

NC

59/76



FILE

RECEIVED - DOCKETING DIV
2008 MAY 16 PM 12:01
PUCO

VIA OVERNIGHT DELIVERY

08-601-GA CRS

May 15, 2008

Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street, 13th Fl
Columbus, OH 43215-3793

RE: Certification Application – Competitive Retail Natural Gas Suppliers
for U.S. Gas & Electric, Inc. d/b/a Ohio Gas & Electric

Dear Commission:

Enclosed are 10 copies and one original Natural Gas Supplier certification application for U.S. Gas & Electric, Inc. Also included is an envelope marked "CONFIDENTIAL" containing a Motion of Protective Order pertaining to exhibits of sensitive company information.

Please let me know if you have any questions or require additional information.

Sincerely,


Kathryn Tozzini
Executive Vice President

Encl.

/tr

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 TM Date Processed 5/14/2008

NC



| PUCO USE ONLY - Version 1.07 | | |
|------------------------------|---------------|----------------------|
| Date Received | Case Number | Certification Number |
| 5/16/08 | 08-601-GA-CRS | |

CERTIFICATION APPLICATION COMPETITIVE RETAIL NATURAL GAS SUPPLIERS

Please type or print all required information. Identify all attachments with an exhibit label and title (*Example: Exhibit A-16 - Company History*). 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, 13th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793.

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

SECTION A - APPLICANT INFORMATION AND SERVICES

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

☐ Retail Natural Gas Aggregator ☐ Retail Natural Gas Broker ☒ Retail Natural Gas Marketer

A-2 Applicant information:

Legal Name U.S. Gas & Electric, Inc.
Address 290 N.W. 165th Street, PH5, North Miami Beach, Florida 33169
Telephone No. (305) 947-7880 Web site Address www.USGandE.com

A-3 Applicant information under which applicant will do business in Ohio:

Name U.S. Gas & Electric; USG&E; Ohio Gas & Electric; OG&E
Address 290 N.W. 165th Street, PH5, North Miami Beach, Florida 33169
Web site Address www.USGandE.com Telephone No. (305) 947-7880

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

U.S. Gas & Electric; USG&E; USGE
Indiana Gas & Electric; IG&E; IGE
Michigan Gas & Electric; MG&E

A-5 Contact person for regulatory or emergency matters:

Name Theresa Renaud Title Compliance
Business Address 290 N.W. 165th Street, PH5, North Miami Beach, Florida 33169
Telephone No. (305) 947-7880 Fax No. (305) 947-5797 Email Address trenaud@USGandE.com

PUCO

2008 MAY 16 AM 11:52

RECEIVED-DOCKETING DIV.

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

Name Donna Alexander Title Compliance
Business address 290 N.W. 165th Street, PH5, North Miami Beach, Florida 33169
Telephone No. (305) 947-7880 Fax No. (305) 947-5797 Email Address dalexander@USGandE.com

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

Customer service address 290 N.W. 165th Street, PH5, North Miami Beach, Florida 33169
Toll-Free Telephone No. (888) 947-7880 Fax No. (888) 829-5797 Email Address clientrelations@USGandE.com

A-8 Provide "Proof of an Ohio Office and Employee," in accordance with Section 4929.22 of the Ohio Revised Code, by listing name, Ohio office address, telephone number, and Web site address of the designated Ohio Employee

Name See Exhibit A-8 Title
Business address
Telephone No. Fax No. Email Address

A-9 Applicant's federal employer identification number 58-2502341

A-10 Applicant's form of ownership: (Check one)

- | | |
|--|--|
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Liability Partnership (LLP) | <input type="checkbox"/> Limited Liability Company (LLC) |
| <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> Other |

A-11 (Check all that apply) Identify each natural gas company service area in which the applicant is currently providing service or intends to provide service, including identification of each customer class that the applicant is currently serving or intends to serve, for example: residential, small commercial, and/or large commercial/industrial (mercantile) customers. (A mercantile customer, as defined in Section 4929.01(L)(1) of the Ohio Revised Code, means a customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within the state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. In accordance with Section 4929.01(L)(2) of the Ohio Revised Code, "Mercantile customer" excludes a not-for-profit customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state that has filed the necessary declaration with the Public Utilities Commission.)

| | | | |
|---|---|--|---|
| <input checked="" type="checkbox"/> Columbia Gas of Ohio | <input checked="" type="checkbox"/> Residential | <input checked="" type="checkbox"/> Small Commercial | <input checked="" type="checkbox"/> Large Commercial / Industrial |
| <input checked="" type="checkbox"/> Dominion East Ohio | <input checked="" type="checkbox"/> Residential | <input checked="" type="checkbox"/> Small Commercial | <input checked="" type="checkbox"/> Large Commercial / Industrial |
| <input type="checkbox"/> Duke Energy Ohio | <input type="checkbox"/> Residential | <input type="checkbox"/> Small Commercial | <input type="checkbox"/> Large Commercial / Industrial |
| <input checked="" type="checkbox"/> Vectren Energy Delivery of Ohio | <input checked="" type="checkbox"/> Residential | <input checked="" type="checkbox"/> Small Commercial | <input checked="" type="checkbox"/> Large Commercial / Industrial |

A-12 If applicant or an affiliated interest previously participated in any of Ohio's Natural Gas Choice Programs, for each service area and customer class, provide approximate start date(s) and/or end date(s) that the applicant began delivering and/or ended services.

☐ Columbia Gas of Ohio

| | | |
|---|---------------------------|----------|
| <input type="checkbox"/> Residential | Beginning Date of Service | End Date |
| <input type="checkbox"/> Small Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Large Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Industrial | Beginning Date of Service | End Date |

☐ Dominion East Ohio

| | | |
|---|---------------------------|----------|
| <input type="checkbox"/> Residential | Beginning Date of Service | End Date |
| <input type="checkbox"/> Small Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Large Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Industrial | Beginning Date of Service | End Date |

☐ Duke Energy Ohio

| | | |
|---|---------------------------|----------|
| <input type="checkbox"/> Residential | Beginning Date of Service | End Date |
| <input type="checkbox"/> Small Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Large Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Industrial | Beginning Date of Service | End Date |

☐ Vectren Energy Delivery of Ohio

| | | |
|---|---------------------------|----------|
| <input type="checkbox"/> Residential | Beginning Date of Service | End Date |
| <input type="checkbox"/> Small Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Large Commercial | Beginning Date of Service | End Date |
| <input type="checkbox"/> Industrial | Beginning Date of Service | End Date |

A-13 If not currently participating in any of Ohio's four Natural Gas Choice Programs, provide the approximate start date that the applicant proposes to begin delivering services:

| | | | |
|-------------------------------------|---------------------------------|---------------------|-------------------|
| <input checked="" type="checkbox"/> | Columbia Gas of Ohio | Intended Start Date | September 1, 2008 |
| <input checked="" type="checkbox"/> | Dominion East Ohio | Intended Start Date | September 1, 2008 |
| <input type="checkbox"/> | Duke Energy Ohio | Intended Start Date | n/a |
| <input checked="" type="checkbox"/> | Vectren Energy Delivery of Ohio | Intended Start Date | September 1, 2008 |

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- A-14 **Exhibit A-14 "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-15 **Exhibit A-15 "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 natural gas or electricity to customers in North America.
- A-16 **Exhibit A-16 "Company History,"** provide a concise description of the applicant's company history and principal business interests.
- A-17 **Exhibit A-17 "Articles of Incorporation and Bylaws,"** if applicable, provide the articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated and any amendments thereto.
- A-18 **Exhibit A-18 "Secretary of State,"** provide evidence that the applicant is currently registered with the Ohio Secretary of the State.

SECTION B - APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- B-1 **Exhibit B-1 "Jurisdictions of Operation,"** provide a current 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 natural gas service, or retail/wholesale electric services.
- B-2 **Exhibit B-2 "Experience & Plans,"** provide a current 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 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.
- B-3 **Exhibit B-3 "Summary of Experience,"** provide a concise and current summary of the applicant's experience in providing the service(s) for which it is seeking to be certified to provide (e.g., number and types of customers served, utility service areas, volume of gas supplied, etc.).
- B-4 **Exhibit B-4 "Disclosure of Liabilities and Investigations,"** provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocations 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-5 Exhibit B-5 "Disclosure of Consumer Protection Violations,"** disclose whether the applicant, affiliate, predecessor of the applicant, or any principal officer of the applicant has 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-5 "Disclosure of Consumer Protection Violations,"** detailing such violation(s) and providing all relevant documents.

- B-6 Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation,"** disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail natural gas or retail/wholesale electric service denied, curtailed, suspended, or revoked, or whether the applicant or predecessor has been terminated from any of Ohio's Natural Gas Choice programs, or been in default for failure to deliver natural gas.

☒ No ☐ Yes

If Yes, provide a separate attachment, labeled as **Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation,"** detailing such action(s) and providing all relevant documents.

SECTION C - APPLICANT 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, labeled as 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 whether 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 current financial arrangements to conduct competitive retail natural gas service (CRNGS) 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 CRNGS operation, along with a list of assumptions, and the name, address, email address, and telephone number of the preparer.

- C-6 **Exhibit C-6 "Credit Rating,"** provide a statement disclosing the applicant's current 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 current credit report from Experian, 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 since applicant last filed for certification.
- 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, or at any time as a participant in the Ohio Natural Gas Choice programs.

SECTION D – APPLICANT TECHNICAL CAPABILITY

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- D-1 **Exhibit D-1 "Operations,"** provide a current written description of the operational nature of the applicant's business. Please include whether the applicant's operations will include the contracting of natural gas purchases for retail sales, the nomination and scheduling of retail natural gas for delivery, and the provision of retail ancillary services, as well as other services used to supply natural gas to the natural gas company city gate for retail customers.
- D-2 **Exhibit D-2 "Operations Expertise,"** given the operational nature of the applicant's business, provide evidence of the applicant's current experience and technical expertise in performing such operations.
- D-3 **Exhibit D-3 "Key Technical Personnel,"** provide the names, titles, email addresses, telephone numbers, and background of key personnel involved in the operational aspects of the applicant's current business.

Applicant Signature and Title

[Signature] CEO + President

Sworn and subscribed before me this

14th day of

May

Month

2008 Year

[Signature]

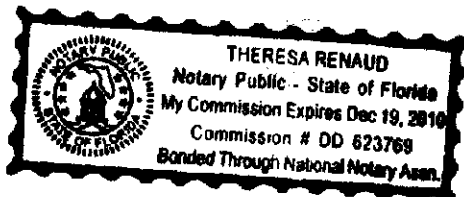
Signature of official administering oath

Theresa Renaud

Print Name and Title

My commission expires on

Dec 19, 2010



(CRNGS Supplier –Version 1.07)

Page 6 of 7



The Public Utilities Commission of Ohio

Competitive Retail Natural Gas Service
Affidavit Form
(Version 1.07)

In the Matter of the Application of

U.S. Gas & Electric, Inc.

for a Certificate or Renewal Certificate to Provide
Competitive Retail Natural Gas Service in Ohio.

Case No. **72-12925** -GA-CRS

County of Dade
State of Florida

Doug Marcille

[Affiant], being duly sworn/affirmed, hereby states that:

- (1) The information provided within the certification or certification renewal application and supporting information is complete, true, and accurate to the best knowledge of affiant.
- (2) The applicant will timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of natural gas pursuant to Sections 4905.10(A), 4911.18(A), and 4929.23(B), Ohio Revised Code.
- (3) The applicant will timely pay any assessment made pursuant to Section 4905.10 or Section 4911.18(A), Ohio Revised Code.
- (4) Applicant will comply with all applicable rules and orders adopted by the Public Utilities Commission of Ohio pursuant to Title 49, Ohio Revised Code.
- (5) Applicant will cooperate with the Public Utilities Commission of Ohio and its staff in the investigation of any consumer complaint regarding any service offered or provided by the applicant.
- (6) Applicant will comply with Section 4929.21, Ohio Revised Code, regarding consent to the jurisdiction of the Ohio courts and the service of process.
- (7) Applicant will inform the Public Utilities Commission of Ohio of any material change to the information supplied in the certification or certification renewal application within 30 days of such material change, including any change in contact person for regulatory or emergency purposes or contact person for Staff use in investigating customer complaints.
- (8) Affiant further sayeth naught.

Affiant Signature & Title

Sworn and subscribed before me this

14th

day of

May

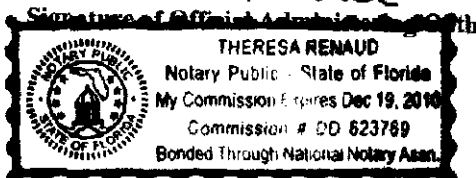
Month

2008

Year

Theresa Renaud

Theresa Renaud
Print Name and Title



My commission expires on

Dec 19, 2010

(CRNGS Supplier -Version 1.07) Page 7 of 7

Exhibit A-8 Provide “Proof of an Ohio Office and Employee”

“Proof of an Ohio Office and Employee,” in accordance with Section 4929.22 of the Ohio Revised Code, by listing name, Ohio office address, telephone number, and Web site address of the designated Ohio Employee.

U.S. Gas & Electric, Inc., will finalize its Ohio office after license approval. This office will be established prior to any marketing or serving of customers in Ohio.

U. S. Gas & Electric, Inc., will notify staff of the office address, phone, and other specifics before marketing or serving customers.

Exhibit A-14 "Principal Officers, Directors & Partners"

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

Puneet Sanan:

Chairman
287 Bowman Avenue, 2nd Floor, Purchase, NY 10577
914-701-0310

Doug Marcille:

Director and President
290 NW 165th Street, PH5, North Miami Beach, Florida 33169
(305) 947-7880 ext. 204

Richard Alexander:

Executive Vice President and Assistant Secretary
290 NW 165th Street, PH5, North Miami Beach, Florida 33169
(305) 947-7880 ext. 289

Kathryn Tozzini:

Executive Vice President
290 NW 165th Street, PH5, North Miami Beach, Florida 33169
(305) 947-7880 ext. 220

Albert Johnston:

Vice President
290 NW 165th Street, PH5, North Miami Beach, Florida 33169
(305) 947-7880 ext. 210

Joseph Casey:

Chief Operating Officer
290 NW 165th Street, PH5, North Miami Beach, Florida 33169
(305) 947-7880 ext. 212

Greg Taffet:

Chief Information Officer
290 NW 165th Street, PH5, North Miami Beach, Florida 33169
(305) 947-7880 ext. 265

Jan Wild:

Chief Marketing Officer
290 NW 165th Street, PH5, North Miami Beach, Florida 33169
(305) 947-7880 ext. 251

Shivani Khurana:

Director
287 Bowman Avenue, 2nd Floor, Purchase, NY 10577
914-701-0310

Bob Paladino:

Vice Chairman and Secretary
287 Bowman Avenue, 2nd Floor, Purchase, NY 10577
914-701-0310

James B. Wiser:

Director
16960 Timberlake Dr.
Fort Myers FL 33908
(239) 466-7128

Exhibit A-15 "Corporate Structure"

"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 natural gas or electricity to customers in North America.

We are owned 65% by MVC Capital (NYSE: "MVC"), 25% by Management and 10% by minority shareholders. We have no affiliates or subsidiaries that supply retail or wholesale natural gas or electricity to customers in North America.

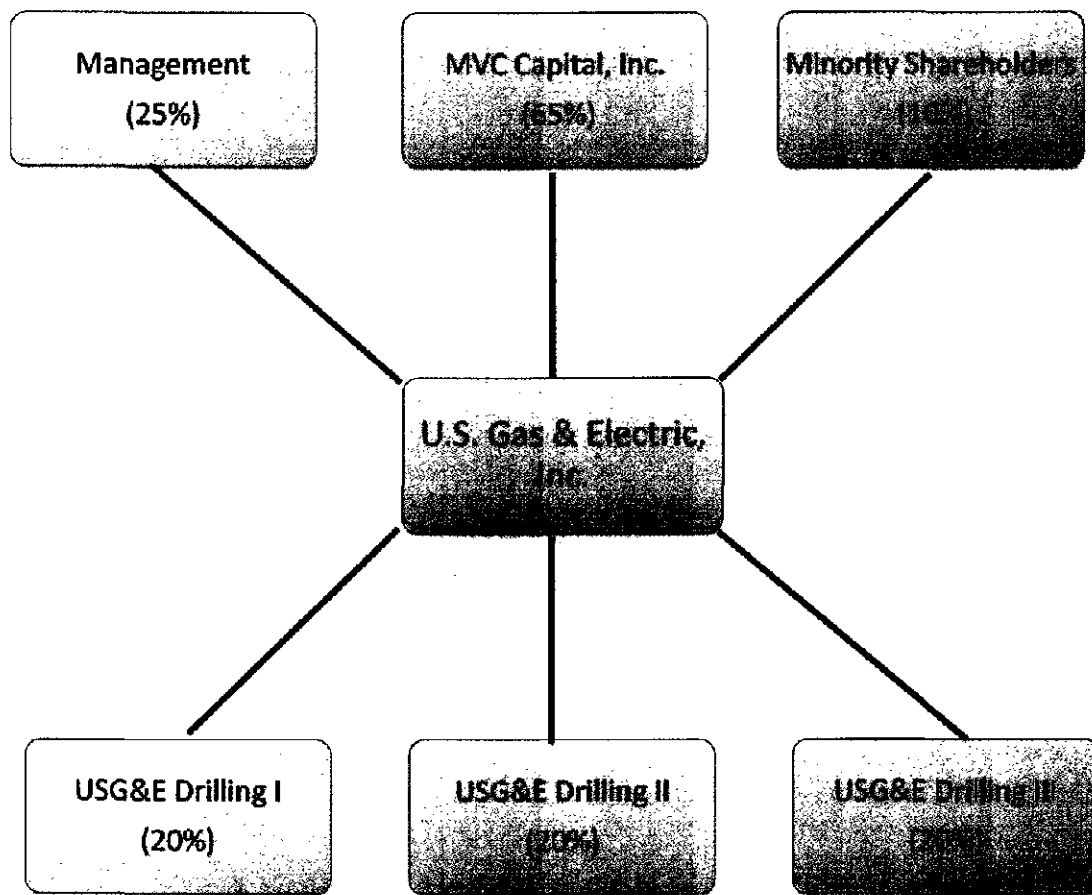


Exhibit A-16 “Company History”

Provide a concise description of the applicant’s company history and principal business interests.

The Companies:

U.S. Gas & Electric, Inc.

U.S. Gas & Electric, Inc., a Delaware corporation (“USG&E”), is a licensed Energy Service Company, with a business strategy focused primarily on markets served by utilities in New York State with plans to expand into new states and utility territories. USG&E earns substantially all of its revenue by selling natural gas to commercial and residential retail customers. USG&E has approximately 20,000 customers and delivers nearly 10 Bcf annually. Additionally, the Company earns a small portion of its revenue from natural gas production from wells in Pennsylvania in which it holds an ownership interest.

MVC Capital, Inc.

In July 2007, USG&E obtained a \$43,000,000 refinancing in which MVC Capital, a New York Stock Exchange traded company (NYSE:MVC), acquired control of USG&E. MVC provides long-term equity and debt investment capital to fund growth, acquisitions, and recapitalizations of small and middle-market companies in various industries, primarily within the United States. MVC currently has investment assets in excess of \$460 million.

Our Mission Statement:

Our mission is to provide competitively priced natural gas throughout the U.S. utilizing a vertically integrated business model. We drill, produce, transport, store and deliver gas to the end user.

Exhibit A-17 "Articles of Incorporation and Bylaws,"

"Articles of Incorporation and Bylaws," if applicable, provide the articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated and any amendments thereto.

BYLAWS

ARTICLE I

OFFICES

Section 1. Registered Office. The registered office of U.S. Gas & Electric, Inc., a Delaware corporation (the "Corporation"), shall be located in the City of Wilmington, State of Delaware.

Section 2. Other Offices. The Corporation may also have offices at such other places, either within or without the State of Delaware, as the Board of Directors of the Corporation (the "Board of Directors") may from time to time determine or as the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. Place. All annual meetings of stockholders shall be held at such place, within or without the State of Delaware, as may be designated by the Board of Directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof. Special meetings of stockholders may be held at such place, within or without the State of Delaware, and at such time as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2. Time of Annual Meeting. Annual meetings of stockholders shall be held at such time fixed, from time to time, by the Board of Directors, provided, that there shall be an annual meeting held every calendar year at which the stockholders shall elect a board of directors and transact such other business as may properly be brought before the meeting.

Section 3. Call of Special Meetings. Special meetings of the stockholders may be called by the President, the Board of Directors or by the Secretary on the written request of the holders of not less than a majority of all shares entitled to vote at the meeting.

Section 4. Conduct of Meetings. The Chairman of the Board (or in his absence, the President or such other designee of the Chairman of the Board) shall preside at the annual and special meetings of stockholders and shall be given full discretion in establishing the rules and procedures to be followed in conducting the meetings, except as otherwise provided by law or in these Bylaws.

Section 5. Notice and Waiver of Notice. Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than sixty (60) days before

the day of the meeting, either personally or by first-class mail, by or at the direction of the President, the Secretary, or the officer or person calling the meeting, to each stockholder of record entitled to vote at such meeting. If the notice is mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the stockholder at his address as it appears on the stock transfer books of the Corporation, with postage thereon prepaid. If a meeting is adjourned to another time and/or place, and if an announcement of the adjourned time and/or place is made at the meeting, it shall not be necessary to give notice of the adjourned meeting unless the Board of Directors, after adjournment, fixes a new record date for the adjourned meeting or if the adjournment is for more than 30 days. Notice need not be given to any stockholder who submits a written waiver of notice by him before or after the time stated therein. Attendance of a person at a meeting of stockholders shall constitute a waiver of notice of such meeting, except when a stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders need be specified in any written waiver of notice.

Section 6. Business of Special Meeting. Business transacted at any special meeting shall be confined to the purposes stated in the notice thereof.

Section 7. Quorum. The holders of a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at meetings of stockholders except as otherwise provided in the Corporation's certificate of incorporation (the "Certificate of Incorporation"). If, however, a quorum shall not be present or represented at any meeting of the stockholders, the stockholders present in person or represented by proxy shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted that might have been transacted at the meeting as originally notified and called. The stockholders present at a duly organized meeting may continue to transact business notwithstanding the withdrawal of some stockholders prior to adjournment, but in no event shall a quorum consist of the holders of less than one-third (1/3) of the shares entitled to vote and thus represented at such meeting.

Section 8. Required Vote. The vote of the holders of a majority of the shares entitled to vote and represented at a meeting at which a quorum is present shall be the act of the Corporation's stockholders, unless the vote of a greater number is required by law, the Certificate of Incorporation, or these Bylaws.

Section 9. Voting of Shares. Each outstanding share, regardless of class, shall be entitled to vote on each matter submitted to a vote at a meeting of stockholders, except to the extent that the voting rights of the shares of any class are limited or denied by the Certificate of Incorporation or the General Corporation Law of Delaware.

Section 10. Proxies. A stockholder may vote in person or by proxy executed in writing by the stockholder or by his duly authorized attorney-in-fact. No proxy shall be voted or acted upon after three (3) years from the date of its execution unless otherwise provided in the proxy. Each

proxy shall be revocable unless expressly provided therein to be irrevocable, and unless otherwise made irrevocable by law.

Section 11. Stockholder List. The officer or agent having charge of the Corporation's stock transfer books shall make, at least ten (10) days before each meeting of stockholders, a complete list of the stockholders entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of, and the number and class and series, if any, of shares held by each. Such list, for a period of ten (10) days prior to such meeting, shall be subject to inspection by any stockholder at any time during the usual business hours at the place where the meeting is to be held. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any stockholder during the whole time of the meeting. The original stock transfer books shall be prima facie evidence as to who are the stockholders entitled to examine such list or transfer book or to vote at any such meeting of stockholders.

Section 12. Action Without Meeting. Any action required by the statutes to be taken at a meeting of stockholders, or any action that may be taken at a meeting of the stockholders, may be taken without a meeting or notice if a consent, or consents, in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted with respect to the subject matter thereof, and such consent shall be delivered to the Corporation by delivery to its registered office, its principal place of business, or an officer or agent of the Corporation, having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Corporation's registered office shall be by hand or certified mail, return receipt requested. Such consent shall have the same force and effect as a vote of stockholders taken at such a meeting.

Section 13. Fixing Record Date. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend, or in order to make a determination of stockholders for any other proper purposes, the Board of Directors may fix in advance a date as the record date for any such determination of stockholders, such date in any case to be not more than sixty (60) days, and, in case of a meeting of stockholders, not less than ten (10) days, prior to the date on which the particular action requiring such determination of stockholders is to be taken. If no record date is fixed for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders, or stockholders entitled to receive payment of a dividend, the date on which the notice of the meeting is mailed or the date on which the resolutions of the Board of Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of stockholders. When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in this Section, such determination shall apply to any adjournment thereof, except where the Board of Directors fixes a new record date for the adjourned meeting.

Section 14. Inspectors and Judges. The Board of Directors in advance of any meeting may, but need not, appoint one or more inspectors of election or judges of the vote, as the case may be,

to act at the meeting or any adjournment thereof. If any inspector or inspectors, or judge or judges, are not appointed, the person presiding at the meeting may, but need not, appoint one or more inspectors or judges. In case any person who may be appointed as an inspector or judge fails to appear or act, the vacancy may be filled by the Board of Directors in advance of the meeting, or at the meeting by the person presiding thereat. The inspectors or judges, if any, shall determine the number of shares of stock outstanding and the voting power of each, the shares of stock represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots and consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate votes, ballots and consents, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. On request of the person presiding at the meeting, the inspector or inspectors or judge or judges, if any, shall make a report in writing of any challenge, question or matter determined by him or them, and execute a certificate of any fact found by him or them.

ARTICLE III

DIRECTORS

Section 1. Number, Election and Term. The number of directors of the Corporation shall be fixed from time to time, within the limits specified by the Certificate of Incorporation, by resolution of the Board of Directors; provided, however, no director's term shall be shortened by reason of a resolution reducing the number of directors. The directors shall be elected at the annual meeting of the stockholders, except as provided in Section 2 of this Article, and each director elected shall hold office for the term for which he is elected and until his successor is elected and qualified. Directors need not be residents of the State of Delaware, stockholders of the Corporation or citizens of the United States. Unless provided otherwise by law or by the Certificate of Incorporation, any director may be removed at any time, with or without cause, at a special meeting of the stockholders called for that purpose.

Section 2. Vacancies. A director may resign at any time by giving written notice to the Board of Directors or the Chairman of the Board. Such resignation shall take effect at the date of receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the size of the Board of Directors shall be filled by the affirmative vote of a majority of the current directors though less than a quorum of the Board of Directors, or may be filled by an election at an annual or special meeting of the stockholders called for that purpose. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office, or until the next election of one or more directors by stockholders if the vacancy is caused by an increase in the number of directors.

Section 3. Powers. The business and affairs of the Corporation shall be managed by its Board of Directors, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws directed or required to be exercised and done by the stockholders.

Section 4. Place of Meetings. Meetings of the Board of Directors, regular or special, may be held either within or without the State of Delaware.

Section 5. Annual Meeting. The first meeting of each newly elected Board of Directors shall be held, without call or notice, immediately following each annual meeting of stockholders.

Section 6. Regular Meetings. Regular meetings of the Board of Directors may also be held without notice at such time and at such place as shall from time to time be determined by the Board of Directors.

Section 7. Special Meetings and Notice. Special meetings of the Board of Directors may be called by the President and shall be called by the Secretary on the written request of any two directors. Written notice of special meetings of the Board of Directors shall be given to each director at least twenty-four (24) hours before the meeting. Except as required by statute, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting. Notices to directors shall be in writing and delivered personally or mailed to the directors at their addresses appearing on the books of the Corporation. Notice by mail shall be deemed to be given at the time when the same shall be received. Notice to directors may also be given by telegram, and shall be deemed delivered when the same shall be deposited at a telegraph office for transmission and all appropriate fees therefor have been paid. Whenever any notice is required to be given to any director, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 8. Quorum and Required Vote. A majority of the directors shall constitute a quorum for the transaction of business and the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless a greater number is required by the Certificate of Incorporation. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. At such adjourned meeting at which a quorum shall be present, any business may be transacted that might have been transacted at the meeting as originally notified and called.

Section 9. Action Without Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors or committee thereof may be taken without a meeting if a consent in writing, setting forth the action taken, is signed by all of the members of the Board of Directors or the committee, as the case may be, and such consent shall have the same force and effect as a unanimous vote at a meeting.

Section 10. Telephone Meeting. Directors and committee members may participate in and hold a meeting by means of conference telephone or similar communication equipment by means

of which all persons participating in the meeting can hear each other. Participation in such a meetings shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground the meeting is not lawfully called or convened.

Section 11. Committees. The Board of Directors, by resolution adopted by a majority of the whole Board of Directors, may designate from among its members an executive committee and one or more other committees, each of which, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the business and affairs of the Corporation except where the action of the full Board of Directors is required by statute. Vacancies in the membership of a committee shall be filled by the Board of Directors at a regular or special meeting of the Board of Directors. The executive committee shall keep regular minutes of its proceedings and report the same to the Board of Directors when required. The designation of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it or him by law.

Section 12. Compensation of Directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors and/or a stated salary as director. Directors may also receive options to purchase shares of the Corporation's common stock or restricted stock grants as compensation for their serving on the Board of Directors. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

Section 13. Chairman of the Board. The Board of Directors may, in its discretion, choose a chairman of the board who shall preside at meetings of the stockholders and of the directors and shall be an ex officio member of all standing committees. The Chairman of the Board shall have such other powers and shall perform such other duties as shall be designated by the Board of Directors. The Chairman of the Board shall be a member of the Board of Directors but no other officers of the Corporation need be a director. The Chairman of the Board shall serve until his successor is chosen and qualified, but he may be removed at any time by the affirmative vote of a majority of the Board of Directors.

ARTICLE IV

OFFICERS

Section 1. Positions. The officers of the Corporation shall consist of a President, one or more Vice Presidents, a Corporate Secretary and a Treasurer, and, if elected by the Board of Directors by resolution, a Chairman of the Board. Any two or more offices may be held by the same person.

Section 2. Election of Specified Officers by Board. The Board of Directors at its first meeting after each annual meeting of stockholders shall elect a President, one or more Vice Presidents, a Corporate Secretary and a Treasurer.

Section 3. Election or Appointment of Other Officers. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the Board of Directors, or, unless otherwise specified herein, appointed by the President of the Corporation. The Board of Directors shall be advised of appointments by the President at or before the next scheduled Board of Directors meeting.

Section 4. Salaries. The salaries of all officers of the Corporation to be elected by the Board of Directors pursuant to Article Four, Section 2 hereof shall be fixed from time to time by the Board of Directors or pursuant to its discretion. The salaries of all other elected or appointed officers of the Corporation shall be fixed from time to time by the President of the Corporation or pursuant to his direction.

Section 5. Term. The officers of the Corporation shall hold office until their successors are chosen and qualified. Any officer or agent elected or appointed by the Board of Directors or the President of the Corporation may be removed, with or without cause, by the Board of Directors whenever in its judgment the best interests of the Corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officers or agents appointed by the President of the Corporation pursuant to Section 3 of this Article Four may also be removed from such officer positions by the President, with or without cause. Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise shall be filled by the Board of Directors, or, in the case of an officer appointed by the President of the Corporation, by the President or the Board of Directors.

Section 6. President. The President shall be the Chief Executive Officer of the Corporation, shall have general and active management of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. In the absence of the Chairman of the Board or in the event the Board of Directors shall not have designated a chairman of the board, the President shall preside at meetings of the stockholders and the Board of Directors.

Section 7. Vice Presidents. The Vice Presidents in the order of their seniority, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the

President, perform the duties and exercise the powers of the President. They shall perform such other duties and have such other powers as the Board of Directors shall prescribe or as the President may from time to time delegate.

Section 8. Corporate Secretary. The Corporate Secretary shall attend all meetings of the Board of Directors and all meetings of the stockholders and record all the proceedings of the meetings of the stockholders and of the Board of Directors in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or President, under whose supervision he shall be. He shall keep in safe custody the seal of the Corporation and, when authorized by the Board of Directors, affix the same to any instrument requiring it.

Section 9. Treasurer. The Treasurer shall have the custody of corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors at its regular meetings or when the Board of Directors so requires an account of all his transactions as treasurer and of the financial condition of the Corporation.

ARTICLE V

CERTIFICATES FOR SHARES

Section 1. Issue of Certificates. The shares of the Corporation shall be represented by certificates, provided that the Board of Directors of the Corporation may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Notwithstanding the adoption of such a resolution by the Board of Directors, every holder of stock represented by certificates (and upon request every holder of uncertificated shares) shall be entitled to have a certificate signed by, or in the name of the Corporation by the chairman or vice-chairman of the Board of Directors, or the President or Vice President, and by the Treasurer or an Assistant Treasurer, or the Corporate Secretary or an Assistant Corporate Secretary of the Corporation, representing the number of shares registered in certificate form.

Section 2. Legends for Preferences and Restrictions on Transfer. If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, provided that, except as

otherwise provided by law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional, or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

A written restriction on the transfer or registration of transfer of a security of the Corporation, if permitted by law and noted conspicuously on the certificate representing the security may be enforced against the holder of the restricted security or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder. Unless noted conspicuously on the certificate representing the security, a restriction, even though permitted by law, is ineffective except against a person with actual knowledge of the restriction. If the Corporation issues any shares that are not registered under the Securities Act of 1933, as amended, and registered or qualified under the applicable state securities laws, the transfer of any such shares shall be restricted substantially in accordance with the following legend:

“THESE SHARES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR UNDER ANY APPLICABLE STATE LAW. THEY MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR PLEDGED WITHOUT (1) REGISTRATION UNDER THE SECURITIES ACT OF 1933 AND ANY APPLICABLE STATE LAW, OR (2) AT HOLDER’S EXPENSE, AN OPINION (SATISFACTORY TO THE CORPORATION) OF COUNSEL (SATISFACTORY TO THE CORPORATION) THAT REGISTRATION IS NOT REQUIRED.

Section 3. Facsimile Signatures. Any and all signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of the issue.

Section 4. Lost Certificates. The Corporation may issue a new certificate of stock in place of any certificate therefore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen, or destroyed certificate, or his legal representative to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate.

Section 5. Transfer of Shares. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

Section 6. Registered Stockholders. The Corporation shall be entitled to recognize the exclusive rights of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Delaware.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Checks. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 2. Fiscal Year. The fiscal year of the Corporation shall end on December 31 of each year, unless otherwise fixed by resolution of the Board of Directors.

Section 3. Seal. The corporate seal shall have inscribed thereon the name and state of incorporation of the Corporation. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

ARTICLE VII

AMENDMENTS OF BYLAWS

These Bylaws may be altered, amended or repealed or new Bylaws may be adopted at any meeting of the Board of Directors at which a quorum is present, by the affirmative vote of a majority of the directors present at such meeting.

CERTIFICATE OF SECRETARY

The undersigned does hereby certify that (i) he is the duly elected and qualified Corporate Secretary of U.S. Gas & Electric, Inc., a Delaware corporation (the "Corporation"), and (ii) the foregoing is a true and correct copy of the Bylaws of the Corporation adopted by the Board of Directors on December 27, 2006.

Philip B. Schwartz
Corporate Secretary

**CERTIFICATE OF AMENDMENT
TO THE AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
U.S. GAS & ELECTRIC, INC.
a Delaware Corporation**

Pursuant to the Delaware General Corporation Law (the "DGCL"), the Certificate of Incorporation of U.S. GAS & ELECTRIC, INC., a Delaware corporation, hereinafter referred to as the Corporation, is amended as follows:

1. Article IV of the Amended and Restated Certificate of Incorporation of the Corporation is amended in its entirety to read as follows:

**ARTICLE IV
CAPITAL STOCK**

The total number of shares of capital stock which the Corporation shall have the authority to issue is 105,507,500 shares, of which (i) 100,507,500 shares shall be Common Stock, par value \$0.0001 per share (the "Common Stock"), and (ii) 5,000,000 shares shall be Preferred Stock, par value \$0.0001 per share (the "Preferred Stock")

The number of authorized shares of each class of stock may be increased or decreased (but not below the number of shares outstanding) by the affirmative vote of the holders of a majority of the shares of the class of stock for which it is proposed to increase or decrease the number of authorized shares, pursuant to the resolution or resolutions establishing such class of stock or this Certificate of Incorporation, as it may be amended from time to time.

The designations, powers, preferences and rights of, and the qualifications, limitations and restrictions upon, each class or series of stock shall be determined in accordance with, or as set forth below.

A. Common Stock

Section 1. General. Of the shares of Common Stock, 100,000,000 shares shall be designated as Class A Common Stock, and 507,500 shares shall be designated as Class B Common Stock.

Section 2. Voting. Each holder of record of Class A Common Stock shall be entitled to one non-cumulative vote for each share of Class A Common Stock standing in his or her name on the books of the Corporation. Shares of Class B Common Stock will not be entitled to vote on matters of the Corporation, except as may be required by law.

Section 3. Dividends. Subject to applicable law, the holders of Class A Common Stock shall be entitled to receive dividends out of funds legally available therefor at such times and in

such amounts as the Board of Directors of the Corporation may determine in its sole discretion, with each share of Class A Common Stock sharing equally, share for share, in such dividends. The holders of Class B Common Stock shall not be entitled to receive dividends on account of their shares of Class B Common Stock.

Section 4. Liquidation. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary (a "Liquidation Event") after the payment or provision for payment of all debts and liabilities of the Corporation, the holders of Class A Common Stock shall be entitled to share ratably in the remaining assets of the Corporation available for distribution after dividends and preferences are paid to the holders of Preferred Stock. The holders of Class B Common Stock shall not be entitled to share in the remaining assets of the Corporation on a Liquidation Event on account of their shares of Class B Common Stock.

B. Preferred Stock

Subject to any limitations prescribed by law, the Board of Directors or any authorized committee thereof is expressly authorized to provide for the issuance of shares of Preferred Stock in one or more series of such stock, and by filing a certificate pursuant to applicable law in the State of Delaware, to establish or change from time-to-time and fix the number of shares to be included in each such series, and to fix the designations, powers, preferences and the relative, participating, optional or other special rights of the shares of each series and any qualifications, limitations and restrictions thereof. Any action by the Board of Directors or any authorized committee thereof under this Article IV to fix the designations, powers, preferences and the relative, participating, optional or other special rights of the shares of a series of Preferred Stock and any qualifications, limitations and restrictions thereof shall require the affirmative vote of the majority of the Directors then in office or a majority of the members of such committee. The Board of Directors or any authorized committee thereof shall have the right to determine or fix one or more of the following with respect to each series of Preferred Stock to the extent permitted by law:

- (a) The distinctive serial designation and the number of shares constituting such series;
- (b) The dividend rates of the amount of dividends to be paid on the shares of such series, whether dividends shall be cumulative, and, if so, from which date or dates, the payment date or dates for dividends, and the participating and other rights, if any, with respect to dividends;
- (c) The voting powers, full or limited, if any, of the shares of such series;
- (d) Whether the shares of such series shall be redeemable, and, if so, the price or prices at which, and the terms and conditions on which, such shares may be redeemed;

(e) The amount or amounts payable upon the shares of such series and any preferences applicable thereto in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

(f) Whether the shares of such series shall be entitled to the benefit of a sinking or retirement fund to be applied to the purchase or redemption of such shares, and if so entitled, the amount of such fund and the manner of its application, including the price or prices at which such shares may be redeemed or purchased through the application of such fund;

(g) Whether the shares of such series shall be convertible into, or exchangeable for, shares of any other class or classes or of any other series of the same or any other class or classes of stock of the Corporation, and, if so convertible or exchangeable, the conversion price or prices, or the rate or rates of exchange, and the adjustments thereof, if any, at which such conversion or exchange may be made, and any other terms and conditions of such conversion or exchange;

(h) the price or other consideration for which the shares of such series shall be issued;

(i) Whether the shares of such series which are redeemed or converted shall have the status of authorized but unissued shares of Preferred Stock (or series thereof) and whether such shares may be reissued as shares of the same or any other class or series of stock; and

(j) Such other powers, preferences, rights, qualifications, limitations, and restrictions thereof as the Board of Directors or any authorized committee thereof may deem advisable.

* * *

All subsequent paragraphs and provisions of Article IV shall remain unchanged and unamended.

3. Except as provided for above, the Certificate of Incorporation of the Corporation, as previously amended, shall remain unchanged. The Certificate of Designation previously filed by the Corporation with respect to the Corporation's Series A Preferred Stock remains in full force and effect.

Effective July 6, 2007, the Board of Directors of the Corporation approved the changes that are being made to the Amended and Restated Certificate of Incorporation and recommended all such changes to the stockholders of the Corporation. The changes were approved by the holders of more than a majority of outstanding shares of the Corporation on July 24, 2007, pursuant to Section 242 of the DGCL. The number of votes cast in favor of the foregoing amendments by the stockholders was sufficient for approval of the amendments.

IN WITNESS WHEREOF, the undersigned officer of the Corporation has executed this Certificate of Amendment as of the 25 day of July, 2007.

U.S. GAS & ELECTRIC, INC.

By: 

Doug Marcille
Chief Executive Officer

CERTIFICATE
FOR RENEWAL AND REVIVAL OF CHARTER

HARBORTOWN CORP., a corporation organized under the laws of Delaware, the charter of which was forfeited pursuant to Section 136(c) of the General Corporation Law of the State of Delaware, now desires to procure a restoration, renewal and revival of its charter, and hereby certifies as follows:

1. The name of the corporation is HARBORTOWN CORP.
2. Its registered office in the State of Delaware is located at 15 East North Street, City of Dover Zip Code 19901 County of Kent. The name of its registered agent at that address is Incorporating Services, Ltd.
3. The date of filing of the original Certificate of Incorporation was November 4, 1999, in the county of Kent.
4. The date when restoration, renewal, and revival of the charter of this company is to commence is the 7th, day of May, same being prior to the date of the expiration of the charter. This renewal and revival of the charter of this corporation is to be perpetual.
5. This corporation was duly organized and carried on the business authorized by its charter until the 8th day of May, A.D. 2002, at which time its charter became forfeited pursuant to Section 136(c) of the General Corporation Law of the State of Delaware and this certificate for renewal and revival is filed by authority of the duly elected directors of the corporation in accordance with the laws of the State of Delaware.

IN TESTIMONY WHEREOF, and in compliance with the provisions of Section 312 of the General Corporation Law of the State of Delaware, as amended, providing for the renewal, extension and restoration of charters, Michael J. Linde

the last and acting President of HARBORTOWN CORP. have hereunto set their hand to this certificate this 21st day of May, 2002.


Name: _____
Title: President MICHAEL J. LINDE

STATE of DELAWARE
CERTIFICATE of AMENDMENT of
CERTIFICATE of INCORPORATION

- **First:** That at a meeting of the Board of Directors of Harbortown Corp.

resolutions were duly adopted setting forth a proposed amendment of the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof. The resolution setting forth the proposed amendment is as follows:

Resolved, that the Certificate of Incorporation of this corporation be amended by changing the Article thereof numbered "1" so that, as amended, said Article shall be and read as follows:

" change of corporation name to:
U.S. Gas & Electric, Inc.
"

- **Second:** That thereafter, pursuant to resolution of its Board of Directors, a special meeting of the stockholders of said corporation was duly called and held, upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.
- **Third:** That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.
- **Fourth:** That the capital of said corporation shall not be reduced under or by reason of said amendment.

BY: [Signature] 5/12/02
(Authorized Officer)

NAME: MICHAEL J. LINDE
(Type or Print)

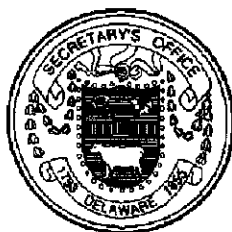
Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "U.S. GAS & ELECTRIC, INC.", FILED IN THIS OFFICE ON THE TWENTY-FIFTH DAY OF JULY, A.D. 2007, AT 2:55 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.



3121453 8100

070852889

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 5872880

DATE: 07-25-07

**CERTIFICATE OF INCORPORATION
OF
HARBORTOWN CORP.**

ARTICLE ONE

Name

The name of the Corporation is Harbortown Corp.

ARTICLE TWO

Duration

The Corporation shall have perpetual existence.

ARTICLE THREE

Purpose

The purpose for which this Corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

ARTICLE FOUR

Shares

The total number of shares of stock which the Corporation shall have authority to issue is 120,000,000 shares, consisting of 100,000,000 shares of Common Stock having a par value of \$.0001 per share and 20,000,000 shares of Preferred Stock having a par value of \$.0001 per share.

The Board of Directors is authorized to provide for the issuance of the shares of Preferred Stock in series and, by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in each such series, and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions thereof.

The authority of the Board of Directors with respect to each series of Preferred Stock shall include, but not be limited to, determination of the following:

- A. The number of shares constituting that series and the distinctive designation of that series;
- B. The dividend rate on the shares of that series, whether dividends shall be cumulative, and, if so, from which date or dates, and the relative rights of priority, if any, of payment of dividends on shares of that series;
- C. Whether that series shall have voting rights, in addition to the voting rights provided by law, and, if so, the terms of such voting rights;
- D. Whether that series shall have conversion privileges, and, if so, the terms and conditions of such conversion, including provision for adjustment of the conversion rate in such events as the Board of Directors shall determine;
- E. Whether or not the shares of that series shall be redeemable, and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;
- F. Whether that series shall have a sinking fund for the redemption or purchase of shares of that series, and, if so, the terms and amount of such sinking fund;

G. The rights of the shares of that series in the event of voluntary or involuntary liquidation, dissolution or winding up of the Corporation, and the relative rights of priority, if any, of payment of shares of that series; and

H. Any other relative rights, preferences and limitations of that series.

ARTICLE FIVE
Commencement of Business

The Corporation is authorized to commence business as soon as its certificate of incorporation has been filed.

ARTICLE SIX
Principal Office and Registered Agent

The post office address of the initial registered office of the Corporation and the name of its initial registered agent and its business address is

Incorporating Services, Ltd.
15 East North Street
P. O. Box 899
Dover, Delaware 19901 (Kent County)

The initial registered agent is a resident of the State of Delaware.

ARTICLE SEVEN
Incorporator

Gilbert H. Davis, Suite 310, 1000 Abernathy Road NE, Atlanta, Georgia 30328.

ARTICLE EIGHT
Pre-Emptive Rights

No Shareholder or other person shall have any pre-emptive rights whatsoever.

ARTICLE NINE
By-Laws

The initial by-laws shall be adopted by the Shareholders or the Board of Directors. The power to alter, amend, or repeal the by-laws or adopt new by-laws is vested in the Board of Directors, subject to repeal or change by action of the Shareholders.

ARTICLE TEN
Number of Votes

Each share of Common Stock has one vote on each matter on which the share is entitled to vote.

ARTICLE ELEVEN
Majority Votes

A majority vote of a quorum of Shareholders (consisting of the holders of a majority of the shares entitled to vote, represented in person or by proxy) is sufficient for any action which requires the vote or concurrence of Shareholders, unless otherwise required or permitted by law or the by-laws of the Corporation.

ARTICLE TWELVE
Non-Cumulative Voting

Directors shall be elected by majority vote. Cumulative voting shall not be permitted.

ARTICLE THIRTEEN
Interested Directors, Officers and Securityholders

A. Validity. If Paragraph (B) is satisfied, no contract or other transaction between the Corporation and any of its directors, officers or securityholders, or any corporation or firm in which any of them are directly or indirectly interested, shall be invalid solely because of this relationship or because of the presence of the director, officer or securityholder at the meeting of the Board of Directors or committee authorizing the contract or transaction, or his participation or vote in the meeting or authorization.

B. Disclosure, Approval, Fairness. Paragraph (A) shall apply only if:

(1) The material facts of the relationship or interest of each such director, officer or securityholder are known or disclosed:

(a) to the Board of Directors or the committee and it nevertheless authorizes or ratifies the contract or transaction by a majority of the directors present, each such interested director to be counted in determining whether a quorum is present but not in calculating the majority necessary to carry the vote; or

(b) to the Shareholders and they nevertheless authorize or ratify the contract or transaction by a majority of the shares present, each such interested person to be counted for quorum and voting purposes; or

(2) the contract or transaction is fair to the Corporation as of the time it is authorized or ratified by the Board of Directors, the committee or the Shareholders.

ARTICLE FOURTEEN
Indemnification and Insurance

A. Persons. The Corporation shall indemnify, to the extent provided in Paragraphs (B), (D) or (F) and to the extent permitted from time to time by law:

(1) any person who is or was director, officer, agent or employee of the Corporation, and

(2) any person who serves or served at the Corporation's request as a director, officer, agent, employee, partner or trustee of another corporation or of a partnership, joint venture, trust or other enterprise.

B. Extent--Derivative Suits. In case of a suit by or in the right of the Corporation against a person named in Paragraph (A) by reason of his holding a position named in Paragraph (A), the Corporation shall indemnify him, if he satisfies the standard in Paragraph (C), for expenses (including attorney's fees but excluding amounts paid in settlement) actually and reasonably incurred by him in connection with the defense or settlement of the suit.

C. Standard--Derivative Suits. In case of a suit by or in the right of the Corporation, a person named in Paragraph (A) shall be indemnified only if:

(1) he is successful on the merits or otherwise, or

(2) he acted in good faith in the transaction which is the subject of the suit, and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Corporation. However, he shall not be indemnified in respect of any claim, issue or matter as to which he has been adjudged liable for negligence or misconduct in the performance of his duty to the Corporation unless (and only to the extent that) the court in which the suit was

K. Insurance. The Corporation may purchase and maintain insurance on behalf of any person who holds or who has held any position named in Paragraph (A) against any liability incurred by him in any such positions or arising out of this status as such, whether or not the Corporation would have power to indemnify him against such liability under Paragraphs (A) - (H).

L. Reports. Indemnification payments, advance payments, and insurance purchases and payments made under Paragraphs (A) - (K) shall be reported in writing to the Shareholders of the Corporation with the next notice of annual meeting, or within six months, whichever is sooner.

M. Amendment of Article. Any changes in the General Corporation Law of Delaware increasing, decreasing, amending, changing or otherwise effecting the indemnification of directors, officers, agents, or employees of the Corporation shall be incorporated by reference in this Article as of the date of such changes without further action by the Corporation, its Board of Directors, or Shareholders, it being the intention of this Article that directors, officers, agents and employees of the Corporation shall be indemnified to the maximum degree allowed by the General Corporation Law of the State of Delaware at all times.

ARTICLE FIFTEEN **Limitation On Director Liability**

A. Scope of Limitation. No person, by virtue of being or having been a director of the Corporation, shall have any personal liability for monetary damages to the Corporation or any of its Shareholders for any breach of fiduciary duty except as to the extent provided in Paragraph (B).

B. Extent of Limitation. The limitation provided for in this Article shall not eliminate or limit the liability of a director to the Corporation or its Shareholders (i) for any breach of the director's duty of loyalty to the Corporation or its Shareholders (ii) for any acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law (iii) for any unlawful payment of dividends or unlawful stock purchases or redemptions in violation of Section 174 of the General Corporation Law of Delaware or (iv) for any transaction for which the director derived an improper personal benefit.

4th IN WITNESS WHEREOF, the incorporator hereunto has executed this certificate of incorporation on this day of November, 1999.

Gilbert H. Davis
Gilbert H. Davis, Incorporator

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "U.S. GAS & ELECTRIC, INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE FIRST DAY OF FEBRUARY, A.D. 2008.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "U.S. GAS & ELECTRIC, INC." WAS INCORPORATED ON THE FOURTH DAY OF NOVEMBER, A.D. 1999.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.

3121453 8300

080108467



Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State
AUTHENTICATION: 6354231

DATE: 02-01-08

Exhibit A-18 "Secretary of State

200804502414

| | | | | | | | |
|------------|--------------|----------------------------------|--------|-------|---------|------|------|
| DATE: | DOCUMENT ID | DESCRIPTION | FILING | EXPED | PENALTY | CERT | COPY |
| 02/15/2008 | 200804502414 | FOREIGN LICENSE/FOR-PROFIT (FLF) | 125.00 | .00 | .00 | .00 | .00 |

Receipt

This is not a bill. Please do not remit payment.

UNISEARCH, INC.
PMB 232
2545 HILLIARD-ROME ROAD
HILLIARD, OH 43026

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jennifer Brunner

1758193

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

U.S. GAS & ELECTRIC, INC.

and, that said business records show the filing and recording of:

Document(s):

FOREIGN LICENSE/FOR-PROFIT

Authorization to transact business in Ohio is hereby given, until surrender, expiration or
cancellation of this license.

Document No(s):

200804502414



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio
this 7th day of February, A.D. 2008.

A handwritten signature in cursive script, appearing to read "Jennifer Brunner".

Ohio Secretary of State

Exhibit B-1 "Jurisdictions of Operation"

"Jurisdictions of Operation," provide a current 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 natural gas service, or retail/wholesale electric services.

New York State:

- Central Hudson
- Con Edison
- KeySpan LI/NY
- NYSEG
- National Fuel
- National Grid
- Orange and Rockland
- RG&E

Indiana

- Nipsco

Michigan

- Consumers Energy
- MichCon

Exhibit B-2 "Experience & Plans"

"Experience & Plans," provide a current 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 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.

U.S. Gas & Electric, Inc., a Delaware corporation ("USG&E"), is a licensed Energy Service Company, with a business strategy focused primarily on markets served by utilities in New York State with plans in 2008 to expand into new states and utility territories. USG&E has recently been approved by Michigan and Indiana as a retail natural gas supplier. USG&E earns substantially all of its revenue by selling natural gas to commercial and residential retail customers. As of December 1, 2007, the Company had approximately 20,000 customers in the seven utility territories in New York State. USG&E's current processes for contracting with customers, providing contracted services, providing billing statement, and responding to customer inquiries and complaints will be in accordance with Commission rules adopted pursuant to Section 49290.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.

Exhibit B-3 "Summary of Experience"

"Summary of Experience," provide a concise and current summary of the applicant's experience in providing the service(s) for which it is seeking to be certified to provide (e.g., number and types of customers served, utility service areas, volume of gas supplied, etc.).

U.S. Gas & Electric, Inc., is a licensed Energy Service Company, supplying gas in New York State for over 4 ½ years to approximately 20,000 commercial and residential natural gas end-users and delivers nearly 10 Bcf annually. U.S. Gas & Electric, Inc. has never had any failures to serve customers.

Exhibit B-4 "Disclosure of Liabilities and Investigations"

"Disclosure of Liabilities and Investigations," provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocations 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.

Commencing in late 2001 and through early 2003, USG&E raised approximately \$3.2 million from the sale of stock to approximately 280 investors in transactions that were intended to be exempt from the registration provisions of the Securities Act of 1933, as amended ("Securities Act"). The sales of the securities of USG&E were coordinated by Larry Webman and Melvin Webman, who trained and directed telemarketing personnel who raised funds on behalf of USG&E.

Don Secunda joined USG&E in March 2002 as its Chairman and Chief Executive Officer. Mr. Secunda terminated Mr. Linde in December 2002 when he allegedly discovered false representations made by Mr. Linde concerning the financial condition of USG&E. In January 2003, Doug Marcille was engaged by USG&E as its Chief Financial Officer. In response to Mr. Marcille's findings from his review of the USG&E's books and records, the company terminated the sale of securities by USG&E in March 2003, less than two months after Mr. Marcille joined the company.

In 2002 (prior to Mr. Marcille's employment in 2003), USG&E began to offer securities in a drilling program to obtain gas supplies for its retail gas business. USG&E ultimately created the three Drilling Programs, (in the form of limited liability companies), to raise money for the purpose of drilling various wells located in Armstrong County, Pennsylvania. Drilling I raised \$1 million in late 2002 and early 2003 and drilled four wells. Drilling II raised \$993,750 in the spring of 2003 and drilled four wells. Drilling III raised almost \$2 million during the summer of 2003 and drilled four wells. These securities in the drilling programs were sold by telemarketers under the direction and control of Larry Webman and Melvin Webman.

In August 2003, during the course of the offer and sale of interests in Drilling III, the staff of the United States Securities and Exchange Commission ("SEC") commenced an informal inquiry into sales of securities by USG&E and the Drilling Programs. In late August 2003, at Mr. Marcille's suggestion, USG&E retained Akerman Senterfitt (the "Firm") to replace Greenberg Traurig, the Company's law firm at the time, and to conduct an internal investigation into matters relating to the sales of securities by USG&E and by the three Drilling Programs sponsored by USG&E. Also, at Mr. Marcille's suggestion, all employees involved in fundraising, including the Melvin and Larry Webman, were terminated.

Counsel reviewed the securities offerings, interviewed employees and consultants of USG&E, and with the consent of USG&E, disclosed to the staff of the SEC its findings. In particular, it was disclosed to the staff of the SEC that in counsel's view USG&E's offerings should have been registered under federal securities laws.

USG&E's fund raising activities on behalf of the drilling programs were terminated in August 2003 at the time that the Firm was retained. Approximately \$167,000, raised with respect to the offer and sale of interests in Drilling III, was placed in escrow with the Firm (which funds were paid to the SEC under the settlement). USG&E and Messrs. Secunda and Marcille fully cooperated with the staff of the SEC in connection with its informal inquiry.

In 2004, after the informal inquiry was completed by the staff of the SEC, USG&E was notified that the staff believed the offerings of USG&E and the Drilling Programs securities had violated federal securities laws. As a result of the SEC's findings, and with the SEC's approval, on September 13, 2004 Doug Marcille replaced Don Secunda as CEO of the Company, and Mr. Secunda was terminated as an employee of the Company.

In September 2004, under Mr. Marcille's direction, USG&E organized the USG&E Investor Steering Committee. The committee was organized to represent the interests of the Investors in a Restructuring process designed to place additional shares in the hands of the investors. The committee consisted of 11 investors representing holders of each class of securities in the USG&E Entities and representing in the aggregate, approximately 25% of the funds invested in USG&E by the Investors.

The Investor Steering Committee met with USG&E management and counsel on five occasions throughout 2004, 2005 and 2006, three meetings of which were held in person and two meetings of which were held by telephone conference call. Through the process, the terms of the Restructuring were considered and approved by the shareholders and the SEC.

The SEC and the Company, along with Mr. Marcille, negotiated a final settlement with the SEC in September 2006. In accordance therewith, on September 27, 2006, the SEC filed a complaint against Larry Webman, Melvin Webman, Don Secunda, Doug Marcille, and the Company, alleging violations of the Securities Act. The complaint acknowledged that Mr. Marcille played much less of a part in the alleged violations than the other three parties. The only allegation relating to Mr. Marcille was that fundraisers were paid commissions while he was Chief Financial Officer of the company.

On October 3, 2006, Mr. Marcille, along with the Company, without admitting or denying any allegations, finalized the settlement with the SEC. Pursuant to the settlement, the Company paid \$167,000 and Mr. Marcille paid \$40,000. As a result of the settlement, the SEC allowed USG&E to de-register its securities and it became a private company.

In July 2007, USG&E obtained a \$43,000,000 refinancing in which MVC Capital, a New York Stock Exchange traded company (NYSE: MVC), acquired control of USG&E. Commensurate with the refinancing, the board of directors re-appointed Mr. Marcille as the company's President and Chief Executive Officer.

Exhibit C-1 "Annual Reports"

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

Exhibit C-1 is not applicable because USG&E is a private company that does not prepare annual reports to shareholders.

See Exhibit C-3 for financial information.

Exhibit C-2 "SEC Filings"

"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 whether the applicant is not required to file with the SEC and why.

USG&E is a private company and is therefore not required to file with the SEC.

Exhibit C-3 "Financial Statements"

"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.

This answer requires USG&E to disclose privileged and confidential information and is filed under seal.

CONFIDENTIAL

Exhibit C-4 "Financial Arrangements"

"Financial Arrangements," provide copies of the applicant's current financial arrangements to conduct competitive retail natural gas service (CRNGS) as a business activity (e.g.,) guarantees, bank commitments, contractual arrangements, credit agreements, etc.)

This answer requires USG&E to disclose privileged and confidential information and is filed under seal.

CONFIDENTIAL

Exhibit C-5 "Forecasted Financial Statements"

"Forecasted Financial Statements," provide two years of forecasted financial statements (balance sheet, income statement, and cash flow statement) for the applicant's CRNGS operation, along with a list of assumptions, and the name, address, email address, and telephone number of the preparer.

Prepared by:

Al Johnston
VP Finance and Operations
290 N.W. 165th St. PH5
N. Miami Beach, FL 33169
305.947.7880

This answer requires USG&E to disclose privileged and confidential information and is filed under seal.

CONFIDENTIAL

Exhibit C-6 "Credit Rating"

"Credit Rating," provide a statement disclosing the applicant's current 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.

Dun and Bradstreet Information Services rates U.S. Gas & Electric, Inc. ER5 with a Paydex of 80. (See attached).

MVC Capital owns approximately 65% of U.S. Gas & Electric, Inc. Moody's Investors Service has assigned MVC a credit score of 940 which is equivalent to a rating of Ba1.

Exhibit C-7 "Credit Report"

"Credit Report," provide a copy of the applicant's current credit report from Experion, Dun and Bradstreet, or a similar organization.

Business Information Report: US GAS & Electric, Inc

© 2002 Dun & Bradstreet, Inc.
*This D&B report is being provided for your review.
 It may not be used for any other purpose or provided to anyone else.*

- Not For Distribution -

IN DATE

Statement Date: DEC 31 2007

DUNS: 12-101-9033
 US GAS & ELECTRIC, INC
 (SUBSIDIARY OF MVC CAPITAL,
 INC., PURCHASE, NY)
 USG&E
 U.S. GAS & ELECTRIC
 290 NW 165TH ST PH 5
 MIAMI FL 33169
 TEL: 305 947-7880

DATE PRINTED
 MAY 13 2008
 NATURAL GAS
 RESELLER
 SIC NO.
 13 11

| SUMMARY | |
|-----------|--------------|
| RATING | ER5 |
| STARTED | 1999 |
| SALES F | \$52,662,874 |
| WORTH F | \$(809,171) |
| EMPLOYS | 45 |
| HISTORY | CLEAR |
| FINANCING | SECURED |

CHIEF EXECUTIVE: DOUG MARCILLE

=====

* * * CUSTOMER SERVICE * * *

=====

If you have questions about this report, please call our Customer Resource Center at 1-800-234-3867 from anywhere within the U.S. If you are outside the U.S., contact your local D&B office.

*** Additional Decision Support Available ***

Additional D&B products, monitoring services and specialized investigations are available to help you evaluate this company or its industry. Call Dun & Bradstreet's Customer Resource Center at 1-800-234-3867 from anywhere within the U.S. or visit our website at www.dnb.com.

=====

* * * SUMMARY ANALYSIS * * *

=====

The Summary Analysis section reflects information in D&B's file as of May 12, 2008.

RATING SUMMARY

Those businesses which do not lend themselves to a D&B Rating are assigned an Employee Range designation (ER) which indicates size in terms of number of employees. An ER5 indicates an employee range from 20 to 49.

Below is an overview of the company's D&B Rating(s) since 10/28/02:

| RATING | DATE APPLIED |
|--------|--------------|
| ER5 | 05/02/08 |
| -- | 02/09/08 |
| 1R3 | 07/26/05 |
| 1R4 | 04/05/05 |
| 1R3 | 06/30/03 |
| 1R4 | 05/09/03 |
| -- | 10/28/02 |

=====

* * * PAYMENT SUMMARY * * *

=====

=====

The Payment Summary section reflects payment information in D&B's file as of the date of this report.

The PAYDEX for this company is 80.

This PAYDEX score indicates that payments to suppliers are generally within terms, weighted by dollar amounts. When dollar amounts are not considered, approximately 99% of the company's payments are within terms.

Below is an overview of the company's dollar-weighted payments, segmented by its suppliers' primary industries:

| | TOTAL RCV'D | TOTAL DOLLAR AMOUNTS | LARGEST HIGH CREDIT | % W/IN TERMS | DAYS SLOW | | | |
|-------------------------|----------------|----------------------------|---------------------------|--------------------|-----------|-------|-------|-----|
| | # | \$ | \$ | % | <31 | 31-60 | 61-90 | 91+ |
| | | | | | % | % | % | % |
| Total in D&B's file | 22 | 14,650 | 2,500 | | | | | |
| Top 10 Industries: | | | | | | | | |
| 1 Telephone communictns | 7 | 5,350 | 2,500 | 100 | - | - | - | - |
| 2 Executive office | 4 | 250 | 100 | 100 | - | - | - | - |
| 3 Nonclassified | 2 | 3,250 | 2,500 | 100 | - | - | - | - |
| 4 Whol office supplies | 1 | 2,500 | 2,500 | 100 | - | - | - | - |
| 5 Ret mail-order house | 1 | 2,500 | 2,500 | 100 | - | - | - | - |
| 6 Misc business service | 1 | 500 | 500 | 100 | - | - | - | - |
| 7 Data processing svcs | 1 | 100 | 100 | 100 | - | - | - | - |
| 8 Electric services | 1 | 100 | 100 | - | 100 | - | - | - |
| 9 Business consulting | 1 | 100 | 100 | 100 | - | - | - | - |
| 10 Photocopying service | 1 | 0 | 0 | - | - | - | - | - |
| 11 OTHER INDUSTRIES | 1 | 0 | 0 | - | - | - | - | - |

Other Payment Categories:

| | | | |
|------------------------|---|-----|---|
| Cash experiences | 1 | 0 | 0 |
| Payment record unknown | 0 | 0 | 0 |
| Unfavorable comments | 0 | 0 | 0 |
| Placed for collection | | | |
| with D&B | 0 | 0 | |
| other | 0 | N/A | |

The highest "Now Owes" on file is \$2,500

The highest "Past Due" on file is \$ 0

D&B receives over 600 million payment experiences each year. We enter these new and updated experiences into D&B Reports as this information is received.

=====

PAYMENTS (Amounts may be rounded to nearest figure in prescribed ranges)

Antic - Anticipated (Payments received prior to date of invoice)
 Disc - Discounted (Payments received within trade discount period)
 Ppt - Prompt (Payments received within terms granted)

| REPORTED | PAYING RECORD | HIGH CREDIT | NOW OWES | PAST DUE | SELLING TERMS | LAST SALE WITHIN |
|----------|------------------|----------------|-------------|-------------|------------------|---------------------|
| 05/08 | (001) | | | | | |
| | Cash account | | | | | |
| 04/08 | Ppt | 750 | -0- | -0- | | 2-3 Mos |
| 03/08 | Ppt | 500 | 500 | -0- | | 1 Mo |
| | Ppt | 100 | 100 | -0- | | 1 Mo |
| | Ppt | 50 | -0- | -0- | | 6-12 Mos |
| | Ppt | | -0- | | | 1 Mo |
| | Slow | 100 | 100 | | | 1 Mo |
| 02/08 | Ppt | 2500 | 2500 | -0- | | 1 Mo |
| | Ppt | 2500 | 1000 | | N30 | 1 Mo |

| | | | | | |
|-------|-----|------|------|-----|----------|
| | Ppt | 750 | 750 | -0- | 1 Mo |
| | Ppt | 750 | 750 | -0- | 1 Mo |
| | Ppt | 750 | 750 | -0- | 1 Mo |
| | Ppt | 500 | 500 | -0- | 1 Mo |
| 01/08 | Ppt | 2500 | 2500 | -0- | 1 Mo |
| 11/07 | Ppt | 2500 | 1000 | -0- | 1 Mo |
| | Ppt | 100 | | | 4-5 Mos |
| | Ppt | 50 | | | 6-12 Mos |
| | Ppt | 50 | | | 6-12 Mos |
| | Ppt | 50 | | | 6-12 Mos |
| 10/07 | Ppt | | -0- | -0- | 1 Mo |
| 06/07 | Ppt | 100 | 100 | | 1 Mo |
| | Ppt | 50 | -0- | -0- | 6-12 Mos |

* Payment experiences reflect how bills are met in relation to the terms granted. In some instances payment beyond terms can be the result of disputes over merchandise, skipped invoices etc.

* Each experience shown represents a separate account reported by a supplier. Updated trade experiences replace those previously reported.

STATEMENT UPDATE

05/07/08 Fiscal Consolidated statement dated DEC 31 2007:

| | | | | | |
|-------------------|----|------------|-------------------|----|-------------|
| Cash | \$ | 689,520 | Accts Pay | \$ | 7,195,113 |
| Accts Rec | | 15,755,358 | Unbilled Gas | | 8,787,482 |
| Unbilled | | | Accruals | | 3,344,285 |
| Receivables | | 12,512,342 | Unearned Revenue | | 1,797,507 |
| Prepaid Exps & | | | Senior Revolving | | |
| Other Curr Assets | | 810,703 | Cred Facility- | | |
| Deferred Income | | | Bank | | 9,780,408 |
| Taxes | | 126,000 | | | |
| Prepaid | | 4,094,179 | | | |
| | | ----- | | | ----- |
| Curr Assets | | 33,988,102 | Curr Liabs | | 30,904,795 |
| Fixt & Equip | | 218,364 | Subordinated | | |
| Gas Wells-Net | | 557,110 | Debt-Company | | 5,622,554 |
| Deferred | | | Other Long-Term | | |
| Financing Costs- | | | Debt | | 1,718,468 |
| Net | | 2,572,801 | L.T. Liab-Other | | 77,750 |
| Other Assets | | 178,019 | PREFERRED STOCK | | 76 |
| | | | COMMON STOCK | | 422 |
| | | | ADDIT. PD.-IN CAP | | 4,012,319 |
| | | | CLASS I MEMBER | | |
| | | | EQUITY | | 86,282 |
| | | | RETAINED EARNINGS | | (7,821,648) |
| | | | ADJUSTMENT | | 2,913,378 |
| | | ----- | | | ----- |
| Total Assets | | 37,514,396 | Total | | 37,514,396 |

From JAN 01 2007 to DEC 31 2007 annual sales \$52,662,874; cost of goods sold \$43,423,997. Gross profit \$9,238,877; operating expenses \$6,043,251. Operating income \$3,195,626; other income \$212,620; other expenses \$2,245,450; net income before taxes \$1,162,796; Federal income tax \$10,376; net income \$1,152,420.

Prepared from statement(s) by Accountant: Rachlin LLP, Fort Lauderdale, Florida.

ACCOUNTANTS OPINION: "A review of the accountant's opinion indicated that the financial statement meets generally accepted accounting principles and the audit contains no qualifications."

--0--

Fixed assets shown net less \$59,164 depreciation. Explanations: Adjustments consists of Management promissory notes and Noncontrolling interests.

FINANCE

05/02/08 On MAY 02 2008 Richard Alexander, deferred financial information.

PUBLIC FILINGS

The following data is for information purposes only and is not the official record. Certified copies can only be obtained from the official source.

*** UCC FILING(S) ***

COLLATERAL: All Assets
 FILING NO: 2007 2835899 DATE FILED: 07/26/2007
 TYPE: Original LATEST INFO RECEIVED: 08/29/2007
 SEC. PARTY: RBS BUSINESS CAPITAL, A DIVISON OF RBS ASSET FINANCE, INC., AS AGENT, BOSTON, MA FILED WITH: SECRETARY OF STATE/UCC DIVISION, DE
 DEBTOR: U.S. GAS & ELECTRIC, INC.

COLLATERAL: All Assets
 FILING NO: 2007 2831799 DATE FILED: 07/26/2007
 TYPE: Original LATEST INFO RECEIVED: 08/29/2007
 SEC. PARTY: MVC CAPITAL INC., NEW YORK, NY FILED WITH: SECRETARY OF STATE/UCC DIVISION, DE
 DEBTOR: U.S. GAS & ELECTRIC, INC.

COLLATERAL: All Inventory including proceeds and products - All Account(s) including proceeds and products - All General intangibles(s) including proceeds and products - All Equipment including proceeds and products - and OTHERS
 FILING NO: 4265721 3 DATE FILED: 09/22/2004
 TYPE: Original LATEST INFO RECEIVED: 10/21/2004
 SEC. PARTY: WEBBANK, OWINGS MILLS, MD FILED WITH: SECRETARY OF STATE/UCC DIVISION, DE
 DEBTOR: U.S. GAS & ELECTRIC, INC.

COLLATERAL: Accounts receivable including proceeds and products
 FILING NO: 6190046 3 DATE FILED: 06/05/2006
 TYPE: Original LATEST INFO RECEIVED: 07/06/2006
 SEC. PARTY: NIAGARA MOHAWK POWER CORPORATION SYRACUSE, NY FILED WITH: SECRETARY OF STATE/UCC DIVISION, DE
 DEBTOR: U.S. GAS & ELECTRIC, INC.

COLLATERAL: All Account(s) including proceeds and products - All Equipment including proceeds and products - All Fixtures including proceeds and products
 FILING NO: 0408160845340 DATE FILED: 08/16/2004
 TYPE: Original LATEST INFO RECEIVED: 08/20/2004
 SEC. PARTY: BIG APPLE ENERGY LLC, SYOSSET, NY FILED WITH: SECRETARY OF STATE/UCC DIVISION, NY
 DEBTOR: U.S. GAS & ELECTRIC, INC.

COLLATERAL: INTEREST
 FILING NO: 0603308124609 DATE FILED: 03/30/2006
 TYPE: Amendment LATEST INFO RECEIVED: 04/27/2006
 SEC. PARTY: BIG APPLE ENERGY LLC, SYOSSET, NY ORIG. UCC FILED: 08/16/2004
 DEBTOR: U.S. GAS & ELECTRIC, INC. ORIG. FILING NO: 0408160845340
 FILED WITH: SECRETARY OF STATE/UCC DIVISION, NY

COLLATERAL: Accounts receivable
 FILING NO: 0605100399301 DATE FILED: 05/10/2006
 TYPE: Amendment LATEST INFO RECEIVED: 05/18/2006
 SEC. PARTY: BIG APPLE ENERGY LLC, SYOSSET, NY ORIG. UCC FILED: 08/16/2004
 DEBTOR: U.S. GAS & ELECTRIC, INC. ORIG. FILING NO: 0408160845340
 FILED WITH: SECRETARY OF STATE/UCC DIVISION, NY

COLLATERAL: All Account(s) including proceeds and products - All Equipment including proceeds and products - All Fixtures including proceeds and products
 FILING NO: 20040872025 DATE FILED: 08/16/2004
 TYPE: Original LATEST INFO RECEIVED: 10/12/2004

SEC. PARTY: BIG APPLE ENERGY LLC, SYOSSET, NY
 DEBTOR: U.S. GAS & ELECTRIC, INC.
 FILED WITH: SECRETARY OF STATE/UCC DIVISION, PA

This data is for informational purposes only and is not an official record.
 Certified copies may be obtained from the Pennsylvania Department of State.

 COLLATERAL: All Account(s) including proceeds and products - All Equipment including proceeds and products - All Fixtures including proceeds and products
 FILING NO: 4231074 8 DATE FILED: 08/16/2004
 TYPE: Original LATEST INFO RECEIVED: 09/09/2004
 SEC. PARTY: BIG APPLE ENERGY LLC, SYOSSET, NY FILED WITH: SECRETARY OF STATE/UCC DIVISION, DE
 DEBTOR: U.S. GAS & ELECTRIC, INC.

 COLLATERAL: All Account(s) including proceeds and products - All Equipment including proceeds and products - All Fixtures including proceeds and products
 FILING NO: 200407663949 DATE FILED: 08/16/2004
 TYPE: Original LATEST INFO RECEIVED: 08/24/2004
 SEC. PARTY: BIG APPLE ENERGY LLC, SYOSSET, NY FILED WITH: SECRETARY OF STATE/UCC DIVISION, FL
 DEBTOR: U.S. GAS & ELECTRIC, INC.

 COLLATERAL: All Account(s) and proceeds - All Chattel paper and proceeds - All General intangibles(s) and proceeds
 FILING NO: 6315394 7 DATE FILED: 09/12/2006
 TYPE: Original LATEST INFO RECEIVED: 10/24/2006
 SEC. PARTY: NATIONAL FUEL GAS DISTRIBUTION CORPORATION, WILLIAMSVILLE, NY FILED WITH: SECRETARY OF STATE/UCC DIVISION, DE
 DEBTOR: U. S. GAS & ELECTRIC, INC.

 COLLATERAL: Account(s) including proceeds and products
 FILING NO: 4182979 7 DATE FILED: 06/30/2004
 TYPE: Original LATEST INFO RECEIVED: 07/22/2004
 SEC. PARTY: CHAMBERLAIN, THOMAS, CHESAPEAKE, VA FILED WITH: SECRETARY OF STATE/UCC DIVISION, DE
 DEBTOR: U.S. GAS & ELECTRIC, INC.

 There are additional UCC's in D&B's file on this company available by contacting 1-800-234-3867.

The public record items contained in this report may have been paid, terminated, vacated or released prior to the date this report was printed.

=====

HISTORY
 05/05/08

DOUG MARCILLE, CEO & PRES RICHARD ALEXANDER, EXEC VICE PRES/FINANCE
 DIRECTOR(S): THE OFFICER(S)

On October 28, 2002, Michael Linde, President reported that US Gas & Electric Inc started in 1999 and operates as a corporation. A check with the Florida Secretary of State on October 28, 2002 revealed the company did not incorporate until 2002.

Business started 2002 by Don Secunda. 100% of capital stock is owned by officers.

Business address has changed from 290 Nw 165th St # 2, Miami, FL, 33169 to 290 Nw 165th St Ph 5, Miami, FL, 33169.

=====

OPERATION
 05/05/08

Subsidiary of MVC Capital, Inc., Purchase, NY started 1999 which operates as investors. Parent company owns 70% of capital stock. Operates as a natural gas reseller (100%). Net 30 days. Sells to commercial concerns. Territory : Regional.

EMPLOYEES: 45 which includes officer(s).
FACILITIES: Occupies premises in building.
05-13(1VD /001) 99999 118462543 063181181

FULL DISPLAY COMPLETE

© 2008 Dun & Bradstreet Inc.
January 1, 2008 - GTO

Exhibit C-8 "Bankruptcy Information"

"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 since applicant last filed for certification.

None

Exhibit C-9 "Merger Information"

"Merger Information," provide a statement describing any dissolution or merger or acquisition of the applicant within the five most recent years preceding the application, or at any time as a participant in the Ohio Natural Gas Choice programs.

MVC Capital (NYSE: "MVC") acquired 75% ownership of USG&E in July 2007 in a cash for stock transaction. The total recapitalization included \$43,000,000 of debt and equity.

Exhibit D-1 "Operations"

"Operations" provide a current written description of the operational nature of the applicant's business. Please include whether the applicant's operations will include the contracting of natural gas purchases for retail sales, the nomination and scheduling of retail natural gas for delivery, and the provision of retail ancillary services, as well as other services used to supply natural gas to the natural gas company city gate for retail customers.

U.S. Gas & Electric, Inc., is a licensed Energy Service Company, supplying gas in New York State for over 4 ½ years to approximately 20,000 commercial and residential natural gas end-users. U.S. Gas & Electric, Inc., has never had any failures to serve customers.

U.S. Gas & Electric, Inc., will include the contracting of natural gas purchases for retail sales, the nomination and scheduling of retail natural gas for delivery in its operations.

Exhibit D-2 "Operations Expertise"

Operations Expertise," given the operational nature of the applicant's business, provide evidence of the applicant's current experience and technical expertise in performing such operations.

U.S. Gas & Electric, Inc., is a licensed Energy Service Company, supplying gas in New York State for over 4 ½ years to approximately 20,000 commercial and residential natural gas end-users.

Exhibit D-3 "Key Technical Personnel"

"Key Technical Personnel," provide the names, titles, email addresses, telephone numbers, and background of key personnel involved in the operational aspects of the applicant's current business.

Doug Marcille has been the Chief Executive Officer and a Director of USG&E since September 2004. Prior to September 2004, from January 2003 to September 2004, Mr. Marcille was the Chief Financial Officer of USG&E. From 2001 to 2003, Mr. Marcille was Chief Financial Officer, Treasurer and General Counsel of Computer Products & Services, Inc., a privately-owned \$30 million computer parts logistics company. Prior to 2001, Mr. Marcille was an International Tax Senior Manager with the public accounting firm of Ernst and Young. Mr. Marcille is a member of the Massachusetts Bar and the Massachusetts Society of Certified Public Accountants. Mr. Marcille received a B.S.B.A., *summa cum laude*, from the University of Rhode Island in Accounting and Finance, and a Juris Doctor from Boston University.

Richard Alexander has been Chief Financial Officer of USG&E since February 2006. Previously, Mr. Alexander ran the accounting department of Computer Products & Services, Inc., a privately-owned \$30 million computer parts logistics company serving in different capacities ranging from Controller to Chief Financial Officer since early 2001. Mr. Alexander graduated with a Bachelor of Science in Business Administration from Syracuse University in 1976. A Certified Public Accountant licensed in New York and Florida, Mr. Alexander has extensive experience in public accounting having worked in New York City for Touche Ross & Co., and in Miami with Coopers & Lybrand and Berkowitz Dick Pollack & Brandt.

Victor Ferreira, has been Executive Vice President of Operations of USG&E since April 2003. Mr. Ferreira is President and Managing Member of Big Apple Energy, an energy marketing firm, and has held these positions since July 1999. Big Apple Energy is a market aggregator currently supplying small wholesale marketers. Mr. Ferreira received an MBA in Finance from NYU's Stern School of Business and a Bachelor of Engineering from Polytechnic University.

Al Johnston has been the Vice President of Finance and Operations since July 2007. Mr. Johnston also served in other capacities with USG&E including Chief Operating Officer from February 2006 to June 2007, Chief Financial Officer from September 2004 to February 2006 and Controller from April 2003 to September 2004. Mr. Johnston was Controller of Computer Products & Services, Inc., a privately-owned \$30 million computer parts logistics company, from November 2001 to April 2003. He was also Controller of Senior Homeowners Financial Services from April 2000 to November 2001. Mr. Johnston received an M.B.A. with an emphasis in Accounting and Management Information Systems from George Mason University and a B.B.A. in Finance from the University of Oklahoma.

Joseph Casey has been Chief Technology Officer of USG&E since June 2006 and was promoted to Chief Operations Officer as of July 2007. Mr. Casey most recently served as VP of Operations for Computer Products & Services, Inc., a privately-owned \$30 million computer parts logistics company, from June 2005 to May 2006. He previously served many roles at CP&S beginning in August 1993, including Operations, Sales, Purchasing/Planning and IT Management.

Kathryn Tozzini has been Executive Vice President of Business Development of USG&E since November 2007. Ms. Tozzini has over seven years of experience in the retail energy market. Previously, she was employed with MxEnergy, Inc., a retail natural gas and electricity supplier, serving approximately 500,000 customers in 37 utility territories in the United States and Canada. Since 2001, her roles with MxEnergy ranged from Senior Manager in Regulatory Affairs/Legal Services, Senior Manager Compliance/Quality Assurance, Project Manager, Sales & Marketing and Customer Care Call Center Manager.

Greg Taffet has been Chief Information Officer of USG&E since December 2007. Prior to joining USG&E, Mr. Taffet was the VP / CTO of MxEnergy, Inc., a retail natural gas and electricity supplier, serving approximately 500,000 customers in 37 utility territories in the United States and Canada, where he started as one of the original officers in June 2000. Mr. Taffet received his BA from Franklin and Marshall College and his MS in Computer Science from Steve's Institute of Technology.

Robert Paladino, Director and Secretary, is currently the President and CEO of Jasper Energy, LLC, a developer, owner, manager, and operator of conventional and renewable energy projects. He also serves as a management consultant to a number of investment funds that are seeking to develop, or acquire energy assets. Mr. Paladino and Jasper Energy provide consulting services for two wind energy projects in which MVC Capital (USG&E's majority owner), has invested. Mr. Paladino received his Bachelors degree in Chemical Engineering and a Masters degree in environmental engineering from Manhattan College. He also received a Juris Doctor degree from the National Law Center of George Washington University and is a licensed attorney in the State of New York.