

LARGE FILING SEPERATOR SHEET

CASE NUMBER: 01-1123-EL-CRS

FILE DATE: 7/17/07

SECTION: 1 of 3

NUMBER OF PAGES: 200

DESCRIPTION OF DOCUMENT:

Renewal Application

FILE

582



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July 17, 2007

PUCO

Public Utilities Commission of Ohio
Docketing Division
180 E. Broad Street
Columbus, OH 43215-3793

Re: Renewal Electric License Application – 01-1123-EL-CRS

To Whom It May Concern:

Enclosed with this letter, please see Commerce Energy Inc., d/b/a Commerce Energy of Ohio's CRS Renewal Application. At this time Commerce Energy is not actively selling electricity in the state of Ohio, however, we would like to continue our license status.

Should you need any additional information or have any questions, please contact me at 714-259-2508.

Sincerely,

A handwritten signature in black ink, appearing to read "Inger Goodman", written over a horizontal line.

Inger Goodman
Sr. Regulatory Analyst

Enclosure

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician SM Date Processed 7/17/07



The Public Utilities Commission of Ohio

Original CRS Case Number	Version
01 - 1123 - EL-CRS	August 2004

RENEWAL APPLICATION FOR RETAIL GENERATION PROVIDERS AND POWER MARKETERS

Please print or type all required information. Identify all attachments with an exhibit label and title (Example: Exhibit A-11 Corporate Structure). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division; 180 East Broad Street, Columbus, Ohio 43215-3793.

**This PDF form is designed so that you may input information directly onto the form.
You may also download the form, by saving it to your local disk, for later use.**

A. RENEWAL INFORMATION

A-1 Applicant intends to be renewed as: (check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> Retail Generation Provider | <input checked="" type="checkbox"/> Power Broker |
| <input checked="" type="checkbox"/> Power Marketer | <input checked="" type="checkbox"/> Aggregator |

A-2 Applicant's legal name, address, telephone number, PUCO certificate number, and web site address

Legal Name Commerce Energy, Inc. d.b.a. Commerce Energy of Ohio
Address 600 Anton Blvd., Suite 2000, Costa Mesa, CA 92626
PUCO Certificate # and Date Certified 01-074 (2) August 5, 2003
Telephone # 800-962-4655 Web site address (if any) Commerceenergy.com

A-3 List name, address, telephone number and web site address under which Applicant does business in Ohio

Legal Name Commerce Energy of Ohio
Address Crosswoods Center, 100 East Campus Blvd. Suite 250, Columbus, OH 43235
Telephone # 800-962-4655 Web site address (if any) Commerceenergy.com

A-4 List all names under which the applicant does business in North America

Commerce Energy of Ohio

Commerce Energy, Inc.

A-5 Contact person for regulatory or emergency matters

Name Tony Cusati

Title Mid-West Market Manager

Business address 600 Anton blvd., Suite 2000, Costa Mesa, CA 92626

Telephone # (703) 444-2307

Fax # _____

E-mail address (if any) tcusati@commerceenergy.com

A-6 Contact person for Commission Staff use in investigating customer complaints

Name Inger Goodman

Title Supervisor, Consumer Affairs

Business address 600 Anton Blvd. Suite 2000, Costa Mesa CA 92626

Telephone # 714-259-2508

Fax # 714-481-6589

E-mail address (if any) igoodman@commerceenergy.com

A-7 Applicant's address and toll-free number for customer service and complaints

Customer Service address 600 Anton Blvd. #2000, Costa Mesa CA 92626

Toll-free Telephone # 877-226-5371

Fax # 877-332-1067

E-mail address (if any) contactus@commerceenergy.com

A-8 Applicant's federal employer identification number # 33-0769555

A-9 Applicant's form of ownership (check one)

☐ Sole Proprietorship

☐ Limited Liability Partnership (LLP)

☒ Corporation

☐ Partnership

☐ Limited Liability Company (LLC)

☐ Other _____

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

A-10 Exhibit A-10 "Principal Officers, Directors & Partners" provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.

A-11 Exhibit A-11 "Corporate Structure," provide a description of the applicant's corporate structure, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers in North America.

B. MANAGERIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

- B-1** Exhibit B-1 "Jurisdictions of Operation," provide a list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail or wholesale electric services.
- B-2** Exhibit B-2 "Experience & Plans," provide a description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4928.10 of the Revised Code.
- B-3** Exhibit B-3 "Disclosure of Liabilities and Investigations," provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocation of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational status or ability to provide the services it is seeking to be certified to provide.
- B-4** Disclose whether the applicant, a predecessor of the applicant, or any principal officer of the applicant have ever been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws within the past five years.
☒ No ☐ Yes

If yes, provide a separate attachment labeled as Exhibit B-4 "Disclosure of Consumer Protection Violations" detailing such violation(s) and providing all relevant documents.

- B-5** Disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail or wholesale electric service denied, curtailed, suspended, revoked, or cancelled within the past two years.
☒ No ☐ Yes

If yes, provide a separate attachment labeled as Exhibit B-5 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation" detailing such action(s) and providing all relevant documents.

C. FINANCIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

- C-1** Exhibit C-1 "Annual Reports," provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information in Exhibit C-1 or indicate that Exhibit C-1 is not applicable and why.

- C-2 Exhibit C-2 “SEC Filings,”** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 that the applicant is not required to file with the SEC and why.
- C-3 Exhibit C-3 “Financial Statements,”** provide copies of the applicant’s two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer certified financial statements covering the life of the business.
- C-4 Exhibit C-4 “Financial Arrangements,”** provide copies of the applicant’s financial arrangements to conduct CRES as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.).
- C-5 Exhibit C-5 “Forecasted Financial Statements,”** provide two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant’s CRES operation, along with a list of assumptions, and the name, address, e-mail address, and telephone number of the preparer.
- C-6 Exhibit C-6 “Credit Rating,”** provide a statement disclosing the applicant’s credit rating as reported by two of the following organizations: Duff & Phelps, Dun and Bradstreet Information Services, Fitch IBCA, Moody’s Investors Service, Standard & Poors, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant’s parent or affiliate organization that guarantees the obligations of the applicant.
- C-7 Exhibit C-7 “Credit Report,”** provide a copy of the applicant’s credit report from Experion, Dun and Bradstreet or a similar organization.
- C-8 Exhibit C-8 “Bankruptcy Information,”** provide a list and description of any reorganizations, protection from creditors or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or within the two most recent years preceding the application.
- C-9 Exhibit C-9 “Merger Information,”** provide a statement describing any dissolution or merger or acquisition of the applicant within the five most recent years preceding the application.

D. TECHNICAL CAPABILITY

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED:

- D-1 Exhibit D-1 "Operations" provide a written description of the operational nature of the applicant's business. Please include whether the applicant's operations include the generation of power for retail sales, the scheduling of retail power for transmission and delivery, the provision of retail ancillary services as well as other services used to arrange for the purchase and delivery of electricity to retail customers.
- D-2 Exhibit D-2 "Operations Expertise," given the operational nature of the applicant's business, provide evidence of the applicant's experience and technical expertise in performing such operations.
- D-3 Exhibit D-3 "Key Technical Personnel," provide the names, titles, e-mail addresses, telephone numbers, and the background of key personnel involved in the operational aspects of the applicant's business.
- D-4 Exhibit D-4 "FERC Power Marketer License Number," provide a statement disclosing the applicant's FERC Power Marketer License number. (Power Marketers only)

 CFO
Signature of Applicant and Title



Sworn and subscribed before me this 16th day of July, 2007
Month Year


Signature of official administering oath

Inger Goodman, Regulatory Analyst
Print Name and Title
Notary Public

My commission expires on 5/22/2011

AFFIDAVIT

State of California :

Costa Mesa.....ss.

(Town)

County of Orange :

Lawrence Clayton, Affiant, being duly sworn/affirmed according to law, deposes and says that:

He/~~She~~ is the Chief Financial Officer (Office of Affiant) of Commerce Energy, Inc. d/b/a Commerce Energy of Ohio.

That he/~~she~~ is authorized to and does make this affidavit for said Applicant,

1. The Applicant herein, attests under penalty of false statement that all statements made in the application for certification renewal are true and complete and that it will amend its application while the application is pending if any substantial changes occur regarding the information provided in the application.
2. The Applicant herein, attests it will timely file an annual report with the Public Utilities Commission of Ohio of its intrastate gross receipts, gross earnings, and sales of kilowatt-hours of electricity pursuant to Division (A) of Section 4905.10, Division (A) of Section 4911.18, and Division (F) of Section 4928.06 of the Revised Code.
3. The Applicant herein, attests that it will timely pay any assessments made pursuant to Sections 4905.10, 4911.18, or Division F of Section 4928.06 of the Revised Code.
4. The Applicant herein, attests that it will comply with all Public Utilities Commission of Ohio rules or orders as adopted pursuant to Chapter 4928 of the Revised Code.
5. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, and its Staff on any utility matter including the investigation of any consumer complaint regarding any service offered or provided by the Applicant.
6. The Applicant herein, attests that it will comply with all state and/or federal rules and regulations concerning consumer protection, the environment, and advertising/promotions.
7. The Applicant herein, attests that it will fully comply with Section 4928.09 of the Revised Code regarding consent to the jurisdiction of Ohio Courts and the service of process.
8. The Applicant herein, attests that it will use its best efforts to verify that any entity with whom it has a contractual relationship to purchase power is in compliance with all applicable licensing requirements of the Federal Energy Regulatory Commission and the Public Utilities Commission of Ohio.
9. The Applicant herein, attests that it will cooperate fully with the Public Utilities Commission of Ohio, the electric distribution companies, the regional transmission entities, and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of the electric service in accordance with the emergency plans and other procedures as may be determined appropriate by the Commission.
10. If applicable to the service(s) the Applicant will provide, the Applicant herein, attests that it will adhere to the reliability standards of (1) the North American Electric Reliability Council (NERC), (2) the appropriate regional reliability council(s), and (3) the Public Utilities Commission of Ohio. (Only applicable if pertains to the services the Applicant is offering)

11. The Applicant herein, attests that it will inform the Commission of any material change to the information supplied in the renewal application within 30 days of such material change, including any change in contact person for regulatory purposes or contact person for Staff use in investigating customer complaints.

That the facts above set forth are true and correct to the best of his/her knowledge, information, and belief and that he/she expects said Applicant to be able to prove the same at any hearing hereof.

James Chaffin CFO
Signature of Affiant & Title

Sworn and subscribed before me this 16th day of July, 2007
Month

[Signature]
Signature of official administering oath

Inger Goodman, Regulatory Analyst
Print Name and Title
Notary Public



My commission expires on May 22, 2011

Exhibit A-10
Principal Officers, Directors & Partners
Commerce Energy, Inc. doing business as Commerce Energy of Ohio, Inc.

Principal Officers

Steven S. Boss – Chief Executive Officer
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Lawrence Clayton – Chief Financial Officer
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Nick Coill - Vice President – Risk Management
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Kenneth Robinson – Vice President, Corporate
Controller
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Tom Ulry – Sr. Vice President, Sales and
Marketing
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Erik Lopez – General Counsel
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Mark Podorsky – Vice President – Operations
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Directors

Charles Bayless – Director
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Mark S. Juergensen – Director
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Robert C. Perkins - Director and COB
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Gary Hessenauer – Director
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Dennis Leibel - Director
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
Ph: 714-259-2500

Exhibit A – 11
Corporate Structure
Commerce Energy, Inc. doing business as Commerce Energy of Ohio, Inc.

Applicant currently provides retail electric service to residential and small commercial consumers in California, Pennsylvania, New Jersey, Michigan and Texas under the trade name Commerce Energy, Inc. Applicant currently provides retail gas service to residential and small commercial consumers in California, Pennsylvania, New York, Georgia and Maryland under the trade name Commerce Energy, Inc and in Ohio under the trade name Commerce Energy, Inc. doing business as Commerce Energy of Ohio. Applicant is part of the holding company Commerce Energy Group, which includes Skipping Stone – an Energy Consulting company; the retail gas & electric company - Commerce Energy Inc who uses the d.b.a. of Commerce Energy of Ohio, Inc in Ohio; Utilihost – a back office services company; and Commerce Energy Corporate Services which is the corporate services for all of the companies under Commerce Energy Group.

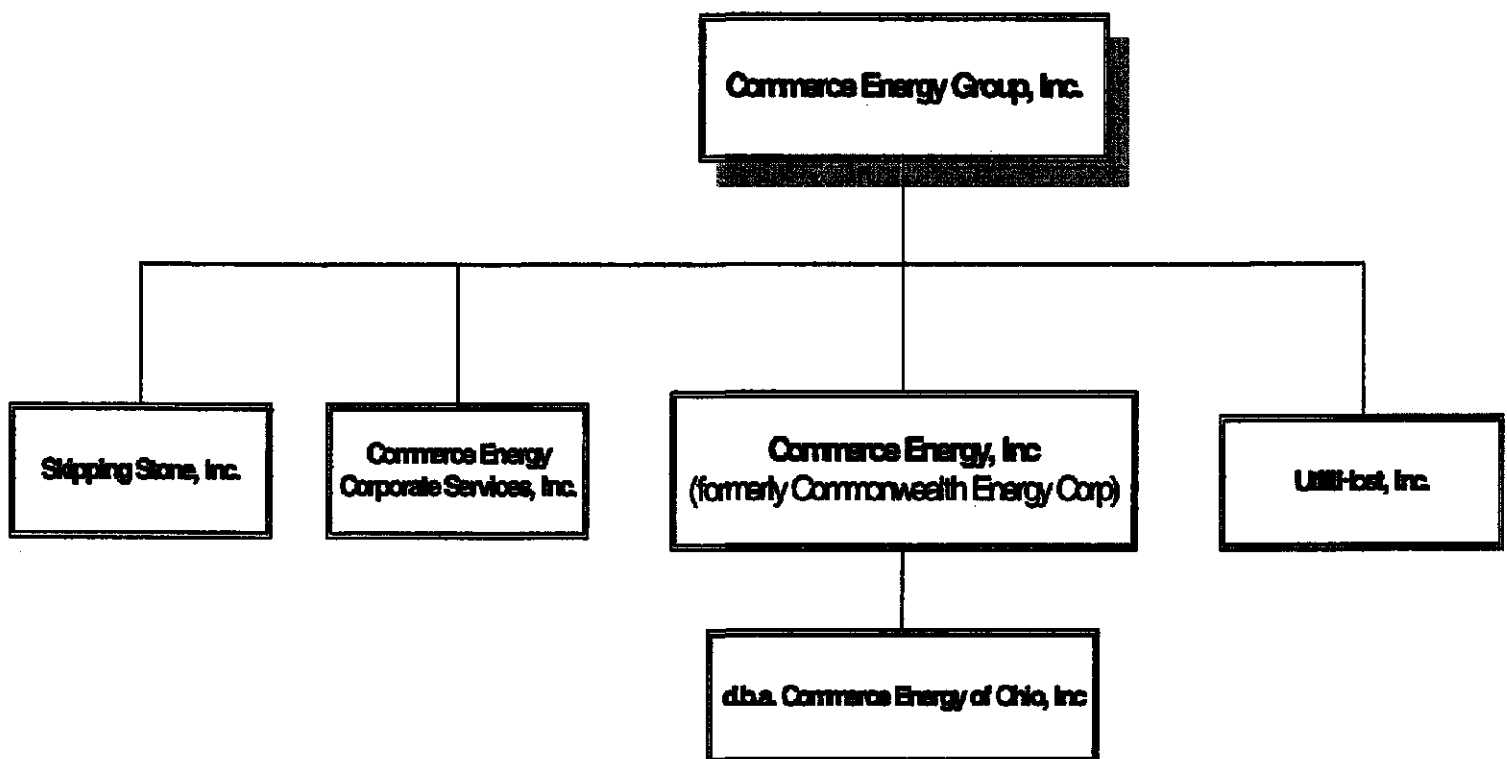


Exhibit B-1
Jurisdictions of Operation
Commerce Energy, Inc. doing business as Commerce Energy of Ohio, Inc.

The applicant is licensed to provide retail or wholesale electricity service in California, Illinois, Michigan, New Jersey, New York, Pennsylvania, Ohio, Texas, Maryland and Virginia. Please see further details below. The applicant is also licensed to provide retail gas service in California, Georgia, New York, Maryland, Ohio and Pennsylvania.

California	Registered October 7, 1997. License #1092
Illinois	Registered 1/17/07 Electric Docket #06-0723
Maryland	Registered July 7, 2004. License #IR-639
Michigan	Registered November 20, 2001. Case U-13203
New Jersey	Registered November 9, 2000. License #ESL-0046
Ohio	Registered June 10, 2001. Certificate #01-074(1)
Pennsylvania	Registered September 15, 1999. License #A-110117
Texas	Registered September 19, 2001. Certificate #10029
Virginia	Registered October 8, 2004. License #E-14

Exhibit B-2
Experience & Plans
Commerce Energy, Inc. doing business as Commerce Energy of Ohio, Inc.

As of July 2007, the applicant has yet to begin operations in the State of Ohio. However, in the six years that the applicant has held a CRES license in the state, all systems and contracting process described in Exhibit B-2 of our original CRES application (dated May 25, 2001) have been implemented and refined during the course of our operations.

While the applicant has no immediate plans for initiating retail electric service to Ohio end-users, the applicant is fully prepared to contract with customers, provide for contracted services and billing statements in respond to customer inquires as required in the guidelines established by the PUC of Ohio.

Exhibit B-3
Disclosures of Liabilities and Investigations
Commerce Energy, Inc. doing business as Commerce Energy of Ohio, Inc.

None.

Exhibit C-1
Annual Reports
Commerce Energy, Inc. doing business as Commerce Energy of Ohio, Inc.

Attached please find the applicant's annual reports for the years 2005 and 2006.

Exhibit C-2

SEC Filings

Commerce Energy, Inc. doing business as Commerce Energy of Ohio, Inc.

Attached please find the applicant's 10-K and 8-K filings for 2005 and 2006.



Form 8-K

COMMERCE ENERGY GROUP INC - EGR

Filed: September 26, 2006 (period: September 20, 2006)

Report of unscheduled material events or corporate changes.

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EX-2.1 (1ASSET PURCHASE AGREEMENT)

EX-2.2 (TRANSITION SERVICES AGREEMENT)

EX-2.3 (1GUARANTY AGREEMENT)

EX-99.1 (1FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT)

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): September 20, 2006

COMMERCE ENERGY GROUP, INC.

(Exact Name of registrant as specified in its charter)

**Delaware
(State or other
jurisdiction of
incorporation)**

**001-32239
(Commission File Number)**

**20-0501090
(IRS Employer
Identification No.)**

**600 Anton Blvd., Suite 2000
Costa Mesa, California
(Address of principal executive offices)**

**92626
(Zip Code)**

**Registrant's telephone number, including area code: (714) 259-2500
Not Applicable**

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ **Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)**
 - ☐ **Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)**
 - ☐ **Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2 (b))**
 - ☐ **Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))**
-

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EXHIBIT 2.2

EXHIBIT 2.3

EXHIBIT 99.1

Item 1.01. Entry into a Material Definitive Agreement.

HESCO Acquisition Agreements.

On September 20, 2006, Commerce Energy, Inc. ("Commerce"), a California corporation and a wholly-owned subsidiary of Commerce Energy Group, Inc. (the "Registrant"), a Delaware corporation, entered into an Asset Purchase Agreement (the "Asset Purchase Agreement") with Houston Energy Services Company, L.L.C. ("HESCO"), a Texas limited liability company, pursuant to which Commerce acquired certain assets of HESCO (the "Assets"), consisting of contracts with end-users for the sale of natural gas in California, Florida, Nevada, Kentucky and Texas (the "Business Region") and related assets and liabilities (the "Acquisition").

Pursuant to the Asset Purchase Agreement, Commerce has acquired the Assets for approximately \$4,075,000 in cash, subject to post-closing adjustments based upon the net effect of the proration of certain prepayments made by HESCO with respect to the Assets and the proration of certain liabilities payable by Commerce arising from the pre-closing operation of the Assets. The Asset Purchase Agreement contains customary representations and warranties and customary post-closing covenants, including indemnification obligations.

In connection with the Acquisition, on September 20, 2006, Commerce and HESCO entered into a Transition Services Agreement (the "Transition Services Agreement"), through which HESCO will provide certain services to Commerce for a period ranging from 90 to 120 days after the closing of the Acquisition (the "Transition Period") in order to facilitate Commerce's integration of the Assets into its operations. Commerce will not be required to pay HESCO any fees under the Transition Services Agreement, other than \$20,000 in the event the Transition Period is extended for an additional 30 days beyond the 90-day period after closing.

The transition services to be provided by HESCO will include, among other things, (i) leaving HESCO's counterparty credit in place with local distribution companies ("LDCs"), pipelines and suppliers during the Transition Period and (ii) to the extent that Commerce has not fully established customer pools in the distribution territory of any LDC operating within the Business Region, continuing to operate, at Commerce's direction, HESCO's customer pools relating to the Assets for the sole benefit of Commerce. Commerce will be required to indemnify HESCO, its affiliates, and their respective owners, directors, employees, agents and representatives from any losses incurred by any of them in connection with the provision of such services under the Transition Services Agreement. In order to secure these indemnification obligations, the Transition Services Agreement required (i) Commerce to cause Wachovia Bank, N.A. to deliver to HESCO a letter of credit in favor of HESCO in the amount of \$1.5 million and (ii) the Registrant to guaranty certain of Commerce's obligations under the Transition Services Agreement.

Also in connection with the Acquisition, on September 20, 2006, Commerce and Thomas L. Goudie, James Bujnoch, Jr., Gary Hollowell, Dustin Roach, Steve Loy and Arnold Perez, all of the members of HESCO (the "Guarantors"), entered into a Guaranty Agreement (the "Guaranty Agreement") pursuant to which the Guarantors jointly, severally and unconditionally agreed to guarantee to Commerce the prompt and full discharge of all indemnity obligations of HESCO under the Asset Purchase Agreement, when and as the same shall become due and payable or performable, in accordance with the respective terms and provisions thereof, subject to certain limitations.

There is no material relationship, other than in respect of the Acquisition, between HESCO and Commerce or any of its affiliates, or any director or officer of Commerce, or any associate of any such director or officer.

The foregoing summary of the Asset Purchase Agreement, the Transition Services Agreement and the Guaranty Agreement is not complete and is qualified in its entirety by reference to the actual Asset Purchase Agreement, the Transition Services Agreement and the Guaranty Agreement, which are attached hereto as Exhibits 2.1, 2.2 and 2.3, respectively, and incorporated herein by reference.

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First Amendment to Loan and Security Agreement

In order to consummate the Acquisition in accordance with Commerce's Loan and Security Agreement (the "Loan Agreement") dated June 8, 2006 with Wachovia Capital Finance Corporation (Western), as agent (the "Agent") for the lenders from time to time party thereto, Commerce, Agent and The CIT Group/Business Credit, Inc., as co-Lender ("CIT"), entered into a First Amendment to Loan and Security Agreement and Waiver (the "Amendment") on September 20, 2006 through which Agent and CIT agreed to waive compliance by Commerce with certain covenants contained in the Loan Agreement, including the requirement that all of Commerce's assets (which would otherwise have included the Assets) be pledged under the Loan Agreement, the prohibition against the Registrant agreeing to guarantee any other party's obligations, the need for Commerce to maintain certain levels of Excess Availability and Eligible Cash Collateral (each as defined in the Loan Agreement) as of the date of the Acquisition and the requirement that Commerce provide at least 30 days prior written notice of the Acquisition. Through the Amendment, Agent and CIT have also waived prior or existing instances of non-compliance by Commerce with covenants contained in the Loan Agreement relating to maintenance of cash collateral, capital expenditures and the notification to the Agent of the grant of certain liens to a natural gas supplier.

The foregoing summary of the Amendment is not complete and is qualified in its entirety by reference to the actual Amendment, which is attached hereto as Exhibit 99.1 and incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets.

See the disclosure under Item 1.01 of this Current Report, which is incorporated by reference into this Item 2.01 in its entirety.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
2.1*	Asset Purchase Agreement, dated September 20, 2006, between Houston Energy Services Company, L.L.C. and Commerce Energy, Inc.

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<u>Exhibit No.</u>	<u>Description</u>
2.2*	Transition Services Agreement, dated September 20, 2006, among Commerce Energy, Inc. and Houston Energy Services Company, L.L.C.
2.3	Guaranty Agreement, dated September 20, 2006, among Commerce Energy, Inc., Thomas L. Goudie, James Bujnoch, Jr., Gary Hollowell, Dustin Roach, Steve Loy and Arnold Perez.
99.1*	First Amendment to Loan and Security Agreement and Waiver, dated September 20, 2006, among Commerce Energy, Inc., Wachovia Capital Finance Corporation (Western) and The CIT Group/Business Credit, Inc.
*	Schedules and exhibits to the Asset Purchase Agreement, Transition Services Agreement and First Amendment to Loan and Security Agreement and Waiver have not been filed because Commerce Energy Group, Inc. does not believe that they contain information material to an investment decision which is not otherwise disclosed in the agreements. A list is attached to each of the Asset Purchase Agreement, Transition Services Agreement and First Amendment to Loan and Security Agreement and Waiver (as incorporated herein by reference) briefly identifying the contents of the omitted schedules and exhibits. Commerce Energy Group, Inc. hereby agrees to furnish supplementally a copy of omitted schedules or exhibits to the Securities and Exchange Commission upon its request.

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SIGNATURES

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

COMMERCE ENERGY GROUP, INC.
a Delaware corporation

Date: September 26, 2006

By: /S/ STEVEN S. BOSS
Steven S. Boss
Chief Executive Officer

EXHIBIT INDEX

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ASSET PURCHASE AGREEMENT

DATED SEPTEMBER 20, 2006

BY AND BETWEEN

HOUSTON ENERGY SERVICES COMPANY, L.L.C.,
AS "SELLER",

AND

COMMERCE ENERGY, INC.,
AS "BUYER"

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement is entered into on September 20, 2006 by and between Houston Energy Services Company, L.L.C., a Texas limited liability company (the "Seller"), and Commerce Energy, Inc., a California corporation (the "Buyer").

WITNESSETH:

In consideration of the representations, warranties and covenants herein contained, the Parties agree as follows:

ARTICLE I

DEFINITIONS

For purposes of this Agreement, each of the following terms shall have the meaning set forth below.

"Acquired Assets" shall mean the following assets, properties and rights of the Seller existing as of the Closing to the extent they relate to the Business:

(a) all rights under Assigned Contracts relating to periods from and after September 1, 2006, including all accounts receivable arising thereunder during such periods;

(b) all Permits;

(c) all books, records, accounts, ledgers, files, documents, correspondence, lists (including customer and prospect or lead lists, including oil users), employment records, operating and/or procedural manuals, end-user customer records (including credit review files, to the extent permitted to be transferred by applicable Law), sales and promotional materials, studies, reports and other printed or written materials;

(d) all positions comprising the Trading Book, except for the Designated NYMEX Positions;

(e) all rights to firm distribution capacity released to the Seller by Central Florida Gas for end-user customers of the Business in the Central Florida Gas distribution territory;

(f) all rights to storage, peaking and transportation capacity released to the Seller by TECO Peoples Gas for end-user customers of the Seller in the TECO Peoples Gas distribution territory;

(g) all rights to storage, peaking and transportation capacity released to the Seller by Sequent Energy for end-user customers of the Seller in the Central Florida Gas, Florida Public Utilities and Florida City Gas distribution territories;

(h) all rights to storage, peaking and transportation capacity released to the Seller by any party for end-user customers of the Seller in the Restricted Area used in the Business; and

(i) all Customer Deposits.

"Affiliate" shall mean any affiliate, as defined in Rule 12b-2 under the Securities Exchange Act of 1935.

"Agreed Amount" shall mean part, but not all, of the Claimed Amount.

"Ancillary Agreements" shall mean the Bill of Sale, the Assumption Agreement, the Non-Solicitation Agreement, the Transition Services Agreement, the Guaranty Agreement and the Trading Book Side Letter.

"Arbitrator" shall have the meaning set forth in Section 6.3(e).

"Assigned Contracts" shall mean all Contracts, other than the Supply Agreements, to which the Seller is a party relating exclusively to the Business existing as of the Closing, each of which is set forth on Section 3.6 of the Disclosure Schedule (but shall not include any such Contracts reflected on Schedule 2.1(b)), including:

(a) All Customer Contracts;

(b) All Hedging Agreements to which the Seller is a party, including all Contracts evidencing existing basis positions backing Customer Contracts, and all credit support agreements or other collateral arrangements relating to Customer Contracts, but not including the NYMEX positions;

(c) All of Seller's rights to storage, peaking and transportation capacity released by Central Florida Gas for end-user customers of the Business in the Central Florida Gas distribution territory;

(d) All of Seller's rights to storage, peaking and transportation capacity released by TECO Peoples Gas for end-user customers of the Business in the TECO Peoples Gas distribution territory; and

(e) All of Seller's rights to storage, peaking and transportation capacity released by Sequent Energy for end-user customers of the Business in the Central Florida Gas, Florida Public Utilities and Florida City Gas distribution territories.

"Assumed Liabilities" shall mean the Liabilities of the Seller arising from and after September 1, 2006 under the Assigned Contracts.

"Assumption Agreement" shall have the meaning set forth in Section 2.4(b)(vi).

"Bill of Sale" shall have the meaning set forth in Section 2.4(b)(v).

"Business" shall mean the Seller's business of selling natural gas to Customers in California, Florida, Nevada, Kentucky and Texas.

"Buyer" shall have the meaning set forth in the first paragraph of this Agreement.

"Buyer Certificate" shall mean a certificate to the effect that the representations and warranties of the Buyer set forth in the first sentence of Section 4.1 and in Section 4.2 and any representations and warranties of the Buyer set forth in this Agreement that are qualified as to materiality shall be true and correct in all respects, and all other representations and warranties of the Buyer set forth in this Agreement shall be true and correct in all material respects, in each case as of the date of this Agreement, except to the extent such representations and warranties are specifically made as of a particular date (in which case such representations and warranties shall be true and correct as of such date).

"Buyer Indemnified Party" shall have the meaning set forth in Section 6.1(a).

"Buyer's Knowledge" means the actual knowledge, following reasonable inquiry, of each of the officers of Buyer that are involved in the negotiation, structuring or effectuation of the Transactions or the due diligence review of the operations of the Seller or its Subsidiaries conducted by or on behalf of the Buyer in connection therewith.

"Claimed Amount" shall mean the amount of any Damages incurred or reasonably expected to be incurred by the Indemnified Party.

"Claim Notice" shall mean written notification which contains (i) a description of the Damages incurred or reasonably expected to be incurred by the Indemnified Party and the Claimed Amount of such Damages, to the extent then known, (ii) a statement that the Indemnified Party is entitled to indemnification under Article VI for such Damages (or, if applicable, a statement that the Indemnified Party is entitled to injunctive relief) and a reasonable explanation of the basis therefor, and (iii) a demand for payment in the amount of such Damages (or, if applicable, a demand for action to cure the applicable breach).

"Closing" shall have the meaning set forth in Section 2.4(a).

"Closing Amount" shall mean the meaning set forth in Section 2.3.

"Closing Date" shall have the meaning set forth in Section 2.4(a).

"Code" shall mean the Internal Revenue Code of 1986, as amended, and the rules and regulations thereunder.

"Commercial Rules" shall mean the Commercial Arbitration Rules of the AAA.

"Contract" means any contract, agreement, lease, license, sales order, purchase order, instrument or other commitment or arrangement, whether written or oral, that is binding on any Person or any part of its property under applicable Law, and any amendments thereto.

"Controlling Party" shall mean the party controlling the defense of any Third Party Action.

"Customer" means the Seller's counterparty with respect to each contract for the sale of natural gas by the Seller, including existing Customers and pending additional Customers.

"Customer Contracts" means all of the Seller's retail natural gas Contracts for sales of gas to Customers in the State of California, the State of Florida, the State of Nevada, the State of Kentucky and the State of Texas, each of which is set forth on Section 3.6(a)(xii) of the Disclosure Schedule and each of which is an Assigned Contract.

"Customer Deposits" means deposits of cash or cash equivalents made by or on behalf of any Customers as of September 1, 2006 as security under any Customer Contract that are in the possession or control of the Seller.

"Customer Letters of Credit" means letters of credit issued by or on behalf of any Customers in favor of the Seller as of September 1, 2006 as security under any Customer Contract that are in the possession or control of the Seller.

"Damages" shall mean any and all debts, obligations and other Liabilities (whether absolute, accrued, contingent, fixed or otherwise, or whether known or unknown, or due or to become due or otherwise), diminution in value, monetary damages, fines, fees, penalties, interest obligations, deficiencies, losses and expenses (including amounts paid in settlement, interest, court costs, costs of investigators, fees and expenses of attorneys, accountants, financial advisors and other experts, and other expenses of litigation), other than those costs and expenses of arbitration of a Dispute which are to be shared equally by the Indemnified Party and the Indemnifying Party as set forth in Section 6.3(e)(vi).

"Designated NYMEX Positions" shall mean the Seller's existing NYMEX positions set forth on Exhibit A to the Trading Book Side Letter.

"Disclosure Schedule" shall mean the disclosure schedule provided by the Seller to the Buyer on the date hereof and accepted in writing by the Buyer or otherwise attached to this Agreement.

"Dispute" shall mean the dispute resulting if the Indemnifying Party in a Response disputes its liability for all or part of the Claimed Amount.

"Employee Benefit Plan" shall mean any "employee pension benefit plan" (as defined in Section 3(2) of ERISA), any "employee welfare benefit plan" (as defined in Section 3(1) of ERISA), and any other written or oral plan, agreement or arrangement involving direct or indirect compensation, including insurance coverage, severance benefits, disability benefits, deferred compensation, bonuses, stock options, stock purchase, phantom stock, stock appreciation or other forms of incentive compensation or post-retirement compensation.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" shall mean any Person which is, or at any applicable time was, a member of (1) a controlled group of corporations (as defined in Section 414(b) of the Code), (2) a group of trades or businesses under common control (as defined in Section 414(c) of the Code), or (3) an affiliated service group (as defined under Section 414(m) of the Code or the regulations under Section 414(o) of the Code), any of which includes or included the Seller or a Subsidiary.

"Excluded Assets" shall mean those assets listed on Schedule 2.1(b) attached hereto.

"Expected Claim Notice" shall mean a notice that, as a result of a legal proceeding instituted by or written claim made by a third party, an Indemnified Party reasonably expects to incur Damages for which it is entitled to indemnification under Article VI.

"GAAP" shall mean United States generally accepted accounting principles, applied consistent with prior practice of the party to which it relates.

"Governmental Entity" shall mean any domestic or foreign national, state or local government, any subdivision, agency, board, commission, bureau, court, tribunal or other instrumentality or authority thereof, or any quasi-governmental or private body exercising any regulatory or taxing authority thereunder.

"Guaranty Agreement" shall mean the guaranty agreement being entered into between all of the members of the Seller and the Buyer at the Closing, substantially in the form attached to this Agreement as Exhibit F.

"Hedging Agreements" means (i) any hedging agreements, futures Contracts, commodity price swap agreements, forward agreements, Contracts of sale, collars, puts, calls, floors, caps, options or other Contracts that are intended to benefit from or reduce or eliminate the risk associated with fluctuations in the price of hydrocarbons, interest rates and/or currency exchange rates and (ii) any other agreements, including physical and financial purchase and sale Contracts, transportation agreements, throughput agreements, in each case relating to the Business.

"Indemnified Party" shall mean any Person entitled, or seeking to assert rights, to indemnification under Article VI of this Agreement.

"Indemnifying Party" shall mean the Party from whom indemnification is sought by the Indemnified Party.

"Law" shall mean any United States or non-United States statute, law, ordinance, regulation, rule, code, executive order, injunction, judgment, decree or other order.

"LDC" shall have the meaning set forth in Section 2.7(a).

"Legal Proceeding" shall mean any action, suit, proceeding, claim, arbitration or investigation before any Governmental Entity or before any arbitrator.

"Liabilities" shall mean any and all debts, liabilities and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Law or Legal Proceeding and those arising under any Contract.

"Non-controlling Party" shall mean the Party not controlling the defense of any Third Party Action.

"Non-Solicitation Agreement" shall have the meaning set forth in Section 2.4(b)(iv).

"Ordinary Course of Business" shall mean the ordinary course of business of the Business consistent with past custom and practice (including with respect to frequency and amount).

"Organizational Documents" shall mean, with respect to an entity, all of the following that are applicable: its Certificate or Articles of Incorporation, Organization or Formation, its by-laws, its limited liability company operating agreement, its regulations, its indenture of trust or any organizational document or agreement functionally equivalent to any of the foregoing.

"Parties" shall mean the Buyer and the Seller.

"Party" shall mean any of the Buyer and the Seller, as applicable.

"Payment Period" shall mean any period of time for which payments have been made in advance by the Seller or are to be made in arrears by the Buyer.

"Permits" shall mean all permits, licenses, registrations, certificates, orders, approvals, franchises, variances, exemptions, tariffs, rate schedules, authorizations and similar rights issued by or obtained from any Governmental Entity (including those issued or required under environmental Laws and those relating to the occupancy or use of owned or leased real property).

"Person" means an individual, corporation, partnership, limited partnership, limited liability company, syndicate, person, trust, association or entity or government, political subdivision, agency or instrumentality of a government.

"Purchase Price" shall have the meaning set forth in Section 2.3.

"Quantifiable Losses" shall mean (without duplication) any losses and Liabilities incurred by or imposed upon the Seller or any of its Subsidiaries, but excluding Liabilities which are disclosed in the Disclosure Schedule, it being understood and agreed that the purposes of this Agreement the amount of such losses and Liabilities shall be quantified using valuation methods that are generally accepted in the natural gas industry (to the extent that such methods exist).

"Reasonable Best Efforts" shall mean best efforts, to the extent commercially reasonable, but without any requirement to institute a Legal Proceeding or expend in excess of \$1,000.00

(other than expenditures for attorneys' fees and costs) with respect to efforts made as to any individual matter or thing.

"Response" shall mean a written response containing the information provided for in Section 6.3(c).

"Restricted Area" shall mean the Service Territories of: Louisville Gas and Electric; Central Florida Gas; Florida Public Utilities; TECO Peoples Gas; Florida City Gas; SoCal Edison; Pacific Gas & Electric; Southwest Gas (Southern Div.); Southern California Gas Company; Southwest Gas Corporation; and Pacific Gas and Electric Company.

"Restricted Employee" shall mean any individual who either (i) was an employee of the Buyer on the date of this Agreement or (ii) was an employee of the Seller on the date of this Agreement and received an employment offer from the Buyer within five business days following the Closing Date.

"Retained Liabilities" shall mean any and all Liabilities (whether known or unknown, absolute or contingent, liquidated or unliquidated, due or to become due and accrued or unaccrued, and whether claims with respect thereto are asserted before or after the Closing) of the Seller and its Affiliates that are not Assumed Liabilities. The Retained Liabilities shall include all Liabilities of the Seller and any of its Affiliates arising out of, relating to, resulting from or in connection with:

(a) income taxes accruing with respect to Seller's ownership and operation of the Business prior to the Closing;

(b) costs and expenses incurred in connection with this Agreement or the consummation of the Transactions;

(c) this Agreement and the Ancillary Agreements;

(d) any Taxes, including deferred taxes or taxes measured by income of the Seller earned prior to September 1, 2006 or in connection with the consummation of the Transactions, any Liabilities for federal and state income tax and FICA taxes of employees of the Seller which the Seller is legally obligated to withhold, any Liabilities of the Seller for employer FICA and unemployment taxes incurred, and any Liabilities of the Seller for sales, use or excise taxes or customs and duties;

(e) any Contracts which are listed on Schedule 2.1(b);

(f) all Liabilities arising prior to September 1, 2006 under the Assigned Contracts, and all Liabilities for any breach, act or omission by the Seller prior to the Closing under any of the Assigned Contracts;

(g) events, conduct or conditions existing or occurring prior to the Closing that constitute a violation of or non-compliance with any Law, any judgment, decree or order of any Governmental Entity, or any Permit;

(h) severance benefits to any employee of the Seller whose employment is terminated (or treated as terminated) in connection with the consummation of the Transactions;

(i) the employment, or termination of employment, of current and former employees of the Seller and its Affiliates;

(j) indemnification obligations owed to any Person by reason of the fact that such Person was a director, officer, employee, or agent of the Seller or was serving at the request of the Seller as a partner, trustee, director, officer, employee, or agent of another Person (whether such indemnification is for judgments, damages, penalties, fines, costs, amounts paid in settlement, losses, expenses, or otherwise and whether such indemnification is pursuant to any statute, charter document, bylaw, agreement, or otherwise);

(k) injury to or death of persons or damage to or destruction of property occurring prior to the Closing (including any workers' compensation claim);

(l) any Seller Plan, together with all medical, dental and disability benefits (both long-term and short-term benefits), whether insured or self-insured, owed to employees or former employees of the Seller based upon conditions or disabilities existing prior to the Closing (including any liabilities arising out of any conditions or disabilities which may have been aggravated following the Closing);

(m) the servicing of Customer accounts by the Seller prior to September 1, 2006, including short-term shipping costs, charges and pass-throughs; and

(n) obligations to Customers arising prior to September 1, 2006.

"Security Interest" shall mean any mortgage, pledge, security interest, encumbrance, charge, option, pledge, restriction on transfer of title or voting, restrictive covenant, right of first refusal, other lien or any adverse claim of any nature whatsoever (whether arising by Contract or by operation of Law), other than (i) mechanic's, materialmen's, and similar liens, (ii) liens arising under worker's compensation, unemployment insurance, social security, retirement, and similar legislation and (iii) liens on goods in transit incurred pursuant to documentary letters of credit, in each case arising in the Ordinary Course of Business of the Seller and not material to the Seller.

"Seller" shall have the meaning set forth in the first paragraph of this Agreement.

"Seller Certificate" shall mean a certificate to the effect that the representations and warranties of the Seller set forth in the first sentence of Section 3.1 and in Section 3.2 and any representations and warranties of the Seller set forth in this Agreement that are qualified as to materiality shall be true and correct in all respects, and all other representations and warranties of the Seller set forth in this Agreement shall be true and correct in all material respects, in each case as of the date of this Agreement, except to the extent such representations and warranties are specifically made as of a particular date (in which case such representations and warranties shall be true and correct as of such date).

"Seller's Knowledge" shall mean the actual knowledge, following reasonable inquiry, of the officers of the Seller that are involved in the operations of the Seller or any of its Subsidiaries.

"Seller Material Adverse Effect" shall mean any material adverse change, event, circumstance or development with respect to, or material adverse effect on, (i) the business, assets, liabilities, capitalization, financial condition, or results of operations of the Business that (x) results in Quantifiable Losses of more than \$10,000.00, or (y) results in the imposition of a Lien or a third party adverse claim on the Acquired Assets (other than a Lien or third party adverse claim that can be discharged through the payment of not more than \$10,000.00), or (ii) makes impossible the consummation of the Transactions, but in each case excludes:

(a) any change or effect generally affecting the international, national, regional or local natural gas gathering, transmission or distribution industry as a whole and not adversely affecting the Acquired Assets in any manner or degree materially different than other facilities similar to the Acquired Assets.

(b) any change or effect resulting from changes in the international, national, regional or local markets for natural gas or in natural gas prices paid in any such markets; or

(c) any Order or act of any Governmental Authority applicable to the gathering, transmission or distribution of natural gas generally that imposes restrictions, regulations or other requirements thereon.

Any determination as to whether any condition or other matter has a Seller Material Adverse Effect shall be reasonable and shall be made only after taking into account all proceeds or amounts that are expected to be received by Buyer or any of its Subsidiaries with respect to such condition or matter from (i) insurance coverages, (ii) indemnification provisions or (iii) commitments by Seller or its Affiliates to the Buyer or any of its Subsidiaries in anticipation of receipt of insurance proceeds or indemnification payments. For the avoidance of doubt, the parties agree that the terms "material", "materially" or "materiality" as used in this Agreement with an initial lower case "m" shall have their respective customary and ordinary meanings, without regard to the meaning ascribed to Seller Material Adverse Effect.

"Seller Plan" shall mean any Employee Benefit Plan maintained, or contributed to, by the Seller, any Subsidiary of the Seller, or any ERISA Affiliate, or with respect to which the Seller, any Subsidiary of the Seller, or any ERISA Affiliate has any Liabilities.

"Subsidiary" shall mean, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by any

Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or shall be or control any managing director or general partner of such Person.

"Supply Agreements" means those agreements of the Seller providing for gas supply relating to the Business, as listed on and comprising a part of Schedule 2.1(b).

"Taxes" shall mean all taxes, charges, fees, levies or other similar assessments or Liabilities, including income, gross receipts, ad valorem, premium, value-added, excise, real property, personal property, sales, use, transfer, withholding, employment, unemployment, insurance, social security, business license, business organization, environmental, natural gas, workers compensation, payroll, profits, license, lease, service, service use, severance, stamp, occupation, windfall profits, customs, duties, franchise and other taxes imposed by the United States of America or any state, local or foreign government, or any agency thereof, or other political subdivision of the United States or any such government, and any interest, fines, penalties, assessments or additions to tax resulting from, attributable to or incurred in connection with any tax or any contest or dispute thereof.

"Tax Returns" shall mean all reports, returns, declarations, statements or other information required to be supplied to a taxing authority in connection with Taxes.

"Third Party Action" shall mean any suit or proceeding by a Person other than a Party for which indemnification may be sought by a Party under Article VI.

"Trading Book" shall mean the combination of active risk positions, including discretionary trading, system supply, prompt and future sales, hedges, options, physical and financial purchase and sale Contracts, transportation agreements, throughput agreements and other Hedging Agreements, in each case relating to the Business, all of which are set forth on Section 3.20 of the Disclosure Schedule.

"Trading Book Side Letter" shall mean the side letter to be entered into between the Buyer and the Seller at the Closing regarding the Trading Book, substantially in the form attached hereto as Exhibit E.

"Transactions" means the transactions contemplated by this Agreement and the Ancillary Agreements.

"Transition Services Agreement" shall mean the Transition Services Agreement being entered into between the Buyer and the Seller at the Closing, substantially in the form attached to this Agreement as Exhibit D.

"Transferred Employees" shall have the meaning set forth in Section 5.8(a).

"WARN Act" shall have the meaning set forth in Section 3.8(c).

ARTICLE II

THE ASSET PURCHASE

2.1 Purchase and Sale of Assets.

(a) Concurrently with the execution of this Agreement, the Buyer is purchasing from the Seller, and the Seller is selling, transferring, assigning and delivering to the Buyer, for the consideration specified below in this Article II, all right, title and interest of Seller in, to and under the Acquired Assets, free and clear of all Security Interests.

(b) Notwithstanding the provisions of Section 2.1(a), the Acquired Assets shall not include the Excluded Assets.

2.2 Assumption of Liabilities.

(a) Concurrently with the execution of this Agreement, the Buyer is assuming and becoming responsible for the Assumed Liabilities.

(b) Notwithstanding the terms of Section 2.2(a) or any other provision of this Agreement to the contrary, the Buyer shall not assume or become responsible for, and the Seller shall remain liable for, the Retained Liabilities.

2.3 Purchase Price. The amount being paid by the Buyer for the Acquired Assets is two million two hundred twenty-five thousand and no/100 dollars (\$2,225,000.00) (the "Closing Amount"), subject to adjustment as provided in Section 2.6 (as adjusted, the "Purchase Price").

2.4 The Closing.

(a) The purchase and sale of the Acquired Assets and Assumed Liabilities provided for in this Agreement is taking place (the "Closing") at the offices of the Buyer at 600 Anton Boulevard, Suite 2000, Costa Mesa, California 92626, commencing at 9:00 a.m. local time on the date hereof (the "Closing Date"). All transactions at the Closing shall be deemed to take place simultaneously, and no transaction shall be deemed to have been completed and no documents or certificates shall be deemed to have been delivered until all other transactions are completed and all other documents and certificates are delivered.

(b) At the Closing, the Seller is:

(i) executing and delivering to the Buyer the Seller Certificate;

(ii) executing and delivering to the Buyer documents evidencing the release or termination of all Security Interests on the Acquired Assets, and copies of filed UCC-3 termination statements with respect to all UCC-1 financing statements pertaining to the Acquired Assets, or alternatively, executed letters from the owner(s) and holder(s) of all such Security Interests, addressed to the Buyer and agreeing to execute and deliver such releases, and file such UCC-3 termination statements immediately following the Closing, in each case in form and substance reasonably satisfactory to the Buyer;

(iii) delivering a certificate to the Buyer, executed by its Secretary and dated as of the date hereof, certifying (A) as to the incumbency of the persons executing this Agreement and the Ancillary Agreements on the Seller's behalf, (B) that attached to such certificate is a true and complete copy of resolutions that have been duly and validly adopted by the board of directors (or managing member) of the Seller evidencing (i) the authorization of the execution and delivery of this Agreement and each Ancillary Agreement to which the Seller is a party and the consummation of the Transactions, and (ii) the matters set forth in Section 3.19, together with a statement to the effect that such resolutions are in full force and effect on the Closing Date, (C) that attached to such certificate is a copy of the Seller's Organizational Documents that are in effect on the Closing Date and (D) that attached to such certificate is a copy of a certificate of good standing of the Seller in its jurisdiction of organization, dated as of a date on or after September 1, 2006;

(iv) delivering to the Buyer counterparts of that certain non-solicitation agreement attached hereto as Exhibit C executed by Thomas L. Goudie and James Bujnoch, Jr. (the "Non-Solicitation Agreement");

(v) executing and delivering to the Buyer a bill of sale in substantially the form attached hereto as Exhibit A (the "Bill of Sale"), and such other instruments of conveyance (such as assigned negotiable instruments) as the Buyer may reasonably request in order to effect the sale, transfer, conveyance and assignment to the Buyer of valid ownership of the Acquired Assets;

(vi) executing and delivering to the Seller an assumption agreement in substantially the form attached hereto as Exhibit B (the "Assumption Agreement");

(vii) executing and delivering to the Buyer a duplicate original of the Transition Services Agreement;

(viii) executing and delivering to the Buyer a duplicate original of the Trading Book Side Letter;

(ix) causing all of the members of Seller to execute and deliver the Guaranty Agreement to Buyer;

(x) executing and delivering to the Buyer a duplicate original of the guaranty to be issued by Commerce Energy Group, Inc., as required by Section 2.08 of the Transition Services Agreement; and

(xi) paying to the Buyer, by wire transfer or other delivery of immediately available funds to an account designated by the Seller, an amount in cash equal to the aggregate amount of the Customer Deposits.

(c) At the Closing, the Buyer is:

(i) executing and delivering to the Seller the Buyer Certificate;

(ii) delivering a certificate to the Seller, executed by its Secretary and dated as of the date hereof, certifying (A) as to the incumbency of the persons executing this Agreement and the Ancillary Agreements on the Buyer's behalf, (B) that attached to such certificate is a true and complete copy of resolutions that have been duly and validly adopted by the board of directors (or managing member) of the Buyer evidencing the authorization of the execution and delivery of this Agreement and each Ancillary Agreement to which the Buyer is a party and the consummation of the Transactions, together with a statement to the effect that such resolutions are in full force and effect on the Closing Date, and (C) that attached to such certificate is a copy of a certificate of good standing of the Buyer in its jurisdiction of organization, dated as of a date on or after September 1, 2006;

(iii) executing and delivering to the Seller a duplicate original of the Non-Solicitation Agreement;

(iv) executing and delivering to the Seller a duplicate original of the Bill of Sale;

(v) executing and delivering to the Seller a duplicate original of the Assumption Agreement and such other instruments as the Seller may reasonably request in order to effect the assumption by the Buyer of the Assumed Liabilities;

(vi) executing and delivering to the Seller a duplicate original of the Transition Services Agreement;

(vii) executing and delivering to the Seller a duplicate original of the Trading Book Side Letter;

(viii) executing and delivering to the Seller a duplicate original of the Guaranty Agreement;

(ix) paying to the Seller, by wire transfer or other delivery of immediately available funds to an account designated by the Seller, the Closing Amount, as adjusted pursuant to Section 2.6;

(x) paying to the Seller by wire transfer or other delivery of immediately available funds to an account designated by the Seller, the sum of twelve thousand four hundred forty-five and 30/100 dollars (\$12,445.30), as reimbursement to the Seller for (i) payroll and payroll taxes attributable to the Transferred Employees for the period from September 1, 2006 through September 20, 2006, and (ii) health insurance premiums paid by the Seller with respect to the Transferred Employees for the month of September, 2006;

(xi) paying to the Seller by wire transfer or other delivery of immediately available funds to an account designated by the Seller, the sum of one million eight hundred thirty-seven thousand one hundred ten and no/100 dollars (\$1,837,110.00), as required by Section 1(b) of the Trading Book Side Letter;

(xii) causing an irrevocable and unconditional standby letter of credit in the amount of one million five hundred thousand and no/100 dollars (\$1,500,000.00) to be issued and delivered by Wachovia Bank, National Association, to the Seller as required by Section 2.08 of the Transition Services Agreement; and

(xiii) causing a guaranty to be issued by Commerce Energy Group, Inc. and delivered to the Seller, as required by Section 2.08 of the Transition Services Agreement.

2.5 Allocation. The Buyer and the Seller agree to allocate the Purchase Price (and all other capitalizable costs) among the Acquired Assets and the non-solicitation and non-competition covenants set forth in Sections 5.3 and 5.4 for all purposes (including financial accounting and tax purposes) in accordance with the allocation attached hereto as Schedule 2.5. Further, the Buyer and the Seller have completed Internal Revenue Service Form 8594 in accordance with Schedule 2.5 and will file such Form 8594 promptly after the Closing. The Seller and the Buyer each covenant and agree not to voluntarily take any tax position inconsistent herewith on any Tax Returns or in any legal or administration proceedings or otherwise.

2.6 Apportionment.

(a) The Closing Amount shall be subject to adjustment as set forth in this Section 2.6. In the event that any of the adjustments provided for in this Section 2.6 cannot be calculated as of the Closing Date, the appropriate payment shall be made by the Buyer or the Seller, as the case may be, to the other party as promptly following the Closing Date as is practicable.

(b) For each Assigned Contract for which payments have been made in advance by the Seller covering a Payment Period that includes time after September 1, 2006, the Closing Amount shall be increased by the amount determined by multiplying such advance payment by a fraction, the numerator of which is the number of days remaining in the Payment Period after September 1, 2006 and the denominator of which is the total number of days in the Payment Period.

(c) For each Assigned Contract for which payments are to be made in arrears by the Buyer covering a Payment Period that includes time on or before September 1, 2006, the Closing Amount shall be decreased by the amount determined by multiplying such payment by a fraction, the numerator of which is the number of days in the Payment Period through and including September 1, 2006 and the denominator of which is the total number of days in the Payment Period.

(d) [INTENTIONALLY OMITTED]

(e) The allocation of the Purchase Price among the Acquired Assets as set forth in Schedule 2.5 attached hereto shall be appropriately modified to reflect the adjustments made pursuant to this Section 2.6.

2.7 Gas Imbalances. With respect to the Assigned Contracts, the Seller shall be responsible for gas imbalances occurring prior to September 1, 2006 and the Buyer shall be responsible for gas imbalances occurring on and after September 1, 2006. To that end, the Seller and the Buyer agree that gas imbalances of the Seller as of September 1, 2006 will be handled in the manner provided for in subsections (a), (b) and (c) of this Section 2.7.

(a) LDC Imbalances. Each gas balancing position of the Seller as of September 1, 2006 with each local distribution company ("LDC") pertaining to the Business, whether a positive or negative position, will be cashed out by the Seller prior to the Closing, with the exception of the Seller's accounts with Southwest Gas Corporation and City Gas Florida, so that the Buyer's net gas balancing position with respect to the Assigned Contracts as of September 1, 2006 will be zero (with the exception of Southwest Gas Corporation and City Gas Florida).

(b) Southwest Gas Corporation Imbalance. The Seller anticipates that as of September 1, 2006 there will be a small gas imbalance (whether short or long) with Southwest Gas Corporation. Accordingly, the Parties agree to "true-up" with respect to the Seller's gas imbalance position with Southwest Gas Corporation as of September 1, 2006. If the Seller's position is short, then the Seller shall pay to the Buyer, and, if Seller's position is long, then the Buyer shall pay to the Seller, a cash sum of money equal to (i) the number of dekatherms by which its position is short or long, as applicable, times (ii) the Mid-Point Price for SoCal on the Closing Date as published by "Gas Daily".

(c) Florida City Gas. The Seller anticipates that the dictated volumes customers behind Florida City Gas will generate a small gas imbalance during September and/or October, 2006, which the Parties will need to "true-up". The "true-up" volumes will be deliveries or credits established by the LDC which will cause the Seller's gas pool balance with the LDC to be zero following the migration of the Seller's customers to the Buyer's pool with the LDC. Should the Seller have "true-up" volumes that it must deliver to its pool with the LDC for any period on or after September 1, 2006, then the Buyer shall nominate and deliver those volumes to the Seller's pool and invoice the customers of such pool for those "true-up" volumes.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller represents and warrants to the Buyer that, except as set forth in the Disclosure Schedule, the statements contained in this Article III are true and correct as of the date of this Agreement, except to the extent such representations and warranties are specifically made as of a particular date (in which case such representations and warranties will be true and correct as of such date). The Disclosure Schedule is arranged in sections and subsections corresponding to the numbered and lettered sections and subsections contained in this Article III. The disclosure in any section or subsection of the Disclosure Schedule shall qualify not only the corresponding section or subsection in this Article III, but all other sections and subsections in this Article III so long as such disclosure contains sufficient factual detail to render its relevance to such other purpose readily apparent.

3.1 Organization, Qualification and Limited Liability Company Power. The Seller is a limited liability company duly organized, validly existing and in organizational and tax good standing under the Laws of the State of Texas. The Seller is duly qualified to conduct business and is in organizational and tax good standing under the Laws of each jurisdiction listed in Section 3.1 of the Disclosure Schedule, which jurisdictions constitute the only jurisdictions in which the conduct of the Business or the ownership or leasing of the Seller's properties used in the Business requires such qualification, except for those jurisdictions in which the failure to be so qualified or in good standing, individually or in the aggregate, would not reasonably be expected to adversely affect the ability of the Seller to satisfy its obligations under this Agreement and the Ancillary Agreements. The Seller has all requisite limited liability company power and authority to carry on the businesses in which it is engaged and to own and use the properties owned and used by it.

3.2 Authorization of Transaction. The Seller has all requisite power and authority to execute and deliver this Agreement and the Ancillary Agreements and to perform its obligations hereunder and thereunder. The execution and delivery by the Seller of this Agreement, the performance by the Seller of this Agreement and the Ancillary Agreements and the consummation by the Seller of the Transactions have been duly and validly authorized by all necessary action on the part of the Seller, and no other proceedings on the part of any of the Seller and the holders of its limited liability company interests, as applicable, are necessary to authorize this Agreement or to consummate the Transactions. Each of this Agreement and the Ancillary Agreements to which the Seller is a party has been duly and validly executed and delivered by the Seller and constitutes a valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms. Each of this Agreement and the Ancillary Agreements to which any Guarantor is a party has been duly and validly executed and delivered by such Guarantor and constitutes a valid and binding obligation of such Guarantor, enforceable against him, her or it in accordance with its terms.

3.3 Noncontravention. Neither the execution and delivery by the Seller of this Agreement or the Ancillary Agreements, nor the consummation by the Seller of the Transactions, will (a) conflict with or violate any provision of the Organizational Documents of the Seller, (b) require on the part of the Seller any notice to or filing with, or any permit, authorization, consent or approval of, any Person, including any Governmental Entity, (c) conflict with, result in a breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of obligations under, create in any party the right to terminate, modify or cancel, or require any notice, consent or waiver under, any Contract to which the Seller is a party or by which the Seller is bound or to which any of its assets is subject, including the Assigned Contracts, (d) result in the imposition of any Security Interest upon any assets of the Seller, including the Acquired Assets, or (e) violate any Law applicable to the Seller or any of its properties or assets. Section 3.3(a) of the Disclosure Schedule sets forth a complete and accurate list of each Assigned Contract with respect to which notice was delivered (or, in the case of notice to Customers, will be delivered) to any Person, or with respect to which the consent or approval of any Person was obtained, in order for the Seller to execute and deliver this Agreement and the Ancillary Agreements, and consummate the Transactions, including the assignment of the Assigned Contracts, without otherwise breaching the representations and warranties contained in the preceding sentence. Section 3.3(b) of the Disclosure Schedule contains a complete and accurate copy of each such notice (or, in the case of notice to Customers, form of notice), consent or approval, as applicable.

3.4 Tax Matters.

(a) The Seller has filed on a timely basis all Tax Returns that it was required to file, and all such Tax Returns were complete and accurate in all material respects. The Seller has paid on a timely basis all Taxes that were due and payable. All Taxes that the Seller is or was required by Law to withhold or collect have been duly withheld or collected and, to the extent required, have been paid to the proper Governmental Entity.

(b) Section 3.4(b) of the Disclosure Schedule sets forth the tax basis of the Seller in the Acquired Assets.

(c) Neither the U.S. Internal Revenue Service nor any other United States or non-United States taxing authority or agency is now asserting or, to Seller's Knowledge, threatening to assert against the Seller any deficiency or claim for any Taxes or interest thereon or penalties in connection therewith. The Seller has not granted any waiver of any statute of limitations with respect to, or any extension of a period for the assessment or collection of, any Tax with respect to the Business.

(d) There are no Tax liens upon any property or assets of the Seller except liens for current Taxes not yet due.

3.5 Ownership and Condition of Assets.

(a) The Seller is the true and lawful owner, and has good title to, all of the Acquired Assets, free and clear of all Security Interests, except as set forth in Section 3.5(a) of the Disclosure Schedule. Through the execution and delivery by the Seller to the Buyer of the instruments of conveyance referred to in Section 2.4, the Buyer is becoming the true and lawful owner of, and is receiving good title to, the Acquired Assets, free and clear of all Security Interests.

(b) After giving effect to the services and support contemplated by the Transition Services Agreement, the Acquired Assets are sufficient for the conduct of the Business as presently conducted and as presently proposed to be conducted and, except as set forth in Section 3.5(b) of the Disclosure Schedule, constitute all of the assets used by the Seller in the Business. Each tangible Acquired Asset is free from material defects, has been maintained in accordance with normal industry practice, is in good operating condition and repair (subject to normal wear and tear) and is suitable for the purposes for which it presently is used or is intended to be used.

(c) Section 3.5(c) of the Disclosure Schedule lists individually (i) all Acquired Assets that are fixed assets (within the meaning of GAAP), indicating the cost, accumulated book depreciation (if any) and the net book value of each such fixed asset as of the Most Recent Balance Sheet Date, and (ii) all other Acquired Assets of a tangible nature.

3.6 Assigned Contracts; Risk Management.

(a) Section 3.6(a) of the Disclosure Schedule sets forth complete and accurate lists of the following, organized in accordance with the following clauses:

(i) all Hedging Agreements to which the Seller is a party, including all Contracts evidencing existing basis positions and fixed price positions backing Customer Contracts, other than the Designated NYMEX Positions;

(ii) all of the storage, peaking and transportation capacity, and firm distribution capacity released to the Seller by Central Florida Gas for Customers business in the Central Florida Gas distribution territory;

(iii) all of the storage, peaking and transportation capacity released to the Seller by TECO Peoples Gas for Customers in the TECO Peoples Gas distribution territory;

(iv) all of the storage, peaking and transportation capacity released to the Seller by Sequent Energy for Customers in the Florida City Gas, TECO Peoples Gas, Central Florida Gas and Florida Public Utilities distribution territories;

(v) all of the storage, peaking and transportation capacity released to the Seller by Louisville Gas & Electric Company for Customers in the State of Kentucky;

(vi) all of the storage, peaking and transportation capacity released to the Seller by Florida City Gas for Customers in the State of Florida;

(vii) all of the storage, peaking and transportation capacity released to the Seller by Southwest Gas Corporation for Customers in the State of Nevada;

(viii) all of the storage, peaking and transportation capacity released to the Seller by Atmos Energy Corporation for Customers in the State of Texas;

(ix) all other storage, peaking and transportation capacity released to the Seller by any party for Customers;

(x) any natural gas inventory or supply Contracts relating to service to the Contracts for the sale of natural gas to Customers that are being transferred under this Agreement;

(xi) all other positions comprising the Trading Book;

(xii) all Customer Contracts, including complete and accurate information regarding identification of each Contract by Customer name, end date of current term, contract term in months, contract type, specific price data, and trailing 12 months MMBtu volume; and

(xiii) all credit support agreements or other collateral arrangements relating to the Customer Contracts, such as customer provided deposits, letters of credit, corporate or parental guarantees or pre-payment.

(b) Except as otherwise provided in Section 3.6(b) of the Disclosure Schedule, the Seller has previously made available to the Buyer, and is delivering to the Buyer contemporaneously with the Closing, a complete and accurate copy of each Assigned Contract. All of the terms and conditions of any Assigned Contracts that have not been completely and accurately disclosed to the Buyer are commercially reasonable. The Assigned Contracts represent all of the Contracts of the types described in Section 3.6(a) relating to or used by the Seller in the Business, other than the Designated NYMEX Positions. With respect to each Assigned Contract, other than those provided in Section 3.6(b) of the Disclosure Schedule: (i) it is legal, valid, binding and enforceable and in full force and effect and will continue to be legal, valid, binding and enforceable and in full force and effect immediately following the Closing in accordance with the terms thereof as in effect immediately prior to the Closing; (ii) except as set forth in Section 3.3(a) of the Disclosure Schedule, it is assignable by the Seller to the Buyer without the notice to or the consent or approval of any Person, including any Governmental Entity; (iii) the Seller is not, and, to Seller's Knowledge, no other party thereto, is in breach or violation of, or default under, any such Assigned Contract, and no event has occurred, is pending or, to Seller's Knowledge, is threatened, which, after the giving of notice, with lapse of time, or otherwise, would constitute a breach or default by the Seller or, to Seller's Knowledge, any other party under such Assigned Contract; and (iv) the Seller has not received any notice of termination or cancellation under any such Assigned Contract.

(c) All of the storage, peaking and transportation capacity released to the Seller by TECO Peoples Gas, Central Florida Gas, Louisville Gas & Electric Company, Florida City Gas, Southwest Gas Corporation, Atmos Energy Corporation or any other party for Customers are governed by the respective local distribution company tariffs with regard to the transfer of customers and assets between marketer pools.

(d) Section 3.6(d) of the Disclosure Schedule sets forth a complete and correct list of all of the Customer Deposits. None of the Customers has delivered to Seller a letter of credit in connection with the Business.

3.7 Litigation. There is no Legal Proceeding which is pending or has been threatened in writing against the Seller with respect to the Business (a) which seeks either damages in excess of \$5,000.00 either individually or in the aggregate, or equitable relief or (b) wherein an unfavorable judgment, order, decree, stipulation or injunction would (i) prevent consummation of the Transactions, (ii) cause the Transactions to be rescinded following consummation or (iii) affect adversely the right of the Buyer to own, operate or control any of the Acquired Assets, or to conduct the Business as currently conducted, following the Closing. No such judgment, order, decree, stipulation or injunction is in effect.

3.8 Employees.

(a) Section 3.8(a) of the Disclosure Schedule contains a list of all employees of the Seller and its Affiliates who are engaged in the Business, along with the position and the

annual rate of compensation of each such person, identifying any such employees who are not citizens of the United States. All such employees are terminable at will. To Seller's Knowledge, no key employee or group of employees engaged in the Business has any plans to terminate employment with the Seller or its Affiliates (other than for the purpose of accepting employment with the Buyer following the Closing) or not to accept employment with the Buyer.

(b) The Seller and its Affiliates are not a party to or bound by any collective bargaining agreement or any other labor organization contract relating to the Business, and none of them has breached or failed to comply with any such Contract. The Seller and its Affiliates have not experienced any strikes, grievances, claims of unfair labor practices or other collective bargaining disputes, nor, to Seller's Knowledge, are any such strikes, grievances, claims of unfair labor practices or other collective bargaining disputes pending or threatened. The Seller has no knowledge of any organizational effort made or threatened, either currently or within the past five years, by or on behalf of any labor organization with respect to employees of the Seller and its Affiliates engaged in the Business.

(c) The Seller and its Affiliates are and have been in compliance with all Laws relating to the employment of labor with respect to the Business, including all such Laws relating to wages, hours, employee classification, the Worker Adjustment and Retraining Notification Act and similar state laws (collectively, the "WARN Act"), collective bargaining, immigration, discrimination, civil rights, safety and health, workers' compensation and the collection and payment of withholding and/or social security taxes and any similar tax. The Seller and its Affiliates have not incurred any Liabilities under the WARN Act that remains unsatisfied. There are no actions, suits, claims, audits, inquiries or examinations pending or, to Seller's Knowledge, threatened or reasonably anticipated relating to any labor, safety or employment matters involving the employees of the Seller and its Affiliates engaged in the Business.

3.9 Employee Benefits.

(a) Each Seller Plan has been administered in all material respects in accordance with its terms and each of the Seller and the ERISA Affiliates has in all material respects met its obligations with respect to each Seller Plan and has made all required contributions thereto. The Seller, each ERISA Affiliate and each Seller Plan are in compliance in all material respects with the currently applicable provisions of ERISA and the Code and the regulations thereunder (including Section 4980 B of the Code, Subtitle K, Chapter 100 of the Code and Sections 601 through 608 and Section 701 et seq. of ERISA). All filings and reports as to each Seller Plan required to have been submitted to the Internal Revenue Service or to the United States Department of Labor have been duly submitted. No Seller Plan has assets that include securities issued by the Seller or any ERISA Affiliate. The consummation of the Transactions will not result in any Liabilities to the Buyer under any Seller Plan.

(b) Section 3.9(b) of the Disclosure Schedule discloses each: (i) agreement with any stockholder, director, executive officer or other key employee of the Seller engaged in the Business (A) the benefits of which are contingent, or the terms of which are altered, upon the occurrence of a transaction involving the Seller of the nature of any of the Transactions, (B) providing any term of employment or compensation guarantee or (C) providing severance

benefits or other benefits after the termination of employment of such director, executive officer or key employee; (ii) agreement, plan or arrangement under which any officer or employee of the Seller engaged in the Business may receive payments from the Seller that may be subject to the tax imposed by Section 4999 of the Code or included in the determination of such person's "parachute payment" under Section 280G of the Code; and (iii) agreement or plan with any officer or employee of the Seller engaged in the Business that is binding the Seller, including any stock option plan, stock appreciation right plan, restricted stock plan, stock purchase plan, severance benefit plan or Seller Plan, any of the benefits of which will be increased, or the vesting of the benefits of which will be accelerated, by the occurrence of any of the Transactions or the value of any of the benefits of which will be calculated on the basis of any of the Transactions.

(c) At no time has the Seller or any ERISA Affiliate maintained, contributed to, had any Liabilities under, any benefit plan, program or arrangement that is, (i) a "multiemployer plan" (within the meaning of Section 3(37) of ERISA), (ii) a "multiple employer plan" (within the meaning of Section 413(c) of the Code), (iii) a single employer plan or other pension plan that is subject to Title IV or Section 302 of ERISA or Section 412 of the Code, or (iv) a "multiple employer welfare arrangement" (as defined in Section 3(40)(A) of ERISA). No event has occurred, and to Seller's Knowledge, no condition exists that would, either directly or by reason of the Seller's affiliation with any ERISA Affiliate, subject the Seller or the Business to any tax, fine, lien, penalty or other Liabilities imposed by ERISA, the Code, or other applicable Laws.

3.10 Legal Compliance.

(a) To Seller's Knowledge, the Seller is currently conducting, and has at all times conducted, the Business in compliance with each applicable Law, except for any violations or defaults that, individually or in the aggregate, have not had and would not reasonably be expected to have a Seller Material Adverse Effect. The Seller has not received any notice or communication from any Governmental Entity alleging noncompliance with any applicable Law with respect to the Business.

(b) To Sellers' Knowledge, the Seller (i) is not in violation of any Law applicable to the Business and (ii) did not fraudulently induce any Person to enter into any Assigned Contract, in each case, in connection with the Seller's entering into any Customer Contract.

(c) The Seller is not required to obtain any prior approval from any Governmental Entity in order to transfer the Business to the Buyer, nor are there any proceedings or hearings before any Governmental Entity now pending or required to be held in connection with the transfer of the Business to Buyer.

3.11 Customers and Suppliers.

(a) The payment histories of each Customer provided by the Seller to the Buyer are true, complete and correct in all material respects.

(b) No Customer or supplier of or to the Business has notified Seller within the past year that it will stop, or decrease the rate of (or, to Seller's Knowledge, otherwise taken any action that would reasonably be interpreted to reflect an intention to stop or decrease the rate of), buying products or supplying products, as applicable, to the Seller.

(c) No purchase order or commitment of the Seller relating to the Business is in excess of normal requirements, nor are prices provided therein for the current month in excess of current market prices for the products or services to be provided thereunder.

(d) To Seller's Knowledge, the Seller is not, and, after the Closing, the Buyer will not be, subject to any charges, penalties, balancing riders or similar costs or obligations, other than ordinary service costs, with respect to any transmission or distribution service provider relating to the Business as a result of any action, inaction, condition or occurrence prior to the Closing.

(e) Section 3.11(e) of the Disclosure Schedule sets forth a complete and accurate list of all letters of credit, bonds or other credit support arrangements made by the Seller with any supplier of any product or service to the Business.

3.12 Permits. Section 3.12 of the Disclosure Schedule sets forth a complete and accurate list of all Permits issued to or held by the Seller in connection with the conduct of the Business. To Seller's Knowledge, such listed Permits are the only Permits that are required for the Seller to conduct the Business. Each such Permit is in full force and effect; the Seller is in compliance with the terms of each such Permit; and, to the Seller's Knowledge, no suspension or cancellation of such Permit is threatened and there is no basis for believing that such Permit will not be renewable upon expiration.

3.13 Certain Business Relationships With Affiliates. No Affiliate of the Seller owns any property or right, tangible or intangible, which is used in the Business.

3.14 Brokers' Fees. The Seller does not have any Liability to pay any fees or commissions to any broker, finder or agent with respect to the Transactions.

3.15 Books and Records. The books and records of the Seller relating to the Business (i) accurately reflect in all material respects the assets, Liabilities, business, financial condition and results of operations of the Business, (ii) have been maintained in accordance with good business and bookkeeping practices and (iii) are in all material respects complete and correct, and do not contain or reflect any material inaccuracies or discrepancies.

3.16 Limitations of Seller's Representations and Warranties. The following limitations apply with regard to the representations and warranties made by the Seller:

(a) THE BUYER ACKNOWLEDGES THAT (I) IT HAS HAD ACCESS TO SELLER AND THE OFFICERS AND EMPLOYEES OF SELLER AND (II) IN MAKING THE DECISION TO ENTER INTO THIS AGREEMENT AND CONSUMMATE THE TRANSACTIONS, THE BUYER HAS RELIED SOLELY ON ITS OWN INDEPENDENT INVESTIGATION AND UPON THE EXPRESS REPRESENTATIONS, WARRANTIES,

COVENANTS, AND AGREEMENTS SET FORTH IN THIS AGREEMENT AND THE ANCILLARY AGREEMENTS. WITHOUT LIMITING THE ABOVE, THE BUYER HAS, PRIOR TO THE EXECUTION AND DELIVERY OF THIS AGREEMENT, (I) CONDUCTED DUE DILIGENCE TO ITS SATISFACTION, AND (II) HAD FULL OPPORTUNITY TO CONDUCT TO ITS SATISFACTION A REVIEW OF ALL TANGIBLE ACQUIRED ASSETS AND TO ANALYZE ALL OF THE ASSIGNED CONTRACTS, THE HEDGING AGREEMENTS AND THE NYMEX POSITIONS.

(b) WITHOUT LIMITING THE ABOVE, THE BUYER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE ANCILLARY AGREEMENTS, THE SELLER HAS NOT MADE, AND THE SELLER MAKES NO, AND DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND WHETHER BY COMMON LAW, STATUTE, OR OTHERWISE, REGARDING THE ACQUIRED ASSETS OR THE BUSINESS.

(c) IN NO EVENT SHALL SELLER BE LIABLE HEREUNDER (ON THE BASIS OF BREACH OF CONTRACT, INDEMNITY, WARRANTY OR TORT, OR OTHERWISE) FOR ANY (I) NON-FORESEEABLE DAMAGES, (II) DAMAGES BASED UPON A MULTIPLE OF THE LOSS OF EARNINGS BY THE BUYER, IF ANY, OR (III) ANY EXEMPLARY OR PUNITIVE DAMAGES, RESULTING FROM OR ARISING OUT OF THIS AGREEMENT (OTHER THAN EXEMPLARY OR PUNITIVE DAMAGES PAYABLE TO A THIRD PARTY).

3.17 Buyer's Breach of Representation or Warranty. To the Seller's Knowledge as of the date of this Agreement, there is no fact or circumstance that would cause the Buyer to be in breach of any representation or warranty set forth in this Agreement.

3.18 Non-Foreign Entity. The Seller is not a non-resident alien, foreign corporation, foreign trust, or foreign trust or foreign estate for purposes of U.S. income taxation.

3.19 Solvency; the Seller's Intent.

(a) The Seller is not now, will not be immediately after the Closing and does not expect in the foreseeable future to be, "insolvent," as defined in the Texas Uniform Fraudulent Transfer Act.

(b) The Seller is not consummating any of the Transactions with actual intent to hinder, delay or defraud any creditor of the Seller. The board of directors (or equivalent managerial body) of the Seller has, in consultation with its legal, financial and other advisors, determined that the Purchase Price is "reasonably equivalent value" (as defined in the Texas Uniform Fraudulent Transfer Act) in exchange for the Acquired Assets and such other consideration being offered by the Seller hereunder and under the Ancillary Agreements.

(c) The Seller has complied with the requirements of all applicable bulk sale, bulk transfer or similar Laws in all jurisdictions.

(d) The Seller has marketed the Business and exercised its commercially reasonable efforts to sell it to a third party on terms and conditions most favorable to the Seller.

The Seller notified multiple potential buyers of the Acquired Assets of its intention to sell the Acquired Assets. Any third party expressing a bona fide interest in the acquisition of all or any part of the Business was given access to due diligence materials and other information about the Business. No participant in the marketing process was treated preferentially over any other participant. As a consequence of the competitive bidding process arising from the Seller's marketing efforts, in addition to the Buyer, three of the parties contacted by the Seller made bona fide offers to acquire all or part of the Acquired Assets.

3.20 Trading Book. Section 3.20 of the Disclosure Schedule contains a complete and accurate list of all active risk positions, including discretionary trading, system supply, prompt and future sales, hedges, options, physical and financial purchase and sale Contracts, transportation agreements, throughput agreements and other Hedging Agreements, in each case relating to the Business.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer represents and warrants to the Seller that the statements contained in this Article IV are true and correct as of the date of this Agreement.

4.1 Organization and Corporate Power. The Buyer is a corporation duly organized, validly existing and in good standing under the Laws of the State of California. The Buyer has all requisite corporate power and authority to carry on the businesses in which it is engaged and to own and use the properties owned and used by it.

4.2 Authorization of the Transaction. The Buyer has all requisite power and authority to execute and deliver this Agreement and the Ancillary Agreements and to perform its obligations hereunder and thereunder. The execution and delivery by the Buyer of this Agreement and the Ancillary Agreements and the consummation by the Buyer of the Transactions have been duly and validly authorized by all necessary corporate action on the part of the Buyer. This Agreement has been duly and validly executed and delivered by the Buyer and constitutes a valid and binding obligation of the Buyer, enforceable against it in accordance with its terms.

4.3 Noncontravention. Neither the execution and delivery by the Buyer of this Agreement or the Ancillary Agreements, nor the consummation by the Buyer of the Transactions, will (a) conflict with or violate any provision of the Organizational Documents of the Buyer, (b) require on the part of the Buyer any filing with, or permit, authorization, consent or approval of, any Governmental Entity, (c) conflict with, result in breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of obligations under, create in any party any right to terminate, modify or cancel, or require any notice, consent or waiver under, any Contract to which the Buyer is a party or by which it is bound or to which any of its assets is subject, except for (i) any conflict, breach, default, acceleration, termination, modification or cancellation which would not adversely affect the consummation of the Transactions or (ii) any notice, consent or waiver the absence of which

would not adversely affect the consummation of the Transactions, or (d) violate any order, writ, injunction, decree, statute, rule or regulation applicable to the Buyer or any of its properties or assets.

4.4 Litigation. There is no Legal Proceeding which is pending or has been threatened in writing against the Buyer wherein an unfavorable judgment, order, decree, stipulation or injunction would (i) prevent consummation of the Transactions or (ii) cause the Transactions to be rescinded following consummation. No such judgment, order, decree, stipulation or injunction is in effect.

4.5 Financing. The Buyer has sufficient funds to enable Buyer to pay the full Closing Amount, in cash, to the Seller, and to otherwise perform all of its other obligations under this Agreement.

4.6 Broker's Fees. The Buyer has no Liability to pay any fees or commissions to any broker, finder, or agent with respect to the Transactions for which the Seller or its Affiliates could become liable or obligated.

4.7 Buyer's Reliance. The Buyer acknowledges and agrees that it is entitled to rely only upon the express representations and warranties of the Seller set forth in Article III of this Agreement.

4.8 Limitations of the Buyer's Representations and Warranties. The following limitations apply with regard to the representations and warranties made by the Buyer:

(a) THE SELLER ACKNOWLEDGES THAT IN MAKING THE DECISION TO ENTER INTO THIS AGREEMENT AND CONSUMMATE THE TRANSACTIONS CONTEMPLATED UNDER THIS AGREEMENT, THE SELLER HAS RELIED SOLELY UPON THE EXPRESS REPRESENTATIONS, WARRANTIES, COVENANTS, AND AGREEMENTS SET FORTH IN THIS AGREEMENT AND THE ANCILLARY AGREEMENTS.

(b) WITHOUT LIMITING THE ABOVE, THE SELLER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE ANCILLARY AGREEMENTS, THE BUYER HAS NOT MADE, AND THE BUYER MAKES NO, AND DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND WHETHER BY COMMON LAW, STATUTE, OR OTHERWISE.

(c) IN NO EVENT SHALL BUYER BE LIABLE HEREUNDER (ON THE BASIS OF BREACH OF CONTRACT, INDEMNITY, WARRANTY OR TORT, OR OTHERWISE) FOR ANY (I) NON-FORESEEABLE DAMAGES, (II) DAMAGES BASED UPON A MULTIPLE OF THE LOSS OF EARNINGS BY THE SELLER, IF ANY, OR (III) ANY EXEMPLARY OR PUNITIVE DAMAGES, RESULTING FROM OR ARISING OUT OF THIS AGREEMENT (OTHER THAN EXEMPLARY OR PUNITIVE DAMAGES PAYABLE TO A THIRD PARTY).

4.9 Seller's Breach of Representation or Warranty. To the Buyer's Knowledge as of the date of this Agreement, there is no fact or circumstance that would cause the Seller to be in breach of any representation or warranty set forth in this Agreement.

ARTICLE V

COVENANTS

5.1 Governmental and Third-Party Notices and Consents. Following the Closing, each of the Seller and the Buyer shall use commercially reasonable efforts to obtain all waivers, permits, consents, approvals or other authorizations from Governmental Entities or any third parties, and to effect all registrations, filings and notices with or to Governmental Entities or any third parties, as may be required for the Buyer to own and operate the Acquired Assets as of the Closing and to otherwise comply with all applicable Laws in connection therewith; provided, however, that none of Seller's employees or other representatives shall have any obligation to travel in connection with the obtaining of consents from the SoCal LDC pool customers as to the change of gas pools. If the Seller and the Buyer are unable to obtain any third party consent to the transfer of any Assigned Contract, unless or until such consent is received or said agreement is terminated (by lapse of time or by the counterparty thereto but not by the Seller), the Seller shall exercise commercially reasonable efforts at the Buyer's expense to cause the applicable Assigned Contract to remain in full force and effect for so long as this Section 5.1 is applicable to it), (a) the applicable Assigned Contract shall be held by the Seller after Closing as the Buyer's agent, for the benefit of Buyer, to the extent such holding by the Seller does not violate any Law or violate the terms of the agreement(s) applicable thereto, (b) the Seller shall provide the Buyer with the economic and other benefits of such Assigned Contract, including by forwarding to the Buyer any monies received pursuant to such Assigned Contracts and (c) the Seller shall endeavor to institute alternative arrangements intended to put the Buyer in substantially the same economic and operational position as if such Assigned Contract were transferred to the Buyer. Any fees and costs of each Party's attorneys arising in connection with complying with this Section 5.1 will be borne by such Party. All costs and expenses of the Seller (other than the fees and costs of the Seller's attorney) arising in connection with complying with this Section 5.1, up to \$15,000, will be borne by the Buyer, and all of the Seller's costs and expenses in excess thereof will be borne by the Seller. Any of such costs and expenses of the Seller being borne by the Buyer will be reimbursable by the Buyer to the Seller promptly following receipt by the Buyer of appropriate receipts or other documentary evidence thereof. All costs and expenses incurred by the Buyer in complying with this Section 5.1 will be borne solely by the Buyer.

5.2 Proprietary Information. From and after the Closing, the Seller shall not disclose or make use of (except to pursue its rights, under this Agreement or the Ancillary Agreements), and shall use its best efforts to cause all of its Affiliates not to disclose or make use of, any knowledge, information or documents of a confidential nature or not generally known to the public with respect to Acquired Assets, the Seller's business or the Buyer or its business (including the financial information, technical information or data relating to the Seller's products and names of customers of the Seller), as well as filings and testimony (if any) presented in the course of any arbitration of a Dispute pursuant to Section 6.3 and the arbitral award and the Arbitrator's reasons therefor relating to the same), except to the extent that such knowledge, information or documents shall have become public knowledge other than through improper disclosure by the Seller or an Affiliate. The Seller shall enforce, for the benefit of the Buyer, all confidentiality, invention assignments and similar agreements between the Seller and any other party relating to the Acquired Assets or the business of the Seller which are not Assigned Contracts.

5.3 Solicitation and Hiring. For a period of five (5) years after the Closing Date, the Seller shall not, either directly or indirectly (including through an Affiliate), (a) solicit or attempt to induce any Restricted Employee to terminate his employment with the Buyer or any subsidiary of the Buyer or (b) hire or attempt to hire any Restricted Employee; provided, that this clause (b) shall not apply to any individual whose employment with the Buyer or a Subsidiary of the Buyer has been terminated for a period of six months or longer.

5.4 Non-Competition.

(a) For a period of two (2) years after the Closing Date, the Seller shall not, either directly or indirectly, as a stockholder, investor, partner, joint venturer, member, creditor, consultant or otherwise, (i) market or sell any product or provide any service anywhere in the Restricted Area which is competitive with any product marketed or sold or any service provided by the Seller in the Restricted Area within the three-year period prior to the Closing Date or (ii) engage anywhere in the Restricted Area in any business competitive with the Business as conducted as of the Closing Date or during the three-year period prior to the Closing Date. The Seller shall enforce, for the benefit of the Buyer, all non-competition and similar agreements between the Seller and any other party that are not Assigned Contracts.

(b) The Seller agrees that the duration and geographic scope of the non-competition provision set forth in this Section 5.4 are reasonable. In the event that any court determines that the duration or the geographic scope, or both, are unreasonable and that such provision is to that extent unenforceable, the Parties agree that the provision shall remain in full force and effect for the greatest time period and in the greatest area that would not render it unenforceable. The Parties intend that this non-competition provision shall be deemed to be a series of separate covenants, one for each and every county of each and every state of the United States of America and each and every political subdivision of each and every country outside the United States of America where this provision is intended to be effective.

(c) The Seller shall, and shall use its best efforts to cause its Affiliates to, refer all inquiries regarding the business, products and services of the Seller to the Buyer.

5.5 Tax Matters. The Buyer hereby acknowledges and agrees that the Purchase Price is net of any and all sales taxes, use taxes, transfer taxes, deed excise stamps and similar charges arising from the sale of the Acquired Assets contemplated by this Agreement, and the Buyer agrees that to the extent applicable, the same shall be paid by the Buyer.

5.6 Sharing of Data.

(a) The Seller shall have the right for a period of five (5) years following the Closing Date to have reasonable access to such books, records and accounts, including financial and tax information, correspondence, production records, employment records and other records that are transferred to the Buyer pursuant to the terms of this Agreement for the limited purposes

of concluding its involvement in the Business and for complying with its obligations under applicable securities, tax, environmental, employment or other Laws. The Buyer shall have the right for a period of five (5) years following the Closing Date to have reasonable access to those books, records and accounts, including financial and accounting records (including the work papers of the Seller's independent accountants), tax records, correspondence, production records, employment records and other records that are retained by the Seller pursuant to the terms of this Agreement to the extent that any of the foregoing is needed by the Buyer for the purpose of conducting the Business after the Closing and complying with its obligations under applicable securities, tax, environmental, employment or other Laws. Neither the Buyer nor the Seller shall destroy any such books, records or accounts retained by it without first providing the other Party with the opportunity to obtain or copy such books, records, or accounts at such other Party's expense.

(b) Promptly upon request by the Buyer made at any time following the Closing Date, the Seller shall authorize the release to the Buyer of all files pertaining to the Business or the Acquired Assets held by any Governmental Entity.

5.7 Cooperation in Litigation. From and after the Closing Date, the Seller and the Buyer shall each fully cooperate with the other in the defense or prosecution of any litigation or proceeding already instituted or which may be instituted hereafter against or by such other Party relating to or arising out of the conduct of the Business by the Seller or the Buyer prior to or after the Closing Date (other than litigation among the Parties and/or their Affiliates arising out of the Transactions). The Party requesting such cooperation shall pay the reasonable out-of-pocket expenses incurred in providing such cooperation (including legal fees and disbursements) by the Party providing such cooperation and by its officers, directors, employees and agents, but shall not be responsible for reimbursing such Party or its officers, directors, employees and agents, for their time spent in such cooperation.

5.8 Employees

(a) Effective as of the Closing, the Seller shall terminate the employment of each of its employees designated on Schedule 5.8(a) attached hereto (which may be updated prior to the Closing by the mutual agreement of the Buyer and the Seller) (the "Transferred Employees"). The Buyer shall offer employment to each such employee, terminable at the will of the Buyer. The Seller hereby consents to the hiring of any such employees by the Buyer and waives, with respect to the employment by the Buyer of such employees, any claims or rights the Seller may have against the Buyer or any such employee under any non-competition, confidentiality or employment agreement.

(b) The Seller shall provide the Buyer with all information relating to each Transferred Employee as the Buyer may reasonably require in connection with its employment or engagement of such individuals, including their initial employment dates, termination dates, reemployment dates, hours of service, compensation and tax withholding history, in a form that shall be usable by the Buyer, and such information shall be true and correct in all respects.

5.9 Transition Services. Following the Closing, the Seller shall provide, or cause to be provided, to the Business certain services that are currently provided by the Seller and its Affiliates to the Business, all as more fully set forth in the Transition Services Agreement being entered into between the Seller and the Purchaser on the date hereof.

5.10 Substitution Letters of Credit. The Buyer shall, within 15 days following the Closing Date, cause substitute letters of credit to be provided to suppliers to the Business in favor of such suppliers where required upon Seller's withdrawal or cancellation of its outstanding letters of credit.

5.11 Collection of Receivables. Each Party agrees that it shall promptly deliver to the other Party (and in any event within three (3) business days of the date received), any cash, checks or other property received by such Party or any of its Affiliates on or after the Closing which properly belongs to the other Party or which is allocated to such other Party pursuant to this Agreement or any Ancillary Agreement, including any payments on account, and will account to the other Party for all such receipts. In connection with the foregoing, each Party shall execute, transfer, convey and deliver any such checks or other documents as necessary in order to properly transfer such property to the other Party.

5.12 Further Assurances. At any time and from time to time after the Closing, at the request of the Buyer and without further consideration, the Seller shall execute and deliver such other instruments of sale, transfer, conveyance and assignment and take such actions as the Buyer may reasonably request to more effectively transfer, convey and assign to the Buyer, and to confirm the Buyer's rights to, title in and ownership of, the Acquired Assets, free and clear of Security Interests, and to place the Buyer in actual possession and operating control thereof from and after the date hereof.

5.13 Assistance with Preparation of Financial Statements. From and after the Closing, the Seller shall use its Reasonable Best Efforts to assist the Buyer in the preparation of audited consolidated balance sheets, income statements and statements of operations, changes in stockholders' equity and cash flows of the Business for such fiscal periods as the Buyer may request, prepared in accordance with GAAP and the requirements of Regulation S-X, together with all related notes and schedules thereto, to be filed with the U.S. Securities and Exchange Commission, accompanied by the reports thereon of the Buyer's accountant and any consents required from the Seller's accountant for the filing of such reports with the U.S. Securities and Exchange Commission. The Buyer shall pay for all costs in preparing such audited financial statements, including the costs of the Seller's accountant in connection therewith.

5.14 Refund of Customer Deposits. The Buyer shall be responsible for refunding the amount of the Customer Deposits due each of the Customers and shall indemnify the Seller for all Liabilities in connection therewith.

ARTICLE VI

INDEMNIFICATION

6.1 Indemnification by the Seller.

Subject to the limitations set forth in Section 6.4 and 6.5 of this Agreement, from and after the Closing Date, the Seller shall release, protect, defend and indemnify the Buyer, and its Affiliates and its and their respective officers, directors, members, shareholders, partners, employees, consultants, attorneys and advisors in respect of, and hold each of them harmless against, Damages incurred or suffered by any of them resulting from, relating to or constituting:

(a) any breach of any representation or warranty of the Seller contained in this Agreement, any Ancillary Agreement or any other agreement or instrument furnished by the Seller to the Buyer pursuant to this Agreement;

(b) any failure to perform any covenant or agreement of the Seller contained in this Agreement, any Ancillary Agreement or any agreement or instrument furnished by the Seller to the Buyer pursuant to this Agreement;

(c) any noncompliance by the Seller with any bulk sale, bulk transfer or similar Laws in all jurisdictions applicable to the Transactions; or

(d) any Retained Liabilities.

6.2 Indemnification by the Buyer. Subject to the limitations set forth in Sections 6.4 and 6.5 of this Agreement, from and after the Closing Date, the Buyer shall release, protect, defend and indemnify the Seller, and its Affiliates and its and their respective officers, directors, members, shareholders, partners, employees, consultants, attorneys and advisors, in respect of, and hold them harmless against, any and all Damages incurred or suffered by the Seller resulting from, relating to or constituting:

(a) any breach of any representation or warranty of the Buyer contained in this Agreement, any Ancillary Agreement or any other agreement or instrument furnished by the Buyer to the Seller pursuant to this Agreement;

(b) any failure to perform any covenant or agreement of the Buyer contained in this Agreement, any Ancillary Agreement or any other agreement or instrument furnished by the Buyer to the Seller pursuant to this Agreement; or

(c) any Assumed Liabilities.

6.3 Indemnification Claims.

(a) An Indemnified Party shall give written notification to the Indemnifying Party of the commencement of any Third Party Action. Such notification shall be given within 20 days after receipt by the Indemnified Party of notice of such Third Party Action, and shall

describe in reasonable detail (to the extent known by the Indemnified Party) the facts constituting the basis for such Third Party Action and the amount of the claimed damages; provided, however, that no delay or failure on the part of the Indemnified Party in so notifying the Indemnifying Party shall relieve the Indemnifying Party of any Liability hereunder except to the extent of any damage or Liability caused by or arising out of such failure. Within 20 days after delivery of such notification, the Indemnifying Party may, upon written notice thereof to the Indemnified Party, assume control of the defense of such Third Party Action with counsel reasonably satisfactory to the Indemnified Party; provided that (i) the Indemnifying Party may only assume control of such defense if (A) it acknowledges in writing to the Indemnified Party that any damages, fines, costs or other Liabilities that may be assessed against the Indemnified Party in connection with such Third Party Action constitute Damages for which the Indemnified Party shall be indemnified pursuant to this Article VI and (B) the ad damnum is less than or equal to the amount of Damages for which the Indemnifying Party is liable under this Article VI and (ii) the Indemnifying Party may not assume control of the defense of Third Party Action involving criminal liability or in which equitable relief is sought against the Indemnified Party. If the Indemnifying Party does not, or is not permitted under the terms hereof to, so assume control of the defense of a Third Party Action, the Indemnified Party shall control such defense. The Non-controlling Party may participate in such defense at its own expense. The Controlling Party shall keep the Non-controlling Party advised of the status of such Third Party Action and the defense thereof and shall consider in good faith recommendations made by the Non-controlling Party with respect thereto. The Non-controlling Party shall furnish the Controlling Party with such information as it may have with respect to such Third Party Action (including copies of any summons, complaint or other pleading which may have been served on such party and any written claim, demand, invoice, billing or other document evidencing or asserting the same) and shall otherwise cooperate with and assist the Controlling Party in the defense of such Third Party Action. The fees and expenses of counsel to the Indemnified Party with respect to a Third Party Action shall be considered Damages for purposes of this Agreement if (i) the Indemnified Party controls the defense of such Third Party Action pursuant to the terms of this Section 6.3(a) or (ii) the Indemnifying Party assumes control of such defense and the Indemnified Party reasonably concludes that the Indemnifying Party and the Indemnified Party have conflicting interests or different defenses available with respect to such Third Party Action. The Indemnifying Party shall not agree to any settlement of, or the entry of any judgment arising from, any Third Party Action without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed; provided that the consent of the Indemnified Party shall not be required if the Indemnifying Party agrees in writing to pay any amounts payable pursuant to such settlement or judgment and such settlement or judgment includes a complete release of the Indemnified Party from further Liability and has no other adverse effect on the Indemnified Party. The Indemnified Party shall not agree to any settlement of, or the entry of any judgment arising from, any such Third Party Action without the prior written consent of the Indemnifying Party, which shall not be unreasonably withheld, conditioned or delayed.

(b) In order to seek indemnification under this Article VI, an Indemnified Party shall deliver a Claim Notice to the Indemnifying Party.

(c) Within 20 days after delivery of a Claim Notice, the Indemnifying Party shall deliver to the Indemnified Party a Response, in which the Indemnifying Party shall: (i) agree that the Indemnified Party is entitled to receive all of the Claimed Amount (in which case the Response shall be accompanied by a payment by the Indemnifying Party to the Indemnified Party of the Claimed Amount, by check or by wire transfer), (ii) agree that the Indemnified Party is entitled to receive the Agreed Amount (in which case the Response shall be accompanied by a payment by the Indemnifying Party to the Indemnified Party of the Agreed Amount, by check or by wire transfer) or (iii) dispute that the Indemnified Party is entitled to receive any of the Claimed Amount.

(d) During the 30-day period following the delivery of a Response that reflects a Dispute, the Indemnifying Party and the Indemnified Party shall use good faith efforts to resolve the Dispute. If the Dispute is not resolved within such 30-day period, the Indemnifying Party and the Indemnified Party shall discuss in good faith the submission of the Dispute to binding arbitration, and if the Indemnifying Party and the Indemnified Party agree in writing to submit the Dispute to such arbitration, then the provisions of Section 6.3(e) shall become effective with respect to such Dispute. The provisions of this Section 6.3(d) shall not obligate the Indemnifying Party and the Indemnified Party to submit to arbitration or any other alternative dispute resolution procedure with respect to any Dispute, and in the absence of an agreement by the Indemnifying Party and the Indemnified Party to arbitrate any Dispute, such Dispute shall be resolved in a state or federal court sitting in the State of Texas, in accordance with Section 7.13.

(e) If, as set forth in Section 6.3(d), the Indemnified Party and the Indemnifying Party agree to submit any Dispute to binding arbitration, the arbitration shall be conducted by a single arbitrator (the "Arbitrator") in accordance with the Commercial Rules in effect from time to time and the following provisions.

(i) In the event of any conflict between the Commercial Rules in effect from time to time and the provisions of this Agreement, the provisions of this Agreement shall prevail and be controlling.

(ii) The Seller and the Buyer shall commence the arbitration by jointly filing a written submission with the Houston, Texas office of the AAA in accordance with Commercial Rule 5 (or any successor provision).

(iii) No depositions or other discovery shall be conducted in connection with the arbitration.

(iv) Not later than 30 days after the conclusion of the arbitration hearing, the Arbitrator shall prepare and distribute to the parties a writing setting forth the arbitral award and the Arbitrator's reasons therefor. Any award rendered by the Arbitrator shall be final, conclusive and binding upon the parties, and judgment thereon may be entered and enforced in any court of competent jurisdiction (subject to Section 7.12), provided that the Arbitrator shall have no power or authority to award damages in excess of the portion of the Claimed Amount that is subject to such Dispute.

(v) The Arbitrator shall have no power or authority, under the Commercial Rules or otherwise, to (x) modify or disregard any provision of this Agreement, including the provisions of this Section 6.3(e), or (y) address or resolve any issue not submitted by the Parties.

(vi) In connection with any arbitration proceeding pursuant to this Agreement, each Party shall bear its own costs and expenses, except that the fees and costs of the AAA and the Arbitrator, the costs and expenses of obtaining the facility where the arbitration hearing is held, and such other costs and expenses as the Arbitrator may determine to be directly related to the conduct of the arbitration and appropriately borne jointly by the Seller and the Buyer (which shall not include any Party's attorneys' fees or costs, witness fees (if any), costs of investigation and similar expenses) shall be shared equally by the Indemnified Party and the Indemnifying Party.

(f) Notwithstanding the other provisions of this Section 6.3, if a third party asserts (other than by means of a lawsuit) that an Indemnified Party is liable to such third party for a monetary or other obligation which may constitute or result in Damages for which such Indemnified Party may be entitled to indemnification pursuant to this Article VI, and such Indemnified Party reasonably determines that it has a valid business reason to fulfill such obligation, then (i) such Indemnified Party shall be entitled to satisfy such obligation, without prior notice to or consent from the Indemnifying Party, (ii) such Indemnified Party may subsequently make a claim for indemnification in accordance with the provisions of this Article VI, and (iii) such Indemnified Party shall be reimbursed, in accordance with the provisions of this Article VI, for any such Damages for which it is entitled to indemnification pursuant to this Article VI (subject to the right of the Indemnifying Party to dispute the Indemnified Party's entitlement to indemnification, or the amount for which it is entitled to indemnification, under the terms of this Article VI).

6.4 Survival of Representations and Warranties. All representations and warranties that are covered by the indemnification agreements in Section 6.1(a) and Section 6.2(a) shall survive the Closing and expire on the date twelve (12) months following the Closing Date, except that the representations and warranties set forth in Sections 3.10 and 3.12 shall survive until eighteen (18) months following the Closing Date, the representations and warranties set forth in Sections 3.1, 3.2, 4.1 and 4.2 shall survive the Closing without limitation, and the representations and warranties set forth in Sections 3.4 shall survive until thirty (30) days following expiration of all statutes of limitation applicable to the matters referred to therein. If an Indemnified Party delivers to an Indemnifying Party, before expiration of a representation or warranty, either a Claim Notice based upon a breach of such representation or warranty, or an Expected Claim Notice based upon a breach of such representation or warranty, then the applicable representation or warranty shall survive until, but only for purposes of, the resolution of the matter covered by such notice. If the legal proceeding or written claim with respect to which an Expected Claim Notice has been given is definitively withdrawn or resolved in favor of the Indemnified Party, the Indemnified Party shall promptly so notify the Indemnifying Party.

6.5 Limitations.

(a) Notwithstanding anything to the contrary herein, excluding obligations for

post-Closing adjustments to the Closing Amount pursuant to Section 2.6 of this Agreement, (i) the aggregate liability of the Seller for Damages under Section 6.1(a) or otherwise to Buyer under applicable Law in connection with this Agreement and the Transactions shall not exceed twenty percent (20%) of the Purchase Price, and (ii) the Seller shall not be liable under Section 6.1(a) unless and until the aggregate Damages for which it would otherwise be liable under Section 6.1(a) exceed \$50,000.00 (and then only for the amount in excess of \$50,000.00); provided that the limitations set forth in this sentence shall not apply to a claim pursuant to Section 6.1(a) relating to a breach of the representations and warranties set forth in Sections 3.1, 3.2 or 3.5(a). For purposes solely of this Article VI, all representations and warranties of the Seller in Article III shall be construed as if the term "material" and any reference to "Seller Material Adverse Effect" (and variations thereof) were omitted from such representations and warranties.

(b) Notwithstanding anything to the contrary herein, excluding obligations for post-Closing adjustments to the Closing Amount pursuant to Section 2.6 of this Agreement, (i) the aggregate liability of the Buyer for Damages under Section 6.2(a) and the transaction closed pursuant to this Agreement shall not exceed twenty percent (20%) of the Purchase Price, and (ii) the Buyer shall not be liable under Section 6.2(a) unless and until the aggregate Damages for which it would otherwise be liable under Section 6.2(a) exceed \$50,000.00 (and then only for the amount in excess of \$50,000.00); provided that the limitation set forth in this sentence shall not apply to a claim pursuant to Section 6.2(a) relating to a breach of the representations and warranties set forth in Sections 4.1 or 4.2. For purposes solely of this Article VI, all representations and warranties of the Buyer in Article IV shall be construed as if the term "material" were omitted from such representations and warranties.

(c) After the Closing, the rights of the Indemnified Parties under this Article VI shall be the sole and exclusive remedy of the Indemnified Parties with respect to claims and damages resulting from or relating to any misrepresentation, breach of warranty or failure to perform any covenant or agreement contained in this Agreement, or omission in any documents or other information furnished to the Buyer or its Affiliates in connection with this Agreement or the Transactions.

(d) THE INDEMNITIES PROVIDED HEREIN SHALL BE EFFECTIVE WHETHER OR NOT THE CLAIM IS CAUSED BY THE SOLE, CONCURRENT OR PARTIAL NEGLIGENCE, FAULT OR STRICT LIABILITY OF THE INDEMNIFIED PARTY.

6.6 Treatment of Indemnity Payments. Any payments made to an Indemnified Party pursuant to this Article VI shall be treated as an adjustment to the Purchase Price for tax purposes.

6.7 Waiver of Deceptive Trade Practices Acts.

(a) IT IS THE INTENTION OF THE PARTIES THAT THE BUYER'S RIGHTS AND REMEDIES WITH RESPECT TO THIS TRANSACTION AND WITH RESPECT TO ALL ACTS OR PRACTICES OF THE SELLER, PAST, PRESENT OR

FUTURE, IN CONNECTION WITH THIS TRANSACTION SHALL BE GOVERNED BY LEGAL PRINCIPLES OTHER THAN THE TEXAS DECEPTIVE TRADE PRACTICES--CONSUMER PROTECTION ACT, TEX. BUS. & COM. CODE ANN. SECTION 17.41 ET SEQ. (THE "DTPA"). AS SUCH, THE BUYER HEREBY WAIVES THE APPLICABILITY OF THE DTPA TO THIS TRANSACTION AND AN AND ALL DUTIES, RIGHTS OR REMEDIES THAT MIGHT BE IMPOSED BY THE DTPA, WHETHER SUCH DUTIES, RIGHTS AND REMEDIES ARE APPLIED DIRECTLY THE DTPA ITSELF OR INDIRECTLY IN CONNECTION WITH OTHER STATUTES; PROVIDED, HOWEVER, BUYER DOES NOT WAIVE SECTION 17.555 OF THE DTPA. THE BUYER ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT IT IS PURCHASING THE ACQUIRED ASSETS FOR COMMERCIAL OR BUSINESS USE; THAT IT HAS ASSETS OF \$5 MILLION OR MORE ACCORDING TO ITS MOST RECENT FINANCIAL STATEMENT PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; THAT IS HAD KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT ENABLE IT TO EVALUATE THE MERITS AND RISKS OF A TRANSACTION SUCH AS THIS; AND THAT IT IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION WITH SELLER.

(b) TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE BUYER HEREBY WAIVES ALL PROVISIONS OF CONSUMER PROTECTION ACTS, DECEPTIVE TRADE PRACTICE ACTS AND OTHER ACTS SIMILAR TO THE DTPA AND/OR THE UTPL IN ALL JURISDICTION IN WHICH ANY OF THE ACQUIRED ASSETS ARE LOCATED (SUCH ACTS, TOGETHER WITH THE DTPA AND THE UTPL, ARE HEREINAFTER COLLECTIVELY REFERRED TO AS THE "TRADE PRACTICES ACTS").

(c) BUYER EXPRESSLY RECOGNIZED THAT THE PRICE FOR WHICH THE SELLER HAS AGREED TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT HAS BEEN PREDICATED UPON THE INAPPLICABILITY OF THE TRADE PRACTICES ACTS AND THE BUYER'S WAIVER OF THE TRADE PRACTICES ACTS. THE BUYER FURTHER RECOGNIZES THAT THE SELLER, IN DETERMINING TO PROCEED WITH THE ENTERING INTO OF THIS AGREEMENT, HAS EXPRESSLY RELIED ON THIS WAIVER AND THE INAPPLICABILITY OF THE TRADE PRACTICES ACTS.

ARTICLE VII

MISCELLANEOUS

7.1 Press Releases and Announcements. No Party shall issue any press release or public announcement relating to the subject matter of this Agreement without the prior written approval of both the Seller and the Buyer; provided, however, that either the Seller or the Buyer may make any public disclosure it believes in good faith is required by applicable Law or stock market rule (in which case the disclosing Party shall use reasonable efforts to advise the other Party and provide it with a copy of the proposed disclosure prior to making the disclosure).

7.2 No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

7.3 Entire Agreement. This Agreement (including the documents referred to herein) constitutes the entire agreement between the Parties and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, with respect to the subject matter hereof, provided that the Confidentiality Agreement previously executed by the Parties shall survive the execution and delivery of this Agreement.

7.4 Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign either this Agreement or any of his, her or its rights, interests, or obligations hereunder without the prior written approval of the Buyer and the Seller; provided that the Buyer may assign some or all of its rights, interests and/or obligations hereunder to one or more Affiliates of the Buyer.

7.5 Counterparts and Facsimile Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile signature.

7.6 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

7.7 Notices. All notices, requests, demands, claims, and other communications hereunder shall be in writing. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly delivered four business days after it is sent by registered or certified mail, return receipt requested, postage prepaid, or one business day after it is sent for next business day delivery via a reputable nationwide overnight courier service, in each case to the intended recipient as set forth below:

If to the Seller:

Houston Energy Services Company, L.L.C.
10497 Town & Country Way, Suite 150
Houston, TX 77024
TEL: (713) 563-5040
FAX: (713) 463-5032
Attention: Thomas L. Goudie
President

Copy (which shall not constitute notice) to:

Ronald L. Chachere
Attorney-at-Law
615 N. Upper Broadway, #1416
Corpus Christi, Texas 78477
TEL: (361) 883-2356
FAX: (361) 883-2357

If to the Buyer:

Copy (which shall not constitute notice) to:

Commerce Energy, Inc.
600 Anton Blvd., Suite 2000
Costa Mesa, CA 92626
TEL: (714) 259-2500
FAX: (714) 259-2501
Attention: General Counsel

Paul, Hastings, Janofsky & Walker LLP
695 Town Center Drive
Seventeenth Floor
Costa Mesa, CA 92626
TEL: (714) 668-6210
FAX: (714) 668-6310
Attention: John F. Della Grotta, Esq.

Any Party may give any notice, request, demand, claim, or other communication hereunder using any other means (including personal delivery, expedited courier, messenger service, telecopy, telex, ordinary mail, or electronic mail), but no such notice, request, demand, claim, or other communication shall be deemed to have been duly given unless and until it actually is received by the party for whom it is intended. Any Party may change the address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other Parties notice in the manner herein set forth.

7.8 Governing Law. This Agreement (including the validity and applicability of the arbitration provisions of this Agreement, the conduct of any arbitration of a Dispute, the enforcement of any arbitral award made hereunder and any other questions of arbitration law or procedure arising hereunder) shall be governed by and construed in accordance with the internal Laws of the State of Texas, without giving effect to any choice or conflict of law provision or rule (whether of the State of Texas or any other jurisdiction) that would cause the application of Laws of any jurisdictions other than those of the State of Texas.

7.9 Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each of the Parties. No waiver by any Party of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the Party giving such waiver. No waiver by any Party with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

7.10 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the Parties agree that the court making the determination of invalidity or unenforceability shall have the power to limit the term or provision, to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified.

7.11 Expenses. Except as set forth in Article VI, each Party shall bear its own costs and expenses (including legal fees and expenses) incurred in connection with this Agreement and the Transactions.

7.12 Submission to Jurisdiction. Each Party (a) submits to the jurisdiction of any state or federal court sitting in the State of Texas in any action or proceeding arising out of or relating to this Agreement or the Ancillary Agreements (including any action or proceeding for the enforcement of any arbitral award made in connection with any arbitration of a Dispute hereunder), (b) agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, (c) waives any claim of inconvenient forum or other challenge to venue in such court, (d) agrees not to bring any action or proceeding arising out of or relating to this Agreement or the Ancillary Agreements in any other court and (e) waives any right it may have to a trial by jury with respect to any action or proceeding arising out of or relating to this Agreement or the Ancillary Agreements; provided in each case that, solely with respect to any arbitration of a Dispute, the Arbitrator shall resolve all threshold issues relating to the validity and applicability of the arbitration provisions of this Agreement, contract validity, applicability of statutes of limitations and issue preclusion, and such threshold issues shall not be heard or determined by such court. Each Party agrees to accept service of any summons, complaint or other initial pleading made in the manner provided for the giving of notices in Section 7.7, provided that nothing in this Section 7.12 shall affect the right of any Party to serve such summons, complaint or other initial pleading in any other manner permitted by Law.

7.13 Specific Performance. Each of the Seller and the Buyer acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Agreement (including Sections 5.3, 5.4 and 5.5) are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each of the Seller and the Buyer agrees that the other Party shall be entitled to an injunction or other equitable relief to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having jurisdiction over the Parties and the matter, in addition to any other remedy to which it may be entitled, at Law or in equity. Notwithstanding the foregoing, the Parties agree that if a Dispute is submitted to arbitration in accordance with Section 6.3(d) and Section 6.3(e), then the foregoing provisions of this Section 7.13 shall not apply to such Dispute, and the provisions of Section 6.3(d) and Section 6.3(e) shall govern availability of injunctive relief, specific performance or other equitable relief with respect to such Dispute.

7.14 Construction.

(a) The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

(b) Any reference to any federal, state, local, or foreign Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

(c) Any reference herein to "including" shall be interpreted as "including without limitation".

(d) Any reference to any Article, Section or paragraph shall be deemed to refer to an Article, Section or paragraph of this Agreement, unless the context clearly indicates otherwise.

7.15 Limitation on Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE EXTENT THAT A PARTY IS ENTITLED TO DAMAGES RESULTING FROM A BREACH OR VIOLATION OF ANY REPRESENTATION, WARRANTY OR COVENANT CONTAINED IN THIS AGREEMENT OR IN THE ANCILLARY AGREEMENTS, SHALL NOT INCLUDE ANY (I) NON-FORSEEABLE DAMAGES, (II) DAMAGES BASED UPON A MULTIPLE OF THE LOSS OF EARNINGS BY THE BUYER, IF ANY, OR (III) ANY EXEMPLARY OR PUNITIVE DAMAGES (OTHER THAN EXEMPLARY OR PUNITIVE DAMAGES PAYABLE TO A THIRD PARTY).

7.16 Acknowledgement. EACH OF THE PARTIES HERETO SPECIFICALLY ACKNOWLEDGES AND AGREES (I) THAT IT HAS A DUTY TO READ THIS AGREEMENT AND THAT IT IS CHARGED WITH NOTICE AND KNOWLEDGE OF THE TERMS HEREOF AND (II) THAT IT HAS IN FACT READ THIS AGREEMENT AND IS FULLY INFORMED AND HAS FULL NOTICE AND KNOWLEDGE OF THE TERMS, CONDITIONS AND EFFECTS OF THIS AGREEMENT. EACH PARTY HERETO FURTHER AGREES THAT IT WILL NOT CONTEST THE VALIDITY OR ENFORCEABILITY OF ANY PROVISIONS OF THIS AGREEMENT ON THE BASIS THAT THE PARTY HAD NO NOTICE OR KNOWLEDGE OF SUCH PROVISIONS, WAS NOT THE DRAFTER THEREOF OR THAT SUCH PROVISIONS ARE NOT "CONSPICUOUS".

7.17 Conspicuousness of Provisions. THE PARTIES ACKNOWLEDGE THAT THE PROVISIONS CONTAINED IN THIS AGREEMENT THAT ARE SET IN "BOLD" SATISFY THE REQUIREMENT OF THE EXPRESS NEGLIGENCE RULE AND ANY OTHER REQUIREMENT AT LAW OR IN EQUITY THAT PROVISIONS CONTAINED IN A CONTRACT BE CONSPICUOUSLY MARKED OR HIGHLIGHTED.

[remainder of page intentionally left blank; signatures appear on following page(s)]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

SELLER:

HOUSTON ENERGY SERVICES
COMPANY, L.L.C.

By: /S/ THOMAS L. GOUDIE

Name: Thomas L. Goudie
Title: President

BUYER:

COMMERCE ENERGY, INC.

By: /S/ STEVEN S. BOSS

Name: Steven S. Boss
Title: President

SCHEDULES AND EXHIBITS OMITTED FROM ASSET PURCHASE AGREEMENT

Exhibits:

Exhibit A	Bill of Sale
Exhibit B	Assumption Agreement
Exhibit C	Non-Solicitation Agreements
Exhibit D	Transition Services Agreement
Exhibit E	Trading Book Side Letter
Exhibit F	Guaranty Agreement

Schedules:

Schedule 2.1(b)	Excluded Assets
Schedule 2.5	Allocation of Purchase Price
Schedule 5.8	Transferred Employees

Disclosure Schedule:

Section 3.1	Organization and Tax Good Standing
Section 3.3(a)	Noncontravention
Section 3.3(b)	Assigned Contracts not provided
Section 3.4(b)	Tax Basis in Acquired Assets
Section 3.5(a)	Security Interests
Section 3.5(b)	Excluded Assets
Section 3.5(c)	Fixed/Tangible Acquired Assets
Section 3.6(a)	Assigned Contracts; Risk Management
Section 3.6(b)	List of Incomplete or Missing Assigned Contracts
Section 3.6(d)	List of Customer Deposits and Customer Letters of Credit
Section 3.8(a)	Employees
Section 3.9(b)	Agreements with Key Employees, etc.
Section 3.11(e)	Letters of Credit, Bonds and other Credit Support Agreements
Section 3.12	Permits
Section 3.20	Trading Book Positions

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TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (this "Agreement"), dated September 20, 2006, is made and entered into by and among Commerce Energy, Inc., a California corporation ("Owner"), and Houston Energy Services Company, L.L.C., a Texas limited liability company ("Company" and, together with Owner, the "Parties").

WITNESSETH:

WHEREAS, on this date, pursuant to an Asset Purchase Agreement of even date herewith between Owner and Company (the "Asset Purchase Agreement"), Owner has purchased and acquired from Company the Acquired Assets;

WHEREAS, Owner and Company have not yet notified all counterparties to the Assigned Contracts of the assignment thereof by Company to Owner and Owner's assumption of certain prospective obligations of Company thereunder, or, if notified, one or more of the counterparties to the Assigned Contracts may not have been given timely notice within which to effect a transition of the benefits and obligations of Company thereunder to Owner or otherwise may fail to recognize Owner as the party in substitution for Company;

WHEREAS, Owner has conditioned its execution of the Asset Purchase Agreement and the consummation of the Transactions on, inter alia, Company's agreement to provide to Owner certain services necessary for the conduct of the Business during the transitional period following the date hereof (the "Transition Services");

WHEREAS, in connection with and subject to the consummation of the Transactions, Company is entering into an agreement with Pacific Summit Energy LLC ("Pacific Summit") with respect to Company's resale to Pacific Summit of the gas supply purchased by Company for the month of September, 2006, which corresponds to deliveries of gas pursuant to the Customer Contracts during such month and the novation to Pacific Summit of the Company's existing positions with gas suppliers for future deliveries of gas;

WHEREAS, Owner is entering into an Operating Agreement with Pacific Summit on this date (the "Pacific Summit Agreement"), pursuant to which Pacific Summit Energy will provide certain gas supply to Owner necessary for the conduct of the Business following the date hereof; and

WHEREAS, Company has conditioned its execution of this Agreement and the provision of the Transition Services on, inter alia, Owner's causing of (i) the issuance and delivery of a letter of credit in favor of Company and (ii) a corporate guaranty in favor of Company, all as more particularly set forth in Section 2.08;

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS

1.01 The following capitalized words or terms utilized in this Agreement shall have the respective meanings set forth below:

"Company" has the meaning set forth in the Preamble of this Agreement.

"Company Parties" shall have the meaning set forth in Section 4.01.

"LDC" shall mean a local distribution company engaged primarily in the retail sale and/or delivery of natural gas through a distribution system.

"Nominations" shall mean a precise listing of the quantities of gas to be transported during any specified time period, including all custody transfer entities, locations, compressor fueled and other volumetric assessments, and the precise routing of gas through the pipeline network.

"Owner" has the meaning set forth in the Preamble of this Agreement.

"Parties" has the meaning set forth in the Preamble of this Agreement.

"Pacific Summit" has the meaning set forth in the fourth recital paragraph of this Agreement.

"Pacific Summit Agreement" shall have the meaning set forth in the fifth recital paragraph of this Agreement.

"Transition Period" shall mean the period commencing on the date hereof and ending 90 days hereafter; provided, however, that Owner may elect to extend the Transition Period by an additional 30 days if, (a) following Owner's commercially reasonable efforts to enter into pooling agreements with all of the LDCs necessary for the operation of the Business, on the 90th day after the date hereof Owner shall not have entered into a pooling agreement with each such LDC, and (b) on or prior to such 90th day after the date hereof, Owner shall have paid Company the sum of twenty thousand dollars (\$20,000.00) for the services to be rendered by Company to Owner during such additional 30 day period pursuant to the terms of this Agreement.

"Transition Services" has the meaning set forth in the third recital paragraph of this Agreement.

1.02 For purposes of this Agreement, capitalized words or terms not otherwise defined in this Agreement shall have the same meanings as set forth in the Asset Purchase Agreement.

ARTICLE II

SERVICES TO BE PROVIDED BY THE COMPANY

2.01 Office Space. Until October 31, 2006, Company shall provide office space and associated facilities and services for the Transferred Employees, at no cost to Owner, to the same extent such office space and associated facilities and services were provided to the Transferred Employees in the conduct of the Business as of the Closing. Notwithstanding the foregoing, to the extent, if any, that Company enters into a sublease or similar arrangement with an unaffiliated third party of any such office space and associated facilities requiring Company to make such office space and associated facilities available to such third party prior to October 31, 2006 (but no earlier than October 1, 2006), then Company (a) shall not be so obligated to provide office space and associated facilities and services for the Transferred Employees but (b) shall, at no cost to Owner, assist Owner in promptly relocating the tangible personal property located in such office space and associated facilities and previously used in the conduct of the Business to another facility obtained by Owner.

2.02 Assistance. During the Transition Period, Company shall render such assistance to the Transferred Employees as Owner may reasonably request from time to time, at no cost to Owner, in connection with the operation of the Business, including the following:

- (a) notification of Customers, the gas suppliers of the Business and the LDCs applicable to the Business of the acquisition of the Business and Company's assignment of the Assigned Contracts to Owner;

- (b) facilitation of September nominations;

- (c) preparation and delivery of invoices to customers of the Business; and

- (d) integration of the Business into Owner's business, including, without limitation, the transfer to Owner of all electronic and printed books, records, accounts, ledgers, files, documents, correspondence, lists, employment records, operating and/or procedural manuals, end-user customer records, sales and promotional materials, studies and reports of the Business.

2.03 Change Over of Assigned Contracts. Company represents and warrants to Owner that it has left in place its counterparty credit with existing LDCs and pipelines of the Business from and after September 1, 2006 through the date of this Agreement and covenants that it shall continue to leave such counterparty credit in place as may be necessary during the Transition Period in order to facilitate gas deliveries by Owner pursuant to the Customer Contracts during such period. To the extent, if any, that Owner does not pay any amounts payable under any Assigned Contract to the counterparty LDC or pipeline for any period on and after September 1, 2006, or is unable to pay any such amounts as a consequence of such counterparty's failure for any reason to recognize Owner, in substitution for Company, as the obligor thereunder or as otherwise responsible for such amounts, effective for any period on and after September 1, 2006, and Company continues to be recognized by such counterparty LDC or pipeline as such obligor or as such otherwise responsible party, then (a) within ten (10) days of receipt of the applicable invoice Company shall deliver a statement to

Owner describing such obligation in reasonable detail, including therewith a complete and accurate copy of the original invoice, (b) within ten (10) days of receipt of such statement Owner shall make such payment to Company, and (c) within one (1) business day of Company's receipt of such payment, Company shall pay 100% of the amount thereof to the applicable counterparty and concurrently with such payment delivery, or cause to be delivered, written evidence of thereof in form reasonably satisfactory to Owner. Owner shall use commercially reasonable efforts to effect a change over of all LDC pools and agreements with pipelines to Owner as soon as reasonably possible, including the substitution of letters of credit for those of the Company.

2.04 [INTENTIONALLY OMITTED]

2.05 Continued Operation of LDC Pools. To the extent that Owner has not fully established Customer pools in the distribution territory of any LDC operating within the Restricted Area, Company shall continue to operate, at Owner's direction, the Customer pools of Company relating to the Business for the sole benefit of and as agent for Owner. In the absence of any such direction from Owner, Company shall operate such Customer pools in the ordinary course consistent with past practice. Within sixty (60) days after the end of each calendar month during which Company so operates such Customer pools, Company shall deliver an invoice to Owner describing in reasonable detail all costs, losses, expenses and liabilities of any nature whatsoever incurred or suffered by Company in acting on behalf of Owner in its continued operation of such LDC pools on and after September 1, 2006, including therewith written evidence thereof in form reasonably satisfactory to Owner. Within ten (10) days of receipt of each such invoice and written evidence, Owner agrees to reimburse Company for all such reasonable costs, losses, expenses and liabilities to the extent directly or indirectly incurred by Company as a consequence of taking any action (or failing to take any action) at the direction of Owner.

2.06 Compliance with Law. Company shall, and shall cause its employees to, observe and comply in all material respects with any and all Laws bearing on the performance of the services hereunder.

2.07 Commercially Reasonable Service. Company shall provide, or cause to be provided, the services pursuant to this Agreement in a commercially reasonable manner consistent with the manner and level of care with which such services were previously conducted by Company.

2.08 Letter of Credit and Corporate Guaranty. In order to secure Owner's obligations to Company pursuant to Sections 2.03 and 2.05 hereinabove, Owner is, contemporaneously with the mutual execution and delivery of this Agreement, (i) causing Wachovia Capital Finance Corporation (Western) to issue an irrevocable and unconditional letter of credit for \$1,500,000.00 in favor of Company, in substantially the same content as that form letter of credit attached hereto as Exhibit "A" and made a part hereof, and (ii) causing its affiliate, Commerce Energy Group, Inc., to issue an irrevocable and unconditional guaranty in favor of Company, in the same content as that form of guaranty attached hereto as Exhibit "B" and made a part hereof. At such time as the aggregate outstanding amount of the letters of credit issued on behalf of the Company to the LDCs, pipelines and gas suppliers of the Business is \$1,500,000.00 or less, the amount of the aforementioned letter of credit shall be reduced on a dollar for dollar basis by the amount of each letter of credit issued by the Company to LDCs, pipelines and gas suppliers pertaining to the Business which is thereafter released in writing by such counterparty or which otherwise expires on its own terms, without any payment by the issuing bank.

ARTICLE III

INDEPENDENT CONTRACTOR, INFORMATION AND DISCLAIMERS

3.01 Independent Contractor. In the performance of all activities hereunder, Company shall be an independent contractor with the exclusive authority to control and direct the means, method and manner of performance of the details of any services to be provided hereunder by Company to Owner.

3.02 Decisions and Policy Declarations. Owner shall, at all times during the Transition Period, provide timely decisions and directions as required for the performance by the Company of services described herein.

3.03 Limitations. The provision for use of Company's office facilities and all services to be provided by Company under this Agreement shall be provided only to the extent such facilities or applicable personnel were previously utilized by the Business in the ordinary course prior to Closing. Except in the case of Company's gross negligence or willful misconduct, Company shall not be responsible for the accuracy of any information furnished by or on behalf of Company to Owner, the Transferred Employees or Owner's officers, directors, employees, agents, consultants or representatives. However, upon gaining knowledge of any such errors, Company will use commercially reasonable efforts to remedy such errors in the same manner that Company does so for Company's internal users of similar services. Owner acknowledges that certain of Company's personnel (other than the Transferred Employees) may leave the employment of Company or terminate their employment or contract with Company during the Transition Period, and that the loss of such personnel may materially impede Company's ability to perform its obligations hereunder; therefore, subject to the following sentence, Company makes no representation or warranty regarding its ability to retain any such personnel and Company shall have no liability as to the result of the loss of any such personnel. Company shall promptly notify Owner of the termination of employment of any such personnel.

3.04 Disclaimers. Owner, acting through its officers, directors, employees and the Transferred Employees, shall have primary responsibility for the operation of the Business following the Closing and for all decisions in that regard; it being expressly understood and agreed that Company's obligations to Owner pursuant to this Agreement and the Asset Purchase Agreement for the operation of Business during the Transition Period are not to make decisions in the conduct of the Business for or on behalf of Owner, but merely to render reasonable assistance to Owner in connection with Owner's operation of the Business. Accordingly, Company shall have no obligation to perform any service unless and until requested by Owner, shall be excused from such performance if Company's failure to do so is caused by or results from any act of God, governmental action, natural disaster, strikes, failure of essential equipment, loss of personnel or any other cause or circumstance beyond the reasonable control of Company, and Company shall not be liable to Owner for the results of the operation of the Business during the Transition Period, except as set forth in the Asset Purchase Agreement and except for Damages caused by the willful misconduct of Company. EXCEPT AS SET FORTH ELSEWHERE IN THIS AGREEMENT,

COMPANY DOES NOT MAKE ANY REPRESENTATION OR WARRANTY AS TO THE RESULTS OF ANY SERVICES TO BE PROVIDED BY COMPANY OR ANY OF COMPANY PARTIES (AS HEREINAFTER DEFINED) HEREUNDER, AND COMPANY HEREBY NEGATES ANY IMPLIED OR STATUTORY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ITS PERFORMANCE UNDER THIS AGREEMENT.

ARTICLE IV

INDEMNIFICATION

4.01 Indemnification. To the full extent permitted by applicable law, Owner shall indemnify, defend, reimburse and hold harmless Company and its Affiliates, and its and their respective officers, directors, members, shareholders, partners, employees, agents and representatives (collectively, the "Company Parties"), from and against any and all Damages asserted against, resulting from, imposed upon or incurred by any of the Company Parties, or any of them, by, or arising out of, or as a result of (a) the performance of any services by the Company Parties under this Agreement, (b) the presence of the Transferred Employees and Owner's other employees in the offices of Company or its Affiliates and their use of such facilities, and/or (c) the actions of Company in maintaining and operating certain of its gas pools as an accommodation to Owner, as provided in Section 2.05 of this Agreement, REGARDLESS OF WHETHER ANY DAMAGES ARE A RESULT OF OR CAUSED BY THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OF THE COMPANY PARTIES, OR ANY OF THEM. The indemnification provided for in this Section 4.01 is in addition to the indemnification provided in the Asset Purchase Agreement, and the Company Parties shall have the right to indemnification under this Section 4.01, regardless of whether any of them is also entitled to indemnification under the Asset Purchase Agreement; provided, however, that the amount of any Damages for which indemnification may be claimed by any Company Party (a) hereunder shall be offset by any amounts actually received by such Company Party from Owner pursuant to Article VI of the Asset Purchase Agreement and (b) under the Asset Purchase Agreement shall be offset by any amounts actually received by such Company Party from Owner pursuant hereto.

ARTICLE V

MISCELLANEOUS

5.01 Incorporation by Reference. The provisions of Sections 7.1 (Press Releases and Announcements), 7.2 (No Third Party Beneficiaries), 7.3 (Entire Agreement), 7.4 (Succession and Assignment), 7.5 (Counterparts and Facsimile Signature), 7.6 (Headings), 7.7 (Notices), 7.8 (Governing Law), 7.9 (Amendments and Waivers), 7.10 (Severability), 7.11 (Expenses), 7.12 (Submission to Jurisdiction), 7.13 (Specific Performance) and 7.14 (Construction) of the Asset Purchase Agreement shall be incorporated into this Agreement, mutatis mutandis, as if references to "this Agreement", the "Seller" and the "Buyer" in the Asset Purchase Agreement were references to "this Agreement", "Company" and "Owner", respectively, in this Agreement.

(SIGNATURE PAGE FOLLOWS.)

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IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first written above.

COMMERCE ENERGY, INC.

By: /S/ STEVEN S. BOSS

Steven S. Boss
President

HOUSTON ENERGY SERVICES COMPANY, L.L.C.

By: /S/ THOMAS L. GOUDIE

Thomas L. Goudie,
President

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SCHEDULES AND EXHIBITS OMITTED FROM TRANSITION SERVICES AGREEMENT

Exhibits:

Exhibit A Wachovia Letter of Credit

Exhibit B Commerce Energy Group, Inc. Guaranty

Schedules:

None

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GUARANTY AGREEMENT

The undersigned (the "Guarantors"), being all of the members of Houston Energy Services Company, L.L.C., a Texas limited liability company (the "Seller"), expect to benefit from the consummation of the transactions contemplated by that certain Asset Purchase Agreement, of even date herewith, between Commerce Energy, Inc., a California corporation (the "Buyer"), and the Seller (the "Asset Purchase Agreement") and the Ancillary Agreements. Accordingly, in order to induce the Buyer to enter into the Asset Purchase Agreement and the Ancillary Agreements and perform its obligations thereunder, the Guarantors hereby jointly, severally and irrevocably guarantee to the Buyer, its successors and assigns, the prompt and full discharge of all indemnity obligations of the Seller under Section 6.1(a) of the Asset Purchase Agreement (the "Obligations"), when and as the same shall become due and payable or performable, in accordance with the respective terms and provisions thereof, subject to the limitations hereinafter set forth. To the extent that the Seller shall fail to timely make any indemnification payment required to be paid by the Seller under Section 6.1(a) of the Asset Purchase Agreement, the Guarantors hereby jointly, severally and irrevocably agree to pay the full unpaid amount due to the applicable indemnified parties. The Guarantors shall also be liable for the reasonable attorneys' fees and expenses of any indemnified party's external counsel incurred in any effort to collect or enforce any of the obligations of the Guarantors under this Guaranty Agreement; provided, however, that such fees and expenses shall be payable by the Guarantors only to the extent the applicable indemnified party is successful in enforcing payment of the obligations under this Guaranty Agreement.

The parties hereto acknowledge and agree that the obligations of the Guarantors hereunder shall be unconditional and absolute, shall be a guaranty of payment and performance and not of collection, and shall not be released, discharged or otherwise affected by any circumstances whatsoever which might, but for these provisions, constitute a legal or equitable discharge of the Guarantors' obligations hereunder. The Guarantors hereby waive any circumstance which might constitute a legal or equitable discharge of a surety or guarantor, including but not limited to (a) notice of acceptance of this Guaranty Agreement; (b) presentment and demand concerning the liabilities of the Guarantors; (c) notice of any dishonor or default by, or disputes with, the Seller; and (d) any right to require that any action or proceeding be brought against the Seller or any other Person, or to require that the Buyer seek enforcement of any performance against the Seller or any other Person, prior to any action against the Guarantors under the terms hereof. The Guarantors consent to the renewal, compromise, extension, acceleration, or other modification of the terms of the Obligations, and to any change, modification or waiver of the terms of the Asset Purchase Agreement and the Ancillary Agreements, without in any way releasing or discharging the Guarantors from their respective obligations hereunder. Except as to applicable statutes of limitation, no delay of the Buyer in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights, or a release of Guarantor from any obligations hereunder.

Guarantors' obligations hereunder shall remain in force and effect until the expiration of eighteen (18) months following the Closing Date (the "Termination Date"), at which time the Guarantors shall be deemed automatically released from all obligations and liabilities under and

pursuant to this Guaranty Agreement, SAVE AND EXCEPT with respect to the Claimed Amount(s) pursuant to any Claim Notice(s) or Expected Claim Notice(s) delivered to the Seller by any party entitled to indemnification under Section 6.1 of the Asset Purchase Agreement pursuant to Section 6.3 of the Asset Purchase Agreement prior to the earlier of (i) the Termination Date or (ii) the applicable date required for its delivery pursuant to the Asset Purchase Agreement, which guaranty obligations of the Guarantors hereunder shall continue in effect with respect to such Claimed Amount(s) pursuant to such Claim Notice(s) or Expected Claim Notice(s), subject to the limitations hereinafter set forth.

Guarantors reserve the right to assert rights, setoffs, counterclaims and other defenses that Seller may have to the Obligations, other than defenses arising from the bankruptcy, insolvency, dissolution or liquidation of Seller and other defenses expressly waived herein.

The Guarantors hereby waive their rights to be subrogated to the rights of the Buyer with respect to any Obligations paid or performed by the Guarantors until all Obligations have been fully and indefeasibly paid to the Buyer, subject to no rescission or right of return, and the Guarantors have fully and indefeasibly satisfied all of the Guarantors' obligations under this Guaranty Agreement.

The obligations of the Guarantors set forth herein shall be subject to the limitations set forth in Sections 6.4 and 6.5 of the Asset Purchase Agreement.

Capitalized words or terms utilized herein shall have the same meanings given in the Asset Purchase Agreement.

The provisions of Sections 7.1 (Press Releases and Announcements), 7.2 (No Third Party Beneficiaries), 7.3 (Entire Agreement), 7.4 (Succession and Assignment), 7.5 (Counterparts and Facsimile Signature), 7.7 (Notices), 7.8 (Governing Law), 7.9 (Amendments and Waivers), 7.10 (Severability), 7.11 (Expenses), 7.12 (Submission to Jurisdiction), 7.13 (Specific Performance) and 7.14 (Construction) of the Asset Purchase Agreement shall be incorporated into this Guaranty Agreement, mutatis mutandis, as if references to "this Agreement" and "the Seller" in the Asset Purchase Agreement were references to "this Guaranty Agreement" and "the Guarantors", respectively, in this Guaranty Agreement.

[remainder of page intentionally left blank; signatures appear on following page(s)]

IN WITNESS WHEREOF, the undersigned have executed this Guaranty Agreement
as of the 20th day of September, 2006.

/S/ THOMAS L. GOUDIE

Thomas L. Goudie

/S/ JAMES BUJNOCH, JR.

James Bujnoch, Jr.

/S/ GARY HOLLOWELL

Gary Hollowell

/S/ DUSTIN ROACH

Dustin Roach

/S/ STEVE LOY

Steve Loy

/S/ ARNOLD PEREZ

Arnold Perez

ACCEPTED AND AGREED:

COMMERCE ENERGY, INC.

By: /S/ STEVEN S. BOSS

Steven S. Boss, President

SCHEDULES AND EXHIBITS OMITTED FROM GUARANTY AGREEMENT

Exhibits:

None

Schedules:

None

</TEXT>

</DOCUMENT>

FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT AND WAIVER

THIS FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT AND WAIVER (this "Amendment"), dated September 20, 2006, is entered into among COMMERCE ENERGY, INC., a California corporation ("Borrower"), COMMERCE ENERGY GROUP, INC., a Delaware corporation ("Parent"), WACHOVIA CAPITAL FINANCE CORPORATION (WESTERN), a California corporation, as Agent and Lender ("Agent"), and THE CIT GROUP/BUSINESS CREDIT, INC., a New York corporation, as co-Lender ("Co-Lender").

RECITALS

A. Borrower, Parent and Agent have previously entered into that certain Loan and Security Agreement dated June 8, 2006 (the "Loan Agreement"), pursuant to which Agent and Co-Lender, as assignee of a portion of Agent's original rights and obligations under the Loan Agreement, have made certain loans and financial accommodations available to Borrower. Terms used herein without definition shall have the meanings ascribed to them in the Loan Agreement.

B. The following Events of Default have occurred and are continuing under the Loan Agreement: (i) until July 19, 2006, Borrower failed to maintain Eligible Cash Collateral of not less than \$10,000,000 as required by Section 9.18 of the Loan Agreement; (ii) Borrower and Parent made Capital Expenditures (excluding acquisitions permitted under Section 9.10(h)) in excess of \$3,500,000 during the fiscal year ended July 31, 2006, in contravention of Section 9.19 of the Loan Agreement; and (iii) Borrower granted Pacific Summit Energy LLC a security interest in its accounts receivable owing by those customers identified in Schedule 1 attached hereto, without giving Agent the thirty (30) days prior written notice required in the last paragraph of Section 5.1 of the Loan Agreement and in contravention of Section 9.8 of the Loan Agreement (collectively, the "Known Existing Defaults").

C. Borrower has advised Agent and Co-Lender that Borrower intends to acquire certain assets of Houston Energy Services Company, L.L.C. (the "Proposed Acquisition"), as more particularly set forth in the Asset Purchase Agreement, Transition Services Agreement, Trading Book Side Letter and Operating Agreement, each dated September 20, 2006, and the other agreements referenced therein, each to be entered into by the parties thereto (collectively, the "Proposed Acquisition Documents") and substantially in the form delivered to Agent prior to the date hereof, and that Borrower intends to grant Pacific Summit Energy LLC a security interest in its accounts receivable owing by those customers whose contracts are being assigned to Borrower pursuant to the Proposed Acquisition Documents, which customers are identified in Schedule 2 attached hereto.

D. Borrower has requested that Agent and Co-Lender waive the Known Existing Defaults and amend the Loan Agreement on the terms and conditions set forth herein.

E. Borrower and Parent are entering into this Amendment with the understanding and agreement that, except as specifically provided herein, none of Agent's and Co-Lender's rights or remedies as set forth in the Loan Agreement is being waived or modified by the terms of this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Amendments to Loan Agreement.

(a) Addition to "Supplier Security Agreements". Section 1.101 of the Loan agreement is hereby amended and restated in its entirety to read as follows:

"1.101. 'Supplier Security Agreements' shall mean, collectively, the Revised Security Agreement dated October 27, 2004 between Commerce Energy and DTE Energy Trading, Inc. as originally executed, the Security Agreement dated August 1, 2005 between Commerce Energy and Tenaska Power Services Co. as amended by the First Amendment to the Security Agreement dated March 7, 2006, the Security Agreement dated April 12, 2006 between Commerce Energy and Pacific Summit Energy LLC as originally executed, and the Security Agreement dated September 20, 2006 between Commerce Energy and Pacific Summit Energy LLC as originally executed."

(b) Exclusion of New Pacific Summit Collateral from Security Interest. Section 5.1 of the Loan Agreement is hereby amended by deleting the last paragraph thereof in its entirety and replacing it with the following:

"Notwithstanding anything herein to the contrary, in no event shall the security interest granted under this Section 5.1 attach to, or shall "Collateral" include, the "Collateral" as defined in any Supplier Security Agreement (the "Supplier Collateral") if and for so long as such Supplier Security Agreement is in effect and the supplier thereunder holds a security interest in the Supplier Collateral, and if and for so long as the grant of Agent's security interest in the Supplier Collateral shall constitute or result in a breach or a default under such Supplier Security Agreement, provided, however, that, (r) with respect to the Supplier Security Agreement with DTE Energy Trading, Inc., the "RSCs" as defined therein shall not in any event include any customer that is located outside the State of Michigan and the foregoing exclusion from Agent's security interest shall not apply to the extent the "RSCs" as defined therein do include any customer that is located outside the State of Michigan, (s) with respect to the Supplier Security Agreement dated April 12, 2006 with Pacific Summit Energy LLC, an "RSC" as defined therein shall not in any event include any customer that is not an Original Permitted PSE Customer (as defined below) and the foregoing exclusion from Agent's security interest shall not apply to the extent an "RSC" as defined therein does include a customer that is not an Original Permitted PSE Customer and (t) with respect to the Supplier Security Agreement

dated September 20, 2006 with Pacific Summit Energy LLC, (i) a "Customer Term Contract" as defined therein shall not in any case include any contract that is not an "Assigned Contract" as defined in that certain Asset Purchase Agreement dated September 20, 2006 between Commerce Energy and Houston Energy Services Company, L.L.C. ("HESCO"), and (ii) an "Assigned Customer" as defined therein shall not in any event include any customer whose contract has not been assigned by HESCO to Commerce Energy pursuant to such Asset Purchase Agreement, and the foregoing exclusion from Agent's security interest shall not apply to the extent the above clauses (i) and (ii) fail to be satisfied. For the purposes of this section, "Original Permitted PSE Customer" shall mean a customer that is hereafter included as an "RSC" under and as defined in the Supplier Security Agreement dated April 12, 2006 with Pacific Summit Energy LLC, provided, that, written notice of the inclusion of such customer as such an "RSC" is given by Commerce Energy to Agent not less than thirty (30) days prior to the effectiveness of such inclusion, and provided, further, that, no Event of Default has occurred and is continuing as of the effective date of such inclusion or would result from such inclusion, and the sum of all Accounts owing by the Permitted PSE Customers shall not exceed \$5,000,000 in the aggregate outstanding at any time. To the extent any Accounts or other Receivables are excluded from Collateral pursuant to this paragraph, the provisions of Sections 6.3(a) and (c), 7.2 and 7.5 will not apply to such excluded Accounts or other Receivables."

(c) Sales Schedules. Clause (i) of Section 7.1(a) of the Loan Agreement is hereby amended by inserting the following at the end thereof:

" , which schedules shall separately and conspicuously identify any sales made, credits issued and cash received on account of Receivables excluded from Collateral pursuant to the last paragraph of Section 5.1 hereof"

(d) Accounts Receivable Agings. Clause (iii)(C) of Section 7.1(a) of the Loan Agreement is hereby amended by inserting the following at the end thereof:

" , which agings shall separately and conspicuously identify any accounts receivable excluded from Collateral pursuant to the last paragraph of Section 5.1 hereof"

(e) Disclosure of New Pacific Summit Lien. Schedule 8.4 to the Information Certificate is hereby amended by deleting the words "Supplier Security Agreement" in the fourth row of the table contained therein, which relates to Pacific Summit Energy LLC, in their entirety and replacing them with the words "Supplier Security Agreements".

(f) Disclosure of New Deposit Account. Schedule 8.10 to the Information Certificate is hereby amended by inserting a new fifth row into the table included in the section entitled "A. Part 1 - Deposit Accounts" therein with the information set forth under the headings below (which are included for ease of reference and not intended to be incorporated into such Schedule 8.10):

Name of Company	Name and Address of Bank	Account No.	Purpose
"CEI	Wachovia Bank 1525 West W.T. Harris Blvd. Charlotte, NC 28262	2000032631597	Lockbox"

(g) Clarification of Insurance Covenant. Section 9.5 of the Loan Agreement is hereby amended by inserting the word "such" after the word "All" and before the words "policies shall provide" in the fourth sentence thereof.

(h) Parent Guaranty. Section 9.9 of the Loan Agreement is hereby amended by deleting the word "and" in clause (f) thereof, deleting the period at the end of clause (g) thereof and replacing it with a semicolon and inserting thereafter the following new clause (h):

"(h) a guarantee by Parent of all or any part of the obligations of Commerce Energy under that certain Transition Services Agreement dated September 20, 2006 between Commerce Energy and Houston Energy Services Company, L.L.C."

(i) Fixed Charge Coverage Ratio. Section 9.17 of the Loan Agreement is hereby amended by inserting the following at the end thereof:

"provided, however, the foregoing covenant shall not be tested for the period ending August 31, 2006 or for the period ending September 30, 2006, but instead Borrowers shall maintain Excess Availability of not less than \$10,000,000 at all times during the period from September 20, 2006 through the date on which Agent is furnished the financial statements as required in Section 9.6(a)(i) for the month ending October 31, 2006."

2. Waivers Regarding Proposed Acquisition. Agent and Co-Lender hereby waive compliance with Sections 9.10(i)(iii), 9.10(i)(v) and 9.10(i)(vii) of the Loan Agreement, but only to the extent necessary to avoid a Default or Event of Default as a result of the Proposed Acquisition or any of the provisions of the Proposed Acquisition Documents; provided, however, that the closing of the Proposed Acquisition occurs on or prior to September 30, 2006; and provided, further, that Agent and Co-Lender reserve their rights to require the strict compliance with all of the conditions set forth in Section 9.10(i) of the Loan Agreement in connection with all other acquisitions of the type described therein.

3. Waiver of Known Existing Defaults. Each of Agent and Co-Lender hereby waives enforcement of its rights against Borrower and Parent arising from the Known Existing Defaults; provided, however, nothing herein shall be deemed a waiver with respect to any failure of Borrower or Parent to comply fully with Section 9.17 of the Loan Agreement (Fixed Charge Coverage Ratio) as it pertains to periods ending after July 31, 2006, Section 9.18 thereof (Eligible Cash Collateral) as it pertains to dates on or after June 19, 2006, Section 9.19 thereof (Capital Expenditures) as it pertains to fiscal years ending after July 31, 2006, and the notice requirement contained in the latest paragraph of Section 5.1 thereof as it pertains to any customer other than those identified in Schedule 1 attached hereto. Subject to this Amendment becoming

effective as set forth in Section 4 below, this waiver shall be deemed effective, as to each Known Existing Default, on the date of the first occurrence of such Known Existing Default. This waiver shall be effective only for the specific defaults comprising the Known Existing Defaults, and in no event shall this waiver be deemed to be a waiver of enforcement of Agent's or Co-Lender's rights with respect to any other Defaults or Events of Default now existing or hereafter arising. Nothing contained in this Amendment nor any communications between Borrower or Parent and Agent or Co-Lender shall be a waiver of any rights or remedies Agent or Co-Lender has or may have against Borrower or Parent, except as specifically provided herein. Except as specifically provided herein, Agent and Co-Lender hereby reserve and preserve all of their rights and remedies against Borrower and Parent under the Loan Agreement and the other Financing Agreements.

4. Effectiveness of this Amendment. The effectiveness of this Amendment, and the waivers provided herein, are conditioned upon the occurrence of each of the following:

(a) Amendment. Agent shall have received this Amendment, fully executed in a sufficient number of counterparts for distribution to all parties.

(b) Amendment Fee. Agent shall have received an amendment fee in the amount of Twenty Thousand Dollars (\$20,000) for the benefit of Agent and Co-Lender based upon their respective Pro Rata Shares, which fee is fully earned as of and due and payable on the date hereof.

(c) Representations and Warranties. The representations and warranties set forth herein and in the Loan Agreement shall be true and correct.

(d) Other Required Documentation. All other documents and legal matters in connection with the transactions contemplated by this Amendment shall have been delivered or executed or recorded and shall be in form and substance satisfactory to Agent.

5. Representations and Warranties. Each of Borrower and Parent represents and warrants as follows:

(a) Authority. Such party has the requisite corporate power and authority to execute and deliver this Amendment, and to perform its obligations hereunder and under the Financing Agreements (as amended or modified hereby) to which it is a party. The execution, delivery and performance by such party of this Amendment have been duly approved by all necessary corporate action and no other corporate proceedings are necessary to consummate such transactions.

(b) Enforceability. This Amendment has been duly executed and delivered such party. This Amendment and each Financing Agreement (as amended or modified hereby) is the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, and is in full force and effect.

(c) Representations and Warranties. The representations and warranties contained in each Financing Agreement (other than any such representations or warranties that, by their terms, are specifically made as of a date other than the date hereof) are correct on and as of the date hereof as though made on and as of the date hereof.

(d) Due Execution. The execution, delivery and performance of this Amendment are within the power of such party, have been duly authorized by all necessary corporate action, have received all necessary governmental approval, if any, and do not contravene any law or any material contractual restrictions binding on such party.

(e) No Default. After giving effect to the waivers contained in this Amendment, no event has occurred and is continuing that constitutes a Default or Event of Default.

6. Governing Law. The validity, interpretation and enforcement of this Amendment and any dispute arising out of the relationship between the parties hereto, whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of California but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of California.

7. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Amendment by telefacsimile or other electronic method of transmission shall have the same force and effect as the delivery of an original executed counterpart of this Amendment. Any party delivering an executed counterpart of this Amendment by telefacsimile or other electronic method of transmission shall also deliver an original executed counterpart, but the failure to do so shall not affect the validity, enforceability or binding effect of this Amendment.

8. Reference to and Effect on the Financing Agreements.

(a) Upon and after the effectiveness of this Amendment, each reference in the Loan Agreement to "this Agreement", "hereunder", "hereof" or words of like import referring to the Loan Agreement, and each reference in the other Financing Agreements to "the Loan Agreement", "thereof" or words of like import referring to the Loan Agreement, shall mean and be a reference to the Loan Agreement as modified and amended hereby.

(b) Except as specifically amended above, the Loan Agreement and all other Financing Agreements, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed and shall constitute the legal, valid, binding and enforceable obligations of Borrower or Parent (as applicable) to Agent and Co-Lender.

(c) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of Agent or Co-Lender under any of the Financing Agreements, nor constitute a waiver of any provision of any of the Financing Agreements.

(d) To the extent that any terms and conditions in any of the Financing Agreements shall contradict or be in conflict with any terms or conditions of the Loan Agreement, after giving effect to this Amendment, such terms and conditions are hereby deemed modified or amended accordingly to reflect the terms and conditions of the Loan Agreement as modified or amended hereby.

9. Estoppel. To induce Agent and Co-Lender to enter into this Amendment and to continue to make advances to Borrower under the Loan Agreement, Borrower hereby acknowledges and agrees that, as of the date hereof, there exists no right of offset, defense, counterclaim or objection in favor of Borrower as against Agent or Co-Lender with respect to the Obligations.

10. Integration. This Amendment, together with the other Financing Agreements, incorporates all negotiations of the parties hereto with respect to the subject matter hereof and is the final expression and agreement of the parties hereto with respect to the subject matter hereof.

11. Severability. In case any provision in this Amendment shall be invalid, illegal or unenforceable, such provision shall be severable from the remainder of this Amendment and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

12. Submission of Amendment. The submission of this Amendment to the parties or their agents or attorneys for review or signature does not constitute a commitment by Agent or Co-Lender to waive any of their rights and remedies under the Financing Agreements, and this Amendment shall have no binding force or effect until all of the conditions to the effectiveness of this Amendment have been satisfied as set forth herein.

IN WITNESS WHEREOF, the parties have entered into this Amendment as of the date first above written.

COMMERCE ENERGY, INC.,
a California corporation

By: /S/ STEVEN S. BOSS

Steven S. Boss
President

COMMERCE ENERGY GROUP, INC.,
a Delaware corporation

By: /S/ STEVEN S. BOSS

Steven S. Boss
Chief Executive Officer

WACHOVIA CAPITAL FINANCE CORPORATION
(WESTERN), a California corporation

By: /S/ JEFF SCOTT

Jeff Scott
Vice President

THE CIT GROUP/BUSINESS CREDIT, INC.,
a New York corporation

By: /S/ DEBRA A. PUTZER

Debra A. Putzer
Senior Vice President

SCHEDULES AND EXHIBITS OMITTED FROM
FIRST AMENDMENT TO LOAN AND SECURITY AGREEMENT AND WAIVER

Exhibits:
None

Schedules:
Schedule 1 Existing Pacific Summit Energy LLC Customers
Schedule 2 New Pacific Summit Energy LLC Customers
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Form 8-K

COMMERCE ENERGY GROUP INC - EGR

Filed: August 11, 2006 (period: August 11, 2006)

Report of unscheduled material events or corporate changes.

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Item 7.01. Regulation FD Disclosure

Item 9.01. Financial Statements and Exhibits.

SIGNATURES

EXHIBIT INDEX

EX-99.1 (EXHIBIT 99.1)

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 11, 2006

COMMERCE ENERGY GROUP, INC.

(Exact Name of registrant as specified in its charter)

**Delaware
(State or other jurisdiction of
incorporation)**

**001-32239
(Commission File Number)**

**20-0501090
(IRS Employer
Identification No.)**

**600 Anton Blvd., Suite 2000
Costa Mesa, California
(Address of principal executive offices)**

**92626
(Zip Code)**

Registrant's telephone number, including area code: (714) 259-2500

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ **Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)**
 - ☐ **Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)**
 - ☐ **Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2 (b))**
 - ☐ **Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))**
-

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Item 7.01. Regulation FD Disclosure

Item 9.01. Financial Statements and Exhibits.

SIGNATURES

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Exhibit 99.1

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Item 7.01. Regulation FD Disclosure

Attached as Exhibit 99.1 to this Current Report on Form 8-K is a slide presentation, which Commerce Energy Group, Inc. (the "Company") will present at the Southern California Investor Conference to be held in Irvine, California on August 11, 2006. The slide presentation is incorporated herein by reference.

This information under Item 7.01 in this Current Report on Form 8-K, including Exhibit 99.1 hereto, is being furnished and shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that Section. The information under Item 7.01 in this Current Report on Form 8-K will not be incorporated by reference into any registration statement or other document filed by the Company under the Securities Act of 1933, as amended, or the Exchange Act, unless specifically identified therein as being incorporated by reference. The furnishing of the information under Item 7.01 in this Current Report on Form 8-K is not intended to, and does not, constitute a determination or admission by the Company that the information under Item 7.01 in this Current Report on Form 8-K is material or complete, or that investors should consider this information before making an investment decision with respect to any security of the Company.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
99.1	Presentation to be given at the Southern California Investor Conference to be held in Irvine, California on August 11, 2006.

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SIGNATURES

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

COMMERCE ENERGY GROUP, INC.
a Delaware corporation

Date: August 11, 2006

By: /S/ STEVEN S. BOSS

Name: Steven S. Boss

Title: Chief Executive Officer

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
99.1	Presentation to be given at the Southern California Investor Conference to be held in Irvine, California on August 11, 2006.



EXHIBIT 99.1



Lawrence Clayton, Jr.
Chief Financial Officer



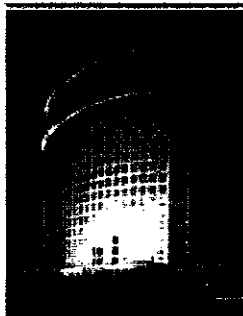
forward-looking statements



The company's presentation contains forward-looking statements within the meaning of the federal securities laws. Forward-looking statements are based upon management's belief and assumptions made by, and information currently available to, management. Our actual results could differ materially from the results anticipated in these forward-looking statements as a result of numerous factors including factors identified from time to time in our filings with the Securities and Exchange Commission. Any forward-looking statement speaks only as of the date on which such statement is made, and, except as required by law, we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement is made or to reflect the occurrence of unanticipated events. New factors emerge from time to time, and it is not possible for management to predict all such factors.



company overview



Commerce Energy Group is a public company providing retail electricity, natural gas, and other products and services to the energy marketplace.

We supply energy to homeowners and businesses, and provide technology and consulting services to utilities, governments and energy asset owners.

Headquartered in Orange County, CA. with additional offices in Houston, Dallas and Boston.



company highlights

- A leading publicly-traded non-utility affiliated retail energy provider in the U.S.
- Retail marketing operations in 9 States and 20 Markets Nationwide
- 137,000 Electricity & Natural Gas Customers
- Management team with strong energy and retail marketing experience



company highlights

Established:	1997
AMEX (EGR):	July, 2004
Fiscal Year:	July 31 st
Annual Revenue:	\$250 million
Employees:	200
Customers:	137,000 (@ 7/31/06 - est.)



financial highlights

Financial Position (April 30, 2006)

\$43 million of Total Cash & Deposits

\$63 million in Shareholders' Equity

\$50 million Line of Credit

No Debt



financial highlights

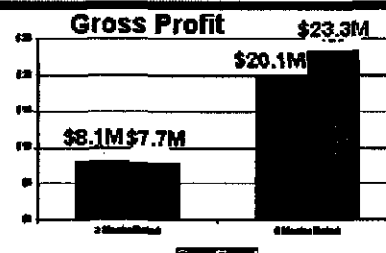
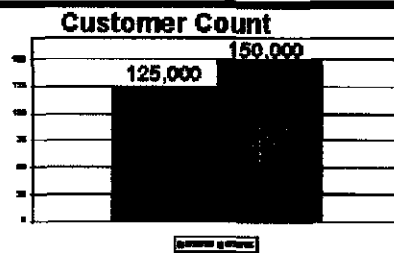
Results of Operations

	<u>Three Months Ended</u>		<u>Nine Months Ended</u>	
(\$ Thousands)	<u>4/30/06</u>	<u>4/30/05</u>	<u>4/30/06</u>	<u>4/30/05</u>
Net Revenues	\$57,755	\$68,478	\$ 194,777	\$ 188,022
Gross Profit	8,112	7,711	20,113	23,281
Operating Expenses	7,331	9,251	23,713	26,015
Net Income (Loss)	\$ 1,002	\$ (1,319)	\$ (2,890)	\$ (3,709)

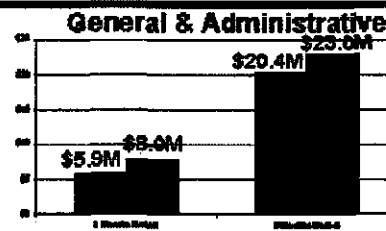
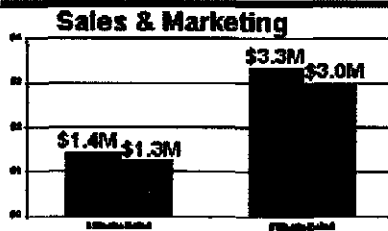


key financial drivers

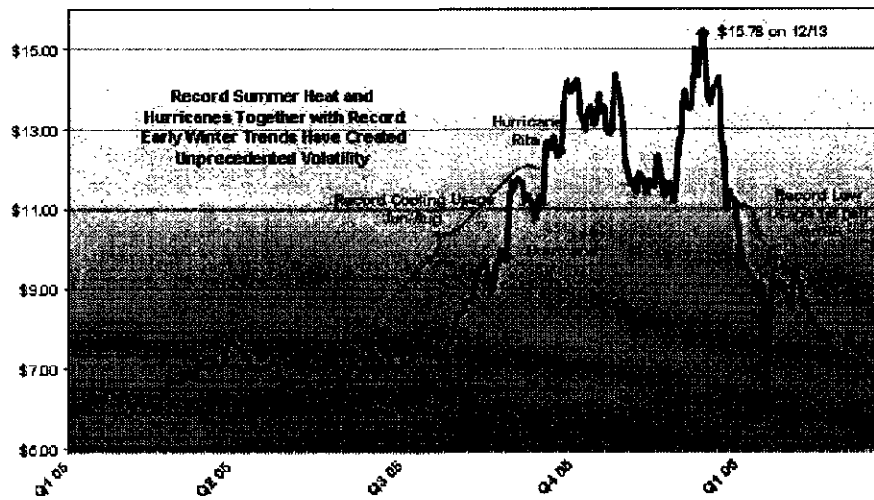
Customers & Margins



Operating Expenses

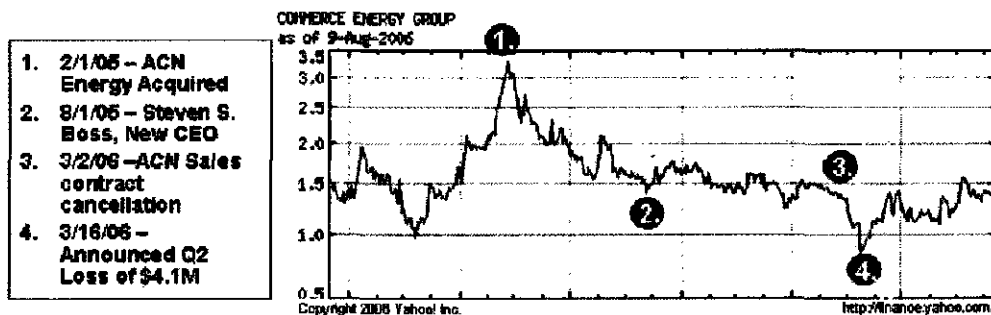


energy markets are volatile!



AMEX since July, 2004

- Large retail investor base – 2,500 shareholders
- Small Insider Ownership
- Average daily volume – 51,600 shares (12mo.)



market valuation discount

<u>Amounts as of 4/30/06</u>	<u>Cash*</u>	<u>Equity</u>
Cash & Equity (\$ in thousands)	\$ 43,110	\$ 63,111
Shares Outstanding (in thousands)	29,558	29,558

Per Share Amounts

Closing Market Price @ August 9th



* Includes Restricted and Unrestricted Cash and Deposits

focused strategy for growth

- **Organic customer growth** driven by superior customer pricing options and enhanced customer service
 - Energy prices are volatile! Fixed price value proposition
 - Promoted through various sales channels
- **Information technology** critical to market growth
 - Competitive lead on competitors
 - Fast to market; ownership of customers
- **Strategic wholesale supply partners**
- **Inorganic Acquisition of customers** through M&A
 - Leverage existing infrastructure & market footprint
 - Immediate impact on profitability





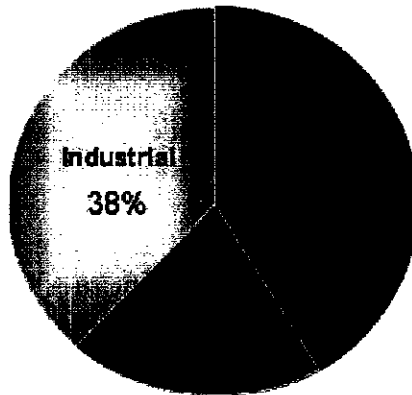
Thomas L. Ulry
Senior Vice President
Sales & Marketing



U.S. market size — \$450 billion

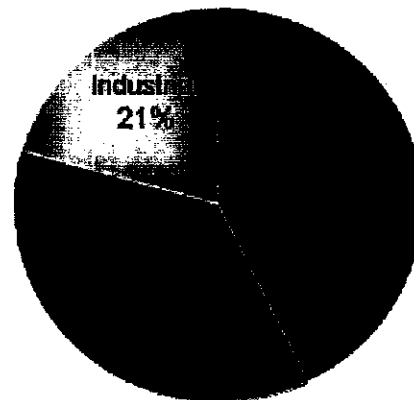


Natural Gas



1 Billion in 2006 est.

Electricity

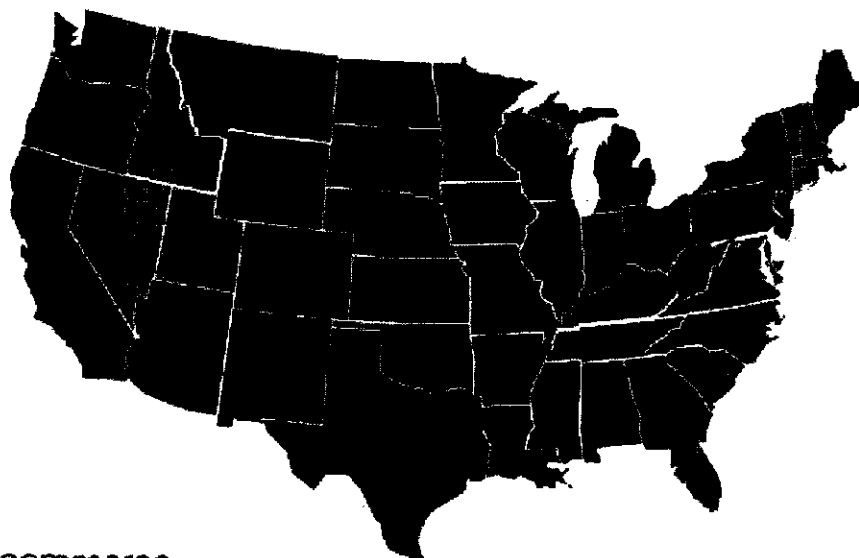


1 Billion in 2006



* DED/EIA Annual Energy Outlook 2/2005

competitive energy markets



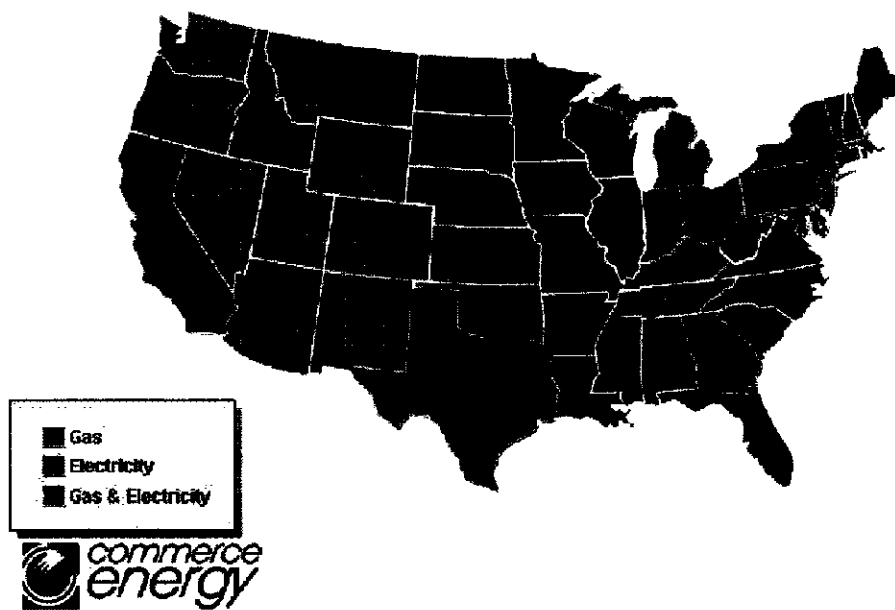
Source: Department of Energy

market presence

- 137,000 Customers; 9 States; 17 Utilities
- Significant Growth Opportunities in Existing Markets:
 - Electricity: Texas and Maryland
 - Natural gas: Georgia and Ohio
- Profit Stability In Other Existing Markets
 - Maintain presence in existing markets for future growth opportunities
 - Energy marketplace is changing daily
 - Reopening of California is huge potential for Company
- New Market Expansion: Evaluating New York



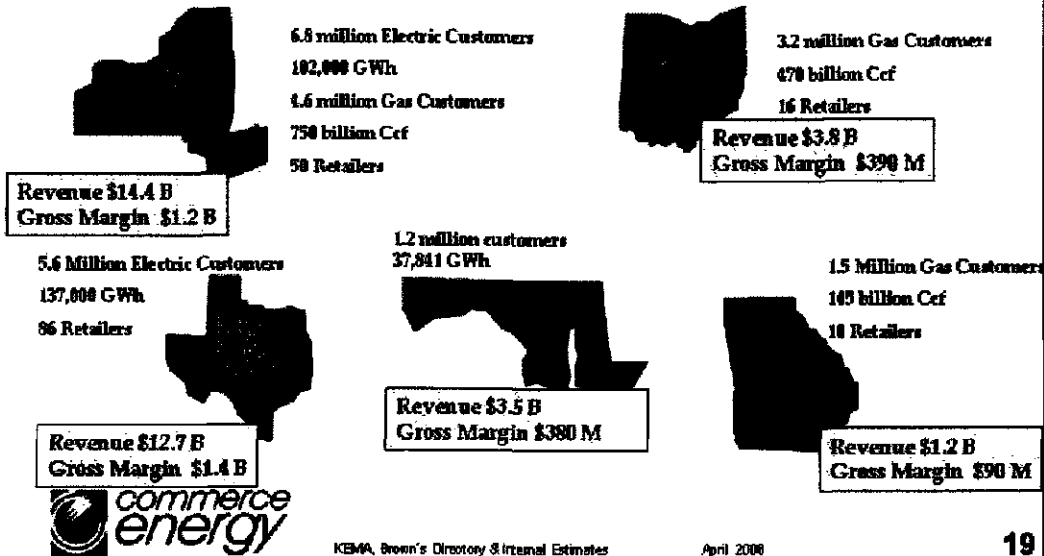
market diversification



market strategy for growth

Total Revenue \$5.4 B

Total Customers 10.4 M



KBWA, Brown's Directory & Internal Estimates

April 2006

growth potential

Market Size → Commerce "Targeted" Growth Markets

<u>Customers</u>	<u>Annual Revenues</u>	<u>Annual Gross Margin</u>
<u>18 Million</u>	<u>\$35 Billion</u>	<u>\$3.5 Billion</u>



Commerce Growth Potential → Commerce Market Share

<u>1 Million</u>	<u>\$1.8 Billion</u>	<u>\$175 Million</u>
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our retail marketing business

Valued choices for our customers

- We're in the business of helping consumers control their energy cost
 - Reseller of natural gas and electric power
 - We own no production or generation
 - Customer segmentation focus
 - Multi-location commercial & industrial business
 - Hospitality chains
 - School districts
 - Retail outlets
 - Mass markets
 - Small businesses
 - Residential consumers



our retail marketing business

Valued choices for our customers

- Energy is an essential service
 - Consumers are already buying & using energy
 - No pills, potions or lotions
- High energy cost is on the minds of most consumers
 - Consumers are looking for choices in controlling their energy costs
- We provide rate options not available from the incumbent utility
 - Fixed-rate plans are very popular during periods of high volatility
 - 95% + of our sales are fixed-rate plans



what do customers value?

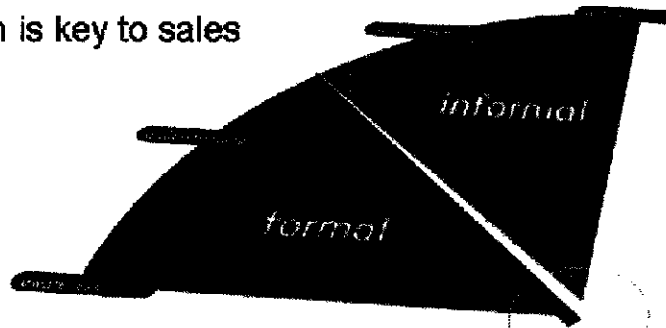
- Price – 43%
- Reliability – 19%
- Customer service – 12%
- Billing – 5%
- Advice to lower energy costs – 6%
- Financial strength – 6%
- Local office – 9%



Internal Study
Source: RKS Research & Consulting
July 2006

sales

- Heavy focus on creating brand awareness and understanding
- Consultative sale
 - Requires interaction with consumer
 - Education is key to sales



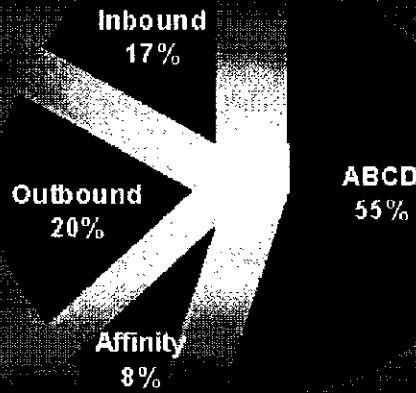
sales channels

- Commercial & Industrial Division
 - Professional direct sales team
 - Brokers & Consultants
- Mass Market Division
 - Outbound Telesales
 - Inbound Sales
 - ABCD
 - Affinity program



customer acquisition

Expected contribution from mass market channels



customer acquisition mass markets economics

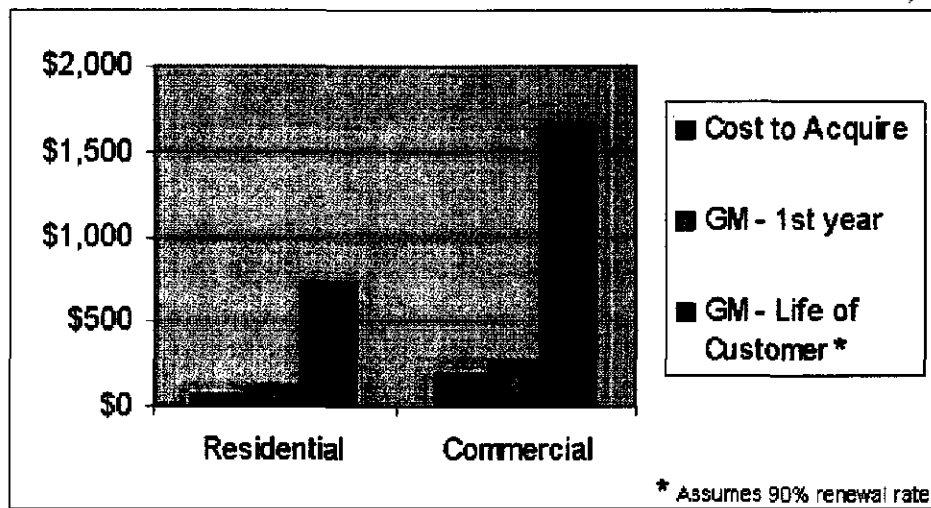
	<u>Gross Margin*</u>	<u>Cost to Acquire*</u>	<u>Payout (in Months)*</u>
Commercial	\$170 - \$320	\$100 - \$250	4 - 12
Residential	\$60 - \$220	\$20 - \$125	4 - 12

- Gross Margin varies between commodities and is dependent on location in the U.S.
- Cost to Acquire varies between our channels — figures include Advertising, Sales Salaries & Commissions, TPV and other Quality Assurance Costs
- Payout is largely dependent on the time of year the customer is acquired



**Estimated average amounts*

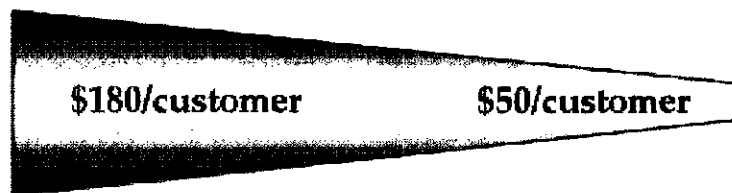
customer economics



it's all about scale!

- Increase customers and volumes quickly
- Leverage significant system capabilities
- Declining cost to serve

125,000 Customers	250,000 Customers	500,000 Customers
\$180/customer*	\$100/customer*	\$50/customer*



** For illustrative purposes only*







Form S-8

COMMERCE ENERGY GROUP INC - EGR

Filed: April 20, 2006 (period:)

Securities offered to employees pursuant to employee benefit plans

As filed with the Securities and Exchange Commission on April 20, 2006.

Registration No. 333-

UNITED STATES SECURITIES AND EXCHANGE COMMISSION**Washington, D.C. 20549****FORM S-8****REGISTRATION STATEMENT UNDER****THE SECURITIES ACT OF 1933****Commerce Energy Group, Inc.**

(Exact name of registrant as specified in its charter)

Delaware(State or other jurisdiction of
incorporation or organization)**20-0501090**

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

600 Anton Boulevard, Suite 2000**Costa Mesa, California 92626**

(Address of Principal Executive Offices) (Zip Code)

Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan**Commerce Energy Group, Inc. 2006 Stock Incentive Plan**

(Full titles of the Plans)

Lawrence Clayton, Jr.**Chief Financial Officer and Secretary****Commerce Energy Group, Inc.****600 Anton Boulevard, Suite 2000****Costa Mesa, California 92626**

(Name and Address of Agent for Service)

(714) 259-2500

(Telephone number, including area code, of agent for service)

Copies of all communications to:

John F. Della Grotta, Esq.

Paul, Hastings, Janofsky & Walker LLP

Seventeenth Floor

695 Town Center Drive

Costa Mesa, California 92626-1924

Tel: (714) 668-6200

Fax: (714) 979-1921

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered(1)	Proposed maximum offering price per share (2)	Proposed maximum aggregate offering price (2)	Amount of registration fee (2)
Common Stock, par value \$0.001 per share	3,000,000(3)	\$1.40	\$4,200,000	\$449.40
Common Stock Rights (4)	—	—	—	—
Common Stock, par value \$0.001 per share	1,453,334(5)	\$1.40	\$2,034,667.60	\$217.71
Common Stock Rights (4)	—	—	—	—

- (1) Pursuant to Rule 416 under the Securities Act of 1933, as amended, this Registration Statement also covers an indeterminate number of additional shares of the Registrant's Common Stock with respect to the shares registered hereunder in the event of a stock split, stock dividend or similar transaction.
- (2) Estimated solely for the purpose of determining the amount of the registration fee and pursuant to Rules 457(c) and 457(h) under the Securities Act of 1933, as amended, based upon the average of the high and low prices of the Common Stock on the American Stock Exchange on April 18, 2006, a date within five days prior to the date of the filing of this Registration Statement.
- (3) Represents the shares to be acquired in the open market for the account of participants in the Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan.

- (4) The Common Stock Rights are granted pursuant to the Registrant's stockholder rights plan, dated July 1, 2004. Until a triggering event thereunder, the rights trade with, and cannot be separated from, the Registrant's Common Stock and will trade with the Common Stock of the Registrant. The value, if any, attributable to the Common Stock Rights is reflected in the market price of the Common Stock of the Registrant.
 - (5) Represents 1,453,334 shares of the Registrant's Common Stock initially available for future grants under the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
-

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PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in "Item 1. Plan Information" and "Item 2. Registrant Information and Employee Plan Annual Information" of Form S-8 will be sent or given to participants of the Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan and the Commerce Energy Group, Inc. 2006 Stock Incentive Plan as specified by Rule 428(b)(1) under the Securities Act of 1933, as amended (the "Securities Act"). In accordance with the Note to Part I of Form S-8, such documents are not required to be, and are not, filed with the Securities and Exchange Commission (the "Commission") either as part of this registration statement or as a prospectus or prospectus supplement pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference in this registration statement pursuant to Item 3 of Part II of Form S-8, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents are hereby incorporated into this Registration Statement and made a part hereof by this reference:

- (a) The Registrant's Annual Report on Form 10-K for the year ended July 31, 2005 filed with the Commission on October 31, 2005;
- (b) The Registrant's Quarterly Report on Form 10-Q for the Quarter ended October 31, 2005 filed with the Commission on December 15, 2005;
- (c) The Registrant's Quarterly Report on Form 10-Q for the Quarter ended January 31, 2006 filed with the Commission on March 16, 2006;

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- (d) The Registrant's Current Reports on Form 8-K, as filed with the Commission on October 31, 2005, November 14, 2005, November 17, 2005, November 23, 2005, December 2, 2005, December 6, 2005, December 8, 2005, December 15, 2005 (the Form 8-K filed on December 15, 2005 announcing the Registrant's earnings for the Quarter ended October 31, 2005 is specifically not incorporated herein), February 1, 2006, March 2, 2006 and April 18, 2006;
- (e) The description of the Common Stock, par value \$.001 per share, of the Registrant and the common stock purchase rights, which is incorporated by reference into the Registrant's registration statement on Form 8-A, filed with the Commission on July 6, 2004, pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act").

In addition, all documents filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents with the Commission.

You may contact the Registrant to request copies of these filings as follows:

Commerce Energy Group, Inc.
Attn: Corporate Secretary
600 Anton Boulevard, Suite 2000
Costa Mesa, California 92626

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Reference is made to the Amended and Restated Certificate of Incorporation of the Registrant, the Amended and Restated Bylaws of the Registrant and Section 145 of the Delaware General Corporation Law, which, among other things, and subject to certain conditions, authorize the Registrant to indemnify, or indemnify by their terms, as the case may be, the directors and officers of the Registrant against certain liabilities and expenses incurred by such persons in connection with claims made by reason of their being such a director or officer. Pursuant to this authority, the Registrant has entered into indemnification agreements with each of its officers and directors that provide indemnification and expense advancement to the fullest extent permitted by Delaware law.

The Registrant maintains directors' and officers' insurance providing indemnification against certain liabilities for certain of the Registrant's directors and officers.

The indemnification provisions in the Registrant's Amended and Restated Bylaws and the indemnification agreements which may be entered into between the Registrant and its directors and

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officers, may be sufficiently broad to permit indemnification of the Registrant's officers and directors for liabilities arising under the Securities Act.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
4.1	Amended and Restated Certificate of Incorporation of Commerce Energy Group, Inc. (previously filed with the Commission as Exhibit 3.3 to the Registrant's Registration Statement on Form 8-A filed with the Commission on July 6, 2004 (SEC File No. 001-32239) and incorporated by reference herein).
4.2	Certificate of Designation of Series A Junior Participating Preferred Stock of Commerce Energy Group, Inc. dated July 1, 2004 (previously filed with the Commission as Exhibit 3.4 to the Registrant's Registration Statement on Form 8-A filed with the Commission on July 6, 2004 (SEC File No. 001-32239) and incorporated by reference herein).
4.3	Rights Agreement dated as of July 1, 2004 entered into between Commerce Energy Group, Inc. and Computershare Trust Company, as rights agent (previously filed with the Commission as Exhibit 10.1 to the Registrant's Registration Statement on Form 8-A filed with the Commission on July 6, 2004 (SEC File No. 001-32239) and incorporated by reference herein.
4.4	Form of Rights Certificate (previously filed with the Commission as Exhibit 10.2 to the Registrant's Registration Statement on Form 8-A filed with the Commission on July 6, 2004 (SEC File No. 001-32239) and incorporated by reference herein.
4.5	Amended and Restated Bylaws of Commerce Energy Group, Inc. (previously filed with the Commission as Exhibit 3.6 to the Registrant's Registration Statement on Form 8-A filed with the Commission July 6, 2004 (SEC File No. 001-32239) and incorporated by reference herein.
4.6	Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan (previously filed with the Commission as Exhibit 99.1 to the Registrant's Current Report on Form 8-K filed with the Commission on February 1, 2006 (SEC File No. 001-32239) and incorporated by reference herein.
4.7	Form of Subscription Agreement for the Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan.
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4.10	Form of a Stock Option Award Agreement for U.S. Employees pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.11	Form of a Non-Qualified Stock Option Agreement for Non-Employee Directors pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.12	Form of a Restricted Share Award Agreement for U.S. Employees pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.13	Form of a Restricted Share Award Agreement for Non-Employee Directors pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.14	Form of a Restricted Share Unit Award Agreement pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.15	Form of a SAR Award Agreement pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.16	Form of Performance Unit and Performance Stock Award Agreement pursuant to Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.17	Form of Deferral Election Agreement for Deferred Share Units to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
5.1	Opinion of Paul, Hastings, Janofsky & Walker LLP relating to the Shares Issued pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
23.1	Consent of Paul, Hastings, Janofsky & Walker LLP (included as part of Exhibit 5.1).
23.2	Consent of Independent Registered Public Accounting Firm, Ernst & Young LLP.
24.1	Power of Attorney (set forth on the Signature Page).

Item 9. Undertakings.

(a) The Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:
 - (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities would not exceed that which was registered) and any

deviation from the low or high end of the maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) (§230.424(b) of this chapter) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

- (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, That:

(A) Paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the registration statement is on Form S-8 (§ 239.16b of this chapter), and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) that are incorporated by reference in the registration statement; and

(B) Paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section do not apply if the registration statement is on Form S-3 (§ 239.13 of this chapter) or Form F-3 (§ 239.33 of this chapter) and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) (§ 230.424 (b) of this chapter) that is part of the registration statement.

(C) *Provided further, however,* that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is for an offering of asset-backed securities on Form S-1 (§ 239.11 of this chapter) or Form S-3 (§ 239.13 of this chapter), and the information required to be included in a post-effective amendment is provided pursuant to Item 1100(c) of Regulation AB (§ 239.1100(c)).

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) If the Registrant is a foreign private issuer, to file a post-effective amendment to the registration statement to include any financial statements required by Item 8.A of Form 20-F (17 CFR 249.220f) at the start of any delayed offering or throughout a continuous offering. Financial statements and information otherwise required by Section 10(a)(3) of the Securities Act of 1933 need not be furnished, provided that the Registrant includes in the prospectus, by means of a post-effective amendment, financial statements required pursuant to this paragraph (a)(4) and other information necessary to ensure that all other information in the prospectus is at least as current as the date of those financial statements. Notwithstanding the foregoing, with respect to registration statements on Form F-3 (§ 239.33 of this chapter), a post-effective amendment need not be filed to include financial statements and information required by Section 10(a)(3) of the Securities Act of 1933 or §210.3-19 of this chapter if such financial statements and information are contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the Form F-3.

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(5) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

(i) If the Registrant is relying on Rule 430B (§ 230.430B of this chapter):

(A) Each prospectus filed by the Registrant pursuant to Rule 424(b)(3) (§230.424(b)(3) of this chapter) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) (§ 230.424 (b)(2), (b)(5), or (b)(7) of this chapter) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415 (a)(1)(i), (vii), or (x) (§ 230.415(a)(1)(i), (vii), or (x) of this chapter) for the purpose of providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date; or

(ii) If the Registrant is subject to Rule 430C, (§ 230.430C of this chapter), each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A (§ 230.430A of this chapter), shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(6) That, for the purpose of determining liability of the Registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 424 (§ 230.424 of this chapter);

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned Registrant or used or referred to by the undersigned Registrant;

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(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Costa Mesa, State of California, on April 20, 2006.

COMMERCE ENERGY GROUP, INC.

By: /S/ STEVEN S. BOSS.

Steven S. Boss

Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Steven S. Boss and Gary J. Hessenauer and each of them singly, such person's true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for such person and in such person's name, place and stead, in any and all capacities (including such person's capacity as a director and/or officer of Commerce Energy Group, Inc.), to sign any and all amendments to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the U.S. Securities and Exchange Commission, granting unto each said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that each said attorney-in-fact and agent, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the date indicated:

Signature	Title	Date
<u>/S/ STEVEN S. BOSS</u> Steven S. Boss	Chief Executive and a Director (Principal Executive Office)	April 20, 2006
<u>/S/ LAWRENCE CLAYTON, JR.</u> Lawrence Clayton, Jr.	Chief Financial Officer and Secretary (Principal Financial Officer)	April 20, 2006
<u>/S/ KENNETH L. ROBINSON</u> KENNETH L. ROBINSON	Vice President, Corporate Controller (Principal Accounting Officer)	April 20, 2006
<u>/S/ GARY J. HESSENAUER</u> Gary J. Hessenauer	Director	April 20, 2006
<u>Charles E. Bayless</u>	Director	
<u>/S/ DENNIS R. LEIBEL</u> Dennis R. Libel	Director	April 20, 2006

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<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/S/ MARK S. JUERGENSEN</u> <u>Mark S. Juergensen</u>	Director	April 20, 2006
<u>/S/ ROBERT C. PERKINS</u> <u>Robert C. Perkins</u>	Director	April 20, 2006

Exhibit Index

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4.3	Rights Agreement dated as of July 1, 2004 entered into between Commerce Energy Group, Inc. and Computershare Trust Company, as rights agent (previously filed with the Commission as Exhibit 10.1 to the Registrant's Registration Statement on Form 8-A filed with the Commission on July 6, 2004 (SEC File No. 001- 32239) and incorporated by reference herein.
4.4	Form of Rights Certificate (previously filed with the Commission as Exhibit 10.2 to the Registrant's Registration Statement on Form 8-A filed with the Commission on July 6, 2004 (SEC File No. 001- 32239) and incorporated by reference herein.
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4.10	Form of a Stock Option Award Agreement for U.S. Employees pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.11	Form of a Non-Qualified Stock Option Agreement for Non-Employee Directors pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.12	Form of a Restricted Share Award Agreement for U.S. Employees pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.13	Form of a Restricted Share Award Agreement for Non-Employee Directors pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.14	Form of a Restricted Share Unit Award Agreement pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.15	Form of a SAR Award Agreement pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
4.16	Form of Performance Unit and Performance Stock Award Agreement pursuant to Commerce Energy Group, Inc. 2006 Stock Incentive Plan.

- 4.17 Form of Deferral Election Agreement for Deferred Share Units to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
- 5.1 Opinion of Paul, Hastings, Janofsky & Walker LLP relating to the Shares Issued pursuant to the Commerce Energy Group, Inc. 2006 Stock Incentive Plan.
- 23.1 Consent of Paul, Hastings, Janofsky & Walker LLP (included as part of Exhibit 5.1).
- 23.2 Consent of Independent Registered Public Accounting Firm, Ernst & Young LLP.
- 24.1 Power of Attorney (set forth on the Signature Page).

COMMERCE ENERGY GROUP, INC.
AMENDED AND RESTATED
2005 EMPLOYEE STOCK PURCHASE PLAN
SUBSCRIPTION AGREEMENT

Reason for Agreement:

_____ Original Application: for the Offering Date of _____ I, _____ (must be a date at least five days after the date of this election).

_____ Change in Payroll Deduction Rate

_____ Change of Beneficiary(ies)

1. I, _____ hereby elect to participate in the Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan (the "ESPP"), and hereby subscribe to purchase Common Shares of the Company in accordance with this Subscription Agreement and the ESPP. Terms in this Subscription Agreement that begin with initial capital letters have the specially-defined meanings that are either set forth herein or in the ESPP (unless the context clearly indicates a different meaning).

2. Subject to the ESPP's terms and conditions and those below, I hereby authorize payroll deductions from each paycheck in the amount of _____ of my Compensation on each payday (not to be less than 1% or \$25, if greater, and not to exceed the lesser of 10 % and \$1,000) during the Purchase Period. (Please note that no fractional percentages are permitted.)

3. I understand that said payroll deductions shall be accumulated for the purchase of Common Shares at the applicable Purchase Price determined in accordance with the ESPP. I understand that if I do not withdraw from an Purchase Period, any accumulated payroll deductions will be used to automatically exercise my option.

4. I have received a copy of the complete "Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan." I understand that my participation in the ESPP is in all respects subject to the terms of the Plan. I understand that the grant of the option by the Company under this Subscription Agreement may be subject to obtaining stockholder approval of the ESPP.

5. Shares purchased for me under the ESPP should be issued only in my name (or, if this space _____ is checked, in the name(s) of me and my spouse, whose name is _____).

6. I understand that if I dispose of any shares received by me pursuant to the Plan within two years after the Enrollment Date (the first day of the Purchase Period during which I purchased such shares), I will be treated for Federal income tax purposes as having received ordinary income at the time of such disposition in an amount equal to the excess of the fair market value of the shares at the time such shares were purchased by me over the price which I paid for the shares.

I HEREBY AGREE TO NOTIFY THE COMPANY IN WRITING WITHIN 30 DAYS AFTER THE DATE OF ANY DISPOSITION OF SHARES AND I WILL MAKE ADEQUATE PROVISION FOR FEDERAL, STATE OR OTHER TAX WITHHOLDING OBLIGATIONS, IF ANY, WHICH ARISE UPON THE DISPOSITION OF THE COMMON STOCK.

The Company may, but will not be obligated to, withhold from my compensation the amount necessary to meet any applicable withholding obligation including any withholding necessary to make available to the Company any tax deductions or benefits attributable to sale or early disposition of Common Shares by me. If I dispose of such shares at any time after the expiration of the 2-year holding period, I understand that I will be treated for Federal income tax purposes as having received income only at the time of such disposition, and that such income will be taxed as ordinary income only to the extent of an amount equal to the lesser of (1) the excess of the fair market value of the shares at the time of such disposition over the purchase price which I paid for the shares, or (2) 10% of the fair market value of the shares on the last day of the Purchase Period. The remainder of the gain, if any, recognized on such disposition will be taxed as capital gain.

I UNDERSTAND THAT NOTHING IN THIS AGREEMENT CONSTITUTES TAX ADVICE, AND I ACKNOWLEDGE THAT THE COMPANY HAS ENCOURAGED ME TO CONSULT MY OWN TAX ADVISOR WITH REGARD TO THE TAX CONSEQUENCES OF PARTICIPATING IN THE AMENDED AND RESTATED 2005 EMPLOYEE STOCK PURCHASE PLAN.

7. In the event of my death, I hereby designate the following as my beneficiary(ies) to receive all payments and Shares due me under the ESPP:

PRIMARY BENEFICIARY:

(First) (Middle) (Last)

Relationship

(Address)

SECONDARY BENEFICIARY:

(First) (Middle) (Last)

Relationship

(Address)

8. I hereby agree to be bound by the terms of the ESPP, as modified by this Subscription Agreement. The effectiveness of this Subscription Agreement is dependent upon my eligibility to participate in the ESPP.

I UNDERSTAND THAT THIS SUBSCRIPTION AGREEMENT SHALL REMAIN IN EFFECT THROUGHOUT SUCCESSIVE PURCHASE PERIODS UNLESS TERMINATED BY ME, AND I HEREBY CONFIRM THAT THE FOLLOWING INFORMATION IS TRUE AND CORRECT.

Employee's Social
Security Number:

Employee's Address:

Dated: _____

Signature of Employee

Dated: _____

Spouse's Signature
(If beneficiary other than spouse)

COMMERCE ENERGY GROUP, INC.
AMENDED AND RESTATED
2005 EMPLOYEE STOCK PURCHASE PLAN
NOTICE OF WITHDRAWAL

I, the undersigned participant the Commerce Energy Group, Inc. Amended and Restated 2005 Employee Stock Purchase Plan (the "ESPP"), hereby notify Commerce Energy Group, Inc. (the "Company") that I hereby withdraw from the participation in the ESPP for the purchase period which began on _____, 20____ (the "Enrollment Date"). I hereby direct the Company to pay to me, as promptly as practicable, all the payroll deductions credited to my account with respect to such Purchase Period. I understand and agree that my purchase option for such Purchase Period will be automatically terminated.

I understand further that no further payroll deductions will be made for the purchase of shares in the current Purchase Period, and that I shall be eligible to participate in succeeding Purchase Periods only by delivering to the Company a new Subscription Agreement for a future Purchase Period beginning after the date of this withdrawal but only once for re-commencing participation within the same calendar year.

Name and Address of Participant:

Signature:

Date: _____

COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Stock Option Award Agreement
(for U.S. Employees)

Award No. _____

You (the "Participant") are hereby awarded the following stock option (the "Option") to purchase Shares of Commerce Energy Group, Inc. (the "Company"), subject to the terms and conditions set forth in this Stock Option Award Agreement (the "Award Agreement") and in the Commerce Energy Group, Inc. 2006 Stock Incentive Plan (the "Plan"), which is attached hereto as Exhibit A. A summary of the Plan appears in its Prospectus, which is attached as Exhibit B. You should carefully review these documents, and consult with your personal financial advisor, before exercising this Option.

By executing this Award Agreement, you agree to be bound by all of the Plan's terms and conditions as if they had been set out verbatim in this Award Agreement. In addition, you recognize and agree that all determinations, interpretations, or other actions respecting the Plan and this Award Agreement will be made by the Board of Directors (the "Board") of Commerce Energy Group, Inc. (the "Company") or any Committee appointed by the Board to administer the Plan, and shall (in the absence of manifest bad faith or fraud) be final, conclusive and binding on all parties, including you and your heirs and representatives. Capitalized terms are defined in the Plan or in this Award Agreement.

1. Variable Terms. This Option shall have, and be interpreted according to, the following terms, subject to the provisions of the Plan in all instances:

Name of Participant: _____

Type of Stock Option:

☐ Incentive Stock Option (ISO)¹

☐ Non-Incentive Stock Option²

Number of Shares subject to Option: _____

Option Exercise Price per Share: _____

Grant Date: _____

Reverse Vesting (per Plan Section):

☐ Allowed in accordance with Section 6 of the Plan.

☐ Not allowed.

¹ If an ISO is awarded to a person owning more than 10% of the voting power of all classes of stock of the Company or of any Subsidiary, then the term of the Option cannot exceed 5 years and the exercise price must be at least 110% of the Fair Market Value (100% for any other employee who is receiving ISO awards).

² The exercise price of a non-ISO must be at least 100% of the Fair Market Value.

2. Vesting Schedule: (Establishes the Participant's rights to exercise this Option with respect to the Number of Shares stated above, subject to acceleration per Section 2 below and to any shareholder approval requirement set forth in the Plan.)

- ☐ ___% on Grant Date.
- ☐ ___% on each of the first __ (#) annual (___ quarterly/___ monthly) anniversary dates of the Participant's Continuous Service after the Grant Date.

Lifetime Transfer: ☐ Allowed pursuant to Section 9 below only for Non-Incentive Stock Option.

Expiration Date: ☒ 6 years (1-9) after Grant Date; or

☐ 10 years after Grant Date

3. Accelerated Vesting; Change in Corporate Control. To the extent you have not previously vested in your rights with respect to this Award, your Award will become –

- ☐ ___% vested if your Continuous Service ends due to your death or "disability" within the meaning of Section 409A of the Code;
- ☐ ___% vested if your Continuous Service ends due to your retirement at or after you have attained the age of ___ and completed at least ___ full years of Continuous Service;
- ☐ according to the following schedule if your Continuous Service ends due to an Involuntary Termination that occurs within the one year period following a Change in Control:

Date on which Your Involuntary Termination
Occurs (by reference to Date of Award)

Portion of Your Award
As to which Vesting Accelerates

Before 1st Anniversary

0%

Between 1st and 2nd Anniversary

___%

After 2nd Anniversary

___%

<Other desired schedule>

4. Term of Option. The term of the Option will expire at 5:00 p.m. (P.D.T. or P.S.T., as applicable) on the Expiration Date.

5. Manner of Exercise. The Option shall be exercised in the manner set forth in the Plan, using the exercise form attached hereto as Exhibit C. The amount of Shares for which the Option may be exercised is cumulative; that is, if you fail to exercise the Option for all of the Shares vested under the Option during any period set forth above, then any Shares subject to the Option that are not exercised during such period may be exercised during any subsequent period, until the expiration or

Commerce Energy Group, Inc.
2006 Stock Incentive Plan
Option Award Agreement for Employees
Page 3

termination of the Option pursuant to Sections 2 and 7 of this Award Agreement and the terms of the Plan. Fractional Shares may not be purchased.

6. Special ISO Provisions. If designated as an ISO, this Option shall be treated as an ISO to the extent allowable under Section 422 of the Code, and shall otherwise be treated as a Non-ISO. If you sell or otherwise dispose of Shares acquired upon the exercise of an ISO within 1 year from the date such Shares were acquired or 2 years from the Grant Date, you agree to deliver a written report to the Company within 10 days following the sale or other disposition of such Shares detailing the net proceeds of such sale or disposition.

7. Termination of Continuous Service. If your Continuous Service with the Company and/or its Affiliates (the "Company Group") is terminated for any reason, this Option shall terminate on the date on which you cease to have any right to exercise the Option pursuant to the terms and conditions set forth in Section 6 of the Plan.

[8. Long-term Consideration for Award. <Optional.> The Participant recognizes and agrees that the Company's key consideration in granting this Award is securing the long-term commitment of the Participant to serve as [a key employee of the Company][a key employee of an Affiliate of the Company][an officer of the Company][an officer of an Affiliate of the Company] who will advance and promote the business interests and objectives of the Company Group. Accordingly, the Participant agrees that this Award shall be subject to the terms and conditions set forth in Section 25 of the Plan (relating to the termination, rescission and recapture if you violate certain commitments made therein to the Company Group), as well as to the following terms and conditions as material and indivisible consideration for this Award:

(a) **Fiduciary Duty.** During his or her employment with the Company Group the Participant shall devote his or her full energies, abilities, attention and business time to the performance of his or her job responsibilities and shall not engage in any activity which conflicts or interferes with, or in any way compromises, his or her performance of such responsibilities.

(b) **Confidential Information.** The Participant recognizes that by virtue of his or her employment with the Company Group, he or she will be granted otherwise prohibited access to confidential information and proprietary data which are not known, and not readily accessible to the competitors of the Company Group. This information (the "Confidential Information") includes, but is not limited to, current and prospective customers; the identity of key contacts at such customers; customers' particularized preferences and needs; marketing strategies and plans; financial data; personnel data; compensation data; proprietary procedures and processes; and other unique and specialized practices, programs and plans of the Company Group and their respective customers and prospective customers. The Participant recognizes that this Confidential Information constitutes a valuable property of the Company Group, developed over a significant period of time and at substantial expense. Accordingly, the Participant agrees that he or she shall not, at any time during or after his or her employment with the Company Group, divulge such Confidential Information or make use of it for his or her own purposes or the purposes of any person or entity other than the Company Group.

(c) Non-Solicitation of Customers. The Participant recognizes that by virtue of his or her employment with the Company Group he or she will be introduced to and involved in the solicitation and servicing of existing customers of the Company Group and new customers obtained by the Company Group during his or her employment. The Participant understands and agrees that all efforts expended in soliciting and servicing such customers shall be for the permanent benefit of the Company Group. The Participant further agrees that during his or her employment with the Company Group the Participant will not engage in any conduct which could in any way jeopardize or disturb any of the customer relationships of the Company Group. The Participant also recognizes the legitimate interest of the Company Group in protecting, for a reasonable period of time after his or her employment with the Company Group, the customers of the Company Group. Accordingly, the Participant agrees that, for a period beginning on the date hereof and ending one (1) year after termination of Participant's employment with the Company Group, regardless of the reason for such termination, the Participant shall not, directly or indirectly, without the prior written consent of the Chief Executive Officer of the Company, market, offer, sell or otherwise furnish any products or services similar to, or otherwise competitive with, those offered by the Company Group to any customer of the Company Group.

(d) Non-Solicitation of Employees. The Participant recognizes the substantial expenditure of time and effort which the Company Group devotes to the recruitment, hiring, orientation, training and retention of its employees. Accordingly, the Participant agrees that, for a period beginning on the date hereof and ending two (2) years after termination of Participant's employment with the Company Group, regardless of the reason for such termination, the Participant shall not, directly or indirectly, for himself or herself or on behalf of any other person or entity, solicit, offer employment to, hire or otherwise retain the services of any employee of the Company Group. **<ADDITIONAL ALTERNATIVE: NON-COMPETITION REQUIREMENT, TAILORED CAREFULLY TO CONFORM WITH APPLICABLE LAW. >**

(e) Survival of Commitments; Potential Recapture of Award and Proceeds. The Participant acknowledges and agrees that the terms and conditions of this Section regarding confidentiality and non-solicitation **[and non-competition]** shall survive both (i) the termination of Participant's employment with the Company Group for any reason, and (ii) the termination of the Plan, for any reason. The Participant acknowledges and agrees that the grant of Options in this Award Agreement is just and adequate consideration for the survival of the restrictions set forth herein, and that the Company Group may pursue any or all of the following remedies if the Participant either violates the terms of this Section or succeeds for any reason in invalidating any part of it (it being understood that the invalidity of any term hereof would result in a failure of consideration for the Award):

- (i) declaration that the Award is null and void and of no further force or effect;
 - (ii) recapture of any cash paid or Shares issued to the Participant, or any designee or beneficiary of the Participant, pursuant to the Award;
 - (iii) recapture of the proceeds, plus reasonable interest, with respect to any Shares that are both issued pursuant to this Award and sold or otherwise disposed of by the Participant, or any designee or beneficiary of the Participant.
-

The remedies provided above are not intended to be exclusive, and the Company Group may seek such other remedies as are provided by law, including equitable relief.

(f) **Acknowledgement.** The Participant acknowledges and agrees that his or her adherence to the foregoing requirements will not prevent him or her from engaging in his or her chosen occupation and earning a satisfactory livelihood following the termination of his or her employment with the Company Group.]

9. Designation of Beneficiary. Notwithstanding anything to the contrary contained herein or in the Plan, following the execution of this Award Agreement, you may expressly designate a beneficiary (the "Beneficiary") to his or her interest in the Option awarded hereby. You shall designate the Beneficiary by completing and executing a designation of beneficiary agreement substantially in the form attached hereto as Exhibit D (the "Designation of Beneficiary") and delivering an executed copy of the Designation of Beneficiary to the Company.

10. Restrictions on Transfer. This Award Agreement may not be sold, pledged, or otherwise transferred without the prior written consent of the Committee. Notwithstanding the foregoing, the Participant may transfer this Option if allowed under Section 1 for a Non-Incentive Stock Option (i) by instrument to an inter vivos or testamentary trust (or other entity) in which each beneficiary is a permissible gift recipient, as such is set forth in subsection (ii) of this Section, or (ii) by gift to charitable institutions or by gift or transfer for consideration to any of the following relatives of the Participant (or to an inter vivos trust, testamentary trust or other entity primarily for the benefit of the following relatives of the Participant): any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships. Any transferee of the Participant's rights shall succeed and be subject to all of the terms of this Award Agreement and the Plan.

11. Taxes. By signing this Award Agreement, you acknowledge that you shall be solely responsible for the satisfaction of any taxes that may arise (including taxes arising under Sections 409A or 4999 of the Code), and that neither the Company Group nor the Administrator shall have any obligation whatsoever to pay such taxes. Notwithstanding anything to the contrary herein, upon exercise of an Option, certificates for Shares shall not be delivered to you unless you have made arrangements satisfactory to the Committee to satisfy tax-withholding obligations.

12. Notices. Any notice or communication required or permitted by any provision of this Award Agreement to be given to you shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested, addressed to you at the last address that the Company had for you on its records. Each party may, from time to time, by notice to the other party hereto, specify a new address for delivery of notices relating to this Award Agreement. Any such notice shall be deemed to be given as of the date such notice is personally delivered or properly mailed.

13. Binding Effect. Except as otherwise provided in this Award Agreement or in the Plan, every covenant, term and provision of this Award Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

14. Modifications. This Award Agreement may be modified or amended at any time, in accordance with Section 15 of the Plan and provided that you must consent in writing to any modification that adversely alters or impairs any rights or obligations under this Award Agreement.

15. Headings. Section and other headings contained in this Award Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Award Agreement or any provision hereof.

16. Severability. Every provision of this Award Agreement and of the Plan is intended to be severable. If any term hereof is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity or legality of the remaining terms of this Award Agreement.

17. Counterparts. This Award Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

18. Plan Governs. By signing this Award Agreement, you acknowledge that you have received a copy of the Plan and that your Award Agreement is subject to all the provisions contained in the Plan, the provisions of which are made a part of this Award Agreement and your Award is subject to all interpretations, amendments, rules and regulations which from time to time may be promulgated and adopted pursuant to the Plan. In the event of a conflict between the provisions of this Award Agreement and those of the Plan, the provisions of the Plan shall control.

19. Governing Law. The laws of the State of Delaware shall govern the validity of this Award Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

20. Not a Contract of Employment. By executing this Award Agreement you acknowledge and agree that (i) any person who is terminated before full vesting of an award, such as the one granted to you by this Award Agreement, could claim that he or she was terminated to preclude vesting; (ii) you promise never to make such a claim; (iii) nothing in this Award Agreement or the Plan confers on you any right to continue an employment, service or consulting relationship with the Company Group, nor shall it affect in any way your right or the right of the Company Group, as applicable, to terminate your employment, service, or consulting relationship at any time, with or without Cause; and (iv) the Company would not have granted this Award to you but for these acknowledgements and agreements.

21. Employment Agreement Provision [OPTION IF EMPLOYEE HAS AN EMPLOYMENT AGREEMENT] By executing this Award, you acknowledge and agree that your rights upon a termination of employment before full vesting of this Award will be determined under Section ____ of your employment agreement with the Company and _____, dated as of _____, 20____.

22. Investment Purposes. You acknowledge that you are receiving your Options for investment purposes only and without any present intention of selling or distributing the Options or the Shares underlying such Options.

BY YOUR SIGNATURE BELOW, along with the signature of the Company's representative, you and the Company agree that the Option is awarded under and governed by the terms and conditions of this Award Agreement and the Plan.

COMMERCE ENERGY GROUP, INC.

By: _____
Name:
Title:

PARTICIPANT

The undersigned Participant hereby accepts the terms of this Award Agreement and the Plan.

By: _____
Name of Participant:

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Document**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Prospectus**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Form of Exercise of Stock Option Award Agreement

Commerce Energy Group, Inc.
Attention: 2006 Stock Incentive Plan Committee
600 Anton Boulevard
Costa Mesa, California 92626

Dear Sir or Madam:

The undersigned elects to exercise his/her Incentive Stock Option to purchase ___ shares of Common Stock of Commerce Energy Group, Inc. (the "Company") under and pursuant to a Stock Option Agreement dated as of _____.

1. ☐ Delivered herewith is a certified or bank cashier's or teller's check and/or shares of Common Stock held by the undersigned for at least six months*, valued at the closing sale price of the stock on the business day prior to the date of exercise, as follows:

\$ _____ in cash or check
\$ _____ in the form of ___ shares of Common Stock,
valued at \$ _____ per share
\$ _____ **Total**

2. ☐ Delivered herewith are irrevocable instructions to a broker approved by the Company to deliver promptly to the Company the amount of sale or loan proceeds to pay the exercise price.**

If method 1 is chosen, the name or names to be on the stock certificate or certificates and the address and Social Security Number of such person(s) is as follows:

Name: _____

Address: _____

Social Security Number _____

Very truly yours,

Date

Optionee

* The Committee may waive the six months' requirement in its discretion.

** The Committee must approve this method in writing before your election

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Designation of Beneficiary

In connection with Award Agreements between Commerce Energy Group, Inc. (the "Company") and _____, an individual residing at _____ (the "Recipient"), the Recipient hereby designates the person specified below as the beneficiary of the Recipient's interest in Awards as defined in the Company's 2006 Stock Incentive Plan (the "Plan"). This designation shall remain in effect until revoked in writing by the Recipient.

Name of Beneficiary: _____

Address: _____

Social Security No.: _____

This beneficiary designation relates to any and all of Recipient's rights under the following Award or Awards:

- ☐ any Award that Recipient has received under the Plan.
- ☐ the _____ Award that Recipient received pursuant to an award agreement dated _____, between Recipient and the Company.

The Recipient understands that this designation operates to entitle the above-named beneficiary to the rights conferred by an Award from the date this form is delivered to the Company until such date as this designation is revoked in writing by the Recipient, including by delivery to the Company of a written designation of beneficiary executed by the Recipient on a later date.

Date: _____

By: _____
[Recipient Name]

Sworn to before me this _____ day of _____, 200__

Notary Public
County of _____
State of _____

COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Non-Qualified Stock Option Award Agreement
(for Non-Employee Directors)

Award No. _____

You (the "Participant") are hereby awarded the following stock option (the "Option") to purchase Shares of Commerce Energy Group, Inc. (the "Company"), subject to the terms and conditions set forth in this Non-Qualified Stock Option Award Agreement (the "Award Agreement") and in the Commerce Energy Group, Inc. 2006 Stock Incentive Plan (the "Plan"), which is attached hereto as Exhibit A. A summary of the Plan appears in its Prospectus, which is attached as Exhibit B. You should carefully review these documents, and consult with your personal financial advisor, before exercising this Option.

By executing this Award Agreement, you agree to be bound by all of the Plan's terms and conditions as if they had been set out verbatim in this Award Agreement. In addition, you recognize and agree that all determinations, interpretations, or other actions respecting the Plan and this Award Agreement will be made by the Board of Directors (the "Board") of Commerce Energy Group, Inc. (the "Company") and shall (in the absence of manifest bad faith or fraud) be final, conclusive and binding on all parties, including you and your successors in interest. Capitalized terms are defined in the Plan or in this Award Agreement.

1. Variable Terms. This Option shall have, and be interpreted according to, the following terms, subject to the provisions of the Plan in all instances:

Name of Participant:

Type of Stock Option:

Non-Qualified Stock Option

Number of Shares subject to Option:

Option Exercise Price per Share¹:

Grant Date:

Reverse Vesting (per Plan Section):

☐ Allowed in accordance with Section 6 of the Plan.
☐ Not allowed.

¹ The exercise price of a non-qualified stock option must be at least 100% of the Fair Market Value, and shall be the greater of the Fair Market Value or the cash value of the Company's common stock on the date of grant.

2. Vesting Schedule: *(Establishes the Participant's rights to exercise this Option with respect to the Number of Shares stated above, subject to acceleration per Section 2 below and to any shareholder approval requirement set forth in the Plan.)*

- ☐ _____ Number of Shares on Grant Date.
- ☐ _____ Number of Shares shall vest quarterly on each three month anniversary of the Grant Date.

Lifetime Transfer: ☐ Allowed pursuant to Section 9 below only for Non-Qualified Stock Option.

Expiration Date: ☒ 6 years (1-9) after Grant Date; or

☐ 10 years after Grant Date

3. Term of Option. The term of the Option will expire at 5:00 p.m. (P.D.T. or P.S.T., as applicable) on the Expiration Date.

4. Manner of Exercise. The Option shall be exercised in the manner set forth in the Plan, using the exercise form attached hereto as Exhibit C. The amount of Shares for which the Option may be exercised is cumulative; that is, if you fail to exercise the Option for all of the Shares vested under the Option during any period set forth above, then any Shares subject to the Option that are not exercised during such period may be exercised during any subsequent period, until the expiration or termination of the Option pursuant to Sections 2 and 5 of this Award Agreement and the terms of the Plan. Fractional Shares may not be purchased.

5. Termination of Continuous Service. If your Continuous Service with the Company is terminated, any unvested portion of this Award shall be automatically forfeited. You may exercise any vested portion of this Award at any time during your Continuous Service or following a termination of Continuous Service prior to the Expiration Date.

6. Termination, Rescission and Recapture. Notwithstanding any other provision of the Plan or this Award Agreement, the provisions set forth in Section 25 of the Plan shall not apply to this Award Agreement.

7. Designation of Beneficiary. Notwithstanding anything to the contrary contained herein or in the Plan, following the execution of this Award Agreement, you may expressly designate a beneficiary (the "Beneficiary") to his or her interest in the Option awarded hereby. You shall designate the Beneficiary by completing and executing a designation of beneficiary agreement substantially in the form attached hereto as Exhibit D (the "Designation of Beneficiary") and delivering an executed copy of the Designation of Beneficiary to the Company.

8. Restrictions on Transfer. This Award Agreement may not be sold, pledged, or otherwise transferred without the prior written consent of the Committee. Notwithstanding the foregoing, the

Commerce Energy Group, Inc.
2006 Stock Incentive Plan
Stock Option Award Agreement (for Non-Employee Directors)
Page 3

Participant may transfer this Option if allowed under Section 1 for a Non-Qualified Stock Option (i) by instrument to an inter vivos or testamentary trust (or other entity) in which each beneficiary is a permissible gift recipient, as such is set forth in subsection (ii) of this Section, or (ii) by gift to charitable institutions or by gift or transfer for consideration to any of the following relatives of the Participant (or to an inter vivos trust, testamentary trust or other entity primarily for the benefit of the following relatives of the Participant): any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships. Any transferee of the Participant's rights shall succeed and be subject to all of the terms of this Award Agreement and the Plan.

9. Taxes. By signing this Award Agreement, you acknowledge that you shall be solely responsible for the satisfaction of any taxes that may arise (including taxes arising under Sections 409A or 4999 of the Code), and that neither the Company nor the Administrator shall have any obligation whatsoever to pay such taxes.

10. Notices. Any notice or communication required or permitted by any provision of this Award Agreement to be given to you shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested, addressed to you at the last address that the Company had for you on its records. Each party may, from time to time, by notice to the other party hereto, specify a new address for delivery of notices relating to this Award Agreement. Any such notice shall be deemed to be given as of the date such notice is personally delivered or properly mailed.

11. Binding Effect. Except as otherwise provided in this Award Agreement or in the Plan, every covenant, term, and provision of this Award Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

12. Modifications. This Award Agreement may be modified or amended at any time in accordance with Section 15 of the Plan, provided that you must consent in writing to any modification that adversely alters or impairs any rights or obligations under this Award Agreement.

13. Headings. Section and other headings contained in this Award Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Award Agreement or any provision hereof.

14. Severability. Every provision of this Award Agreement and of the Plan is intended to be severable. If any term hereof is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity or legality of the remaining terms of this Award Agreement.

15. Counterparts. This Award Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

16. Plan Governs. By signing this Award Agreement, you acknowledge that you have received a copy of the Plan and that your Award Agreement is subject to all the provisions contained in the Plan, the provisions of which are made a part of this Award Agreement and your Award is subject to all interpretations, amendments, rules and regulations which from time to time may be promulgated and adopted pursuant to the Plan. In the event of a conflict between the provisions of this Award Agreement and those of the Plan, the provisions of the Plan shall control.

17. Governing Law. The laws of the State of Delaware shall govern the validity of this Award Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

18. Investment Purposes. You acknowledge that you are acquiring your Options for investment purposes only and without any present intention of selling or distributing them.

BY YOUR SIGNATURE BELOW, along with the signature of the Company's representative, you and the Company agree that the Option is awarded under and governed by the terms and conditions of this Award Agreement and the Plan.

COMMERCE ENERGY GROUP, INC.

By: _____
Name:
Title:

PARTICIPANT

The undersigned Participant hereby accepts the terms of this Award Agreement and the Plan.

By: _____
Name of
Participant: _____

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Document**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Plan Prospectus

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Form of Exercise of Stock Option Award Agreement

Commerce Energy Group, Inc.
2006 Stock Incentive Plan Committee
600 Anton Boulevard
Costa Mesa, California 92626

Dear Sir or Madam:

The undersigned elects to exercise his/her Non-Qualified Stock Option to purchase _____ shares of Common Stock of Commerce Energy Group, Inc. (the "Company") under and pursuant to a Stock Option Award Agreement dated as of _____.

1. ☐ Delivered herewith is a certified or bank cashier's or teller's check and/or shares of Common Stock held by the undersigned for at least six months*, valued at the closing sale price of the stock on the business day prior to the date of exercise, as follows:

\$ _____	in cash or check
\$ _____	in the form of _____ shares of Common Stock,
	valued at \$ _____ per share
\$ _____	Total

2. ☐ Delivered herewith are irrevocable instructions to a broker approved by the Company to deliver promptly to the Company the amount of sale or loan proceeds to pay the exercise price.**

If method 1 is chosen, the name or names to be on the stock certificate or certificates and the address and Social Security Number of such person(s) is as follows:

Name: _____

Address: _____

Social Security Number _____

Very truly yours,

Date

Optionee

* The Committee may waive the six months' requirement in its discretion.

** The Committee must approve this method in writing before your election

COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Designation of Beneficiary

In connection with Award Agreements between Commerce Energy Group, Inc. (the "Company") and _____, an individual residing at _____ (the "Recipient"), the Recipient hereby designates the person specified below as the beneficiary of the Recipient's interest in Awards as defined in the Company's 2006 Stock Incentive Plan (the "Plan"). This designation shall remain in effect until revoked in writing by the Recipient.

Name of Beneficiary: _____

Address: _____

Social Security No.: _____

This beneficiary designation relates to any and all of Recipient's rights under the following Award or Awards:

- ☐ any Award that Recipient has received under the Plan.
- ☐ the _____ Award that Recipient received pursuant to an award agreement dated _____, _____, _____ between Recipient and the Company.

The Recipient understands that this designation operates to entitle the above-named beneficiary to the rights conferred by an Award from the date this form is delivered to the Company until such date as this designation is revoked in writing by the Recipient, including by delivery to the Company of a written designation of beneficiary executed by the Recipient on a later date.

Date: _____

By: _____
[Recipient Name]

Sworn to before me this
_____ day of _____, 200__

Notary Public
County of _____
State of _____

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

**Restricted Share Award Agreement
(for U.S. Employees)**

Award No. _____

Date _____

In consideration of, and as a reward for, your past services rendered to the Company and to provide you with an incentive for on-going superior performance (which has a value exceeding the par value of the Restricted Shares awarded pursuant to this Agreement), you are hereby awarded Restricted Shares subject to the terms and conditions set forth in this Restricted Share Award Agreement ("Award Agreement" or "Award"), and in the Commerce Energy Group, Inc. 2006 Stock Incentive Plan (the "Plan"), which is attached hereto as Exhibit A. A summary of the Plan appears in its Prospectus, which is attached as Exhibit B. You should carefully review these documents, and consult with your personal financial advisor, in order to fully understand the implications of this Award, including your tax alternatives and their consequences.

By executing this Award Agreement, you agree to be bound by all of the Plan's terms and conditions as if they had been set out verbatim in this Award Agreement. In addition, you recognize and agree that all determinations, interpretations, or other actions respecting the Plan and this Award Agreement will be made by the Board of Directors (the "Board") of Commerce Energy Group, Inc. (the "Company") or and Committee appointed by the Board to administer the Plan, and shall (in the absence of manifest bad faith or fraud) be final, conclusive and binding upon all parties, including you, your heirs and representatives. Capitalized terms are defined in the Plan or in this Award Agreement.

1. Specific Terms. Your Restricted Shares have the following terms:

Name of Participant _____

Number of Shares
Subject to Award _____

Purchase Price per
Share (if applicable) Not applicable.

Award Date _____

Vesting At the rate of ____% on each of the next ____ [monthly] [quarterly] [annual] anniversaries of the Award Date; subject to acceleration as provided in the Plan and in Section 2 below, and to your Continuous Service not ending before the vesting date.

Lifetime Transfer ☐ Allowed. ☐ Not allowed.

Deferral Elections ☐ Allowed in accordance with Section 8(g) of the Plan. ☐ Not allowed.

2. **Accelerated Vesting; Change in Corporate Control.** To the extent you have not previously vested in your rights with respect to this Award, your Award will become –

- ☐ _____% vested if your Continuous Service ends due to your death or “disability” within the meaning of Section 409A of the Code;
- ☐ _____% vested if your Continuous Service ends due to your retirement at or after you have attained the age of _____ and completed at least _____ full years of Continuous Service;
- ☐ according to the following schedule if your Continuous Service ends due to an Involuntary Termination that occurs within the one year period following a Change in Control:

Date on which Your Involuntary Termination

Portion of Your Award
 As to which Vesting
 Accelerates

Occurs (by reference to Date of Award)

Before 1st Anniversary	0%
Between 1st and 2nd Anniversary	—%
After 2nd Anniversary	—%

<Other Desired Schedule>

3. **Investment Purposes.** You acknowledge that you are acquiring your Restricted Shares for investment purposes only and without any present intention of selling or distributing them.

4. **Issuance of Restricted Shares.** Until all vesting restrictions lapse, any certificates that you receive for Restricted Shares will include a legend stating that they are subject to the restrictions set forth in the Plan and this Award Agreement. Certificates shall not be delivered to you unless you have made arrangements satisfactory to the Committee to satisfy tax-withholding obligations. The certificates evidencing such Restricted Shares that will be issued will bear the following legend that shall remain in place and effective until all other vesting restrictions lapse and new certificates are issued:

“The sale or other transfer of the Stock represented by this certificate, whether voluntary, involuntary, or by operation of law, is subject to certain restrictions on transfer set forth in the Commerce Energy Group, Inc. 2006 Stock Incentive Plan, and in any rules and administrative procedures adopted pursuant to such Plan and in a related Award Agreement. A copy of the Plan, such rules and procedures and such Award Agreement may be obtained from the Secretary of Commerce Energy Group, Inc.”

5. **Unvested Restricted Shares.** The Company will hold such Restricted Shares in escrow until vesting occurs. You will be reflected as the owner of record on the Company’s books and

records of any Shares issued pursuant to this Award Agreement. The Company will hold the stock certificates for safekeeping until such Shares have become vested and non-forfeitable. You must deliver to the Company, as soon as practicable after the date any Shares are issued, a stock power, endorsed in blank, with respect to any such Shares. If you forfeit any Shares, the stock power will be used to return the certificates for the forfeited Shares to the transfer agent for cancellation. As the owner of record of any Restricted Shares you qualify to receive pursuant to this Award Agreement, you will be entitled to all rights of a stockholder of the Company, including the right to vote Shares; subject, however, to the provisions of Section 6 hereof with respect to any cash or stock dividends that are paid between the date of this Award and your receipt of Shares pursuant to a vesting event, subject in each case to the treatment of the Award upon termination of employment before the particular record date for determining stockholders of record entitled to the payment of the dividend or distribution. To the extent such dividend is paid in stock, such stock shall be subject to the same restrictions contained in Section 1.

6. Dividends. When Shares are delivered to you or your duly-authorized transferee pursuant to the vesting of the Shares, you or your duly-authorized transferee shall also be entitled to receive, with respect to each Share issued, an amount equal to any cash dividends (plus simple interest at a rate of five percent per annum, or such other reasonable rate as the Committee may determine) and a number of Shares equal to any stock dividends, which were declared and paid to the holders of Shares between the Grant Date and the date such Share is issued. To the extent that your Continuous Service ends before vesting of the Shares, you will forfeit all dividends (whether paid in cash or in stock) attributable to all such Shares.

7. Long-term Consideration for Award. <OPTIONAL> The Participant recognizes and agrees that the Company's key consideration in granting this Award is securing the long-term commitment of the Participant to serve as [a key employee of the Company][a key employee of an Affiliate of the Company][an officer of the Company][an officer of an Affiliate of the Company] who will advance and promote the business interests and objectives of the Company and/or its Affiliates (the "Company Group"). Accordingly, the Participant agrees that this Award shall be subject to the terms and conditions set forth in Section 25 of the Plan (relating to the termination, rescission and recapture if you violate certain commitments made therein to the Company Group), as well as to the following terms and conditions as material and indivisible consideration for this Award:

(a) **Fiduciary Duty.** During his or her employment with the Company Group the Participant shall devote his or her full energies, abilities, attention and business time to the performance of his or her job responsibilities and shall not engage in any activity which conflicts or interferes with, or in any way compromises, his or her performance of such responsibilities.

(b) **Confidential Information.** The Participant recognizes that by virtue of his or her employment with the Company Group, he or she will be granted otherwise prohibited access to confidential information and proprietary data which are not known, and not readily accessible to the competitors of the Company Group. This information (the "Confidential Information") includes, but is not limited to, current and prospective customers; the identity of key contacts at such customers; customers' particularized preferences and needs; marketing strategies and plans; financial data; personnel data; compensation data; proprietary procedures and processes; and other unique

and specialized practices, programs and plans of the Company Group and their respective customers and prospective customers. The Participant recognizes that this Confidential Information constitutes a valuable property of the Company Group, developed over a significant period of time and at substantial expense. Accordingly, the Participant agrees that he or she shall not, at any time during or after his or her employment with the Company Group, divulge such Confidential Information or make use of it for his or her own purposes or the purposes of any person or entity other than the Company Group.

(c) Non-Solicitation of Customers. The Participant recognizes that by virtue of his or her employment with the Company Group he or she will be introduced to and involved in the solicitation and servicing of existing customers of the Company Group and new customers obtained by the Company Group during his or her employment. The Participant understands and agrees that all efforts expended in soliciting and servicing such customers shall be for the permanent benefit of the Company Group. The Participant further agrees that during his or her employment with the Company Group the Participant will not engage in any conduct which could in any way jeopardize or disturb any of the customer relationships of the Company Group. The Participant also recognizes the legitimate interest of the Company Group in protecting, for a reasonable period of time after his or her employment with the Company Group, the customers of the Company Group. Accordingly, the Participant agrees that, for a period beginning on the date hereof and ending one (1) year after termination of Participant's employment with the Company Group, regardless of the reason for such termination, the Participant shall not, directly or indirectly, without the prior written consent of the Chief Executive Officer of the Company, market, offer, sell or otherwise furnish any products or services similar to, or otherwise competitive with, those offered by the Company Group to any customer of the Company Group.

(d) Non-Solicitation of Employees. The Participant recognizes the substantial expenditure of time and effort which the Company Group devotes to the recruitment, hiring, orientation, training and retention of its employees. Accordingly, the Participant agrees that, for a period beginning on the date hereof and ending two (2) years after termination of Participant's employment with the Company Group, regardless of the reason for such termination, the Participant shall not, directly or indirectly, for himself or herself or on behalf of any other person or entity, solicit, offer employment to, hire or otherwise retain the services of any employee of the Company Group. <ADDITIONAL ALTERNATIVE: NON-COMPETITION REQUIREMENT, TAILORED CAREFULLY TO CONFORM WITH APPLICABLE LAW. >

(e) Survival of Commitments; Potential Recapture of Award and Proceeds. The Participant acknowledges and agrees that the terms and conditions of this Section regarding confidentiality and non-solicitation [~~and non-competition~~] shall survive both (i) the termination of Participant's employment with the Company Group for any reason, and (ii) the termination of the Plan, for any reason. The Participant acknowledges and agrees that the grant of Options in this Award Agreement is just and adequate consideration for the survival of the restrictions set forth herein, and that the Company Group may pursue any or all of the following remedies if the Participant either violates the terms of this Section or succeeds for any reason in invalidating any part of it (it being understood that the invalidity of any term hereof would result in a failure of consideration for the Award):

- (i) declaration that the Award is null and void and of no further force or effect;
- (ii) recapture of any cash paid or Shares issued to the Participant, or any designee or beneficiary of the Participant, pursuant to the Award;
- (iii) recapture of the proceeds, plus reasonable interest, with respect to any Shares that are both issued pursuant to this Award and sold or otherwise disposed of by the Participant, or any designee or beneficiary of the Participant.

The remedies provided above are not intended to be exclusive, and the Company Group may seek such other remedies as are provided by law, including equitable relief.

(f) **Acknowledgement.** The Participant acknowledges and agrees that his or her adherence to the foregoing requirements will not prevent him or her from engaging in his or her chosen occupation and earning a satisfactory livelihood following the termination of his or her employment with the Company Group.]

8. **Section 83(b) Election Notice.** If you make an election under Section 83(b) of the Internal Revenue Code of 1986, as amended, with respect to the Shares underlying your Restricted Shares (a "Section 83(b) election"), you agree to provide a copy of such election to the Company within 10 days after filing that election with the Internal Revenue Service. Exhibit C contains a suggested form of Section 83(b) election.

9. **Designation of Beneficiary.** Notwithstanding anything to the contrary contained herein or in the Plan, following the execution of this Award Agreement, you may expressly designate a beneficiary (the "Beneficiary") to your interest, if any, in the Restricted Shares awarded hereby. You shall designate the Beneficiary by completing and executing a designation of beneficiary agreement substantially in the form attached hereto as Exhibit D (the "Designation of Beneficiary") and delivering an executed copy of the Designation of Beneficiary to the Company.

10. **Restrictions on Transfer.** This Award Agreement may not be sold, pledged, or otherwise transferred without the prior written consent of the Committee. Notwithstanding the foregoing, the Participant may transfer this Award (i) by instrument to an inter vivos or testamentary trust (or other entity) in which each beneficiary is a permissible gift recipient, as such is set forth in subsection (ii) of this Section, or (ii) by gift to charitable institutions or by gift or transfer for consideration to any of the following relatives of the Participant (or to an inter vivos trust, testamentary trust or other entity primarily for the benefit of the following relatives of the Participant): any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships. Any transferee of the Participant's rights shall succeed and be subject to all of the terms of this Award Agreement and the Plan.

11. **Income Taxes and Deferred Compensation.** The Participant is solely responsible and liable for the satisfaction of all taxes and penalties that may arise in connection with this Award (including any taxes arising under Section 409A of the Code), and the Company shall not have any obligation to indemnify or otherwise hold any Participant harmless from any or all of such taxes.

The Committee shall have the discretion to unilaterally modify this Award in a manner that (i) conforms with the requirements of Section 409A of the Code, (ii) that voids any election of the Participant to the extent it would violate Section 409A of the Code, and (iii) for any distribution election that would violate Section 409A of the Code, to make distributions pursuant to the Award at the earliest to occur of a distribution event that is allowable under Section 409A of the Code or any distribution event that is both allowable under Section 409A of the Code and is elected by the Participant, subject to any valid second election to defer, provided that the Committee permits second elections to defer in accordance with Section 409A(a)(4)(C). The Committee shall have the sole discretion to interpret the requirements of the Code, including Section 409A, for purposes of the Plan and this Award Agreement.

12. Notices. Any notice or communication required or permitted by any provision of this Award Agreement to be given to you shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested, addressed to you at the last address that the Company had for you on its records. Each party may, from time to time, by notice to the other party hereto, specify a new address for delivery of notices relating to this Award Agreement. Any such notice shall be deemed to be given as of the date such notice is personally delivered or properly mailed.

13. Binding Effect. Except as otherwise provided in this Award Agreement or in the Plan, every covenant, term, and provision of this Award Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

14. Modifications. This Award Agreement may be modified or amended at any time, in accordance with Section 15 of the Plan and provided that you must consent in writing to any modification that adversely alters or impairs any rights or obligations under this Award Agreement.

15. Headings. Section and other headings contained in this Award Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Award Agreement or any provision hereof.

16. Severability. Every provision of this Award Agreement and of the Plan is intended to be severable. If any term hereof is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity or legality of the remaining terms of this Award Agreement.

17. Counterparts. This Award Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

18. Plan Governs. By signing this Award Agreement, you acknowledge that you have received a copy of the Plan and that your Award Agreement is subject to all the provisions contained in the Plan, the provisions of which are made a part of this Award Agreement and your Award is subject to all interpretations, amendments, rules and regulations which from time to time may be promulgated and adopted pursuant to the Plan. In the event of a conflict between the provisions of this Award Agreement and those of the Plan, the provisions of the Plan shall control.

19. **Governing Law.** The laws of the State of Delaware shall govern the validity of this Award Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

20. **Not a Contract of Employment.** By executing this Award Agreement you acknowledge and agree that (i) any person who is terminated before full vesting of an award, such as the one granted to you by this Award, could claim that he or she was terminated to preclude vesting; (ii) you promise never to make such a claim; (iii) nothing in this Award Agreement or the Plan confers on you any right to continue an employment, service or consulting relationship with the [Company and/or its Affiliates] [Company Group], nor shall it affect in any way your right or the right of the [Company and/or its Affiliates] [Company Group], as applicable to terminate your employment, service, or consulting relationship at any time, with or without Cause; and (iv) the Company would not have granted this Award to you but for these acknowledgements and agreements.

21. **Employment Agreement Provision [OPTION IF EMPLOYEE HAS AN EMPLOYMENT AGREEMENT]** By executing this Award, you acknowledge and agree that your rights upon a termination of employment before full vesting of this Award will be determined under Section _____ of your employment agreement with the Company and _____, dated as of _____, 20__.

BY YOUR SIGNATURE BELOW, along with the signature of the Company's representative, you and the Company agree that the Restricted Shares are awarded under and governed by the terms and conditions of this Award Agreement and the Plan.

COMMERCE ENERGY GROUP, INC.

By: _____
Name: _____
Title: _____

PARTICIPANT

The undersigned Participant hereby accepts the terms of this Award Agreement and the Plan.

By: _____
Name of
Participant: _____

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Document**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Prospectus**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Section 83(b) Election Form

Attached is an Internal Revenue Code Section 83(b) Election Form. **IF YOU WISH TO MAKE A SECTION 83(B) ELECTION, YOU MUST DO SO WITHIN 30 DAYS AFTER THE DATE THE RESTRICTED SHARES COVERED BY THE ELECTION WERE TRANSFERRED TO YOU .** In order to make the election, you must completely fill out the attached form and file one copy with the Internal Revenue Service office where you file your tax return. In addition, one copy of the statement also must be submitted with your income tax return for the taxable year in which you make this election. Finally, you also must submit a copy of the election form to the Company within 10 days after filing that election with the Internal Revenue Service. A Section 83(b) election normally cannot be revoked.

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

**Election to Include Value of Restricted Shares in Gross Income
in Year of Transfer Under Internal Revenue Code Section 83(b)**

Pursuant to Section 83(b) of the Internal Revenue Code, I hereby elect within 30 days after receiving the property described herein to be taxed immediately on its value specified in item 5 below.

1. My General Information:

Name: _____
Address: _____
S.S.N. _____
or T.I.N.: _____

2. Description of the property with respect to which I am making this election:

_____ shares of _____ stock of Commerce Energy Group, Inc. (the "Restricted Shares").

3. The Restricted Shares were transferred to me on _____, 20____. This election relates to the 20____ calendar taxable year.

4. The Restricted Shares are subject to the following restrictions:

The Restricted Shares are forfeitable until they are earned in accordance with Section 1 of the Commerce Energy Group, Inc. 2006 Stock Incentive Plan (" Plan ") Restricted Shares Award Agreement (" Award Agreement ") or other Award Agreement or Plan provisions. The Restricted Shares generally are not transferable until my interest becomes vested and nonforfeitable, pursuant to the Award Agreement and the Plan.

5. Fair market value:

The fair market value at the time of transfer (determined without regard to any restrictions other than restrictions which by their terms never will lapse) of the Restricted Shares with respect to which I am making this election is \$_____ per share.

6. Amount paid for Restricted Shares:

The amount I paid for the Restricted Shares is \$_____ per share.

7. Furnishing statement to employer:

A copy of this statement has been furnished to my employer, _____. If the transferor of the Restricted Shares is not my employer, that entity also has been furnished with a copy of this statement.

8. Award Agreement or Plan not affected:

Nothing contained herein shall be held to change any of the terms or conditions of the Award Agreement or the Plan.

Dated: _____, 20____.

Taxpayer

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Designation of Beneficiary

In connection with Award Agreements between Commerce Energy Group, Inc. (the "Company") and _____, an individual residing at _____ (the "Recipient"), the Recipient hereby designates the person specified below as the beneficiary of the Recipient's interest in Awards as defined in the Company's 2006 Stock Incentive Plan (the "Plan"). This designation shall remain in effect until revoked in writing by the Recipient.

Name of Beneficiary: _____

Address: _____

Social Security No.: _____

This beneficiary designation relates to any and all of Recipient's rights under the following Award or Awards:

- ☐ any Award that Recipient has received under the Plan.
- ☐ the _____ Award that Recipient received pursuant to an award agreement dated _____, _____ between Recipient and the Company.

The Recipient understands that this designation operates to entitle the above-named beneficiary to the rights conferred by an Award from the date this form is delivered to the Company until such date as this designation is revoked in writing by the Recipient, including by delivery to the Company of a written designation of beneficiary executed by the Recipient on a later date.

Date: _____

By: _____
[Recipient Name]

Sworn to before me this _____ day of _____, 200__

Notary Public
County of _____
State of _____

COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Restricted Share Award Agreement
(for Non-Employee Directors)

Award No. _____

Date _____

In consideration of, and as a reward for, your past services rendered to the Company and to provide you with an incentive for on-going superior performance (which has a value exceeding the par value of the Restricted Shares awarded pursuant to this Agreement) you are hereby awarded Restricted Shares subject to the terms and conditions set forth in this Restricted Share Award Agreement ("Award Agreement" or "Award"), and in the Commerce Energy Group, Inc. 2006 Stock Incentive Plan (the "Plan"), which is attached hereto as Exhibit A. A summary of the Plan appears in its Prospectus, which is attached as Exhibit B. You should carefully review these documents, and consult with your personal financial advisor, in order to fully understand the implications of this Award, including your tax alternatives and their consequences.

By executing this Award Agreement, you agree to be bound by all of the Plan's terms and conditions as if they had been set out verbatim in this Award Agreement. In addition, you recognize and agree that all determinations, interpretations, or other actions respecting the Plan and this Award Agreement will be made by the Board of Directors (the "Board") of Commerce Energy Group, Inc. (the "Company") and that such determinations, interpretations or other actions are (in the absence of manifest bad faith or fraud) final, conclusive and binding upon all parties, including you, your heirs and representatives. Capitalized terms are defined in the Plan or in this Award Agreement.

1. **Specific Terms.** Your Restricted Shares have the following terms:

Name of Participant _____

Number of Shares
Subject to Award _____

Purchase Price per
Share (if applicable) Not applicable.

Award Date _____

Vesting 100% on January 1, 200_ ; subject to acceleration as provided in the Plan and to your Continuous Service not ending before the vesting date.

Lifetime Transfer ☐ Allowed. ☐ Not allowed.

Deferral Elections ☐ Allowed in accordance with Section 8(g) of the Plan. ☐ Not allowed.

2. Investment Purposes. You acknowledge that you are acquiring your Restricted Shares for investment purposes only and without any present intention of selling or distributing them.

3. Issuance of Restricted Shares. Until all vesting restrictions lapse, any certificates that you receive for Restricted Shares will include a legend stating that they are subject to the restrictions set forth in the Plan and this Award Agreement. The certificates evidencing such Restricted Shares that will be issued will bear the following legend that shall remain in place and effective until all other vesting restrictions lapse and new certificates are issued:

"The sale or other transfer of the Stock represented by this certificate, whether voluntary, involuntary, or by operation of law, is subject to certain restrictions on transfer set forth in the Commerce Energy Group, Inc. 2006 Stock Incentive Plan, and in any rules and administrative procedures adopted pursuant to such Plan and in a related Award Agreement. A copy of the Plan, such rules and procedures and such Award Agreement may be obtained from the Secretary of Commerce Energy Group, Inc."

4. Unvested Restricted Shares. The Company will hold such Restricted Shares in escrow until vesting occurs. You will be reflected as the owner of record on the Company's books and records of any Shares issued pursuant to this Award Agreement. The Company will hold the stock certificates for safekeeping until such Shares have become vested and non-forfeitable. You must deliver to the Company, as soon as practicable after the date any Shares are issued, a stock power, endorsed in blank, with respect to any such Shares. If you forfeit any Shares, the stock power will be used to return the certificates for the forfeited Shares to the transfer agent for cancellation. As the owner of record of any Restricted Shares you qualify to receive pursuant to this Award Agreement, you will be entitled to all rights of a stockholder of the Company, including the right to vote Shares; subject, however, to the provisions of Section 5 hereof with respect to any cash or stock dividends that are paid between the date of this Award and your receipt of shares pursuant to a vesting event, subject in each case to the treatment of the Award upon termination of employment before the particular record date for determining stockholders of record entitled to the payment of the dividend or distribution. To the extent such a dividend is paid in stock, such stock shall be subject to the same restrictions contained in Section 1.

5. Dividends. When Shares are delivered to you or your duly-authorized transferee pursuant to the vesting of the Shares, you or your duly-authorized transferee shall also be entitled to receive, with respect to each Share issued, an amount equal to any cash dividends (plus simple interest at a rate of five percent per annum, or such other reasonable rate as the Committee may determine) and a number of Shares equal to any stock dividends, which were declared and paid to the holders of Shares between the Grant Date and the date such Share is issued. To the extent that your Continuous Service ends before vesting of the Shares, you will forfeit all dividends (whether paid in cash or in stock) attributable to all such Shares.

6. Termination, Rescission and Recapture. Notwithstanding any other provision of the Plan or this Award Agreement, terms of Section 25 of the Plan shall not apply to this Award Agreement.

7. Section 83(b) Election Notice. If you make an election under Section 83(b) of the Internal Revenue Code of 1986, as amended, with respect to the Shares underlying your Restricted Shares (a "Section 83(b) election"), you agree to provide a copy of such election to the Company within 10 days after filing that election with the Internal Revenue Service. Exhibit C contains a suggested form of Section 83(b) election.

8. Designation of Beneficiary. Notwithstanding anything to the contrary contained herein or in the Plan, following the execution of this Award Agreement, you may expressly designate a beneficiary (the "Beneficiary") to your interest, if any, in the Restricted Shares awarded hereby. You shall designate the Beneficiary by completing and executing a designation of beneficiary agreement substantially in the form attached hereto as Exhibit D (the "Designation of Beneficiary") and delivering an executed copy of the Designation of Beneficiary to the Company.

9. Restrictions on Transfer. This Award Agreement may not be sold, pledged, or otherwise transferred without the prior written consent of the Committee. Notwithstanding the foregoing, the Participant may transfer this Award (i) by instrument to an inter vivos or testamentary trust (or other entity) in which each beneficiary is a permissible gift recipient, as such is set forth in subsection (ii) of this Section, or (ii) by gift to charitable institutions or by gift or transfer for consideration to any of the following relatives of the Participant (or to an inter vivos trust, testamentary trust or other entity primarily for the benefit of the following relatives of the Participant): any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships. Any transferee of the Participant's rights shall succeed and be subject to all of the terms of this Award Agreement and the Plan.

10. Income Taxes and Deferred Compensation. The Participant is solely responsible and liable for the satisfaction of all taxes and penalties that may arise in connection with this Award (including any taxes arising under Section 409A of the Code), and the Company shall not have any obligation to indemnify or otherwise hold any Participant harmless from any or all of such taxes. The Committee shall have the discretion to unilaterally modify this Award in a manner that (i) conforms with the requirements of Section 409A of the Code, (ii) that voids any election of the Participant to the extent it would violate Section 409A of the Code, and (iii) for any distribution election that would violate Section 409A of the Code, to make distributions pursuant to the Award at the earliest to occur of a distribution event that is allowable under Section 409A of the Code or any distribution event that is both allowable under Section 409A of the Code and is elected by the Participant, subject to any valid second election to defer, provided that the Committee permits second elections to defer in accordance with Section 409A(a)(4)(C). The Committee shall have the sole discretion to interpret the requirements of the Code, including Section 409A, for purposes of the Plan and this Award Agreement.

11. Notices. Any notice or communication required or permitted by any provision of this Award Agreement to be given to you shall be in writing and shall be delivered personally or sent by

certified mail, return receipt requested, addressed to you at the last address that the Company had for you on its records. Each party may, from time to time, by notice to the other party hereto, specify a new address for delivery of notices relating to this Award Agreement. Any such notice shall be deemed to be given as of the date such notice is personally delivered or properly mailed.

12. Binding Effect. Except as otherwise provided in this Award Agreement or in the Plan, every covenant, term, and provision of this Award Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

13. Modifications. This Award Agreement may be modified or amended at any time, in accordance with Section 15 of the Plan and provided that you must consent in writing to any modification that adversely alters or impairs any rights or obligations under this Award Agreement.

14. Headings. Section and other headings contained in this Award Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Award Agreement or any provision hereof.

15. Severability. Every provision of this Award Agreement and of the Plan is intended to be severable. If any term hereof is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity or legality of the remaining terms of this Award Agreement.

16. Counterparts. This Award Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

17. Plan Governs. By signing this Award Agreement, you acknowledge that you have received a copy of the Plan and that your Award Agreement is subject to all the provisions contained in the Plan, the provisions of which are made a part of this Award Agreement and your Award is subject to all interpretations, amendments, rules and regulations which from time to time may be promulgated and adopted pursuant to the Plan. In the event of a conflict between the provisions of this Award Agreement and those of the Plan, the provisions of the Plan shall control.

18. Governing Law. The laws of the State of Delaware shall govern the validity of this Award Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

BY YOUR SIGNATURE BELOW, along with the signature of the Company's representative, you and the Company agree that the Restricted Shares are awarded under and governed by the terms and conditions of this Award Agreement and the Plan.

COMMERCE ENERGY GROUP, INC.

By: _____
Name:
Title:

PARTICIPANT

The undersigned Participant hereby accepts the terms of this Award Agreement and the Plan.

By: _____
Name of
Participant: _____

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Document**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Prospectus**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Section 83(b) Election Form

Attached is an Internal Revenue Code Section 83(b) Election Form. **IF YOU WISH TO MAKE A SECTION 83(B) ELECTION, YOU MUST DO SO WITHIN 30 DAYS AFTER THE DATE THE RESTRICTED SHARES COVERED BY THE ELECTION WERE TRANSFERRED TO YOU** . In order to make the election, you must completely fill out the attached form and file one copy with the Internal Revenue Service office where you file your tax return. In addition, one copy of the statement also must be submitted with your income tax return for the taxable year in which you make this election. Finally, you also must submit a copy of the election form to the Company within 10 days after filing that election with the Internal Revenue Service. A Section 83(b) election normally cannot be revoked.



Form 8-K

COMMERCE ENERGY GROUP INC - EGR

Filed: March 02, 2006 (period: February 24, 2006)

Report of unscheduled material events or corporate changes.

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EX-99.1 (EXHIBIT 99.1)

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K
CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): February 24, 2006

COMMERCE ENERGY GROUP, INC.

(Exact Name of registrant as specified in its charter)

Delaware

001-32239

20-0501090

**(State or other
jurisdiction of
incorporation)**

(Commission File Number)

**(IRS Employer
Identification No.)**

600 Anton Blvd., Suite 2000

Costa Mesa, California

(Address of principal executive offices)

92626

(Zip Code)

Registrant's telephone number, including area code: (714) 258-0470

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ **Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)**

☐ **Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)**

☐ **Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2 (b))**

☐ **Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))**

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Item 8.01. Other Events

On February 24, 2006, Commerce Energy Group, Inc. (the "Company") received a Notice of Demand for Arbitration (the "Demand") relating to the Sales Agency Agreement between American Communications Network ("ACN") and Commonwealth Energy Corporation (currently, Commerce Energy, Inc., a wholly-owned subsidiary of the Company), an agreement which ACN terminated effective February 9, 2006. On March 2, 2006, the Company issued a press release relating to the Demand. A copy of the press release is attached hereto as Exhibit 99.1 and incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
99.1	Press Release dated March 2, 2006.

Stock Appreciation Rights Award
Commerce Energy Group, Inc.
2006 Stock Incentive Plan

consideration to any of the following relatives of the Participant (or to an inter vivos trust, testamentary trust or other entity primarily for the benefit of the following relatives of the Participant): any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and shall include adoptive relationships. Any transferee of the Participant's rights shall succeed and be subject to all of the terms of this Award Agreement and the Plan.

10. **Taxes.** By signing this Award Agreement, you acknowledge that you shall be solely responsible for the satisfaction of any taxes that may arise (including taxes arising under Sections 409A or 4999 of the Code), and that neither the Company nor the Administrator shall have any obligation whatsoever to pay such taxes. In addition, you acknowledge that the Company may be required to withhold amounts from payments due to you under applicable law.

11. **Notices.** Any notice or communication required or permitted by any provision of this Award Agreement to be given to you shall be in writing and shall be delivered personally or sent by certified mail, return receipt requested, addressed to you at the last address that the Company had for you on its records. Each party may, from time to time, by notice to the other party hereto, specify a new address for delivery of notices relating to this Award Agreement. Any such notice shall be deemed to be given as of the date such notice is personally delivered or properly mailed.

12. **Binding Effect.** Except as otherwise provided in this Award Agreement or in the Plan, every covenant, term, and provision of this Award Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legatees, legal representatives, successors, transferees, and assigns.

13. **Modifications.** This Award Agreement may be modified or amended at any time, in accordance with Section 15 of the Plan and provided that you must consent in writing to any modification that adversely alters or impairs any rights or obligations under this Award Agreement.

14. **Headings.** Section and other headings contained in this Award Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Award Agreement or any provision hereof.

15. **Severability.** Every provision of this Award Agreement and of the Plan is intended to be severable. If any term hereof is illegal or invalid for any reason, such illegality or invalidity shall not affect the validity or legality of the remaining terms of this Award Agreement.

16. **Counterparts.** This Award Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

17. **Plan Governs.** By signing this Award Agreement, you acknowledge that you have received a copy of the Plan and that your Award Agreement is subject to all the provisions contained in the Plan, the provisions of which are made a part of this Award Agreement and your Award is subject to

Stock Appreciation Rights Award
Commerce Energy Group, Inc.
2006 Stock Incentive Plan

all interpretations, amendments, rules and regulations which from time to time may be promulgated and adopted pursuant to the Plan. In the event of a conflict between the provisions of this Award Agreement and those of the Plan, the provisions of the Plan shall control.

18. **Governing Law.** The laws of the State of Delaware shall govern the validity of this Award Agreement, the construction of its terms, and the interpretation of the rights and duties of the parties hereto.

19. **Not a Contract of Employment.** By executing this Award Agreement you acknowledge and agree that (i) any person who is terminated before full vesting of an award, such as the one granted to you by this Award, could claim that he or she was terminated to preclude vesting; (ii) you promise never to make such a claim; (iii) nothing in this Award Agreement or the Plan confers on you any right to continue an employment, service or consulting relationship with the [Company and/or its Affiliates] [Company Group], nor shall it affect in any way your right or the right of the [Company and/or its Affiliates] [Company Group], as applicable, to terminate your employment, service, or consulting relationship at any time, with or without Cause; and (iv) the Company would not have granted this Award to you but for these acknowledgements and agreements.

20. **Employment Agreement Provision [OPTION IF EMPLOYEE HAS AN EMPLOYMENT AGREEMENT]** By executing this Award, you acknowledge and agree that your rights upon a termination of employment before full vesting of this Award will be determined under Section ___ of your employment agreement with the Company and _____, dated as of _____, 20__.

BY YOUR SIGNATURE BELOW, along with the signature of the Company's representative, you and the Company agree that this Award is being made under and governed by the terms and conditions of this Award and the Plan.

Commerce Energy Group, Inc.

By:

Name:

Title:

The undersigned Participant hereby accepts the terms of this Award and the Plan.

By:

Name of Participant:

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Document**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Plan Prospectus**

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Form of Stock Appreciation Rights Exercise

Attention: Commerce Energy Group, Inc.
2006 Stock Incentive Plan Committee
600 Anton Boulevard
Costa Mesa, California 92626

Dear Sir or Madam:

The undersigned elects to exercise his/her Stock Appreciation Rights with respect to ____ shares of Common Stock of Commerce Energy Group, Inc. (the "Company") under and pursuant to an SAR Agreement dated as of _____.

The undersigned recognizes and agrees that the Company will satisfy its obligations arising from this exercise notice through issuing shares of its Common Stock, with the name or names to be on the stock certificate or certificates and the address and Social Security Number of such person(s) to be as follows:

Name:

Address:

Social Security Number

Very truly yours,

Date

SAR Holder

**COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN**

Designation of Beneficiary

In connection with Award Agreements between Commerce Energy Group, Inc. (the "Company") and _____, an individual residing at _____ (the "Recipient"), the Recipient hereby designates the person specified below as the beneficiary of the Recipient's interest in Awards as defined in the Company's 2006 Stock Incentive Plan (the "Plan"). This designation shall remain in effect until revoked in writing by the Recipient.

Name of Beneficiary: _____

Address: _____

Social Security No.: _____

This beneficiary designation relates to any and all of Recipient's rights under the following Award or Awards:

- ☐ any Award that Recipient has received under the Plan.
- ☐ the _____ Award that Recipient received pursuant to an award agreement dated _____, _____ between _____ Recipient and the Company.

The Recipient understands that this designation operates to entitle the above-named beneficiary to the rights conferred by an Award from the date this form is delivered to the Company until such date as this designation is revoked in writing by the Recipient, including by delivery to the Company of a written designation of beneficiary executed by the Recipient on a later date.

Date: _____

By: _____

[Recipient Name]

Sworn to before me this _____ day of _____, 200__

Notary Public

County of _____

State of _____

COMMERCE ENERGY GROUP, INC.
2006 STOCK INCENTIVE PLAN
Performance Unit and Performance Stock Award Agreement

Award No. _____

In consideration of, and as a reward for, your past services rendered to the Company and to provide you with an incentive for on-going superior performance (which has a value exceeding the par value of the Performance Stock awarded pursuant to this Agreement) you are hereby awarded Performance Units and Performance Stock subject to the terms and conditions set forth in this agreement ("Award Agreement" or "Award"), and in the Commerce Energy Group, Inc. 2006 Stock Incentive Plan (the "Plan"), which is attached hereto as Exhibit A. A summary of the Plan appears in its Prospectus, which is attached as Exhibit B. You should carefully review these documents, and consult with your personal financial advisor, in order to fully understand the implications of this Award, including your tax alternatives and their consequences.

By executing this Award Agreement, you agree to be bound by all of the Plan's terms and conditions as if they had been set out verbatim in this Award Agreement. In addition, you recognize and agree that all determinations, interpretations, or other actions respecting the Plan and this Award Agreement will be made by the Board of Directors (the "Board") of Commerce Energy Group, Inc. (the "Company") or any Committee appointed by the Board to administer the Plan, and shall (in the absence of manifest bad faith or fraud) be final, conclusive and binding upon all parties, including you, your heirs and representatives. Capitalized terms are defined in the Plan or in this Award Agreement.

1. General Terms of Your Award.

Name of Participant _____

Date of Award _____

2. Performance Unit. The Performance Unit portion of your Award is being granted pursuant to Section 10 of the Plan, and shall have the terms set forth in the table below, subject, absolutely, to the terms of the Plan and to the Committee's discretion to interpret the Plan and this Award in any manner that the Committee may deem reasonably necessary or appropriate in order for this Award to satisfy the requirements for "performance-based compensation" within the meaning of Section 162(m)(4) of the Code, and associated tax regulations and rulings. The Performance Unit portion of your award provides that you may qualify to receive an amount of cash that falls within the range specified in the table below, such amount to be determined based on the extent to which, if at all, the Performance Measures for Determining Qualification have been satisfied and in accordance with the weights assigned thereto.

Range in Amount of Cash	Threshold: \$ _____
	Target: \$ _____
	Maximum: \$ _____

Performance Period _____

Performance Unit and Performance Stock Award
Commerce Energy Group, Inc.
2006 Stock Incentive Plan

Performance Measures See Schedule ____, attached hereto as Exhibit C.

Qualification

3. **Performance Stock.** The Performance Stock portion of your award provides that you may qualify to receive, subject to further vesting, a number of Shares (" **Performance Stock** ") with a value that falls within the range of values specified in the table below, such value to be determined based on the extent to which, if at all, the Performance Measures for Determining Qualification have been satisfied and the weights assigned thereto. The Performance Stock portion of your Award is being granted pursuant to Section 10 of the Plan, and shall have the terms set forth in the table below; subject, absolutely, to the terms of the Plan and to the Committee's discretion to interpret the Plan and this Award in any manner that the Committee may deem reasonably necessary or appropriate in order for this Award to satisfy the requirements for "performance-based compensation" within the meaning of Section 162(m)(4) of the Code, and associated tax regulations and rulings.

Range in Value of Shares of Performance Stock	Threshold: \$ _____
	Target: \$ _____
	Maximum: \$ _____

Performance Period for
Qualification

Performance Measures See Schedule ____, attached hereto as Exhibit D.

Pricing Date to Determine
Number of Shares

Qualification

Performance Period for Further Vesting

Performance Measure for
Determining Further Vesting

Further Vesting

4. **Issuance of Shares of Performance Stock.** If you qualify to receive any Shares of Performance Stock that remain subject to further vesting, the stock certificates evidencing such Shares that will be issued as of the Pricing Date will bear the following legend that shall remain in place and effective until all other vesting restrictions lapse and new certificates are issued pursuant to Section 6(b) below:

"The sale or other transfer of the Stock represented by this certificate, whether voluntary, involuntary, or by operation of law, is subject to certain restrictions on transfer set forth in