for approval of the NU Nuclear Facilities Sales Agreement, or the DPUC shall have issued a Final Order (as defined in Section 6.02(e)) approving such NU Nuclear Facilities Sales Agreements, then (A) in the case

of each NU Common Share and associated NU Right with respect to which a Stock Election has been effectively made, and not revoked or lost, or deemed to have been made, pursuant to Section 2.02, the Numerator shall be increased by an amount equal to \$1.00 and (B) in the case of each NU Common Share and associated NU Right with respect to which a Cash Election has been effectively made, and not revoked or lost, or deemed to have been made, pursuant to Section 2.02, the Cash Consideration shall be increased by an amount equal to \$1.00.

(b) Certain Contingent Value Rights. If the relevant NU Subsidiaries have not entered into the NU Nuclear Facilities Sales Agreements on or prior to the Closing Date, and the Closing Date occurs on or prior to December 31, 2000, each NU Shareholder shall receive (in addition to the Stock Consideration or Cash Consideration otherwise received by such NU Shareholder in the NU Merger) for each NU Common Share and associated NU Right, one non-transferable contingent value right issued by the Company (each, a "CVR") entitling the holder thereof to payment of \$1.00 in cash if, on or prior to December 31, 2000, (i) the relevant NU Subsidiaries have entered into the NU Nuclear Facilities Sales Agreements and (ii) UOMA has submitted a formal written recommendation to DPUC for approval of such NU Nuclear Facilities Sales Agreements or the DPUC shall have issued a Final Order approving such NU Nuclear Facilities Sales Agreements. If any CVRs are issued and as of 11:59 p.m. Eastern Standard Time on December 31, 2000 (i) the relevant NU Subsidiaries have not entered into the NU Nuclear Facilities Sales Agreements or (ii) UOMA has not submitted a formal written recommendation to DPUC for approval of such NU Nuclear Facilities Sales Agreements and the DPUC shall not have issued a Final Order approving such NU Nuclear Facilities Sales Agreements, then the CVRs shall expire. In the event that the Company is required to issue any CVRs, CEI and NU shall negotiate in good faith the other terms and conditions of such CVRs.

SECTION 2.06. Certain Adjustments. If after the date hereof and on or prior to the Closing Date, the outstanding shares of CEI Common Stock (and CEI Common Stock

held by CECONY) shall be changed into a different number of shares by reason of any reclassification, recapitalization, split-up, combination or exchange of shares, or any dividend payable in stock or other securities is declared thereon with a record date within such period, or any similar event shall occur, the Merger Consideration will be adjusted accordingly to provide to the holders of CEI Common Stock (including CECONY) and NU Common Shares and the associated NU Rights, respectively, the same economic effect as contemplated by this Agreement prior to such reclassification, recapitalization, split-up, combination, exchange or dividend or similar event.

### ARTICLE III

Representations and Warranties III  
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SECTION 3.01. Representations and Warranties of  
NUSECTION 3.01. Representations and Warranties of  
NUSECTION 3.01. Representations and Warranties of NU.  
 Except as set forth on the Disclosure Schedule delivered by NU to CEI prior to the execution of this Agreement (the "NU Disclosure Schedule") and making reference to the particular subsection of this Agreement to which exception is being taken, NU represents and warrants to CEI as follows:

(a) Organization, Standing and Corporate Power.

NU is a voluntary association duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts, each subsidiary of NU (each a "NU Subsidiary") is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized and each of NU and the NU Subsidiaries has the requisite corporate or other power, as the case may be, and authority to carry on its business as now being conducted, except, as to the NU Subsidiaries, for those jurisdictions where the failure to be so organized, existing or in good standing would not have, individually or in the aggregate, a Material Adverse Effect (as defined in Section 8.03) on NU. The respective articles of incorporation and by-laws or other organizational documents of each NU Subsidiary, in each case as amended through the date of this Agreement, do not contain any provision limiting or otherwise restricting the ability of NU to control each such NU Subsidiary.

(b) Subsidiaries. Section 3.01(b) of the NU Disclosure Schedule sets forth, as of the date of this Agreement, a complete list of (i) the NU Subsidiaries and specifies each of NU's Subsidiaries that is a "public-utility company", a "holding company", a "subsidiary company", an "affiliate" of any public-utility company, an "exempt wholesale generator" or a "foreign utility company" within the meaning of Section 2(a)(5), 2(a)(7), 2(a)(8), 2(a)(11), 32(a)(1) or 33(a)(3) of the Public Utility Holding Company Act of 1935, as amended ("PUHCA"), respectively, or a "public utility" within the meaning of Section 201(e) of the Federal Power Act (the "Power Act") and (ii) all other entities in which NU has an aggregate equity investment in excess of \$5 million.

(c) Capital Structure. NU is authorized to issue up to 225,000,000 NU Common Shares and no shares with a preference as to dividends or in liquidation or otherwise over the NU Common Shares have been authorized or issued. At the close of business on October 12, 1999, 137,237,564 NU Common Shares were issued and outstanding, including 3,746 NU Common Shares were held by NU in its treasury.

During the period from October 12, 1999 through the date of this Agreement, NU has not issued any NU Common Shares or placed any NU Common Shares in its treasury (except, in each case, as required by the NU Stock Plans (as defined below)).

As of the date of this Agreement, (i) other than pursuant to the NU Stock Plans (as defined below) and the NU Rights Plan, no securities of NU convertible into or exchangeable or exercisable for shares of equity interest of NU were outstanding; (ii) other than pursuant to the NU Stock Plans and the NU Rights Plan, no warrants, calls, options or other rights to acquire from NU or any NU Subsidiary, and no obligation of NU or any NU Subsidiary to issue, any shares of equity interest of NU were outstanding; and (iii) no bonds, debentures, notes or other indebtedness of NU or any NU Subsidiary having the right to vote on matters presented to shareholders of NU or such NU Subsidiary (or convertible into securities of NU or any NU Subsidiary having the right to vote on matters presented to shareholders of NU or such NU Subsidiary) ("NU Voting Debt") were outstanding. Section 3.01(c) of the NU Disclosure Schedule sets forth a list and description of each plan or program of NU or any NU Subsidiary pursuant to which securities or options to purchase securities of NU or any NU Subsidiary may be issued or delivered (collectively, the "NU Stock Plans"). Section 3.01(c) of the NU Disclosure Schedule sets forth a complete and correct list, as of the date of this Agreement, of the number of NU Common Shares subject to employee stock options to purchase or receive NU Common Shares and the exercise prices thereof and a list of NU Common Shares reserved for issuance relating to other rights to purchase or receive NU Common Shares granted under the NU Stock Plans (collectively with such employee stock options, the "NU Stock Options"). All the outstanding shares of equity interest of NU and all the outstanding shares of capital stock of, or other equity interests in, each of the NU Subsidiaries have been validly issued and are fully paid and nonassessable and (except for any series of preferred stock of any NU Subsidiary held by public shareholders) all the outstanding shares of capital stock of, or other equity interests in, each of the NU Subsidiaries are, as of the date of this Agreement, owned directly or indirectly by NU, free and clear of all pledges, claims, liens, charges,

encumbrances and security interests of any kind or nature whatsoever (collectively, "Liens") and free of any other restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other ownership interests) and there are no outstanding subscriptions, options, calls, contracts, voting trusts, proxies or other commitments, understandings, restrictions, arrangements, rights or warrants, including any right of conversion or exchange under any outstanding security, instrument or other agreement, obligating any such NU Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of its equity interest or obligating it to grant, extend or enter into any such agreement or commitment.

(d) Authority; Noncontravention; Statutory Approvals. (i) Authority. NU has all requisite power and authority to enter into this Agreement and, subject to the NU Shareholder Approval (as defined in Section 3.01(o)) and the applicable NU Statutory Approvals (as defined in Section 3.01(d)(iii)), to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement by NU and the consummation by NU of the transactions contemplated by this Agreement have been duly authorized by all necessary action on the part of NU, subject, in the case of the NU Merger and the Trust Agreement Amendments, to the NU Shareholder Approval. This Agreement has been duly executed and delivered by NU and, assuming the due authorization, execution and delivery by each of the other parties hereto, constitutes the legal, valid and binding obligation of NU, enforceable against NU in accordance with its terms.

(ii) Noncontravention. The execution and delivery of this Agreement by NU do not, and the consummation of the transactions contemplated by this Agreement and compliance with the provisions of this Agreement will not, conflict with, or result in any violation of, or constitute a breach or default (with or without notice or lapse of time, or both) under, or result in the termination of, or give rise to a right of termination, cancelation, modification or acceleration of, any obligation or loss of a benefit under,

or result in the creation of any Lien upon any of the properties or assets of NU or any NU Subsidiary under (any such conflict, violation, breach, default, termination, right of termination, modification, cancelation or acceleration, loss or creation is referred to herein as a "Violation" with respect to NU and such term when used in Section 3.02 has a correlative meaning with respect to CEI), (A) subject to obtaining the NU Shareholder Approval, the Trust Agreement, (B) the certificate of incorporation or by-laws or similar governing documents of any NU Subsidiary (other than any such Violation that, individually or in the aggregate, would not have a Material Adverse Effect on NU), (C) any loan or credit agreement, note, bond, mortgage, indenture, standstill agreement, lease, deed of trust or other agreement, instrument, permit, concession, franchise, license or similar authorization or any other material agreement applicable to NU or any NU Subsidiary or their respective properties or assets (other than any such Violation that, individually or in the aggregate, would not have a Material Adverse Effect on NU) or (D) subject to obtaining the NU Statutory Approvals and the receipt of the NU Shareholder Approval, any statute, law, ordinance, rule or regulation (collectively, "Applicable Law") or any judgment, decree, order, injunction, writ, permit or license of any Governmental Entity (as defined in Section 3.01(d)(iii)) applicable to NU or any of the NU Subsidiaries or any of their respective properties or assets (other than immaterial consents, approvals, orders, authorizations, actions, registrations, declarations or filings, including with respect to communications systems, zoning, name change, occupancy and similar routine regulatory approvals).

(iii) Statutory Approvals. No consent, approval, order, permit or authorization of, action by or in respect of, or registration, declaration or filing with, or notice to, (other than immaterial consents, approvals, permits, orders, authorizations, actions, registrations, declarations or filings, including with respect to communications systems, zoning, name change, occupancy and similar routine regulatory approvals) any Federal, state, local or foreign government, any court, administrative, regulatory (including



a stock exchange) or other governmental agency, commission or authority or any non-governmental self-regulatory agency, commission or authority (a "Governmental Entity") is required by or with respect to NU or any NU Subsidiary in connection with the execution and delivery of this Agreement by NU or the consummation by NU of the transactions contemplated by this Agreement, except for: (A) compliance with and the filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"); (B) the filing with, and to the extent required, the declaration of effectiveness by, the Securities and Exchange Commission (the "SEC") of (1) a proxy statement relating to the NU Shareholders Meeting (as defined in Section 5.01(b)) (such proxy statement, together with the proxy statement relating to the CEI Shareholders Meeting (as defined in Section 5.01(c)), in each case as amended or supplemented from time to time, the "Joint Proxy Statement"), (2) the registration statement on Form S-4 prepared in connection with the issuance of Company Common Stock in the Mergers (the "Form S-4") and (3) such reports under Section 13(a), 13(d), 15(d) or 16(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as may be required in connection with this Agreement and the transactions contemplated by this Agreement; (C) (1) the filing of the CEI Delaware Certificate of Merger with the Secretary of State of the State of Delaware and the filing of the CEI New York Certificate of Merger to the Department of State of the State of New York, and the filing of the NU Certificate of Merger with the Secretary of State of the Commonwealth of Massachusetts and appropriate documents with the relevant authorities of other states in which NU and any of the NU Subsidiaries are qualified to do business and such filings with Governmental Entities to satisfy the applicable requirements of state or provincial securities or "blue sky" laws and (2) the filing of the Trust Agreement Amendments with the Secretary of State of the Commonwealth of Massachusetts; (D) such filings with and approvals of the NYSE to permit the shares of Company Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under PUHCA; (F) notice to, and the consent and approval of, the Federal Energy Regulatory Commission

("FERC") under the Power Act; (G) to the extent required, notice to, and the consent and approval of, the Nuclear Regulatory Commission (the "NRC") under the Atomic Energy Act of 1954, as amended (the "Atomic Energy Act"); (H) to the extent required, notice to and the approval of (1) the Connecticut Department of Public Utility Control ("DPUC"), (2) the Maine Public Utilities Commission ("MPUC"), (3) the Massachusetts Department of Telecommunications and Energy ("MDTE") and the Massachusetts Department of Revenue (the "MDR"), (4) the New Hampshire Public Utilities Commission ("NHPUC"), (5) the New Jersey Board of Public Utilities ("NJBPU"), (6) the New York State Public Service Commission ("NYPSC"), (7) the Pennsylvania Public Utility Commission ("PPUC"), (8) Vermont Public Services Board ("VPSB", and collectively with DPUC, MPUC, MDTE, MDR, NHPUC, NJBPU, NYPSC, PPUC, the "Applicable PUCs"); (I) to the extent required, notice to and the consent and approval of the Governmental Entities listed on Section 3.01(d)(iii)(I) of the NU Disclosure Schedule; and (J) the filing of the certificate of incorporation of the Company in the form attached hereto as Exhibit A with the Secretary of State of the State of Delaware (the preceding clauses (A) through (J) collectively, whether or not legally required to be obtained, the "NU Statutory Approvals").

(e) Reports and Financial Statements. The filings (other than immaterial filings) required to be made by NU and the NU Subsidiaries under the Securities Act of 1933, as amended (the "Securities Act"), the Exchange Act, PUHCA, the Power Act, the Atomic Energy Act or applicable state public utility laws and regulations have been filed with the SEC, FERC, the NRC or the appropriate state public utilities commission, as the case may be, including all forms, statements, reports, tariffs, contracts, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto required to be filed with such commission. As of their respective dates, the reports, schedules, forms, statements and other documents (including exhibits and all other information incorporated therein) required to be filed by NU or any NU Subsidiary with the SEC since January 1, 1997 (the "NU SEC Documents") complied in all material respects with the requirements of

the Securities Act, the Exchange Act or PUHCA, as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such NU SEC Documents, and none of the NU SEC Documents when filed contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of NU included in the NU SEC Documents (the "NU Financial Statements") comply as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with United States generally accepted accounting principles ("GAAP") (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the consolidated financial position of NU and its consolidated subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal recurring year-end audit adjustments).

(f) Assets and Properties. NU and the NU Subsidiaries have good and sufficient title to all properties and assets reflected on the consolidated balance sheet of NU and its consolidated subsidiaries included in the NU Financial Statements or thereafter acquired (except as sold or otherwise disposed of since the date of such balance sheet (A) with respect to any such sale or disposition prior to the date of this Agreement or (B) with respect to any such sale or disposition from and after the date of this Agreement, in compliance with clause (e) of Section 4.01) in each case free and clear of all Liens (other than Liens under any mortgage indenture of any NU Subsidiary applicable to the assets of such NU Subsidiary), except where the failure to have good title free and clear of all Liens to any such properties or assets would not have, individually or in the aggregate, a Material Adverse Effect on NU. The tangible assets of NU and the NU

Subsidiaries are in an adequate state of maintenance and repair (except for ordinary wear and tear), except where their failure to be in such state of maintenance and repair would not have, individually or in the aggregate, a Material Adverse Effect on NU.

(g) Franchises. NU and the NU Subsidiaries own or have sufficient rights and consents to locate and use under existing franchises, permits, easements, leases, and license agreements (the "NU Permits") all properties, rights and assets necessary for the conduct of their business and operations as currently conducted, except where the failure to own or have sufficient rights to such properties, rights and assets would not have, individually or in the aggregate, a Material Adverse Effect on NU. To the knowledge (as defined in Section 8.03) of NU, no other private corporation has as of the date of this Agreement commenced, or, without obtaining a certificate of public convenience and necessity from the applicable state utility commission, can commence, operations distributing electricity to the general public along and across public streets and ways in any part of the territories now served by NU or any NU Subsidiary.

(h) Information Supplied. None of the information supplied by or on behalf of, or to be supplied by or on behalf of, NU specifically for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed or becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they are made, not misleading or (ii) the Joint Proxy Statement will, at the date it is first mailed to the NU Shareholders or at the time of the NU Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Form S-4 and the Joint Proxy Statement, insofar as they relate to NU, will comply as to form in all material respects with the requirements of the Securities Act and the Exchange Act,

respectively, and the respective rules and regulations thereunder.

(i) Absence of Certain Changes or Events. Except as disclosed in the NU SEC Documents filed pursuant to the Securities Act or the Exchange Act and publicly available prior to the date of this Agreement (the "Previously Filed NU SEC Documents"), since December 31, 1998, to the date of this Agreement, (i) NU and each of the NU Subsidiaries have conducted their respective businesses only in the ordinary course of business consistent with past practice and (ii) there has not been, and no fact or condition exists which, individually or in the aggregate, would have a Material Adverse Effect on NU. Except as disclosed in the Previously Filed NU SEC Documents, from December 31, 1998 through the date of this Agreement, there has not been (i) any declaration, setting aside or payment of any dividend or other distribution (whether in cash, stock or property) with respect to any equity interest of NU, (ii) any split, combination or reclassification of any equity interest of NU or any issuance or the authorization of any issuance of any equity interest of NU or NU Voting Debt or any other securities in respect of, in lieu of or in substitution for any equity interest of NU, except for issuances of NU Common Shares under the NU Stock Plans in accordance with their present terms or upon exercise of outstanding NU Stock Options, or (iii) except as may have been required by a change in GAAP, any change in accounting methods, principles or practices by NU or any NU Subsidiary materially affecting their respective assets, liabilities or business. As of the date of this Agreement, none of (i) the Agreement and Plan of Merger (the "Yankee Merger Agreement") dated as of June 14, 1999 among Yankee Energy System, Inc. ("Yankee") and NU, (ii) the Purchase and Sale Agreement (the "CL&P/NGC Sale Agreement") dated July 2, 1999 between The Connecticut Light and Power Company ("CL&P") and Northeast Generation Company ("NGC"), (iii) the Purchase and Sale Agreement (the "NRG Sale Agreement") dated July 1, 1999, between CL&P and NRG, Inc. (the "NRG Sale Agreement") and (iv) the Purchase and Sale Agreement (the "WMECO/NGC Sale Agreement") dated July 2, 1999, between Western Massachusetts Electric Company ("WMECO") and NGC.

(j) Compliance with Applicable Laws; Litigation.

Except as disclosed in the Previously Filed NU SEC Documents, NU and the NU Subsidiaries are in compliance with the terms of the NU Permits and all Applicable Laws, except where the failure so to comply would not have, individually or in the aggregate, a Material Adverse Effect on NU. Except as disclosed in the Previously Filed NU SEC Documents, no action, demand, requirement or investigation by any Governmental Entity and no suit, action or proceeding by any person, in each case with respect to NU or any NU Subsidiary or any of their respective properties is pending or, to the knowledge of NU, threatened, other than, in each case, those the outcome of which, individually or in the aggregate, would not have a Material Adverse Effect on NU. All utility rates charged by NU and the applicable NU Subsidiaries have been and continue to be made pursuant to lawfully filed tariffs and contracts. This provision shall not apply to environmental or to health and safety matters, which are exclusively the subject of Section 3.01(t).

(k) Absence of Changes in Benefit Plans. Since the date of the most recent audited financial statements included in the Previously Filed NU SEC Documents, there has not been any adoption or amendment in any material respect by NU or any NU Subsidiary of any collective bargaining agreement or any material bonus, pension, profit sharing, savings, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, phantom stock, retirement, vacation, severance, disability, death benefit, hospitalization, medical or other plan, arrangement or understanding providing benefits to any current or former trustee, director, officer or employee of NU or any NU Subsidiary (collectively, the "NU Benefit Plans"), or any material change in any actuarial or other assumption used to calculate funding obligations with respect to any NU pension or post-retirement benefit plans or arrangements, or any material change in the manner in which contributions to any NU pension or post-retirement benefit plans or arrangements are made or the basis on which such contributions are determined.

(1) Employee Matters; ERISA. (i) Except for employment agreements providing benefits (other than material severance benefits) but no employment term other than at will, Section 3.01(1)(i) of the NU Disclosure Schedule contains a true and complete list of each (A) written or material oral deferred compensation, bonus or other incentive compensation, stock purchase, stock option, restricted stock and other equity compensation or ownership plan, program, agreement or arrangement; (B) written or material oral severance or termination pay, medical, surgical, hospitalization, life insurance and other "welfare" plan, fund or program (within the meaning of Section 3(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")); (C) profit-sharing, stock bonus or other "pension" plan, fund or program (within the meaning of Section 3(2) of ERISA); (D) written or material oral employment, retention, consulting, termination or severance agreement; and (E) other written or material oral employee benefit plan, fund, program, agreement or arrangement, in each case, that is sponsored, maintained or contributed to or required to be contributed to by NU or by any trade or business, whether or not incorporated (an "ERISA Affiliate"), that together with NU would be deemed a "single employer" within the meaning of Section 4001(b) of ERISA, or to which NU or an ERISA Affiliate is party, for the benefit of any employee or former employee of NU or any NU Subsidiary (the foregoing plans, funds, programs, agreements and arrangements in this Section 3.01(1)(i) being referred to collectively as the "NU Plans").

(ii) With respect to each NU Plan (except for NU Plans that are "multiemployer plans" as that term is defined in Section 3(37) of ERISA), NU has heretofore delivered or made available to CEI true and complete copies of each of the following documents:

(A) a copy of each written NU Plan and any amendments thereto;

(B) a copy of the two most recent annual reports on Internal Revenue Service Form 5500 and actuarial reports, if required under ERISA, and

the most recent report prepared with respect thereto in accordance with Statement of Financial Accounting Standards Nos. 87 and 106;

(C) a copy of the most recent Summary Plan Description (including supplements) required under ERISA with respect thereto;

(D) if the NU Plan is funded through a trust or any third party funding vehicle, a copy of the trust or other funding agreement and the latest financial statements thereof and all related agreements; and

(E) the most recent determination letter or pending determination letter received from the Internal Revenue Service with respect to each NU Plan intended to qualify under Section 401 or 501(c)(9) of the Code.

(iii) No liability under Title IV or Section 302 of ERISA has been incurred by NU or any ERISA Affiliate that has not been satisfied in full, and no condition exists that presents a risk to NU or any ERISA Affiliate of incurring any such liability, other than liability for premiums due the Pension Benefit Guaranty Corporation ("PBGC") (which premiums have been paid when due) in each case except where such occurrence, individually or in the aggregate, would not have a Material Adverse Effect on NU. No NU Plan has, to the knowledge of NU, engaged in a "prohibited transaction" (as defined in Section 4975 of the Code or Section 406 of ERISA) not exempted under or pursuant to Section 4975 of the Code or Section 408 of ERISA, no NU Plan subject to Title IV of ERISA (a "Title IV NU Plan") has been terminated by the PBGC or has been the subject of a "reportable event" (as defined in Section 4043 of ERISA and the regulations thereunder) for which the 30-day notice requirement has not been waived and NU has not received any notice of intent by PBGC to terminate any such Plan in each case except where such occurrence, individually or in the aggregate, would not



have a Material Adverse Effect on NU. Schedule 3.01(1)(iii) of the NU Disclosure Schedule sets forth, in respect of each of the last two completed plan years, (x) the amount of contributions made by NU and its Affiliates to each Title IV NU Plan and (y) the amount of insurance premiums required to be paid by NU and its Affiliates to the PBGC.

(iv) With respect to each Title IV NU Plan, the present value of accrued benefits under such Plan, based upon the actuarial assumptions used for funding purposes in the most recent actuarial report prepared by such Plan's actuary with respect to such Plan did not exceed, as of its latest valuation date, the then current value of the assets of such Plan allocable to such accrued benefits.

(v) No Title IV NU Plan or any trust established thereunder has incurred any "accumulated funding deficiency" (as defined in Section 302 of ERISA and Section 412 of the Code), whether or not waived, as of the last day of the most recent fiscal year of each Title IV NU Plan ended prior to the date of this Agreement nor has there been any application for waiver of the minimum funding standards imposed by Section 412 of the Code. All contributions required to be made with respect to any NU Plan on or prior to the Closing Date have been or will have been timely made or are reflected on the balance sheet except where such failure to make any such contributions, individually or in the aggregate, would not have a Material Adverse Effect on NU.

(vi) No Title IV NU Plan is a "multiemployer plan", as defined in Section 3(37) of ERISA, nor is any Title IV NU Plan a plan described in Section 4063(a) of ERISA.

(vii) Each NU Plan has been operated and administered in accordance with its terms and Applicable Law, including but not limited to ERISA and the Code, the rules and regulations thereunder, except

where such noncompliance, individually or in the aggregate, would not have a Material Adverse Effect on NU. Each NU Plan intended to be "qualified" under Section 401(a) or 501(c)(9) of the Code is so qualified and its trusts maintained thereunder are exempt from taxation under Section 501(a) of the Code. To the knowledge of NU, there is no fact, condition or set of circumstances existing that could adversely affect such favorable determination. To NU's knowledge, there are no investigations pending in respect of any NU Plan by any Governmental Entity.

(viii) No NU Plan provides medical, surgical, hospitalization, death or similar benefits (whether or not insured) for employees or former employees (or their beneficiaries) of NU or any NU Subsidiary for periods extending beyond their respective dates of retirement or other termination of service, other than (A) coverage mandated by Applicable Law, (B) death benefits under any "pension plan", or (C) benefits the full cost of which is borne by the current or former employee (or his beneficiary).

(ix) To the knowledge of NU, no amounts payable under the NU Plans will fail to be deductible for Federal income tax purposes by virtue of either Section 280G or 162(m) of the Code.

(x) The consummation of the transactions contemplated by this Agreement will not, either alone or in combination with another event, (A) entitle any current or former trustee, director, officer or employee of NU or any ERISA Affiliate to severance pay, unemployment compensation or any other payment, (B) accelerate the time of payment or vesting, or increase the amount of compensation due any such trustee, director, officer or employee or (C) require the immediate funding or financing of any compensation or benefits. Schedule 3.01(1)(x) of the NU Disclosure Schedule sets forth estimates prepared by NU of the amounts reasonably expected to be paid to participants in any NU Plan (or by which any of their benefits may be

increased or accelerated) as a result of (A) the execution of this Agreement, (B) the obtaining of the NU Shareholders Approval, (C) consummation of the Mergers and (D) termination or constructive termination of any trustee, director, officer or employee's employment with NU or any NU Subsidiary. For purposes of the preceding sentence, the determination of the amounts set forth in Schedule 3.01(1)(x) is based upon each employee's current compensation, outstanding awards and benefits accrued (as applicable) and on such other factors as NU, taking into account Applicable Law, deems reasonable and appropriate.

(xi) To the knowledge of NU, there are no pending, threatened or anticipated claims by or on behalf of any NU Plan, by any employee or beneficiary covered under any such NU Plan, or otherwise involving any such NU Plan (other than routine claims for benefits) except to the extent that such claims, individually or in the aggregate, would not have a Material Adverse Effect on NU.

(m) Labor and Employee Relations. (i) Except as disclosed in the Previously Filed NU SEC Documents, as of the date of this Agreement, (A) except for the existing collective bargaining agreements with the unions set forth on Section 3.01(m) of the NU Disclosure Schedule, in each case as in effect on the date of this Agreement (copies of which have been delivered to CEI), neither NU nor any of the NU Subsidiaries is a party to any collective bargaining agreement or other labor agreement with any union or labor organization and (B) to the knowledge of NU, there is no current union representation question involving employees of NU or any of the NU Subsidiaries, nor does NU have knowledge of any activity or proceeding of any labor organization (or representative thereof) or employee group to organize any such employees, except to the extent such, individually or in the aggregate, would not have a Material Adverse Effect on NU.

(ii) Except as disclosed in the Previously Filed NU SEC Documents or except to the extent such, individually

or in the aggregate, would not have a Material Adverse Effect on NU, (A) there is no unfair labor practice, employment discrimination or other charge, claim, suit, action or proceeding against NU or any of the NU Subsidiaries pending, or to the knowledge of NU, threatened before any court, governmental department, commission, agency, instrumentality or authority or any arbitrator, (B) there is no strike, lockout or material dispute, slowdown or work stoppage pending or, to the knowledge of NU, threatened against or involving NU, and (C) there is no proceeding, claim, suit, action or governmental investigation pending or, to the knowledge of NU, threatened in respect of which any trustee, director, officer, employee or agent of NU or any NU Subsidiary is or may be entitled to claim indemnification from NU or any NU Subsidiary pursuant to the Trust Agreement (in the case of NU) or their certificates of incorporation or By-laws (in the case of the NU Subsidiaries) or as provided in the indemnification agreements listed in Section 3.01(m)(ii) of the NU Disclosure Schedule or any other indemnification agreements.

(n) Taxes. (i) Except as to any items that would not, individually or in the aggregate, have a Material Adverse Effect on NU:

(A) NU and each of the NU Subsidiaries has (I) filed all Federal, state, local and foreign income and other tax returns or reports (including declarations of estimated tax) required to be filed by it, and all such returns are complete and accurate, (II) paid all taxes of any nature whatsoever (together with any related penalties and interest) (any of the foregoing being referred to herein as a "Tax"), that are shown on such Tax returns as due and payable on or before the date of this Agreement, and (III) paid on behalf of itself or others all Taxes otherwise required to be paid on or before the date of this Agreement.

(B) There are no claims or assessments pending against NU or any of the NU Subsidiaries for any alleged deficiency in Tax, and, to the

knowledge of NU, there is not any threatened Tax claims or assessments against NU or any of the NU Subsidiaries.

(C) NU and each of the NU Subsidiaries has established adequate reserves for current Taxes and for any liability for deferred Taxes in the NU Financial Statements in accordance with GAAP.

(D) All Taxes required to be withheld, collected or deposited by or with respect to NU and each of the NU Subsidiaries have been timely withheld, collected or deposited, as the case may be, and, to the extent required, have been paid to the relevant taxing authority.

(E) There are no Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of NU or any NU Subsidiary.

(F) The Federal income Tax returns of the consolidated group for which NU is the common parent either have been examined and settled with the Internal Revenue Service or closed by virtue of the expiration of the applicable statute of limitations for all years through 1993.

(G) None of NU or any NU Subsidiary shall be required to include in a taxable period ending after the Effective Time an amount of taxable income attributable to income that accrued in a prior taxable period but was not recognized in any prior taxable period as a result of the installment method of accounting, the completed contract method of accounting, the long-term contract method of accounting, the cash method of accounting or Section 481 of the Code or comparable provisions of state, local or foreign Tax law.

(H) Neither NU nor any NU Subsidiary has, within the five preceding taxable years, deferred

gain recognition for Federal income tax purposes under Sections 1031 or 1033 of the Code.

(I) None of the property owned or used by NU or any NU Subsidiary is subject to a lease other than a "true" lease for Federal income tax purposes.

(J) NU has not made, within the five preceding taxable years, a disclosure on a Tax return pursuant to Section 6662(d)(2)(B)(ii) of the Code.

(K) Neither NU nor any NU Subsidiary has constituted either a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock qualifying for tax-free treatment under Section 355 of the Code (I) in the two years prior to the date of this Agreement or (II) in a distribution which could otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the Mergers.

(ii) Neither NU nor any NU Subsidiary has taken any action, or failed to take any action, or has knowledge of any fact, agreement, plan or other circumstance that is reasonably likely to prevent (A) the Mergers from constituting a transaction described in Section 351 of the Code or (B) the CEI Merger from constituting a transaction described in Section 368(a) of the Code.

(o) Voting Requirements. The affirmative vote of two-thirds of the NU Common Shares outstanding as of the date of the NU Shareholders Meeting, voting as a single class (with each NU Common Share having one vote per share), (x) to amend the Trust Agreement in order to effect the Trust Agreement Amendments and (y) to approve this Agreement and the Merger at the NU Shareholders Meeting (collectively, the "NU Shareholder Approval") are the only votes of the

holders of any equity interest of NU or any class or series of capital stock of any NU Subsidiary necessary to approve this Agreement, the Merger and the transactions contemplated hereby.

(p State Anti-takeover Statutes. NU has taken or will take prior to Closing all action necessary to approve the NU Merger such that the approval (along with the NU Shareholder Approval) is sufficient to render the provisions of Chapter 110C, 110D, 110E and 110F of the MGL inapplicable to the NU Merger and the other transactions contemplated by this Agreement. To the knowledge of NU, no other anti-takeover or similar statute or regulation applies or purports to apply to the transactions contemplated by this Agreement.

(q Brokers. No broker, investment banker, financial advisor or other person, other than Morgan Stanley & Co., Incorporated ("Morgan Stanley") and the SG Barr Devlin Division of Société Générale ("SG Barr Devlin"), the fees and expenses of which will be paid by NU, is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of NU. NU has made available to CEI prior to the execution of this Agreement a copy of the engagement letter of each of Morgan Stanley and SG Barr Devlin and, other than as set forth in such engagement letter, has no understanding or agreement with Morgan Stanley or SG Barr Devlin regarding any fees or expenses in connection with the Mergers or the transactions contemplated by this Agreement.

(r Opinion of Financial Advisor. NU has received the opinion of each of Morgan Stanley and SG Barr Devlin, dated the date of this Agreement, to the effect that, as of such date, the Merger Consideration is fair from a financial point of view to the NU Shareholders.

(s Ownership of CEI Common Stock. As of the date of this Agreement, neither NU nor, to its knowledge, any of its affiliates, (i) beneficially owns (as defined in

Rule 13d-3 under the Exchange Act), directly or indirectly, or (ii) is party to any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of, in each case, shares of capital stock of CEI or other securities convertible into shares of capital stock of CEI, except for such shares as may be held by trustees of pension, employee benefit, nuclear decommissioning, spent fuel or similar trusts, the investment management of which is carried out by non-affiliates under contract with affiliates of NU.

(t Environmental Protection. (i) Except as set forth in the Previously Filed NU SEC Documents:

(A) Compliance. NU and, to the knowledge of NU, each of the NU Subsidiaries are, and have been, in compliance with all applicable Environmental Laws (as defined in Section 3.01(t)(ii)), except where the failure to so comply, individually or in the aggregate, would not have a Material Adverse Effect on NU, and neither NU nor, to the knowledge of NU, any NU Subsidiary has received any communication (written or oral) reasonably grounded in fact, from any person or Governmental Entity that alleges that NU or any of the NU Subsidiaries is not in such compliance with applicable Environmental Laws. Compliance with all applicable Environmental Laws will not require NU or any NU Subsidiary to incur costs, including the costs of pollution control equipment that are known or anticipated to be required in the future, beyond those currently budgeted for the three NU fiscal years beginning with January 1, 1999, that, individually or in the aggregate, would have a Material Adverse Effect on NU.

(B) Environmental Permits. (I) NU and each of the NU Subsidiaries has obtained or has applied for all environmental, health and safety permits and governmental authorizations (collectively, the "Environmental Permits") necessary for the



construction of their facilities or the conduct of their operations, except where the failure to so obtain, individually or in the aggregate, would not have a Material Adverse Effect on NU, (II) all such Environmental Permits are in good standing or, where applicable, a renewal application has been timely filed and is pending agency approval, except where the failure of such Environmental Permits to be in good standing or to have filed a renewal application on a timely basis would not, individually or in the aggregate, have a Material Adverse Effect on NU, (III) NU and, to the knowledge of NU, the NU Subsidiaries are in material compliance with all terms and conditions of the Environmental Permits, except where failure to so comply, individually or in the aggregate, would not have a Material Adverse Effect on NU and (IV) neither NU nor, to the knowledge of NU, any of the NU Subsidiaries has been advised by any Governmental Entity of any potential change in the terms and conditions of the Environmental Permits either prior to or upon their renewal, except for such potential changes as would not, individually or in the aggregate, have a Material Adverse Effect on NU.

(C) Environmental Claims. There are no Environmental Claims (as defined in Section 3.01(t)(ii)) that would, individually or in the aggregate, have a Material Adverse Effect on NU, pending or, to the knowledge of NU, threatened, (1) against NU or any of the NU Subsidiaries, (2) to the knowledge of NU, against any person or entity whose liability for any Environmental Claim NU or any of the NU Subsidiaries has or may have retained or assumed either contractually or by operation of law, or (3) against any currently owned, leased or managed, in whole or in part, real or personal property or operations of NU or any of the NU Subsidiaries or, to the knowledge of NU, against any formerly owned, leased or managed, in whole or

in part, real or personal property or operations of NU or any of the NU Subsidiaries.

(D) Releases. There have been no Releases (as defined in Section 3.01(t)(ii)) of any Hazardous Material (as defined in Section 3.01(t)(ii)) that would be reasonably likely to form the basis of any Environmental Claim against NU or, to the knowledge of NU, any of the NU Subsidiaries, or against any person or entity whose liability for any Environmental Claim NU or any of the NU Subsidiaries has or may have retained or assumed either contractually or by operation of law, except for any Environmental Claim which, individually or in the aggregate, would not have a Material Adverse Effect on NU.

(E) Assumed and Retained Liabilities. Neither NU nor, to the knowledge of NU, any of the NU Subsidiaries has retained or assumed either contractually or by operation of law any liabilities or obligations that would be reasonably likely to form the basis for any Environmental Claim, which would, individually or in the aggregate, have a Material Adverse Effect on NU.

(F) Predecessors. NU has no knowledge with respect to any predecessor of NU or any of the NU Subsidiaries, of any Environmental Claim that, individually or in the aggregate, would have a Material Adverse Effect on NU.

(ii) Definitions. As used in this Agreement:

(A) "Environmental Claim" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, directives, claims, liens, investigations, proceedings or notices of noncompliance or violation (written or oral) by any person or entity (including any Governmental Entity), alleging potential liability (including potential responsibility or liability for enforcement, investigatory costs, cleanup costs, governmental response costs, removal costs, remedial costs, natural resources damages, property damages, personal injuries or penalties) arising out of, based on or resulting from (I) the presence or Release of, or exposure to, any Hazardous Materials at any location, whether or not owned, operated, leased or managed by NU or any of the NU Subsidiaries or CEI or any of the CEI Subsidiaries; or (II) circumstances forming the basis of any violation or alleged violation of any Environmental Law or (III) any and all claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the presence or Release of, or exposure to, any Hazardous Materials.

(B) "Environmental Laws" means all federal, state and local laws, rules, regulations, orders, decrees, judgments, binding agreements or Environmental Permits issued, promulgated or entered into by or with any Governmental Entity, relating to pollution, the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or protection of human health as it relates to the environment, including laws and regulations relating to noise levels, nuclear operations, Releases of, or exposure to, Hazardous Materials, or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

(C) "Hazardous Materials" means (I) any petroleum or petroleum products, radioactive materials or wastes, spent nuclear fuel, coal ash, coal combustion byproducts, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and polychlorinated biphenyls ("PCBs"); (II) any chemicals, materials, substances or wastes which are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "source material," "special nuclear material," "byproduct material," or words of similar import under any Environmental Law and (III) any other chemical, material, substance or waste that in relevant form or concentration is prohibited, limited or regulated under any Environmental Law.

(D) "Release" means any actual or threatened release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or within any building, structure, facility or fixture.

(u) Regulation as a Utility. Section 3.01(u) of the NU Disclosure Schedule lists each NU Subsidiary that, as of the date of this Agreement, is regulated as a public utility and each jurisdiction imposing such regulation. Neither NU nor any "subsidiary company" or "affiliate" of NU is, as of the date of this Agreement, subject to regulation as a public utility or public service company (or similar designation) by any other state in the United States or any foreign country. As used in this Section 3.01(u) and in Section 3.02(s), the terms "subsidiary company" and "affiliate" shall have the respective meanings ascribed to them in PUHCA.

(v) Operations of Nuclear Power Plants. The operations of the nuclear generation stations (collectively, the "NU Nuclear Facilities") currently or formerly owned, in whole or part, by NU or any of its affiliates are and have been conducted in compliance with all Applicable Laws, including Environmental Laws, except for such failures to comply as would not have, individually or in the aggregate, a Material Adverse Effect on NU. Each of the NU Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and the NRC has determined that such plans are in material compliance with its requirements. As of the date of this Agreement, the plans for the current or future decommissioning of each of the NU Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of Applicable Law and are funded consistent with Applicable Law.

(w) Insurance. NU and each of the NU Subsidiaries is, and has been continuously since January 1, 1997, insured with financially responsible insurers in such amounts and against such risks and losses as are customary in all material respects for companies conducting business as conducted by NU and the NU Subsidiaries during such time period. Neither NU nor any NU Subsidiaries has received any notice of cancelation or termination with respect to any material insurance policy of NU or any NU Subsidiaries, except to the extent any such cancelation or termination would not have, individually or in the aggregate, a Material Adverse Effect on NU.

(x) NU Rights Agreement. NU and the Board of Trustees of NU have taken all necessary action so that neither the execution and delivery of this Agreement nor the consummation of the Mergers and the other transactions contemplated hereby will (i) cause any NU Rights issued pursuant to the Rights Agreement (the "NU Rights Agreement") dated as of February 23, 1999, between NU and Northeast Utilities Service Company, as agent, to become exercisable, or (ii) cause CEI, Merger LLC or any of their respective "Affiliates" or "Associates" (as defined in the NU Rights

Agreement) to be an "Acquiring Person" (as defined in the NU Rights Agreement) or give rise to a "Distribution Date", "Shares Acquisition Date" or "Section 11(a)(ii) Event" (as such terms are defined in the NU Rights Agreement). NU has delivered to CEI a complete and correct copy of the NU Rights Agreement as amended and supplemented to the date of this Agreement.

SECTION 3.02. Representations and Warranties of CEI  
 SECTION 3.02. Representations and Warranties of CEI.  
 Except as set forth on the Disclosure Schedule delivered by CEI to NU prior to the execution of this Agreement (the "CEI Disclosure Schedule") and making reference to the particular subsection of this Agreement to which exception is being taken, CEI represents and warrants to NU as follows:

(a Organization, Standing and Corporate Power. Each of CEI and its subsidiaries (each a "CEI Subsidiary") is a corporation or other legal entity duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized and has the requisite corporate or other power, as the case may be, and authority to carry on its business as now being conducted, except, as to CEI Subsidiaries, for those jurisdictions where the failure to be so organized, existing or in good standing would not have, individually or in the aggregate, a Material Adverse Effect on CEI. The respective articles of incorporation and by-laws or other organizational documents of each CEI Subsidiary, in each case as amended through the date of this Agreement, do not contain any provision limiting or otherwise restricting the ability of CEI to control each such CEI Subsidiary.

(b Subsidiaries. Section 3.02(b) of the CEI Disclosure Schedule sets forth, as of the date of this Agreement, a complete list of (i) CEI Subsidiaries and specifies each of the CEI Subsidiaries that is a "public-utility company", a "holding company", a "subsidiary company", an "affiliate" of any public-utility company, an "exempt wholesale generator" or a "foreign utility company" within the meaning of Section 2(a)(5), 2(a)(7), 2(a)(8),

2(a)(11), 32(a)(1) or 33(a)(3) of PUHCA, respectively, or a "public utility" within the meaning of Section 201(e) of the Power Act and (ii) and all other entities in which CEI has an aggregate equity investment in excess of \$5 million.

(c) Capital Structure. The authorized capital stock of CEI consists of 500,000,000 shares of CEI Common Stock and 6,000,000 shares of preferred stock, par value \$1.00 per share, of CEI ("CEI Authorized Preferred Stock"), of which, as of the date of this Agreement, no shares have been designated to constitute a particular series. At the close of business on October 11, 1999, (i) 217,991,256 shares of CEI Common Stock were issued and outstanding (excluding all shares of CEI Common Stock held by CECONY), (ii) 323,738 shares of CEI Common Stock were held by CEI in its treasury and (iii) 17,173,100 shares of CEI Common Stock were held by CECONY. During the period from October 12, 1999 through the date of this Agreement, CEI has not issued any shares of CEI Common Stock or placed any shares of CEI Common Stock in its treasury (except, in each case, as required by CEI Stock Plans (as defined below)). As of the date of this Agreement, (i) no shares of CEI Common Stock were reserved for issuance pursuant to the CEI Dividend Reinvestment and Cash Payment Plan, the CEI Discount Stock Purchase Plan, CEI's 1996 Stock Option Plan and the CEI Restricted Stock Plan for Directors (the "CEI Stock Plans"), (ii) no shares of CEI Authorized Preferred Stock had been designated or issued or were held in CEI's treasury, (iii) other than pursuant to the CEI Stock Plans, no securities of CEI convertible into or exchangeable or exercisable for shares of capital stock of CEI were outstanding, (iv) other than pursuant to the CEI Stock Plans, no warrants, calls, options or other rights to acquire from CEI or any CEI Subsidiary, and no obligation of CEI or any CEI Subsidiary to issue, any shares of capital stock of CEI were outstanding, and (v) no bonds, debentures, notes or other indebtedness of CEI or any CEI Subsidiary having the right to vote on matters presented to shareholders of CEI or such CEI Subsidiary (or convertible into securities of CEI or any CEI Subsidiary having the right to vote on matters presented to shareholders of CEI or such CEI Subsidiary) ("CEI Voting Debt") were outstanding.

Section 3.02(c) of the CEI Disclosure Schedule sets forth a complete and correct list, as of the date of this Agreement, of the number of shares of CEI Common Stock subject to employee stock options to purchase or receive CEI Common Stock and the exercise prices thereof and a list of shares reserved for issuance relating to other rights to purchase or receive CEI Common Stock granted under the CEI Stock Plans (collectively with such employee stock options, the "CEI Stock Options"). All the outstanding shares of capital stock of, or other equity interests in, CEI and each of the CEI Subsidiaries have been validly issued and are fully paid and nonassessable and (except for any series of preferred stock of any CEI Subsidiary held by public shareholders) all the outstanding shares of capital stock of, or other equity interests in, each of the CEI Subsidiaries are, as of the date of this Agreement, owned directly or indirectly by CEI, free and clear of all Liens and free of any other restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other ownership interests) and there are no outstanding subscriptions, options, calls, contracts, voting trusts, proxies or other commitments, understandings, restrictions, arrangements, rights or warrants, including any right of conversion or exchange under any outstanding security, instrument or other agreement, obligating any such CEI Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of its capital stock or obligating it to grant, extend or enter into any such agreement or commitment.

(d Authority; Noncontravention; Statutory Approvals. (i) Authority. CEI has all requisite power and authority to enter into this Agreement and, subject to the CEI Shareholder Approval (as defined in Section 3.02(m)) and the applicable CEI Statutory Approvals (as defined in Section 3.02(d)(iii)), to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement by CEI and the consummation by CEI of the transactions contemplated by this Agreement have been duly authorized by all necessary action on the part of CEI, subject to the CEI Shareholder Approval. This Agreement has been duly executed and delivered by CEI and, assuming the



due authorization, execution and delivery by each of the other parties hereto, constitutes the legal, valid and binding obligation of CEI, enforceable against CEI in accordance with its terms.

(ii Noncontravention. The execution and delivery of this Agreement by CEI do not, and the consummation of the transactions contemplated by this Agreement and compliance with the provisions of this Agreement will not, conflict with, or result in any Violation under, (A) the certificate of incorporation or by-laws of CEI, (B) the certificate of incorporation or by-laws or similar governing documents of any CEI Subsidiary (other than any such Violation that, individually or in the aggregate, would not have a Material Adverse Effect on CEI), (C) any loan or credit agreement, note, bond, mortgage, indenture, standstill agreement, lease, deed of trust or other agreement, instrument, permit, concession, franchise, license or similar authorization or any other material agreement applicable to CEI or any CEI Subsidiary or their respective properties or assets (other than any such Violation that, individually or in the aggregate, would not have a Material Adverse Effect on CEI) or (D) subject to obtaining the CEI Statutory Approvals, and the receipt of the CEI Shareholder Approval, any Applicable Law or judgment, decree, order, injunction, writ, permit or license of any Governmental Entity applicable to CEI or any of the CEI Subsidiaries or any of their respective properties or assets (other than immaterial consents, approvals, orders, authorizations, actions, registrations, declarations or filings, including with respect to communications systems, zoning, name change, occupancy and similar routine regulatory approvals).

(iii Statutory Approvals. No consent, approval, order, permit or authorization of, action by or in respect of, or registration, declaration or filing with, or notice to, (other than immaterial consents, approvals, permits, orders, authorizations, actions, registrations, declarations or filings, including with respect to communications systems, zoning, name change, occupancy and similar routine regulatory approvals) any Governmental Entity is required by

or with respect to CEI or any CEI Subsidiary in connection with the execution and delivery of this Agreement by CEI or the consummation by CEI of the transactions contemplated by this Agreement, except for: (A) compliance with and the filings under the HSR Act; (B) the filing with, and to the extent required, the declaration of effectiveness by, the SEC of (1) the Joint Proxy Statement, (2) the Form S-4 and (3) such reports under Section 13(a), 13(d), 15(d) or 16(a) of the Exchange Act, as may be required in connection with this Agreement and the transactions contemplated by this Agreement; (C) (1) the filing of the CEI Delaware Certificate of Merger with the Secretary of State of the State of Delaware and the filing of the CEI New York Certificate of Merger to the Department of State of the State of New York, and the filing of the NU Certificate of Merger with the Secretary of State of the Commonwealth of Massachusetts and appropriate documents with the relevant authorities of other states in which CEI and CEI Subsidiaries are qualified to do business and such filings with Governmental Entities to satisfy the applicable requirements of state or provincial securities or "blue sky" laws and (2) the filing of the Trust Agreement Amendments with the Secretary of State of the Commonwealth of Massachusetts; (D) such filings with and approvals of the NYSE to permit the shares of Company Common Stock that are to be issued pursuant to Article II to be listed on the NYSE; (E) the registration, consents, approvals and notices required under PUHCA; (F) notice to, and the consent and approval of, FERC under the Power Act; (G) to the extent required, notice to, and the consent and approval of, the NRC under the Atomic Energy Act; (H) to the extent required, notice to and the approval of the Applicable PUCs; (I) to the extent required, notice to and the consent and approval of the Governmental Entities listed on Section 3.01(d)(iii)(I) of the CEI Disclosure Schedule; and (J) the filing of the certificate of incorporation of the Company in the form attached hereto as Exhibit A with the Secretary of State of the State of Delaware (the preceding clauses (A) through (J) collectively, whether or not legally required to be obtained, the "CEI Statutory Approvals").

(e Reports and Financial Statements. The filings (other than immaterial filings) required to be made by CEI and the CEI Subsidiaries under the Securities Act, the Exchange Act, PUHCA, the Power Act, the Atomic Energy Act or applicable state public utility laws and regulations have been filed with the SEC, FERC, the NRC or the appropriate state public utilities commission, as the case may be, including all forms, statements, reports, tariffs, contracts, agreements (oral or written) and all documents, exhibits, amendments and supplements appertaining thereto required to be filed with such commission. As of their respective dates, the reports, schedules, forms, statements and other documents (including exhibits and all other information incorporated therein) required to be filed by CEI or any CEI Subsidiary with the SEC since January 1, 1997 (the "CEI SEC Documents") complied in all material respects with the requirements of the Securities Act or the Exchange Act, as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable to such CEI SEC Documents, and none of the CEI SEC Documents when filed contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of CEI included in the CEI SEC Documents (the "CEI Financial Statements") comply as to form, as of their respective dates of filing with the SEC, in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with GAAP (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the consolidated financial position of CEI and its consolidated subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal recurring year-end audit adjustments).

(f Assets and Properties. CEI and the CEI Subsidiaries have good and sufficient title to all properties and assets reflected on the consolidated balance sheet of CEI and its consolidated subsidiaries included in the CEI Financial Statements or thereafter acquired (except as sold or otherwise disposed of since the date of such balance sheet) in each case free and clear of all Liens, except where the failure to have good title free and clear of all Liens to any such properties or assets would not have, individually or in the aggregate, a Material Adverse Effect on CEI. The tangible assets of CEI and the CEI Subsidiaries are in an adequate state of maintenance and repair (except for ordinary wear and tear), except where their failure to be in such state of maintenance and repair would not have, individually or in the aggregate, a Material Adverse Effect on CEI.

(g Franchises. CEI and the CEI Subsidiaries own or have sufficient rights and consents to locate and use under existing franchises, permits, easements, leases, and license agreements (the "CEI Permits") all properties, rights and assets necessary for the conduct of their business and operations as currently conducted, except where the failure to own or have sufficient rights to such properties, rights and assets would not have, individually or in the aggregate, a Material Adverse Effect on CEI. To the knowledge of CEI, no other private corporation has of the date of this Agreement commenced or, without obtaining a certificate of public convenience and necessity from the applicable state utility commission, can commence operations distributing electricity to the general public along and across public streets and ways in any part of the territories now served by CEI or any CEI Subsidiary.

(h Information Supplied. None of the information supplied by or on behalf of, or to be supplied by or on behalf of, CEI specifically for inclusion or incorporation by reference in (i) the Form S-4 will, at the time the Form S-4 is filed or becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein,

in light of the circumstances in which they are made, not misleading or (ii) the Joint Proxy Statement will, at the date it is first mailed to the CEI Shareholders or at the time of the CEI Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The Form S-4 and the Joint Proxy Statement insofar as they relate to CEI will comply as to form in all material respects with the requirements of the Securities Act and the Exchange Act, respectively, and the respective rules and regulations thereunder.

(i) Absence of Certain Changes or Events. Except as disclosed in the CEI SEC Documents filed pursuant to the Securities Act or the Exchange Act and publicly available prior to the date of this Agreement (the "Previously Filed CEI SEC Documents"), since December 31, 1998, to the date of this Agreement, (i) CEI and each of the CEI Subsidiaries have conducted their respective businesses only in the ordinary course of business consistent with past practice and (ii) there has not been, and no fact or condition exists which, individually or in the aggregate, would have a Material Adverse Effect on CEI. Except as disclosed in the Previously Filed CEI SEC Documents, from December 31, 1998 through the date of this Agreement, there has not been (i) any declaration, setting aside or payment of any dividend or other distribution (whether in cash, stock or property) with respect to any capital stock of CEI (other than regular quarterly cash dividends), (ii) any split, combination or reclassification of any capital stock of CEI or any issuance or the authorization of any issuance of any capital stock of CEI or CEI Voting Debt or any other securities in respect of, in lieu of or in substitution for any capital stock of CEI, except for issuances of shares of CEI Common Stock under the CEI Stock Plans in accordance with their present terms or upon exercise of outstanding CEI Stock Options, or (iii) except as may have been required by a change in GAAP, any change in accounting methods, principles or practices by CEI or any CEI Subsidiary

materially affecting their respective assets, liabilities or business.

(j) Compliance with Applicable Laws; Litigation.

Except as disclosed in the Previously Filed CEI SEC Documents, CEI and the CEI Subsidiaries are in compliance with the terms of the CEI Permits and all Applicable Laws, except where the failure so to comply would not have, individually or in the aggregate, a Material Adverse Effect on CEI. Except as disclosed in the Previously Filed CEI SEC Documents, no action, demand, requirement or investigation by any Governmental Entity and no suit, action or proceeding by any person, in each case with respect to CEI or any CEI Subsidiary or any of their respective properties is pending or, to the knowledge of CEI, threatened, other than, in each case, those the outcome of which, individually or in the aggregate, would not have a Material Adverse Effect on CEI.

All utility rates charged by CEI and the applicable CEI Subsidiaries have been and continue to be made pursuant to lawfully filed tariffs and contracts. This provision shall not apply to environmental or to health and safety matters, which are exclusively the subject of Section 3.02(r).

(k) Employee Matters; ERISA. Each pension, profit sharing, savings, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, phantom stock, retirement, vacation, severance, disability, death benefit, hospitalization, medical or other plan, arrangement or understanding providing benefits to any current or former trustee, director, officer or employee of CEI or any CEI Subsidiary (collectively, the "CEI Benefit Plans") has been administered in accordance with its terms, except for any failures so to administer that, individually or in the aggregate, would not have a Material Adverse Effect on CEI. CEI, the CEI Subsidiaries and all the CEI Benefit Plans are in compliance with the applicable provisions of ERISA, the Code and all other applicable laws and the terms of all applicable collective bargaining agreements, except for any failures to be in such compliance that, individually or in the aggregate, would not have a Material Adverse Effect on CEI.

(1 Taxes. (i) Except as to any items that would not, individually or in the aggregate, have a Material Adverse Effect on CEI:

(A) CEI and each of the CEI Subsidiaries has (I) filed all Federal, state, local and foreign income and other Tax returns or reports (including declarations of estimated tax) required to be filed by it, and all such returns are complete and accurate, (II) paid all Taxes of any nature whatsoever (together with any related penalties and interest) that are shown on such Tax returns as due and payable on or before the date of this Agreement, and (III) paid on behalf of itself or others all Taxes otherwise required to be paid on or before the date of this Agreement.

(B) There are no claims or assessments pending against CEI or any of the CEI Subsidiaries for any alleged deficiency in Tax, and, to the knowledge of CEI, there is not any threatened Tax claims or assessments against CEI or any of the CEI Subsidiaries.

(C) CEI and each of the CEI Subsidiaries has established adequate reserves for current Taxes and for any liability for deferred Taxes in the CEI Financial Statements in accordance with GAAP.

(D) All Taxes required to be withheld, collected or deposited by or with respect to CEI and each of the CEI Subsidiaries have been timely withheld, collected or deposited, as the case may be, and, to the extent required, have been paid to the relevant taxing authority.

(E) There are no Liens for Taxes (other than for current Taxes not yet due and payable) on the assets of the CEI or any CEI Subsidiary.

(F) The Federal income Tax returns of the consolidated group for which CEI is the common

parent either have been examined and settled with the Internal Revenue Service or closed by virtue of the expiration of the applicable statute of limitations for all years through 1991.

(G) None of CEI or any CEI Subsidiary shall be required to include in a taxable period ending after the Effective Time an amount of taxable income attributable to income that accrued in a prior taxable period but was not recognized in any prior taxable period as a result of the installment method of accounting, the completed contract method of accounting, the long-term contract method of accounting, the cash method of accounting or Section 481 of the Code or comparable provisions of state, local or foreign Tax law.

(H) Neither CEI nor any CEI Subsidiary has, within the five preceding taxable years, deferred gain recognition for Federal income tax purposes under Sections 1031 or 1033 of the Code.

(I) None of the property owned or used by CEI or any CEI Subsidiary is subject to a lease other than a "true" lease for Federal income tax purposes.

(J) CEI has not made, within the five preceding taxable years, a disclosure on a Tax return pursuant to Section 6662(d)(2)(B)(ii) of the Code.

(K) Neither CEI nor any CEI Subsidiary has constituted either a "distributing corporation" or a "controlled corporation" (within the meaning of Section 355(a)(1)(A) of the Code) in a distribution of stock qualifying for tax-free treatment under Section 355 of the Code (I) in the two years prior to the date of this Agreement or (II) in a distribution which could otherwise constitute part of a "plan" or "series of related



transactions" (within the meaning of Section 355(e) of the Code) in conjunction with the Mergers.

(ii) Neither CEI nor any CEI Subsidiary has taken any action, or failed to take any action, or has knowledge of any fact, agreement, plan or other circumstance that is reasonably likely to prevent (A) the Mergers from constituting a transaction described in Section 351 of the Code or (B) the CEI Merger from constituting a transaction described in Section 368(a) of the Code.

(m Voting Requirements. The affirmative vote of a majority of the shares of CEI Common Stock (excluding any shares of CEI Common Stock held by CECONY) entitled to vote thereon outstanding as of the date of the CEI Shareholders Meeting, voting as a single class (with each share of CEI Common Stock having one vote per share), to adopt this Agreement (the "CEI Shareholder Approval") is the only vote of the holders of any class or series of capital stock of CEI or any CEI Subsidiary necessary to approve and adopt this Agreement and the transactions contemplated hereby.

(n State Anti-takeover Statutes. Assuming the accuracy of the representation of NU set forth in Section 3.01(s), Section 912 of the NYBCL is not applicable to the transactions contemplated by this Agreement. To the knowledge of CEI, no other anti-takeover or similar statute or regulation applies or purports to apply to the transactions contemplated by this Agreement.

(o Brokers. No broker, investment banker, financial advisor or other person, other than Salomon Smith Barney, the fees and expenses of which will be paid by CEI, is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of CEI.

(p Opinion of Financial Advisor. CEI has received the opinion of Salomon Smith Barney, dated the date

of this Agreement, to the effect that, as of such date, the Merger Consideration is fair from a financial point of view to the CEI Shareholders.

(q Ownership of NU Common Shares. As of the date of this Agreement, neither CEI nor, to its knowledge, any of its affiliates, (i) beneficially owns (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, or (ii) is party to any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of, in each case, shares of equity interest of NU or other securities convertible into shares of equity interest of NU, except for such shares as may be held by trustees of pension, employee benefit, nuclear decommissioning, spent fuel or similar trusts, the investment management of which is carried out by non-affiliates under contract with affiliates of CEI.

(r Environmental Protection. Except as set forth in the Previously Filed CEI SEC Documents:

(i) Compliance. CEI and, to the knowledge of CEI, each of the CEI Subsidiaries are, and have been, in compliance with all applicable Environmental Laws, except where the failure to so comply, individually or in the aggregate, would not have a Material Adverse Effect on CEI, and neither CEI nor any CEI Subsidiary has received any communication (written or oral) reasonably grounded in fact, from any person or Governmental Entity that alleges that CEI or any of the CEI Subsidiaries is not in such compliance with applicable Environmental Laws. Compliance with all applicable Environmental Laws will not require CEI or, to the knowledge of CEI, any CEI Subsidiary to incur costs, including the costs of pollution control equipment that are known or anticipated to be required in the future, beyond those currently budgeted for the three CEI fiscal years beginning with January 1, 1999, that, individually or in the aggregate, would have a Material Adverse Effect on CEI.

(ii) Environmental Permits. (A) CEI and each of the CEI Subsidiaries has obtained or has applied for all Environmental Permits necessary for the construction of their facilities or the conduct of their operations, except where the failure to so obtain, individually or in the aggregate, would not have a Material Adverse Effect on CEI, (B) all such Environmental Permits are in good standing or, where applicable, a renewal application has been timely filed and is pending agency approval, except where the failure of such Environmental Permits to be in good standing or to have filed a renewal application on a timely basis would not, individually or in the aggregate, have a Material Adverse Effect on CEI, (C) CEI and, to the knowledge of CEI, the CEI Subsidiaries are in material compliance with all terms and conditions of the Environmental Permits, except where failure to so comply, individually or in the aggregate, would not have a Material Adverse Effect on CEI and (D) neither CEI nor, to the knowledge of CEI, any of the CEI Subsidiaries has been advised by any Governmental Entity of any potential change in the terms and conditions of the Environmental Permits either prior to or upon their renewal, except for such potential changes as would not, individually or in the aggregate, have a Material Adverse Effect on CEI.

(iii) Environmental Claims. There are no Environmental Claims that would, individually or in the aggregate, have a Material Adverse Effect on CEI, pending or, to the knowledge of CEI, threatened, (A) against CEI or any of the CEI Subsidiaries, (B) to the knowledge of the CEI, against any person or entity whose liability for any Environmental Claim CEI or any of the CEI Subsidiaries has or may have retained or assumed either contractually or by operation of law, or (C) against any currently owned, leased or managed, in whole or in part, real or personal property or operations of CEI or any of the CEI Subsidiaries or, to the knowledge of the CEI, against any formerly owned, leased or managed, in whole or in part, real or

personal property or operations of CEI or any of the CEI Subsidiaries.

(iv) Releases. There have been no Releases of any Hazardous Material that would be reasonably likely to form the basis of any Environmental Claim against CEI or, to the knowledge of CEI, any of the CEI Subsidiaries, or against any person or entity whose liability for any Environmental Claim CEI or any of the CEI Subsidiaries has or may have retained or assumed either contractually or by operation of law, except for any Environmental Claim which, individually or in the aggregate, would not have a Material Adverse Effect on CEI.

(v) Assumed and Retained Liabilities. Neither CEI nor, to the knowledge of CEI, any of the CEI Subsidiaries has retained or assumed either contractually or by operation of law any liabilities or obligations that would be reasonably likely to form the basis for any Environmental Claim, which would, individually or in the aggregate, have a Material Adverse Effect on CEI.

(vi) Predecessors. CEI has no knowledge, with respect to any predecessor of CEI or any of the CEI Subsidiaries, of any Environmental Claim that, individually or in the aggregate, would have a Material Adverse Effect on CEI.

(s) Regulation as a Utility. Section 3.02(s) of the CEI Disclosure Schedule lists each CEI Subsidiary that, as of the date of this Agreement, is regulated as a public utility and each jurisdiction imposing such regulation. Neither CEI nor any "subsidiary company" or "affiliate" of CEI is, as of the date of this Agreement, subject to regulation as a public utility or public service company (or similar designation) by any other state in the United States or any foreign country.

(t) Operations of Nuclear Power Plants. The operations of the nuclear generation stations (collectively,

the "CEI Nuclear Facilities") currently or formerly owned by CEI or any of its affiliates are and have been conducted in compliance with all Applicable Laws, including Environmental Laws, except for such failures to comply as would not have, individually or in the aggregate, a Material Adverse Effect on CEI. Each of the CEI Nuclear Facilities maintains, and is in material compliance with, emergency plans designed to respond to an unplanned Release therefrom of radioactive materials and the NRC has determined that such plans are in material compliance with its requirements. As of the date of this Agreement, the plans for the current or future decommissioning of each of the CEI Nuclear Facilities and for the storage of spent nuclear fuel conform with the requirements of Applicable Law and are funded consistent with Applicable Law.

(u) Insurance. CEI and each of the CEI Subsidiaries is, and has been continuously since January 1, 1997, insured with financially responsible insurers in such amounts and against such risks and losses as are customary in all material respects for companies conducting business as conducted by CEI and the CEI Subsidiaries during such time period. Neither CEI nor any CEI Subsidiaries has received any notice of cancelation or termination with respect to any material insurance policy of CEI or any CEI Subsidiaries, except to the extent any such cancelation or termination that would not have, individually or in the aggregate, a Material Adverse Effect on CEI.

(v) Financing. CEI will have, or cause the Company to have, available, at or prior to the Effective Time, sufficient cash in immediately available funds to pay the Cash Consideration and to consummate the NU Merger and the other transactions contemplated hereby.

## ARTICLE IV

Certain Covenants of NU IV    Certain  
Covenants of NU    IV    Certain Covenants of NU

SECTION 4.01.    Conduct of Business by  
NUSECTION 4.01.    Conduct of Business by    NUSECTION 4.01.  
Conduct of Business by NU.    Except as otherwise expressly contemplated by this Agreement or as consented to in writing by CEI, during the period from the date of this Agreement to the Effective Time, NU shall, and shall cause the NU Subsidiaries to, carry on their respective businesses in the ordinary course consistent with past practice and in compliance in all material respects with all Applicable Laws and use all reasonable best efforts to preserve intact their respective current business organizations, preserve the goodwill and relationships with Governmental Entities, customers, suppliers and others having business dealings with them and, subject to prudent management of workforce needs and ongoing programs currently in force, keep available the services of their respective present officers and employees. Without limiting the generality of the foregoing, except as set forth in Section 4.01 of the NU Schedule (and making reference, as appropriate, to the particular subsection of this Section 4.01 to which exception is being taken), or as consented to in writing by CEI, during the period from the date of this Agreement to the Effective Time, NU shall not, and shall not permit any of the NU Subsidiaries to:

- (a) (i) declare, set aside or pay any dividends on, or make any other distributions in respect of, any equity interest of NU or any NU Subsidiary, other than (A) dividends and distributions (including liquidating distributions) by a direct or indirect wholly owned NU Subsidiary to its parent, (B) the dividend of \$0.10 per share with respect to the NU Common Shares to be paid on December 30, 1999 and regular quarterly cash dividends with respect to the NU Common Shares of (I) \$0.10 per share for each quarter commencing on or after January 1, 2000 and ending on or prior to

December 31, 2000 and (II) \$0.15 per share for each quarter commencing on or after January 1, 2001, and (C) if the Effective Time does not occur between a record date and payment date of a regular quarterly dividend, a special dividend in respect of the NU Common Shares with respect to the quarter in which the Effective Time occurs with a record date in such quarter and on or prior to the date on which the Effective Time occurs, which does not exceed an amount equal to the product of (I) a fraction the (x) numerator of which is equal to the number of days between the last payment date of a regular quarterly dividend and the record date of such special dividend (excluding such last payment date but including the record date of such special dividend) and (y) the denominator of which is equal to the number of days between the last payment date of a regular quarterly dividend and the same calendar day in the third month after the month in which such last payment date occurred (excluding such last payment date but including such same calendar day), multiplied by (II) (x) if the record date for such special dividend is on or prior December 31, 2000, \$.10 per share or (y) if the record date for such special dividend is on or after January 1, 2001, \$.15 per share, (ii) split, combine or reclassify any equity interest of NU or any NU Subsidiary or issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for, any equity interest of NU or any NU Subsidiary, or (iii) purchase, redeem or otherwise acquire any equity interest of NU or any NU Subsidiary (other than (A) any preferred stock of any NU Subsidiary purchased, redeemed or otherwise acquired pursuant to the terms of the NU Settlement Agreements (as defined in Section 4.01(i)) or pursuant to the terms of any restructuring legislation or order of the SEC, DPUC, NHPUC or MDTE applicable to such NU Subsidiary, provided that such purchase, redemption or other acquisition is funded solely out of the proceeds of one or more asset sales (to the extent permitted by Section 4.01(e)) or NU Securitizations (as defined in Section 4.01(e)) by such NU Subsidiary and on terms

reasonably acceptable to CEI, (B) any NU Common Shares repurchased solely for purpose of delivering such NU Common Shares to the holders of the common stock, par value \$5.00 per share, of Yankee (the "Yankee Shareholders") pursuant to the Yankee Merger Agreement in accordance with the terms thereof as in effect on the date of this Agreement and (C) repurchases by any wholly owned NU Subsidiary of its common shares or other common equity, in each case, held by NU or any other wholly owned NU Subsidiary) or any rights, warrants or options to acquire any equity interest of NU or any NU Subsidiary;

(b) issue, deliver, sell, pledge, dispose of or otherwise encumber or subject to any Lien any equity interest of NU or any NU Subsidiary, any NU Voting Debt or any rights, warrants or options to acquire, any equity interest of NU or any NU Subsidiary, other than (i) the issuance or delivery of NU Common Shares (A) upon the exercise of NU Stock Options outstanding as of the date of this Agreement in accordance with their present terms or, after consulting with CEI, granted after the date of this Agreement or (B) after consulting with CEI, under the NU Stock Plans, including pursuant to the terms of NU's Trustee Compensation Program, or deferred pursuant to the terms of NU's Deferred Compensation Plan for Trustees, in the case of each of the foregoing clauses (A) and (B), in the ordinary course of business consistent with past practice (so long as such additional amount of NU Common Shares subject to NU Stock Options or issued under the NU Stock Plans does not exceed 2 million NU Common Shares in the aggregate, unless CEI shall consent in writing to any greater number, such consent not to be unreasonably withheld), (ii) the issuance by any wholly owned NU Subsidiary of its capital stock to its direct or indirect parent and (iii) the issuance or delivery of NU Common Shares pursuant to the Yankee Merger Agreement in accordance with the terms thereof as in effect on the date of this Agreement;



(c) (i) in the case of NU, except for the Trust Agreement Amendments, amend the Trust Agreement and, (ii) in the case of each NU Subsidiary, amend its certificate of incorporation, by-laws or other comparable governing documents in any way which, in the case of any such amendment by any NU Subsidiary, would or would reasonably be expected to prevent or materially impede or interfere with the Mergers;

(d) other than (x), in connection with the acquisition of Yankee pursuant to the Yankee Merger Agreement in accordance with the terms thereof as in effect on the date of this Agreement (y) the acquisition by NGC of certain assets of CL&P and WMECO pursuant to the CL&P/NGC Sale Agreement and the WMECO/NGC Sale Agreement, in each case, in accordance with the terms thereof as in effect on the date of this Agreement or (z) the acquisition of one or more persons or businesses for aggregate consideration not in excess of \$40 million in the aggregate, (i) acquire or agree to acquire by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any business or any person, or (ii) alter (through merger, liquidation, reorganization, restructuring or in any other fashion) the corporate structure or ownership of NU or the NU Subsidiaries other than actions solely to effect the transactions contemplated by the CL&P/NGC Sale Agreement and the WMECO/NGC Sale Agreement;

(e) sell, lease, license, mortgage or otherwise encumber or subject to any Lien or otherwise dispose of any of its properties or assets (including by way of securitizations), other than (i) in the ordinary course of business consistent with past practice, (ii) pursuant to the NRG Sale Agreement, the CL&P/NGC Sale Agreement and the WMECO/NGC Sale Agreement, in each case, as in effect on the date of this Agreement, (iii) the sale of one or more of the NU Nuclear Facilities in accordance with the terms of the divestiture plan to be filed with DPUC and (iv) any securitization on terms generally acceptable to the

asset-backed securities market of tangible or intangible property rights relating to the rate revenues or assets of any NU Subsidiary required or permitted by any restructuring legislation or order of DPUC, NHPUC or MDTE applicable to such NU Subsidiary (including any such legislation or order relating to the NU Settlement Agreements) in connection with the recovery of any capital expenditure or other investment (including any contractual obligations) of such NU Subsidiary in any of its properties or assets (a "NU Securitization");

(f) make capital expenditures through the Effective Time, in excess of an annual amount of \$50 million over the annual amount budgeted by NU and the NU Subsidiaries for capital expenditures on the date of this Agreement (as reflected on the capital expenditure budgets previously provided by NU to CEI), other than as required by Applicable Law;

(g) incur any indebtedness for borrowed money or guarantee any such indebtedness of another person, issue or sell any debt securities of NU or any NU Subsidiary or warrants or other rights to acquire any debt securities of NU or any NU Subsidiary, guarantee any such securities, enter into any "keep well" or other agreement to maintain any financial statement condition of another person or enter into any arrangement having the economic effect of any of the foregoing, other than (i) guarantees or "keep well" agreements in favor of wholly owned NU Subsidiaries in connection with the conduct of the business of such wholly owned NU Subsidiaries, (ii) short-term indebtedness in the ordinary course of business (such as the issuance of commercial paper or the use of revolving credit facilities), (iii) in connection with the refunding of existing indebtedness (A) at maturity or upon final mandatory redemption (without the need for the occurrence of any special event), (B) upon early repayment or redemption by NU or the relevant NU Subsidiary in the ordinary course of business or (C) at a lower cost of funds, (iv) any NU Securitization, (v)

indebtedness not to exceed \$480 million in the aggregate at any time outstanding incurred, and the proceeds of which are used, solely to consummate the acquisition of Yankee in accordance with the terms of the Yankee Merger Agreement as in effect on the date of this Agreement and (vi) indebtedness not to exceed \$480 million in the aggregate at any time outstanding incurred, and the proceeds of which are utilized, solely to fund the long-term financing of NGC;

(h) (i) except as may be required (x) pursuant to the terms as of the date of this Agreement of existing NU Plans (including awards thereunder) or agreements or (y) pursuant to any employee benefit plan, or other contract, agreement, commitment, arrangement, plan, fund or policy of Yankee or its subsidiaries that becomes an obligation by operation of law of the Neptune Subsidiary into which Yankee merges in accordance with the terms of the Yankee Merger Agreement as in effect on the date of this Agreement, enter into, adopt or amend or increase the amount or accelerate the payment or vesting of any benefit or amount payable under, any NU Plan or any other employee benefit plan or other contract, agreement, commitment, arrangement, plan, trust, fund or policy maintained by, contributed to or entered into by NU or any of the NU Subsidiaries (other than any adoption or amendment to, or change of, any NU Plan that, individually or in the aggregate, does not and will not result in any material increase in expense to NU and the NU Subsidiaries taken as a whole); (ii) increase, or enter into any contract, agreement, commitment or arrangement to increase in any manner, the compensation or fringe benefits, or otherwise to extend, expand or enhance the engagement, employment or any related rights, of any trustee, director, officer or employee of NU or any of the NU Subsidiaries, except for normal promotion and compensation (including incentive compensation) increases and hiring and discretionary award grants in the ordinary course of business that, in the aggregate, do not result in a material increase in benefits or compensation expense to NU or any of the NU

Subsidiaries; (iii) enter into or amend any employment, severance, retention, consulting or special pay arrangement with respect to the termination of employment or other similar contract, agreement or arrangement with any trustee, director, officer or employee, other than (A) with respect only to employees who are not trustees, directors or officers, in the ordinary course of business consistent with past practice, (B) any agreement with any newly-hired officer that provides for the employment of such officer to be at the will of NU or the applicable NU Subsidiary and does not provide for any severance or other compensation to be paid to such officer upon the termination of his or her employment and (C), with the consent of CEI (not to be unreasonably withheld), any employment or severance agreement with any officer hired to replace any departing officer to the extent that such employment or severance agreement is on substantially the same terms as that of the departing officer; (iv) fund, or otherwise contribute any cash or property to, any trust created for the purpose of discharging any claim for or paying any amount with respect to, or otherwise having the power to discharge any claim for or pay any amount with respect to, benefits under any NU Plan or any other employee benefit plan or other contract, agreement, arrangement, plan, trust, fund or policy maintained by, contributed to or entered into by NU or any of the NU Subsidiaries; or (v) enter into any collective bargaining agreement or other labor union agreement or amend in any material manner any such agreement to which NU or any of the NU Subsidiaries is a party;

(i) except with respect to agreements or arrangements entered into between NU and wholly owned NU Subsidiaries or between wholly owned NU Subsidiaries, enter into any agreement or arrangement with any of its affiliates on terms materially less favorable than could reasonably be expected to have been obtained with an unaffiliated third party or on an arm's length basis, unless such agreement or arrangement is required to be carried out in accordance with PUHCA or an order

from any Governmental Entity having jurisdiction over NU or the relevant NU Subsidiary, in which case such agreement or arrangement shall be on terms which are in accordance with PUHCA or such order, as the case may be;

(j) (i) change (A) its methods of accounting (other than immaterial changes), except as required by Applicable Law or GAAP or (B) its fiscal year or (ii) make any material Tax election or settle or compromise any material Tax liability or refund claim;

(k) except in the ordinary course of business consistent with past practice, modify, amend, terminate, renew or fail to use reasonable best efforts to renew any contract or agreement to which NU or any NU Subsidiary is a party, that is material to NU and the NU Subsidiaries taken as a whole (including the Settlement Agreement dated as of August 2, 1999 among NU and the additional parties named therein (the "NH Settlement Agreement") and any material order from any Applicable PUC approving any settlement agreement (collectively with the NH Settlement Agreement, the "NU Settlement Agreements"), the Yankee Merger Agreement, the NRG Sale Agreement, the CL&P/NGC Sale Agreement and the WMECO/NGC Sale Agreement), or waive, release or assign any material rights or claims therein; provided, however, that (A) NU may amend or modify the NH Settlement Agreement but only if it consults with CEI prior to consenting to any such amendment or modification and (B) any NU Subsidiary that is a "public-utility company" within the meaning of Section 2(a)(5) of PUHCA may modify, amend or terminate on terms reasonably acceptable to CEI any contract or agreement providing for the purchase of electric power by such NU Subsidiary from any generator of electric power that is not a "public-utility company" within the meaning of Section 2(a)(5) of PUHCA (a "Non-Utility Generator") and in connection with any such modification, amendment or termination such NU Subsidiary may make any payments to such Non-Utility Generator if such payments are (i) required or

permitted by the terms of any restructuring legislation or order of DPUC, NHPUC or MDTE or NU Settlement Agreement applicable to such NU Subsidiary, (ii) on terms and in amounts reasonably acceptable to CEI and (iii) funded solely out of the proceeds of one or more asset sales (to the extent permitted by Section 4.01(e)) or NU Securitizations by such NU Subsidiary;

(l) pay, discharge, settle, compromise or satisfy any claims, liabilities or obligations (absolute, accrued, asserted or unasserted, contingent or otherwise) material to NU and the NU Subsidiaries taken as whole, other than the payment, discharge, settlement, compromise or satisfaction, in the ordinary course of business consistent with past practice (which includes the payment of final and unappealable judgments) or in accordance with their terms, of liabilities reflected or reserved against in, or contemplated by, the most recent consolidated financial statements (or the notes thereto) of the Previously Filed NU SEC Documents, or incurred in the ordinary course of business consistent with past practice; or

(m) subject to Applicable Law, (i) make, propose or agree to any material changes in its or its utility subsidiaries' rates or the services it or any of its utility subsidiaries provides or charges (other than pass-through fuel rates or charges), standards of service or accounting from those in effect as of the date of this Agreement, without prior to proposing, agreeing to or making any such material changes with respect thereto, discussing such changes with CEI and obtaining CEI's written approval, which approval shall not be unreasonably withheld or (ii) subject to the preceding clause (i), make any filing (or amendment thereto), or effect any agreement, commitment, arrangement or consent, whether written or oral, formal or informal, with any Governmental Entity with respect to any matter set forth in clause (i) without consulting with CEI prior thereto; or

(n) authorize, or commit or agree to take, any of the foregoing actions.

~~SECTION 4.02. No Solicitation~~~~SECTION 4.02. No Solicitation~~  
SECTION 4.02. No Solicitation. (a) NU shall not, nor shall it permit any of the NU Subsidiaries to, nor shall it authorize, permit or direct any of its trustees, directors, officers or employees or any investment banker, financial advisor, attorney, accountant or other representative of NU or any of the NU Subsidiaries to, directly or indirectly through another person, (i) solicit, initiate or encourage (including by way of furnishing information), or take any other action designed to facilitate, any inquiries or the making of any proposal which constitutes or which may be reasonably expected to lead to any NU Takeover Proposal (as defined below) or (ii) participate in any discussions or negotiations regarding any NU Takeover Proposal; provided, however, that, at any time prior to the receipt of the NU Shareholder Approval (the "NU Applicable Period"), NU may, (A) in response to a NU Takeover Proposal (1) that was not solicited by it or which did not otherwise result from a breach of this Section 4.02(a) and (2) with respect to which the Board of Trustees of NU determines in its good faith judgment after consultation with its outside counsel and financial advisors, (x) that there is a reasonable possibility that such NU Takeover Proposal may constitute a NU Superior Proposal (as defined in Section 4.02(b)) and (y) that failing to take such action could reasonably be expected to be a breach of its fiduciary duties to the NU Shareholders, and subject to providing prior written notice of its decision to take such action to CEI (the "NU Negotiation Notice") and compliance with Section 4.02(c), for a period of twenty business days following delivery of the NU Negotiation Notice (the "NU Negotiation Period"), request that the person making such NU Takeover Proposal provide information with regard to itself and such NU Takeover Proposal for purposes of permitting the Board of Trustees of NU to determine whether such NU Takeover Proposal constitutes a NU Superior Proposal and (B) to the extent that, at any time prior to expiration of the NU

Negotiation Period, the Board of Trustees of NU shall determine that such NU Takeover Proposal constitutes a NU Superior Proposal and subject to providing prior written notice of its decision to take such action to CEI and compliance with Section 4.02(c), during the NU Negotiation Period (x) furnish information with respect to NU and the NU Subsidiaries to any person making a NU Superior Proposal pursuant to a customary confidentiality agreement containing terms no less favorable to NU than those set forth in the Confidentiality Agreement (the "Confidentiality Agreement") dated July 29, 1999 between CEI and NU (provided that such confidentiality agreement shall not in any way restrict NU from complying with its disclosure obligations under this Agreement, including with respect to such NU Superior Proposal) and (y) participate in discussions or negotiations regarding such NU Superior Proposal. NU shall be permitted to deliver only one NU Negotiation Notice with respect to each person making a NU Superior Proposal, which notice shall not be revised or supplemented. NU shall immediately cease and terminate any existing solicitation, initiation, encouragement, activity, discussion or negotiation with any persons conducted heretofore by it or its representatives. For purposes of this Agreement, "NU Takeover Proposal" means any inquiry, proposal or offer from any person relating to any direct or indirect acquisition or purchase of a business (a "NU Material Business") that constitutes 15% or more of the net revenues, net income or the assets (including equity securities) of NU and the NU Subsidiaries, taken as a whole, or 15% or more of any class of equity securities of NU or any NU Subsidiary owning, controlling or operating a NU Material Business, any tender offer or exchange offer that if consummated would result in any person beneficially owning 15% or more of any class of equity securities of NU or any such NU Subsidiary, or any merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction involving NU or any such NU Subsidiary, other than the transactions contemplated by this Agreement; provided, however, that no transaction permitted pursuant to Section 4.01(e) shall be deemed a NU Takeover Proposal for any purpose.



(b) Except as expressly permitted by this Section 4.02, (i) neither the Board of Trustees of NU nor any committee thereof shall (A) withdraw or modify in a manner adverse to CEI, or propose publicly to withdraw or modify in a manner adverse to CEI, the approval or recommendation by such Board of Trustees or such committee of this Agreement or the NU Merger, (B) approve or recommend, or propose publicly to approve or recommend, any NU Takeover Proposal, or (C) cause or permit NU to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement (each, a "NU Acquisition Agreement") related to any NU Takeover Proposal and (ii) NU shall not enter into any NU Acquisition Agreement with respect to any NU Takeover Proposal; provided, however, that in order to comply with its fiduciary duties to the NU Shareholders the Board of Trustees of NU may terminate this Agreement in accordance with the following sentence and, following such termination and payment of the Termination Fee (as defined in Section 5.09(b)), withdraw or modify its approval or recommendation of this Agreement and the NU Merger. In the event that during the NU Applicable Period the Board of Trustees of NU determines in good faith (x) that a NU Takeover Proposal constitutes a NU Superior Proposal and (y) after consultation with its outside legal counsel, that the failure to terminate this Agreement and accept such NU Superior Proposal could reasonably be expected to be a breach of its fiduciary duties to the NU Shareholders, the Board of Trustees of NU may terminate this Agreement, but only at a time that is during the NU Applicable Period and is after the fifth business day following CEI's receipt of written notice advising CEI that the Board of Trustees of NU is prepared to accept a NU Superior Proposal, specifying the material terms and conditions of such NU Superior Proposal and identifying the person making such NU Superior Proposal; provided that, concurrently with such termination, the Board of Trustees of NU shall cause NU to enter into a NU Acquisition Agreement with respect to such NU Superior Proposal and shall cause NU to pay to CEI the Termination Fee and the fees and expenses incurred by CEI in connection with the transactions contemplated by this Agreement pursuant to Section 5.09(b) and 5.09(c), respectively. For

purposes of this Agreement, a "NU Superior Proposal" means any bona fide proposal made by a third party to acquire, directly or indirectly, including pursuant to a tender offer, exchange offer, merger, consolidation, business combination, recapitalization, liquidation, dissolution or similar transaction, for consideration consisting of cash and/or securities, more than 50% of the combined voting power of the NU Common Shares then outstanding or all or substantially all the assets of NU which the Board of Trustees of NU determines in its good faith judgment (based, in the case of any determination made by the NU Board of Trustees for purposes of this Section 4.02(b), on the written opinion, with only customary qualifications, of an independent financial advisor of nationally recognized reputation that the value of the consideration provided for in such proposal exceeds the value of the consideration provided for in the NU Merger) to be (x) reasonably capable of being completed, taking into account all legal, financial (including the ability to obtain financing), regulatory and other aspects of the proposal and the third party making such proposal, and (y) more favorable to the NU Shareholders from a financial point of view than the NU Merger and the other transactions contemplated by this Agreement (taking into account any changes to the terms of this Agreement proposed by CEI in response to such proposal or otherwise).

(c) In addition to the obligations of NU set forth in paragraphs (a) and (b) of this Section 4.02, NU shall immediately advise CEI orally and in writing of any request for information or of any NU Takeover Proposal, the material terms and conditions of such request or NU Takeover Proposal and the identity of the person making such request or NU Takeover Proposal. NU shall keep CEI reasonably informed of the status and details (including amendments or proposed amendments) of any such request or NU Takeover Proposal.

(d) Nothing contained in this Section 4.02 shall prohibit NU from taking and disclosing to the NU Shareholders a position contemplated by Rule 14e-2(a) promulgated under the Exchange Act or from making any disclosure to the NU Shareholders if, in the good faith

judgment of the Board of Trustees of NU, after consultation with outside counsel, failure so to disclose would be inconsistent with its obligations under Applicable Law.

ARTICLE V

Agreements V

Additional Agreements V  
Additional Agreements

Additional

SECTION 5.01. Preparation of the Form S-4 and the Joint Proxy Statement; Shareholders Meetings  
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(a) As soon as practicable following the date of this Agreement, CEI and NU shall prepare and file with the SEC the Joint Proxy Statement and CEI, NU and the Company shall prepare and file with the SEC the Form S-4, in which the Joint Proxy Statement will be included as a prospectus.

Each of CEI, NU and the Company shall use its reasonable best efforts to have the Form S-4 declared effective under the Securities Act as promptly as practicable after such filing. NU will use all reasonable best efforts to cause the Joint Proxy Statement to be mailed to the NU Shareholders, and CEI will use all reasonable best efforts to cause the Joint Proxy Statement to be mailed to the CEI Shareholders, in each case as promptly as practicable after the Form S-4 is declared effective under the Securities Act.

Each party hereto shall also take any action (other than qualifying to do business in any jurisdiction in which such party is not already so qualified) required to be taken under any applicable state or provincial securities laws in connection with the issuance of Company Common Stock in the Mergers and each party shall furnish all information concerning itself and its shareholders as may be reasonably requested in connection with any such action. No filing of, or amendment or supplement to, the Form S-4 or the Joint Proxy Statement will be made without the approval of all parties hereto. Each party will advise the other parties, promptly after it receives notice thereof, of the time when the Form S-4 has become effective or any supplement or amendment has been filed, the issuance of any stop order, the suspension of the qualification of the Company Common Stock issuable in connection with the Mergers for offering or sale in any jurisdiction, or any request by the SEC for amendment of the Joint Proxy Statement or the Form S-4 or comments thereon and responses thereto or requests by the SEC for additional information. If at any time prior to the Effective Time any information relating to NU or CEI, or any of their respective affiliates, trustees, directors or officers, is discovered that should be set forth in an

amendment or supplement to any of the Form S-4 or the Joint Proxy Statement, so that any of such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the party that discovers such information shall promptly notify the other parties hereto and an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and, to the extent required by Applicable Law, disseminated to the NU Shareholders and the CEI Shareholders.

(b) NU shall, as soon as practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of the NU Shareholders (the "NU Shareholders Meeting"), for the purpose of obtaining the NU Shareholder Approval and shall, through its Board of Trustees, subject to the right of the Board of Trustees to terminate this Agreement in accordance with Section 4.02(b) in order to comply with its fiduciary duties to the NU Shareholders, recommend to the NU Shareholders the approval and adoption of the Trust Agreement Amendments, this Agreement, the NU Merger and the other transactions contemplated hereby. Without limiting the generality of the foregoing but subject to its rights to terminate this Agreement pursuant to Section 4.02(b), NU agrees that its obligations pursuant to the first sentence of this Section 5.01(b) shall not be affected by the commencement, public proposal, public disclosure or direct or indirect communication to NU of any NU Takeover Proposal.

(c) CEI shall, as soon as practicable following the date of this Agreement, duly call, give notice of, convene and hold a meeting of the CEI Shareholders (the "CEI Shareholders Meeting"), for the purpose of obtaining the CEI Shareholder Approval and shall, through its Board of Directors, recommend to the CEI Shareholders the approval and adoption of this Agreement, the CEI Merger and the other transactions contemplated hereby.

(d) CEI and NU will use reasonable best efforts to hold the CEI Shareholders Meeting and the NU Shareholders

Meeting on the same date and as soon as practicable after the date of this Agreement.

SECTION 5.02. Letters of NU's Accountants  
SECTION 5.02. Letters of NU's Accountants  
SECTION 5.02. Letters of NU's Accountants. NU shall use its reasonable best efforts to cause to be delivered to CEI two letters from NU's independent accountants, one dated a date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to CEI, in form and substance reasonably satisfactory to CEI and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

SECTION 5.03. Letters of CEI's Accountants  
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SECTION 5.03. Letters of CEI's Accountants. CEI shall use its reasonable best efforts to cause to be delivered to NU two letters from CEI's independent accountants, one dated a date within two business days before the date on which the Form S-4 shall become effective and one dated a date within two business days before the Closing Date, each addressed to NU, in form and substance reasonably satisfactory to NU and customary in scope and substance for comfort letters delivered by independent public accountants in connection with registration statements similar to the Form S-4.

SECTION 5.04. Access to Information; Confidentiality; Advice of Changes  
SECTION 5.04. Access to Information; Confidentiality; Advice of Changes  
SECTION 5.04. Access to Information; Confidentiality; Advice of Changes.

(a) NU shall, and shall cause each NU Subsidiary to, afford to CEI and to its officers, employees, accountants, counsel, financial advisors and other representatives, reasonable access during normal business hours during the period prior to the Effective Time (to the extent that NU or any NU Subsidiary is not prohibited under Applicable Law or any confidentiality agreement entered into prior to the date

of this Agreement from providing access and to the extent that such access would not constitute a waiver of the attorney client privilege (unless such privilege has previously been waived)) to all its properties, books, contracts, commitments, personnel and records and, during such period, each of CEI and NU shall, and shall cause its subsidiaries to, (i) confer on a reasonably regular and frequent basis with one or more representatives of the other party to discuss material operational and regulatory matters and the general status of its ongoing operations, including the investigation of environmental, health and safety issues and, in the case of NU, with respect to the NH Settlement Agreement and the sale of the NU Nuclear Facilities, (ii) reasonably promptly notify the other party of its results of operations and (iii) furnish reasonably promptly to the other party upon request any information concerning its business, properties and personnel, in each case as the other party may reasonably request. NU shall consult with CEI prior to proposing or making any material amendment or modification to the NH Settlement Agreement and with respect to all material matters relating to the sale of the NU Nuclear Facilities, including consulting with CEI prior to filing any divestiture or restructuring plan relating to such sale with any Applicable PUC or Federal Governmental Entity. Each of NU and CEI shall, and shall cause its subsidiaries to, furnish to the other reasonably promptly upon request a copy of each report, schedule and other document filed or received by any of them pursuant to the requirements of FERC, the SEC, Department of Justice, the Federal Trade Commission, the NRC, any Applicable PUC, or any other Federal, state or local regulatory agency or commission relating to the Mergers or the other transactions contemplated hereby. Subject to obtaining customary indemnities, each of NU and CEI shall promptly furnish to the other such information as may be reasonably requested, including audited financial statements and other financial information, and take such other action as may be reasonably necessary and otherwise fully cooperate with each other in the preparation of any registration statement under the Securities Act and other documents necessary in connection with the issuance of securities or financings (subject to Section 4.01 in the case of NU or any NU Subsidiary),

including in respect of the Mergers. Each party shall, and shall cause its subsidiaries and representatives to, hold in strict confidence all documents and information concerning the other furnished to it in connection with the transactions contemplated by this Agreement in accordance with the Confidentiality Agreement. No review pursuant to this Section 5.04 shall have an effect for the purpose of determining the accuracy of any representation or warranty given by any of the parties hereto to any of the other parties hereto.

(b) NU and CEI shall promptly advise the other party orally and in writing to the extent it has knowledge of (i) any representation or warranty made by it contained in this Agreement that is qualified as to materiality becoming untrue or inaccurate in any respect or any such representation or warranty that is not so qualified becoming untrue or inaccurate in any material respect, (ii) the failure by it to comply in any material respect with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it under this Agreement and (iii) any change or event, individually or in the aggregate, having, or which would have, a Material Adverse Effect on such party or on the truth of their respective representations and warranties or the ability of the conditions set forth in Article VI to be satisfied; provided, however, that no such notification shall affect the representations, warranties, covenants or agreements of the parties (or remedies with respect thereto) or the conditions to the obligations of the parties under this Agreement.

SECTION 5.05. Regulatory Matters; Reasonable Best Efforts  
SECTION 5.05. Regulatory Matters; Reasonable Best Efforts  
SECTION 5.05. Regulatory Matters; Reasonable Best Efforts. (a) Regulatory Approvals. Each party hereto shall cooperate and promptly prepare and file all necessary documentation, to effect all necessary applications, notices, petitions, filings and other documents, and shall use reasonable best efforts to obtain all necessary permits, consents, approvals and authorizations of all Governmental Entities necessary or advisable to consummate and make



effective the Mergers and the other transactions contemplated by this Agreement, including the CEI Statutory Approvals and the NU Statutory Approvals. To the extent that each of CEI (or any CEI Subsidiary) and NU (or any NU Subsidiary) is required to make one or more filings with any Governmental Entity in connection with the obtaining of any such permit, consent, approval or authorization, including the CEI Statutory Approvals and the NU Statutory Approvals, each of CEI and NU agree to offer the other, to the extent permitted by Applicable Law, a reasonable opportunity to review and comment upon each such filing prior to making any such filing and to coordinate the submission of such filings to the relevant Governmental Entity. In addition, CEI shall have the right to review and approve in advance all characterizations of the information relating to CEI, on the one hand, and NU shall have the right to review and approve in advance all characterizations of the information relating to NU, on the other hand, in either case, which appear in any filing made in connection with the Mergers or the other transactions contemplated by this Agreement. CEI and NU agree that they will consult with each other with respect to (x) the obtaining of all such necessary permits, consents, approvals and authorizations of Governmental Entities and (y) the applicability of the Connecticut Transfer Act and the Industrial Site Recovery Act to the transactions contemplated by this Agreement.

(b) Further Actions. Upon the terms and subject to the conditions set forth in this Agreement, each of the parties agrees to use reasonable best efforts to execute such further documents and instruments and take such further actions as may reasonably be requested by any other party in order to consummate the Mergers in accordance with the terms hereof, including the defending of any lawsuits or other legal proceedings, whether judicial or administrative, challenging this Agreement or the consummation of the transactions contemplated by this Agreement, including seeking to have any stay or temporary restraining order entered by any court or other Governmental Entity vacated or reversed.

(c) State Anti-Takeover Statutes. In connection with and without limiting the generality of Section 5.05(b), NU and CEI shall (i) take all action necessary to ensure that no state anti-takeover statute or similar statute or regulation, the effect of which would be to impede the Mergers, is or becomes applicable to the Mergers, this Agreement or any of the other transactions contemplated by this Agreement and (ii) if any state anti-takeover statute or similar statute or regulation, the effect of which would be to impede the Mergers, is or becomes applicable to the Mergers, this Agreement or any other transaction contemplated by this Agreement, take all action necessary to ensure that the Mergers and the other transactions contemplated by this Agreement may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise to minimize the effect of such statute or regulation on the Mergers and the other transactions contemplated by this Agreement.

(d) Sale and Operation of NU Nuclear Facilities. NU shall, and shall cause the relevant NU Subsidiaries, to use reasonable best efforts to sell and transfer, as promptly as practicable after the date of this Agreement, their interests in each of the Millstone Stations 1, 2 and 3 and the Vermont Yankee nuclear facilities (excluding, in each case, any interest therein now owned by PSNH) and all associated liabilities and all operating responsibilities to one or more third parties who are not Affiliates of NU. During the period from the date of this Agreement to the sale and transfer of the NU Nuclear Facilities in accordance with this Section 5.05(d), NU shall cause the NU Subsidiaries to, and the NU Subsidiaries shall, operate the NU Nuclear Facilities in material compliance with Applicable Law and good industry practice.

SECTION 5.06. Stock OptionsSECTION 5.06. Stock OptionsSECTION 5.06. Stock Options. (a) Prior to the Effective Time, the Board of Directors of CEI (or, if appropriate, any committee administering the CEI Stock Plans) shall adopt such resolutions or take such other actions as may be required to effect the following:

(i) adjust the terms of all outstanding CEI Stock Options under the CEI Stock Plans, whether vested or unvested, as necessary to provide that, at the Effective Time, each CEI Stock Option outstanding immediately prior to the Effective Time shall be amended and converted into an option (a "Company Stock Option") to acquire, on the same terms and conditions as were applicable under such CEI Stock Option, including vesting, the same number of shares of Company Common Stock at the same price per share of Company Common Stock;

(ii) ensure that the conversion pursuant to Section 2.01(a) of the CEI Common Stock held by any director or officer of CEI and the conversion pursuant to this Section 5.06(a) into Company Stock Options of CEI Stock Options held by any director or officer of CEI will be eligible for exemption under Rule 16b-3(e); and

(iii) make such other changes to the CEI Stock Plans as may be appropriate to give effect to the CEI Merger.

(b) Prior to the Effective Time, the Board of Trustees of NU (or, if appropriate, any committee administering the NU Stock Plans) shall adopt such resolutions or take such other actions as may be required to effect the following:

(i) adjust the terms of all outstanding NU Stock Options under the NU Stock Plans, whether vested or unvested, as necessary to provide that, at the Effective Time, each NU Stock Option outstanding immediately prior to the Effective Time shall be amended and converted into a Company Stock Option to acquire, on the same terms and conditions as were applicable under such NU Stock Option, including vesting, the same number of shares of Company Common Stock (rounded down to the nearest whole share) as the holder of such NU Stock Option would have been entitled to receive pursuant to the NU Merger had such holder exercised such NU Stock Option in full immediately prior to the Effective Time, at a price per share of Company Common Stock (rounded up to the nearest cent) equal to (A) the aggregate exercise price for the shares of NU Common Shares otherwise purchasable pursuant to such NU Stock Option divided by (B) the aggregate number of shares of Company Common Stock deemed purchasable pursuant to such NU Stock Option;

(ii) ensure that the conversion pursuant to Section 2.01(b) of the NU Common Shares held by any director or officer of NU and the conversion pursuant to this Section 5.06(b) into Company Stock Options of NU Stock Options held by any director or officer of NU will be eligible for exemption under Rule 16b-3(e); and

(iii) make such other changes to the NU Stock Plans as CEI and NU may agree are appropriate to give effect to the NU Merger.

(c) Prior to the Effective Time, the Board of Directors of the Company shall, (i) with respect to each Company stock plan that will provide Company Stock Options (each, a "Company Stock Plan"), amend such Company Stock

Plans as may be necessary to give effect to the CEI Merger and NU Merger and the conversion of CEI Stock Options and NU Stock Options provided herein, (ii) take such action as may be necessary to reserve for issuance under the Company Stock Plans a sufficient number of shares of Company Common Stock for delivery upon exercise of Company Stock Options resulting from the conversion of CEI Stock Options and NU Stock Options, and (iii) adopt such resolutions or take such other actions as may be required to ensure that each of the conversion pursuant to Section 2.01(a) of the CEI Common Stock held by any director or officer of CEI, the conversion pursuant to this Section 5.06 into Company Stock Options of CEI Stock Options held by any director or officer of CEI, the conversion pursuant to Section 2.01(b) of the NU Common Shares held by any director or officer of NU and the conversion pursuant to this Section 5.06 into Company Stock Options of NU Stock Options held by any director or officer of NU will be eligible for exemption under Rule 16b-3(e).

(d) As soon as practicable after the Effective Time, the Company shall deliver to the holders of CEI Stock Options and NU Stock Options (collectively, the "Stock Options") appropriate notices setting forth such holders' rights pursuant to the respective CEI Stock Plans or NU Stock Plans, as the case may be (collectively, the "Stock Plans"), and the agreements evidencing the grants of such Stock Options, and that such Stock Options and agreements shall be assumed by the Company and shall continue in effect on the same terms and conditions (subject to the adjustments required by this Section 5.06 after giving effect to the Mergers).

(e) Except as otherwise contemplated by this Section 5.06 and except to the extent required under the respective terms of the Stock Options, all restrictions or limitations on transfer and vesting with respect to Stock Options awarded under the Stock Plans, or any other plan, program or arrangement of CEI, NU or any of their respective subsidiaries, to the extent that such restrictions or limitations shall not have already lapsed, shall remain in full force and effect with respect to such Stock Options

after giving effect to the Mergers and the assumption by the Company as set forth above.

SECTION 5.07. Employee Agreements; Workforce Matters and Employee Benefit PlansSECTION 5.07. Employee Agreements; Workforce Matters and Employee Benefit PlansSECTION 5.07. Employee Agreements; Workforce Matters and Employee Benefit Plans. (a) Certain Employee Agreements. Following the Effective Time, the Company will (subject to this Section 5.07) cause its subsidiaries to honor all obligations of the employer under any contracts, agreements, collective bargaining agreements and commitments of CEI and NU and their respective subsidiaries entered into prior to the date of this Agreement (or as established or amended in accordance with or permitted by this Agreement), which apply to any current or former employee, or current or former trustee, director or officer of any of the parties hereto or any of their subsidiaries; provided, however, that this undertaking is not intended to prevent the Company (or any subsidiary of the Company after the Effective Time succeeding to such obligations by operation of law) from enforcing such contracts, agreements, collective bargaining agreements and commitments in accordance with their terms, including any reserved right to amend, modify, suspend, revoke or terminate any such contract, agreement, collective bargaining agreement or commitment or portion thereof.

(b) Workforce Matters. Subject to obligations under Applicable Law and applicable collective bargaining agreements, for a period of three years following the Effective Time, (i) any reductions in the employee workforce of the then ongoing operations of the Company and its subsidiaries shall be made on a fair and equitable basis (as determined by the Company and its subsidiaries), in light of the circumstances and the objectives to be achieved, giving consideration to previous work history, job experience and qualifications, without regard to whether employment prior to the Effective Time was with CEI and the CEI Subsidiaries or NU and the NU Subsidiaries, and any employees whose employment is terminated or jobs are eliminated by the Company or any of its subsidiaries during such period shall be entitled to participate on a fair and equitable basis (as

determined by the Company and its subsidiaries) in the job opportunity and employment placement programs offered by the Company or any of its subsidiaries for which they are eligible and (ii) employees shall be entitled to participate in all job training, career development and educational programs of the Company and its subsidiaries for which they are eligible, and shall be entitled to fair and equitable consideration (as determined by the Company and its subsidiaries) in connection with any job opportunities with the Company and its subsidiaries, in each case without regard to whether employment prior to the Effective Time was with CEI and the CEI Subsidiaries or NU and the NU Subsidiaries.

(c) Service Credit. Subject to its obligations under Applicable Law and applicable collective bargaining agreements, the Company and its subsidiaries shall give credit under each of their respective employee benefit plans, programs and arrangements to employees for all service prior to the Effective Time with CEI or NU or their respective subsidiaries, as applicable, or any predecessor employer (to the extent that such credit was given by NU or CEI or any of their respective subsidiaries, as applicable) for all purposes for which such service was taken into account or recognized by CEI or NU or their respective subsidiaries, as the case may be, but not to the extent crediting such service would result in duplication of benefits (including for benefit accrual purposes under defined benefit pension plans).

(d) Continuation of Benefits. Subject to Applicable Law and obligations under applicable collective bargaining agreements, the Company shall maintain for a period of at least one year after the Closing Date, without interruption, such employee compensation, welfare and benefit plans, programs, policies and fringe benefits as will, in the aggregate, provide benefits to all employees of CEI and NU and their respective subsidiaries who were employees immediately prior to the Effective Time that are not less favorable than those provided pursuant to such employee compensation, welfare and benefits plans, programs, policies and fringe benefits of CEI and NU and their

respective subsidiaries, as in effect on the date of this Agreement.

(e) Preexisting Conditions, Exclusions and Waiting Periods; Deductibles. Subject to Applicable Law and applicable collective bargaining agreements, the Company and its subsidiaries shall (i) waive all limitations as to preexisting conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to employees of CEI or NU under any welfare plans, funds or programs (within the meaning of Section 3(1) of ERISA) currently maintained by the Company, or established to replace any CEI or NU welfare plans, funds or programs, in which such CEI or NU employees may be eligible to participate after the Closing Date, other than limitations or waiting periods that are already in effect with respect to such employees and that have not been satisfied as of the Closing Date and (ii) provide each CEI and NU employee with credit for any co-payments and deductibles paid by such employee prior to the Closing Date for purposes of satisfying any applicable deductible or out-of-pocket requirements under any of the welfare plans, funds or programs that such employees are eligible to participate in after the Closing Date.

SECTION 5.08. Indemnification, Exculpation and InsuranceSECTION 5.08. Indemnification, Exculpation and InsuranceSECTION 5.08. Indemnification, Exculpation and Insurance. (a) Each of the Company and Merger LLC agrees that all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the Effective Time which rights are now existing in favor of the current or former trustees, directors or officers of CEI and the CEI Subsidiaries or NU and the NU Subsidiaries, as the case may be, as provided in their respective certificates of incorporation or by-laws (or comparable organizational documents) shall survive the Mergers and shall continue in full force and effect in accordance with their terms (provided that in any event all such rights shall continue for a period of at least six years after the Effective Time). In addition, from and after the Effective Time, trustees, directors and officers of CEI or NU or their



respective subsidiaries who become directors or officers of the Company will be entitled to the indemnity rights and protections afforded to directors and officers of the Company.

(b) For six years after the Effective Time, the Company shall maintain in effect the trustees', directors' and officers' liability (and fiduciary) insurance policies currently maintained by NU and CEI covering acts or omissions occurring prior to the Effective Time with respect to those persons who are currently covered by CEI's and NU's respective trustees', directors' and officers' liability insurance policies on terms with respect to such coverage and amount no less favorable than those of the relevant policy in effect on the date of this Agreement. If such insurance coverage cannot be obtained at all, the Company shall maintain the most advantageous policies of trustees', directors' and officers' insurance obtainable.

(c) In the event the Company or any of its successors or assigns (i) consolidates with or merges into any other person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any person, then, and in either such case, proper provision shall be made so that the successors and assigns of the Company shall assume the obligations set forth in this Section 5.08.

(d) The provisions of Section 5.08(a) (i) are intended to be for the benefit of, and will be enforceable by, each indemnified party, his or her heirs and his or her representatives and (ii) are in addition to, and not in substitution for, any other rights to indemnification or contribution that any such person may have by contract or otherwise.

(e) The indemnified parties as a group may retain only one law firm with respect to each related matter except to the extent such law firm would have, under applicable standards of professional conduct then prevailing under the

laws of the applicable State, a conflict of interest in representing any particular indemnified party.

SECTION 5.09. Fees and Expenses  
SECTION 5.09. Fees and Expenses. (a) Except as provided in this Section 5.09, all fees and expenses incurred in connection with the Mergers, this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such fees or expenses, whether or not the Mergers are consummated, except that each of CEI and NU shall bear and pay one-half of the costs and expenses incurred in connection with (1) the filing, printing and mailing of the Form S-4 and the Joint Proxy Statement (including SEC filing fees), (2) the filings of the premerger notification and report forms under the HSR Act (including filing fees) and (3) the filings required under PUHCA. All stock transfer, real estate transfer, documentary, stamp, recording and other similar taxes (including interest, penalties and additions to any such Taxes) (the "Transfer Taxes") attributable to the transactions contemplated by this Agreement shall be paid by the Company. CEI and NU shall cooperate with the Company and with each other in the filing of such returns, including supplying in a timely manner a complete list of all real property interests held by CEI or NU and any information with respect to such property that is reasonably necessary to complete any such returns.

(b) In the event that (i) a NU Takeover Proposal shall have been made known to NU or any of the NU Subsidiaries or has been made directly to the NU Shareholders generally or any person shall have publicly announced an intention (whether or not conditional and whether or not such NU Takeover Proposal shall have been rejected or shall have been withdrawn or terminated prior to the NU Shareholders Meeting or any termination of this Agreement) to make a NU Takeover Proposal and thereafter this Agreement is terminated by either CEI or NU pursuant to Section 7.01(b)(i) or by CEI pursuant to Section 7.01(d), (ii) prior to or during the NU Shareholders Meeting (or any subsequent meeting of the NU Shareholders at which it is proposed that the NU Merger be approved), a NU Takeover

Proposal shall have been made directly to the NU Shareholders generally or any person shall have publicly announced an intention (whether or not conditional and whether or not such NU Takeover Proposal shall have been rejected or shall have been withdrawn or terminated prior to the NU Shareholders Meeting or any termination of this Agreement) to make a NU Takeover Proposal and thereafter this Agreement is terminated by either CEI or NU pursuant to Section 7.01(b)(ii) or (iii) this Agreement is terminated by NU pursuant to Section 7.01(f), then NU shall immediately pay CEI a fee equal to \$110 million (the "Termination Fee"), payable by wire transfer of same day funds; provided, however, that no Termination Fee shall be payable to CEI pursuant to clauses (i) or (ii) of this paragraph (b) unless and until within 24 months of such termination NU or any NU Subsidiary (x) enters into any NU Acquisition Agreement or (y) consummates any NU Takeover Proposal (for the purposes of the foregoing proviso the terms "NU Acquisition Agreement" and "NU Takeover Proposal" shall have the meanings assigned to such terms in Section 4.02 except that the references to "15%" in the definition of "NU Takeover Proposal" in Section 4.02(a) shall be deemed to be references to "35%"), in which event the Termination Fee shall be immediately payable upon the first to occur of such events set forth in the preceding clauses (x) and (y).

(c) If this Agreement is terminated by CEI or NU pursuant to Section 7.01(b)(ii), by NU pursuant to Section 7.01(f), by CEI pursuant to Section 7.01(c) or by CEI pursuant to Section 7.01(d) or if NU is otherwise obligated to pay the Termination Fee, NU shall immediately pay to CEI, by wire transfer of same day funds, an expense reimbursement fee of \$20 million for fees and expenses incurred, or paid by or on behalf of, CEI in connection with the Mergers or the transactions contemplated by this Agreement. The payment of such expense reimbursement fee shall not affect the extent to which, or the amount of, the Termination Fee which NU may separately be required to pay to CEI pursuant to Section 5.09(b).

(d) If this Agreement is terminated by NU pursuant to Section 7.01(b)(iii) or by NU pursuant to

Section 7.01(e), CEI shall immediately pay to NU, by wire transfer of same day funds, an expense reimbursement fee of \$20 million for fees and expenses incurred, or paid by or on behalf of, NU in connection with the Mergers or the transactions contemplated by this Agreement.

(e) NU acknowledges that the agreements contained in Sections 5.09(b) and 5.09(c) are an integral part of the transactions contemplated by this Agreement, and that, without these agreements, CEI would not enter into this Agreement; accordingly, if NU fails promptly to pay the amount due pursuant to Section 5.09(b) and 5.09(c), and, in order to obtain such payment, CEI commences a suit that results in a judgment against NU for any of the amounts set forth in Section 5.09(b) or 5.09(c), as the case may be, NU shall pay to CEI its costs and expenses (including attorneys' fees and expenses) in connection with such suit, together with interest on such amounts at the prime rate of The Chase Manhattan Bank in effect on the date such payment was required to be made.

SECTION 5.10. Public AnnouncementsSECTION 5.10. Public Announcements.  
 CEI and NU will consult with each other before issuing, and provide each other the opportunity to review, comment upon and concur with, any press release or other public statements with respect to the transactions contemplated by this Agreement, including the Mergers, and shall not issue any such press release or make any such public statement prior to such consultation, except as any party may determine is required by law. The parties agree that the initial press release to be issued with respect to the transactions contemplated by this Agreement shall be in the form heretofore agreed to by the parties.

SECTION 5.11. AffiliatesSECTION 5.11. Affiliates. As soon as practicable after the date of this Agreement, NU shall deliver to CEI, and CEI shall deliver to NU, a letter identifying all persons who are, at the time this Agreement is submitted for adoption by the respective shareholders of CEI and NU, "affiliates" of CEI or NU, as the case may be, for purposes

of Rule 145 under the Securities Act. CEI and NU shall use their respective reasonable best efforts to cause each such person to deliver to the Company as of the Closing Date, a written agreement substantially in the form attached hereto as Exhibit D-1 in the case of NU and Exhibit D-2 in the case of CEI.

SECTION 5.12. NYSE Listing. SECTION 5.12. NYSE Listing. The Company shall use its reasonable best efforts to cause the shares of the Company Common Stock to be issued in the Mergers to be approved for listing on the NYSE, subject to official notice of issuance, as promptly as practicable after the date of this Agreement, and in any event prior to the Closing Date.

SECTION 5.13. Shareholder Litigation. SECTION 5.13. Shareholder Litigation. NU shall afford CEI the opportunity to participate in the defense of any shareholder litigation against NU or any of its trustees or officers relating to the transactions contemplated by this Agreement.

SECTION 5.14. Taxes. SECTION 5.14. Taxes. (a) Each of CEI and NU will, and will cause each of their respective subsidiaries to, (i) timely file with the relevant taxing authority all material Tax returns and reports required to be filed by it, on a basis consistent with the elections, accounting methods, conventions and principles of taxation used for the most recent taxable periods for which Tax returns involving similar Tax items have been filed, and in a manner that does not unreasonably accelerate deductions or defer income, (ii) timely pay all Taxes due and payable, or establish proper reserves therefor in its books and records in accordance with GAAP, (iii) make adequate provision on its books and records, to the extent required in accordance with GAAP, for all Taxes due and payable after the Effective Time, and (iv) promptly notify the other of any action, suit, proceeding, claim or audit pending against or with respect to it or any of its subsidiaries in respect of any material Taxes.

(b) Each of CEI and NU shall not, and shall not permit any of their respective subsidiaries to, take any action, or fail to take any action, that would, or could reasonably be expected to, prevent (i) the Mergers from constituting a transaction described in Section 351 of the Code, (ii) the CEI Merger from constituting a transaction described in Section 368(a) of the Code or (iii) CEI or NU from obtaining the opinions of counsel referred to in Sections 6.02(c) and 6.03(c).

SECTION 5.15. Standstill Agreements; Confidentiality Agreements  
SECTION 5.15. Standstill Agreements; Confidentiality Agreements  
SECTION 5.15. Standstill Agreements; Confidentiality Agreements. During the period from the date of this Agreement through the Effective Time, NU shall not terminate, amend, modify or waive any provision of any confidentiality or standstill agreement to which it or any of its respective subsidiaries is a party, provided that NU may terminate, amend, modify or waive any provision of, any confidentiality agreement relating solely to the sale of the NU Subsidiaries' generation assets, including any NU Nuclear Facilities, other than any standstill provisions contained in any such confidentiality agreement. During such period, NU shall enforce, to the fullest extent permitted under Applicable Law, the provisions of any such agreement, including by seeking to obtain injunctions to prevent any breaches of such agreements and to enforce specifically the terms and provisions thereof in any court of the United States of America or of any state having jurisdiction.

SECTION 5.16. Rights Agreement. NU shall take all action requested in writing by CEI in order to render the NU Rights under the NU Rights Agreement inapplicable to the Mergers and the other transactions contemplated by the Agreement. Except as approved in writing by CEI, NU shall not (i) amend the NU Rights Agreement, (ii) redeem the NU Rights or (iii) take any action with respect to, or make any determination under, the NU Rights Agreement. If any "Distribution Date", "Shares Acquisition Date" or "Section 11(a)(ii) Event" (as each such term is defined in the NU Rights Agreement) occurs under the Rights Agreement

at any time during the period from the date of this Agreement to the Effective Time, CEI and NU shall make such adjustments as CEI and NU shall mutually agree so as to preserve the economic benefits that CEI and NU each reasonably expected on the date of this Agreement to receive as a result of the consummation of the Mergers and the other transactions contemplated by the Agreement.

## ARTICLE VI

Conditions Precedent VI      Conditions  
Precedent VI                      Conditions Precedent

SECTION 6.01. Conditions to Each Party's  
Obligation To Effect the MergersSECTION 6.01. Conditions to  
Each Party's Obligation To Effect the MergersSECTION 6.01.  
Conditions to Each Party's Obligation To Effect the Mergers.

The respective obligation of each party to effect the Mergers is subject to the satisfaction or waiver on or prior to the Closing Date of the following conditions:

(a) Shareholder Approvals. Each of the NU Shareholder Approval and the CEI Approval shall have been obtained.

(b) No Injunctions or Restraints. No  
(i) temporary restraining order or preliminary or permanent injunction or other order by any Federal or state court preventing consummation of either of the Mergers or  
(ii) applicable Federal or state law or regulation prohibiting either of the Mergers or any of the other transactions contemplated by this Agreement (collectively, "Restraints") shall be in effect.

(c) Form S-4. The Form S-4 shall have become effective under the Securities Act and shall not be the subject of any stop order or proceedings seeking a stop order.

(d) NYSE Listing. The shares of Company Common Stock issuable to the NU Shareholders and the CEI

Shareholders as contemplated by this Agreement shall have been approved for listing on the NYSE, subject to official notice of issuance.

SECTION 6.02. Conditions to Obligations of  
 CEI SECTION 6.02. Conditions to Obligations of  
 CEI SECTION 6.02. Conditions to Obligations of CEI. The obligation of CEI to effect the CEI Merger is further subject to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The representations and warranties of NU set forth herein shall be true and correct both when made and at and as of the Closing Date, as if made at and as of such time (except to the extent expressly made as of an earlier date, in which case as of such date), except where the failure of such representations and warranties to be so true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein) would not have, individually or in the aggregate, a Material Adverse Effect on NU.

(b) Performance of Obligations of NU. NU shall have performed in all material respects all obligations required to be performed by it under this Agreement at or prior to the Closing Date.

(c) Tax Opinions. CEI shall have received from Cravath, Swaine & Moore, counsel to CEI, on the Closing Date, its opinion dated as of such date or no more than two days prior thereto, to the effect that the CEI Merger will be treated for Federal income tax purposes as a transaction described in Section 368(a) of the Code. In rendering such opinion, counsel for CEI shall be entitled to rely upon customary representations of the parties hereto, substantially in the form of Exhibits E, F and G hereto.

(d) No Material Adverse Change. From and after the date of this Agreement, no Material Adverse Change with respect to NU (including the discovery of, any deterioration in, or any worsening of, any change, effect, event,



occurrence or state of facts existing or known as of the date of this Agreement) shall have occurred.

(e) Statutory Approvals. The CEI Statutory Approvals and the NU Statutory Approvals shall have been obtained at or prior to the Effective Time, such approvals shall have become Final Orders (as defined below) and neither such Final Orders nor any order, law or regulation of any Governmental Entity shall impose terms or conditions that would have, individually or in the aggregate, (A) a Material Adverse Effect on NU, (B) a Material Adverse Effect on CEI or (C) a Material Adverse Effect on the Company and its prospective subsidiaries taken as a whole. A "Final Order" means action by the relevant Governmental Entity that has not been reversed, stayed, enjoined, set aside, annulled or suspended, with respect to which any waiting period prescribed by law before the transactions contemplated hereby (or therein) may be consummated has expired, and as to which all conditions to the consummation of such transactions prescribed by law, regulation or order have been satisfied.

(f) Closing Certificates. CEI shall have received a certificate signed by an executive officer of NU, dated the Closing Date, to the effect that, to the best of such officer's knowledge, the conditions set forth in Section 6.02(a), Section 6.02(b), Section 6.02(d) and Section 6.02(g) have been satisfied.

(g) No Trigger of NU Rights. No event shall have occurred that has triggered, or would result in the triggering of, any right or entitlement of NU Shareholders under the NU Rights Agreement, including a "Distribution Date", a "Shares Acquisition Date" or a "Section 11(a)(ii) Event" (as such terms are defined in the NU Rights Agreement) or a "flip-in" or "flip-over" event as commonly described in such rights plans, and the NU Rights shall not have become nonredeemable by the NU Board of Trustees.

SECTION 6.03. Conditions to Obligations of  
NUSECTION 6.03. Conditions to Obligations of  
NUSECTION 6.03. Conditions to Obligations of NU. The  
obligation of NU to effect the NU Merger is further subject  
to satisfaction or waiver of the following conditions:

(a) Representations and Warranties. The  
representations and warranties of CEI set forth herein shall  
be true and correct both when made and at and as of the  
Closing Date, as if made at and as of such time (except to  
the extent expressly made as of an earlier date, in which  
case as of such date), except where the failure of such  
representations and warranties to be so true and correct  
(without giving effect to any limitation as to "materiality"  
or "Material Adverse Effect" set forth therein) would not  
have, individually or in the aggregate, a Material Adverse  
Effect on CEI.

(b) Performance of Obligations of CEI. CEI shall  
have performed in all material respects all obligations  
required to be performed by it under this Agreement at or  
prior to the Closing Date.

(c) Tax Opinions. NU shall have received from  
LeBoeuf, Lamb, Greene & MacRae, L.L.P., counsel to NU, on  
the Closing Date, its opinion dated as of such date or no  
more than two days prior thereto, to the effect that the  
Mergers will be treated for Federal income tax purposes as a  
transaction described in Section 351 of the Code. In  
rendering such opinion, counsel for NU shall be entitled to  
rely upon customary representations of the parties hereto,  
substantially in the form of Exhibits E, F and G hereto.

(d) No Material Adverse Change. From and after  
the date of this Agreement, no Material Adverse Change with  
respect to CEI (including the discovery of, any  
deterioration in, or any worsening of, any change, effect,  
event, occurrence or state of facts existing or known as of  
the date of this Agreement) shall have occurred.

(e) Statutory Approvals. The CEI Statutory  
Approvals and the NU Statutory Approvals shall have been

obtained at or prior to the Effective Time, such approvals shall have become Final Orders and neither such Final Orders nor any order, law or regulation of any Governmental Entity shall impose terms or conditions that would have, individually or in the aggregate, (A) a Material Adverse Effect on CEI or (B) a Material Adverse Effect on the Company and its prospective subsidiaries taken as a whole.

(f) Closing Certificates. NU shall have received a certificate signed by an executive officer of CEI, dated the Closing Date, to the effect that, to the best of such officer's knowledge, the conditions set forth in Section 6.03(a), Section 6.03(b) and Section 6.03(d) have been satisfied.

## ARTICLE VII

### Termination, Amendment and Waiver VII Termination, Amendment and Waiver VII Termination, Amendment and Waiver

SECTION 7.01. TerminationSECTION 7.01.  
TerminationSECTION 7.01. Termination. This Agreement may be terminated at any time prior to the Effective Time, whether before or (other than pursuant to clause (f) below) after the NU Shareholder Approval or the CEI Shareholder Approval:

(a) by mutual written consent of CEI and NU;

(b) by either CEI or NU:

(i) if the Mergers shall not have been consummated by April 13, 2001 (the "Initial Termination Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 7.01(b)(i) shall not be available to any party whose failure to perform any of its obligations under this Agreement results in the failure of the Mergers to be consummated by such time; and provided, further, that if on the Initial Termination Date the conditions to the respective obligations of CEI and NU to effect the CEI Merger and the NU Merger set forth in Sections 6.01(b) and 6.02(e) and Sections 6.01(b) and 6.03(e), respectively, shall not have been fulfilled but all other conditions to the respective obligations of CEI and NU to effect the CEI Merger and the NU Merger shall have been fulfilled or shall be capable of being fulfilled, then the Initial Termination Date shall be extended to October 13, 2001;

(ii) if the NU Shareholder Approval shall not have been obtained at a NU Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof;

(iii) if the CEI Shareholder Approval shall not have been obtained at a CEI Shareholders Meeting duly convened therefor or at any adjournment or postponement thereof; or

(iv) if any Restraint having any of the effects set forth in Section 6.01(b) shall be in effect and shall have become final and nonappealable; provided, that the party seeking to terminate this Agreement pursuant to this Section 7.01(b)(iv) shall have used its reasonable best efforts to prevent the entry of and to remove such Restraint;

(c) by CEI, if NU shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement (other than Section 4.02), which breach or failure

to perform (A) would give rise to the failure of a condition set forth in Section 6.02(a) or (b), and (B) is incapable of being cured by NU or is not cured by NU within a reasonable period of time following receipt of written notice from CEI of such breach or failure to perform;

(d) by CEI, if NU or any of its trustees or officers breaches or fails to perform in any material respect any of its covenants or agreements contained in Section 4.02;

(e) by NU, if CEI shall have breached or failed to perform in any material respect any of its representations, warranties, covenants or other agreements contained in this Agreement, which breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 6.03(a) or (b), and (B) is incapable of being cured by CEI or is not cured by CEI within a reasonable period of time following receipt of written notice from NU of such breach or failure to perform; or

(f) by NU in accordance with Section 4.02(b); provided that, in order for the termination of this Agreement pursuant to this paragraph (f) to be deemed effective, NU shall have complied with all provisions of Section 4.02, including the notice provisions therein, and with applicable requirements, including the payment of the Termination Fee, of Section 5.09.

SECTION 7.02. Effect of TerminationSECTION 7.02. Effect of Termination.

In the event of termination of this Agreement by either NU or CEI as provided in Section 7.01, this Agreement shall forthwith become null and void and have no effect, without any liability or obligation on the part of CEI or NU, other than the provisions of Section 3.01(q), Section 3.02(o), the penultimate sentence of Section 5.04(a), Section 5.09, this Section 7.02 and Article VIII, which provisions shall survive such termination, and except to the extent that such termination results from the willful and material breach by a party of any of its representations, warranties, covenants or agreements set forth in this Agreement, in which case

such termination shall not relieve any party of any liability or damages resulting from its willful and material breach of this Agreement (including any such case in which a Termination Fee or any expense reimbursement fee is payable pursuant to Section 5.09), to the extent any such liability or damage suffered by the party entitled to such payment exceeds the amount of such payment (including, in the case of CEI, the amount of the Termination Fee (to the extent payable) and any expense reimbursement fee payable to CEI pursuant to Section 5.09).

SECTION 7.03. AmendmentSECTION 7.03.

AmendmentSECTION 7.03. Amendment. This Agreement may be amended by the parties at any time before or after the NU Shareholder Approval or the CEI Shareholder Approval; provided, however, that after any such approval, there shall not be made any amendment that by law requires further approval by the NU Shareholders or the CEI Shareholders without the further approval of such shareholders. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties.

SECTION 7.04. Extension; WaiverSECTION 7.04.

Extension; WaiverSECTION 7.04. Extension; Waiver. At any time prior to the Effective Time, a party may (a) extend the time for the performance of any of the obligations or other acts of the other parties, (b) waive any inaccuracies in the representations and warranties of the other parties contained in this Agreement or in any document delivered pursuant to this Agreement or (c) subject to the proviso of Section 7.03, waive compliance by the other parties with any of the agreements or conditions contained in this Agreement.

Any agreement on the part of a party to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights.

SECTION 7.05. Procedure for Termination,

Amendment, Extension or WaiverSECTION 7.05. Procedure for Termination, Amendment, Extension or WaiverSECTION 7.05.



SECTION 8.02. NoticesSECTION 8.02.  
NoticesSECTION 8.02. Notices. All notices, requests,  
 claims, demands and other communications under this  
 Agreement shall be in writing and shall be deemed given (as  
 of the time of delivery or, in the case of a telecopied  
 communication, of confirmation) if delivered personally,  
 telecopied (which is confirmed) or sent by overnight courier  
 (providing proof of delivery) to the parties at the  
 following addresses (or at such other address for a party as  
 shall be specified by like notice):

(a) if to CEI, to

Consolidated Edison, Inc.  
 4 Irving Place  
 New York, New York 10003

Telecopy No.: (212) 677-0601

Attention: John D. McMahon, Esq.

with a copy to:

Cravath, Swaine & Moore  
 825 Eighth Avenue  
 New York, New York 10019

Telecopy No.: (212) 474-3700

Attention: George W. Bilicic, Jr.; and  
 Nicholas D. S. Brumm

(b) if to NU, to

Northeast Utilities Service Company  
 107 Selden Street  
 Berlin, Connecticut 06037

Telecopy No.: (860) 665-4886

Attention: Cheryl W. Gris , Esq.



with a copy to:

LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
125 West 55th Street  
New York, New York 10019

Telecopy No.: (212) 424-8500

Attention: Steven H. Davis; and  
Benjamin G. Clark

SECTION 8.03. DefinitionsSECTION 8.03.

DefinitionsSECTION 8.03. Definitions. For purposes of this Agreement:

(a) an "affiliate" of any person means another person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first person, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a person, whether through the ownership of voting securities, by contract, as trustee or executor, or otherwise;

(b) "Material Adverse Change" or "Material Adverse Effect" means, when used in connection with any person, any change, effect, event, occurrence or state of facts (i) that is, or would reasonably be expected to be, materially adverse to the business, assets, properties, condition (financial or otherwise), results of operations or prospects of such person and its subsidiaries taken as a whole or (ii) that prevents, or would reasonably be expected to prevent, such person from performing any of its material obligations under this Agreement or consummation of the transactions contemplated hereby;

(c) "person" means an individual, corporation, partnership, limited liability company, joint venture, association, trust, business trust, unincorporated organization or other entity;

(d) a "subsidiary" of any person means another person, an amount of the voting securities, other voting ownership or voting partnership interests of which is sufficient to elect at least a majority of its Board of Directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests of which) is owned directly or indirectly by such first person; and

(e) "knowledge" of any person which is not an individual means the actual knowledge of such person's executive officers.

SECTION 8.04. InterpretationSECTION 8.04. Interpretation. When a reference is made in this Agreement to an Article, Section or Exhibit, such reference shall be to an Article or Section of, or an Exhibit to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation". The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or statute defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein.

References to a person are also to its permitted successors and assigns.

SECTION 8.05. CounterpartsSECTION 8.05. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each party and delivered to the other parties.

SECTION 8.06. Entire Agreement; No Third--Party BeneficiariesSECTION 8.06. Entire Agreement; No Third--Party BeneficiariesSECTION 8.06. Entire Agreement; No Third--Party Beneficiaries. This Agreement (including the documents and instruments referred to herein) and the Confidentiality Agreement (except for paragraph 9 thereof) (i) constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement (including paragraph 9 of the Confidentiality Agreement) and (ii) except for the provisions of Article II and Section 5.08, are not intended to confer upon any person other than the parties any rights or remedies. NU hereby waives the restrictions applicable to CEI pursuant to paragraph 9 of the Confidentiality Agreement relating to the parties' standstill obligations for a time period to expire on the earliest of (i) the Effective Time, (ii) if this Agreement is terminated by CEI and the Termination Fee is required to be paid, payment of the Termination Fee and (iii) if this Agreement is terminated by NU pursuant to Section 7.01(b)(iii) or 7.01(e), upon such termination.

SECTION 8.07. Governing LawSECTION 8.07. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, except to the extent that the laws of the State of Delaware govern the CEI Merger or the laws of the Commonwealth of Massachusetts govern the NU Merger regardless, in each case, of the laws that might otherwise govern under applicable principles of conflict of laws.

SECTION 8.08. AssignmentSECTION 8.08.  
AssignmentSECTION 8.08. Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned, in whole or in part, by operation of law or otherwise by any of the parties hereto without the prior written consent of the other party. Any attempted or purported assignment in violation of the preceding sentence shall be null and void and of no effect whatsoever. Subject to the preceding two sentences, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

SECTION 8.09. EnforcementSECTION 8.09.  
EnforcementSECTION 8.09. Enforcement. The parties agree that irreparable damage would occur and that the parties would not have any adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in the Federal court located in the Borough of Manhattan in The City of New York or if such court does not have jurisdiction, in any Federal court having jurisdiction, or if no Federal court has jurisdiction, in any state court having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity. In addition, each of the parties hereto (a) consents to submit itself to the personal jurisdiction of the Federal court located in the Borough of Manhattan in The City of New York or if such court does not have jurisdiction, in any Federal court having jurisdiction, or if no Federal court has jurisdiction, in any state court having jurisdiction in the event any dispute arises out of this Agreement or any of the transactions contemplated by this Agreement, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, and (c) agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than a Federal court sitting in the Borough

of Manhattan in The City of New York or if such court does not have jurisdiction, in any Federal court having jurisdiction, or if no Federal court has jurisdiction, in any state court having jurisdiction.

SECTION 8.10. SeverabilitySECTION 8.10. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by Applicable Law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

SECTION 8.11. Trustee and Shareholder Liability.

No trustee or NU Shareholder shall be held to any liability whatsoever for any obligation under this Agreement, and this Agreement shall not be enforceable against any such trustee or NU Shareholder in their or his or her individual capacities or capacity. This Agreement shall be enforceable against the trustees of NU only as such, and every person, firm, association, trust or corporation having any claim or demand arising under this Agreement and relating to NU, the NU Shareholders or trustees shall look solely to the trust estate of NU for the payment or satisfaction thereof.

IN WITNESS WHEREOF, CEI, NU, the Company, and Merger LLC have caused this Agreement to be signed by their respective officers (or, in the case of Merger LLC, manager) thereunto duly authorized, all as of the date first written above.

CONSOLIDATED EDISON, INC.,

by

/s/ Eugene R. McGrath

Name: Eugene R. McGrath

Title: Chairman, President  
and Chief Executive  
Officer

NORTHEAST UTILITIES,

by

/s/ Michael G. Morris

Name: Michael G. Morris

Title: Chairman, President  
and Chief Executive  
Officer

CWB HOLDINGS, INC.,

by

/s/ Joan S. Freilich

Name: Joan S. Freilich

Title: Chairman, President  
and Chief Executive  
Officer

N ACQUISITION LLC,

by CWB Holdings, Inc.

by

/s/ Joan S. Freilich

Name: Joan S. Freilich

Title: Chairman, President  
and Chief Executive  
Officer