

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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FORM S-3  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

<p>PUGET ENERGY, INC. (Exact name of registrant as specified in its charter) Washington (State or other jurisdiction of incorporation or organization) 91-1969407 (I.R.S. Employer Identification Number)</p> <p>RICHARD L. HAWLEY Vice President &amp; Chief Financial Officer 411 - 108th Avenue N.E. Bellevue, Washington 98004-5515 (425) 454-6363 (Name, address, including zip code, and telephone number, including area code, of agent for service)</p>	<p>PUGET SOUND ENERGY, INC. (Exact name of registrant as specified in its charter) Washington (State or other jurisdiction of incorporation or organization) 91-0374630 (I.R.S. Employer Identification Number)</p> <p>RICHARD L. HAWLEY Vice President &amp; Chief Financial Officer 411 - 108th Avenue N.E. Bellevue, Washington 98004-5515 (425) 454-6363 (Name, address, including zip code, and telephone number, including area code, of agent for service)</p>	<p>PUGET SOUND ENERGY CAPITAL TRUST III (Exact name of registrant as specified in its charter) Delaware (State or other jurisdiction of incorporation or organization) To Be Applied For (I.R.S. Employer Identification Number) RICHARD L. HAWLEY Trustee 411 - 108th Avenue N.E. Bellevue, Washington 98004-5515 (425) 454-6363 (Name, address, including zip code, and telephone number, including area code, of agent for service)</p>
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It is respectfully requested that the Commission send copies of all notices,  
orders and communications to:

Andrew Bor  
Perkins Coie LLP  
1201 Third Avenue, Suite 4800  
Seattle, Washington 98101-3099  
(206) 583-8888  
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Approximate date of commencement of proposed sale to the public: From time  
to time after this registration statement becomes effective as determined by  
market conditions and other factors.

If the only securities being registered on this form are being offered  
pursuant to dividend or interest reinvestment plans, please check the following  
box.

If any of the securities being registered on this form are to be offered on  
a delayed or continuous basis pursuant to Rule 415 under the Securities Act of  
1933, other than securities offered only in connection with dividend or  
interest reinvestment plans, check the following box.

If this form is filed to register additional securities for an offering  
pursuant to Rule 462(b) under the Securities Act of 1933, please check the  
following box and list the Securities Act registration statement number of the  
earlier effective registration statement for the same offering.  \_\_\_\_\_

If this form is a post-effective amendment filed pursuant to Rule 462(c)  
under the Securities Act of 1933, check the following box and list the  
Securities Act registration statement number of the earlier effective  
registration statement for the same offering.  \_\_\_\_\_

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. [ ]

CALCULATION OF REGISTRATION FEE

Proposed Maximum Offering Per Unit(1)	Proposed Maximum Aggregate Offering Price(2)	Registration Fee Amount of Each Class (3) (4)	Amount to Be Registered(1) Price
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	Common Stock, \$.01 par value per share, of Puget Energy, Inc.(5).....		
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	Senior Notes of Puget Sound Energy, Inc.....		
	-----		
	Unsecured Debentures of Puget Sound Energy, Inc.....		
	-----		
	Trust Preferred Securities of Puget Sound Energy Capital Trust III...		
	-----		
	Guarantee of Puget Sound Energy, Inc. with respect to Trust Preferred Securities of Puget Sound Energy Capital Trust III.....		
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	Total.....		
100%	\$500,000,000	\$46,000	

- (1) Not required to be included pursuant to General Instruction II(D) of Form S-3.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act and exclusive of accrued interest, distributions and dividends, if any. The aggregate initial offering price of all securities issued from time to time pursuant to this registration statement shall not exceed \$500,000,000. Any securities registered hereunder may be sold separately or as units with other securities registered hereunder.
- (3) There is being registered hereunder such indeterminate number or amount of (a) common stock of Puget Energy, Inc., (b) senior notes and unsecured debentures of Puget Sound Energy, Inc., and (c) trust preferred securities of Puget Sound Energy Capital Trust III as may from time to time be issued at indeterminate prices. The unsecured debentures of Puget Sound Energy, Inc. may be issued and sold to Puget Sound Energy Capital Trust III, in which event such debt securities may later be distributed to the holders of trust preferred securities upon a dissolution of Puget Sound Energy Capital Trust III and the distribution of its assets.
- (4) Puget Sound Energy, Inc. is also registering under this registration statement all guarantees and other obligations that it may have with respect to trust preferred securities that may be issued by Puget Sound Energy Capital Trust III. No separate consideration will be received for the guarantees or any other such obligations.
- (5) Each share of common stock includes an associated preferred share purchase right. No separate consideration is payable for the preferred share purchase rights. The registration fee for these securities is included in the fee for the common stock.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until this registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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#### EXPLANATORY NOTE

This registration statement contains two forms of prospectuses to be used in connection with offerings of the following securities:

- . Common stock of Puget Energy, Inc. and
- . Trust preferred securities of Puget Sound Energy Capital Trust III, unsecured debt securities of Puget Sound Energy, Inc. and the guarantees by Puget Sound Energy of trust preferred securities that may be issued by Puget Sound Energy Capital Trust III.

Under the shelf registration process, we may offer any combination of the securities described in these two prospectuses in one or more offerings with a total offering price of up to \$500,000,000.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the corresponding registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state in which the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED FEBRUARY 15, 2002

PROSPECTUS

Puget Energy, Inc.

COMMON STOCK

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Puget Energy, Inc. may offer shares of common stock from time to time with an aggregate public offering price of up to \$500,000,000. The specific terms and amounts of the securities will be fully described in a prospectus supplement that will accompany this prospectus. Please read both the prospectus supplement and this prospectus carefully before you invest. This prospectus may not be used to sell securities unless accompanied by a prospectus supplement.

Our common stock is listed on the New York Stock Exchange under the symbol "PSD." On February 13, 2002, the last reported sales price of our common stock on the NYSE was \$21.41 per share.

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Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined that this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

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The date of this prospectus is \_\_\_\_\_, 2002.

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#### ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement we filed with the Securities and Exchange Commission using a shelf registration process. Under this shelf process, we may sell our common stock in one or more offerings. This prospectus provides you with a general description of our common stock. Each time we offer common stock, we will provide you with a prospectus supplement that will describe the specific amounts, prices and terms of the offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read carefully both this prospectus and any prospectus supplement together with additional information described below.

This prospectus does not contain all the information provided in the registration statement we filed with the SEC. For further information about us or our common stock, you should refer to that registration statement, which you can obtain from the SEC as described below under "Where You Can Find More Information."

You should rely only on the information contained or incorporated by reference in this prospectus or a prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus or any prospectus supplement, as well as information we have previously filed with the SEC and incorporated by reference, is accurate as of the date on the front of those documents only. Our business, financial condition, results of operations and prospects may have changed since those dates.

#### SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENT

Our disclosure and analysis in this prospectus, in any prospectus supplement and in the documents incorporated by reference contain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. This Act provides a "safe harbor" for forward-looking statements to encourage companies to provide prospective information about themselves so long as they identify these statements as forward-looking and provide meaningful cautionary statements identifying important factors that could cause actual results to differ from the projected results. In some cases, you can identify forward-looking statements by terminology such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "might," "plan," "potential," "predict," "should" or "will" or the negative of those terms or comparable terminology. Forward-looking statements provide our current expectations or forecasts of future events.

Any or all of our forward-looking statements in this prospectus, in any prospectus supplement, in the documents incorporated herein by reference and in any other public statements we make may turn out to be wrong. Forward-looking statements reflect our current expectations and are inherently uncertain. Inaccurate assumptions we might make and known or unknown risks and uncertainties can affect the accuracy of our forward-looking statements. Consequently, no forward-looking statement can be guaranteed and our actual results may differ materially. Some important factors that could cause actual results or outcomes to differ materially from those discussed in our forward-looking statements include:

- . the outcome and timing of general and interim rate cases filed by Puget Sound Energy with the Washington Utilities and Transportation Commission (Washington Commission) on November 26, 2001 and December 3, 2001, respectively, that request electric and gas rate increases to address significant under recovery of Puget Sound Energy's projected power costs, among other issues;
- . governmental policies and regulatory actions, including those of the Federal Energy Regulatory Commission (FERC) and the Washington Commission with respect to allowed rates of return, financings, industry and rate structures, acquisition and disposal of assets and facilities, operation and construction of plant facilities, recovery of purchased power and other capital investments, and present or prospective wholesale and retail

competition;



- . weather and hydroelectric conditions, which can have a potentially serious impact on Puget Sound Energy's ability to procure adequate supplies of fuel or purchased power to serve its customers and on the cost of procuring such supplies;
- . wholesale energy prices, including the effect of price controls promulgated in June 2001 by the FERC on the availability and price of wholesale power purchases and sales in the western United States;
- . effect of wholesale and retail competition (including, but not limited to, electric retail wheeling and transmission costs);
- . changes in, and compliance with, environmental and endangered species laws and policies;
- . industrial, commercial and residential growth and demographic patterns in the service territories of Puget Sound Energy;
- . the loss of any significant customer, or changes in the business of a major customer that may result in changes in demand for the services of Puget Sound Energy;
- . the impact of significant events, such as the attack on September 11, 2001;
- . the ability of Puget Energy and Puget Sound Energy to access the capital markets to support requirements for working capital, construction costs and the repayment of maturing debt;
- . capital market conditions, including changes in availability of capital or interest rate fluctuations;
- . changes in Puget Energy's or Puget Sound Energy's credit ratings, which may have an adverse impact on the availability and cost of capital;
- . legal and regulatory proceedings; and
- . employee workforce factors, including strikes, work stoppages or the loss of a key executive.

We undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise. You are advised, however, to consult any further disclosures we make on related subjects in our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, as well as any section entitled "Risk Factors" that appears in any prospectus supplement accompanying this prospectus.

#### WHERE YOU CAN FIND MORE INFORMATION

We file reports, proxy statements and other information with the Securities and Exchange Commission. These SEC filings are available over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy any document we file at the SEC's public reference room at 450 Fifth Street N.W., Room 1024, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for more information on the public reference rooms and their copy charges. You may also inspect our SEC reports and other information at the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

In connection with this offering, we have filed with the SEC a registration statement on Form S-3 under the Securities Act of 1933. As permitted by SEC rules, this prospectus omits certain information included in the registration statement. For a more complete understanding of the securities we may offer, you should refer to the registration statement, including its exhibits.

The SEC allows us to "incorporate by reference" into this prospectus the information we file separately with it, which means we may disclose important information by referring you to those other documents. The information we incorporate by reference is considered to be part of this prospectus, except for any information superseded by information in

this prospectus. This prospectus incorporates by reference the documents set forth below that we have filed previously with the SEC. These documents contain important information about us and our finances.

SEC Filings (File No. 1-16305)    Period/Date  
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- . Annual Report on Form 10-K.. Year ended December 31, 2000
  
- . Quarterly Reports on Form 10-Q.....
  - Quarter ended March 31, 2001
  - Quarter ended June 30, 2001  
(Amendment filed on October 18, 2001)
  - Quarter ended September 30, 2001  
(Amendment filed on December 26, 2001)
  
- . Current Reports on Form 8-K.
  - Filed January 2, 2001
  - Filed January 10, 2001
  - Filed January 30, 2001
  - Filed March 13, 2001
  - Filed April 6, 2001
  - Filed April 18, 2001
  - Filed July 20, 2001
  - Filed August 30, 2001
  - Filed September 4, 2001
  - Filed September 19, 2001
  - Filed October 15, 2001
  - Filed October 24, 2001
  - Filed November 28, 2001
  - Filed December 3, 2001
  - Filed December 4, 2001
  - Filed December 24, 2001
  - Filed January 4, 2002
  - Filed January 31, 2002
  - Filed February 8, 2002
  - Filed February 13, 2002
  
- . Definitive Proxy Statement    Filed March 16, 2001, in connection with our  
on Schedule 14A..... 2001 annual meeting of shareholders

The documents filed by us with the SEC pursuant to Sections 13(a), 13(c), 14 and 15 of the Securities Exchange Act of 1934 after the date of this prospectus are also incorporated by reference into this prospectus.

You may request a copy of these filings at no cost by writing or telephoning us at the following address:

Investor Relations  
Puget Energy, Inc.  
411-108/th/ Avenue N.E.  
Bellevue, Washington 98004-5515  
(425) 454-6363

## PUGET ENERGY

Puget Energy, Inc. is a holding company incorporated in the State of Washington. All of our operations are conducted through our subsidiaries.

Our principal subsidiary is Puget Sound Energy, Inc., a public utility furnishing electric and gas service in a territory covering approximately 6,000 square miles, principally in the Puget Sound region of Washington State. As of December 31, 2001, Puget Sound Energy had approximately 940,600 electric customers, consisting of approximately 834,200 residential, 100,600 commercial, 4,000 industrial and 1,800 other customers; and approximately 606,000 gas customers, consisting of approximately 556,000 residential, 47,100 commercial, 2,800 industrial and 100 gas transportation customers.

In addition to our ownership of Puget Sound Energy, we also own InfrastruX Group, Inc. InfrastruX is a holding company for nonregulated businesses that provide design, construction, engineering and other infrastructure services to the utility industry.

Subject to limited exceptions, we are exempt from regulation as a public utility holding company pursuant to Section 3(a)(1) of the Public Utility Holding Company Act of 1935. Our executive office is located at 411-108th Avenue N.E., Bellevue, Washington 98004-5515, and our telephone number is (425) 454-6363.

### USE OF PROCEEDS

Unless otherwise indicated in the accompanying prospectus supplement, we expect to use the net proceeds from the sale of common stock offered hereby for general corporate purposes, including capital expenditures, investments in subsidiaries, working capital and the repayment of debt. We will describe any specific allocation of the proceeds to a particular purpose that has been made at the date of any prospectus supplement in the appropriate prospectus supplement.

## DESCRIPTION OF CAPITAL STOCK

We are authorized to issue 250,000,000 shares of common stock, \$0.01 par value per share, and 50,000,000 shares of preferred stock, par value \$0.01 per share.

### Common Stock

As of February 5, 2002, there were 87,023,210 shares of common stock outstanding, held of record by 48,700 shareholders. The holders of common stock are entitled to one vote per share on all matters submitted to a vote of shareholders. Our restated articles of incorporation do not permit cumulative voting in the election of directors. Holders of common stock are entitled to receive ratably such dividends as may be declared by our board of directors out of funds legally available therefor, subject to preferences that may be applicable to any outstanding preferred stock. In the event of liquidation, dissolution or winding up of Puget Energy, holders of common stock are entitled to share ratably in all assets remaining after payment of liabilities and the liquidation preference of any outstanding preferred stock. Holders of common stock have no preemptive, subscription or conversion rights. There are no redemption or sinking fund provisions applicable to the common stock. All the outstanding shares of common stock are validly issued, fully paid and nonassessable.

### Preferred Stock

Our board of directors has authority to issue 50,000,000 shares of preferred stock in one or more series and to fix the powers, designations, preferences and relative, participating, optional or other rights thereof, including dividend rights, conversion rights, voting rights, redemption terms, liquidation preferences and the number of shares constituting any series, without any further vote or action by our shareholders. The issuance of preferred stock with voting and conversion rights may adversely affect the voting power of the holders of common stock. Accordingly, preferred stock could be issued with terms that could delay or prevent a change of control of Puget Energy or make removal of management more difficult. We have no shares of preferred stock outstanding as of the date of this prospectus.

### Antitakeover Effects of Charter Documents and Washington Law

Provisions of our restated articles of incorporation, our bylaws and Washington law may be deemed to have an antitakeover effect and may collectively operate to delay, defer or prevent a tender offer or takeover attempt that a shareholder might consider in his or her best interest, including those attempts that might result in a premium over the market price for the shares held by our shareholders.

### Preferred Stock

As noted above, our board of directors, without shareholder approval, has the authority under our restated articles of incorporation to issue preferred stock with rights superior to the rights of the holders of common stock. As a result, preferred stock could be issued quickly and easily, could adversely affect the rights of holders of common stock and could be issued with terms calculated to delay or prevent a change in control or make removal of management more difficult.

### Election and Removal of Directors

Our board of directors is divided into three classes, each class having a three-year term that expires on a year different from the other classes. At each annual meeting of shareholders, the successors to the class of directors whose terms are expiring are elected to serve for three-year terms. This classification of the board of directors has the effect of requiring at least two annual shareholder meetings, instead of one, to replace a majority of the directors. In addition, our directors may be removed only for cause. Because this system of electing and removing directors generally makes it more difficult for shareholders to replace a majority of the board of directors, it may discourage a third party from making a tender offer or otherwise attempting to gain control of Puget Energy and may maintain the incumbency of our board of directors.

#### Shareholder Meetings

Our articles of incorporation provide that shareholders may not call a special meeting of the shareholders. Our board of directors, the chairman of the board, the chief executive officer and the president each may call special meetings of shareholders.

#### Requirements for Advance Notification of Shareholder Nominations and Proposals

Our bylaws contain advance notice procedures with respect to shareholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of our board of directors or a committee thereof.

#### Washington Law

Washington law imposes restrictions on certain transactions between a corporation and certain significant shareholders. The Washington Business Corporation Act generally prohibits a "target corporation" from engaging in certain significant business transactions with an "acquiring person," which is defined as a person or group of persons that beneficially owns 10% or more of the voting securities of the target corporation, for a period of five years after such acquisition, unless the transaction or acquisition of shares is approved by a majority of the members of the target corporation's board of directors prior to the time of the acquisition. Such prohibited transactions include, among other things,

- . a merger or consolidation with, disposition of assets to, or issuance or redemption of stock to or from, the acquiring person;
- . termination of 5% or more of the employees of the target corporation as a result of the acquiring person's acquisition of 10% or more of the shares; or
- . allowing the acquiring person to receive any disproportionate benefit as a shareholder.

After the five-year period, a "significant business transaction" may occur if it complies with "fair price" provisions specified in the statute. A corporation may not "opt out" of this statute. This provision may have the effect of delaying, deterring or preventing a change in control of Puget Energy.

#### Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Mellon Investor Services, LLC.

#### Shareholder Rights Plan

We have a shareholders rights plan pursuant to which holders of our common stock have been granted one preferred share purchase right on each outstanding share of common stock. The preferred share purchase rights are not currently exercisable and will become exercisable only upon the earlier of

- . the close of business on the tenth business day after a public announcement that a person has acquired beneficial ownership of 10% or more of our outstanding shares of common stock and
- . a date that our board of directors designates following the commencement of, or first public disclosure of an intent to commence, a tender or exchange offer for outstanding shares of common stock which could result in the offeror becoming the beneficial owner of 10% or more of our outstanding shares of common stock.

Each preferred share purchase right entitles its registered holder to purchase from us one one-hundredth of a share of our Series R Participating Cumulative Preferred Stock, at a price of \$65 per one one-hundredth of a preferred share, subject to certain antidilution adjustments.

If a person acquires beneficial ownership of 10% or more of our outstanding shares of common stock, the preferred share purchase rights will entitle each right holder, other than a beneficial owner of 10% or more of our outstanding shares of common stock, or any affiliate or associate of that person, to purchase, for the purchase price, the number of shares of our common stock which at the time of the transaction would have a market value of twice the purchase price.

Any preferred share purchase rights that are at any time beneficially owned by a beneficial owner of 10% or more of our outstanding shares of common stock, or any affiliate or associate of that person, will be null and void and nontransferable. Furthermore, any holder of any preferred share purchase rights who beneficially owns 10% or more than 10% of our shares of common stock, any affiliate or associate of that person, or any purported transferee or subsequent holder will be unable to exercise or transfer such person's preferred share purchase rights.

After a person becomes the beneficial owner of 10% or more of our outstanding shares of common stock, our board of directors may elect to exchange each preferred share purchase right, other than those that have become null and void and nontransferable as described above, for shares of common stock, without payment of the purchase price. The exchange rate in this situation would be one-half the number of shares of common stock that would otherwise be issuable at that time upon the exercise of one preferred share purchase right.

Each of the following events would entitle each holder of a preferred share purchase right to purchase, for the purchase price, that number of shares of common stock of another publicly traded corporation which at the time of the event would have a market value of twice the purchase price:

- . the acquisition of Puget Energy in a merger by that publicly traded corporation;
- . a business combination between Puget Energy and that publicly traded corporation; or
- . the sale, lease, exchange or transfer of 50% or more of our assets or assets accounting for 50% or more of our net income or revenues, in one or more transactions, to that publicly traded corporation.

If any one of these events involved an entity that is not publicly traded, each holder of a preferred share purchase right would be entitled to purchase, for the purchase price and at such holder's option:

- . that number of shares of the surviving corporation in the transaction, whether the surviving corporation is Puget Energy or the other corporation, which at the time of the transaction would have a book value of twice the purchase price;
- . that number of shares of the ultimate parent entity of the surviving corporation which at the time of the transaction would have a book value of twice the purchase price; or
- . that number of shares of common stock of the acquiring entity's affiliate that has publicly traded shares of common stock, if any, which at the time of the transaction would have a market value of twice the purchase price.

At any time prior to any person acquiring beneficial ownership of 10% or more of our outstanding shares of common stock, our board of directors may redeem the preferred share purchase rights in whole, but not in part. The redemption price of \$.01 per preferred share purchase right, subject to adjustment in certain circumstances, may be in cash, shares of common stock or other Puget Energy securities deemed by our board of directors to be at least equivalent in value.

Because of the nature of the preferred shares' dividend, liquidation and voting rights, the value of the one one-hundredth interest in a preferred share issuable upon exercise of each preferred share purchase right should approximate the value of one common share. Customary antidilution provisions

are designed to protect that relationship in the event of certain changes in the common and preferred shares.



The preferred share purchase rights have certain antitakeover effects and will cause substantial dilution to a person that attempts to acquire Puget Energy on terms not approved by our board of directors. The preferred share purchase rights should not affect any prospective offeror willing to make an all-cash offer at a full and fair price, or willing to negotiate with our board of directors. Similarly, the preferred share purchase rights will not interfere with any merger or other business combination approved by our board of directors since the board of directors may, at its option, redeem all, but not less than all, of the then outstanding preferred share purchase rights at the redemption price. The shareholder rights plan and the rights expire in December 2010.

#### PLAN OF DISTRIBUTION

We may sell our common stock

- . through underwriters or dealers;
- . through agents;
- . directly to purchasers; or
- . through a combination of any of these methods.

The prospectus supplement with respect to an offering will set forth the terms of the offering, including:

- . the name or names of any underwriters, dealers or agents;
- . the name or names of any managing underwriter or underwriters;
- . the purchase price of the common stock and the proceeds to us from their sale;
- . any underwriting discounts and commissions and other items constituting underwriters' compensation;
- . any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers;
- . any commissions paid to an agent;
- . any delayed delivery arrangements; and
- . any securities exchange on which the common stock may be listed.

#### Sale Through Underwriters or Dealers

If underwriters are used in the sale, they will acquire the offered securities for their own account and may resell them on one or more occasions in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The offered shares may be offered to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless otherwise set forth in the prospectus supplement relating thereto, the obligations of the underwriters to purchase the offered shares will be subject to certain conditions precedent, and the underwriters will be obligated to purchase all the offered shares if any are purchased. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers.

During and after an offering through underwriters, the underwriters may purchase and sell our common stock in the open market. These transactions may include overallotment and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. The underwriters may also impose a penalty bid, which means that selling concessions allowed to syndicate members or other broker-dealers for the offered shares sold for their account may be reclaimed by the syndicate if the

offered shares are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the offered shares, which may be higher than the price that might otherwise prevail in the open market. If commenced, the underwriters may discontinue these activities at any time.

We may engage Cantor Fitzgerald & Co. to act as underwriter for an offering from time to time of our common stock in one or more placements in a Controlled Equity Offering "CEO/SM/". In a CEO, if we reach agreement with Cantor on a placement, including the number of shares of common stock to be offered in the placement and any minimum price below which sales may not be made, Cantor would agree to use its commercially reasonable efforts, consistent with its normal trading and sales practices, to try to sell such shares on such terms. As a part of a CEO/SM/, Cantor could make sales in privately negotiated transactions, at the market in the existing trading market for our common stock, including sales made to or through a market maker or through an electronic communications network, or in any other manner that may be deemed to be an "at the market" offering as defined in Rule 415 promulgated under the Securities Act and/or any other method permitted by law. At the market offerings may not exceed 10% of the aggregate market value of our outstanding voting securities held by non-affiliates on a date within 60 days prior to the filing of the registration statement of which this prospectus is a part. Accordingly, we may not sell more than approximately \$203,100,000 of our common stock in "at the market" offerings pursuant to this prospectus.

If dealers are utilized in the sale of our common stock, we will sell the offered securities to the dealers as principals. The dealers may then resell the offered securities to the public at varying prices to be determined by the dealers at the time of resale.

#### Direct Sales and Sales Through Agents

We may sell our common stock directly or through agents designated by us from time to time. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a best-efforts basis for the period of its appointment.

We may sell our common stock directly to institutional investors or others, who may be deemed to be underwriters within the meaning of the Securities Act with respect to any resale of the securities. The terms of these sales will be described in the related prospectus supplement.

#### Delayed Delivery Contracts

If indicated in the prospectus supplement, we may authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase securities from us at the public offering price under delayed delivery contracts. These contracts would provide for payment and delivery on a specified date in the future. The contracts would be subject only to those conditions described in the prospectus supplement. The prospectus supplement will describe the commission payable for solicitation of those contracts.

#### General Information

Agents, dealers and underwriters may be entitled under agreements with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act, or to contribution with respect to payments which the agents, dealers or underwriters may be required to make in respect of liabilities under the Securities Act. Agents, dealers and underwriters may be customers of, engage in transactions with, or perform services for us in the ordinary course of business.

DISCLOSURE OF COMMISSION POSITION ON  
INDEMNIFICATION FOR SECURITIES ACT LIABILITIES

Sections 23B.08.500 through 23B.08.600 of the Washington Business Corporation Act authorize a court to award, or a corporation's board of directors to grant, indemnification to directors and officers on terms sufficiently broad to permit indemnification under certain circumstances for liabilities arising under the Securities Act of 1933. Section 6 of our bylaws provide for indemnification of our directors and officers to the maximum extent permitted by Washington law.

Section 23B.08.320 of the Washington Business Corporation Act authorizes a corporation to limit a director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director, except in certain circumstances involving intentional misconduct, knowing violations of law or illegal corporate loans or distributions, or any transaction from which the director personally receives a benefit in money, property or services to which the director is not legally entitled. Article II of our restated articles of incorporation contain provisions implementing, to the fullest extent permitted by Washington law, such limitations on a director's liability to Puget Energy and our shareholders.

Officers and directors of Puget Energy are covered by insurance (with certain exceptions and certain limitations) that indemnifies them against losses and liabilities arising from certain alleged "wrongful acts," including alleged errors or misstatements, or certain other alleged wrongful acts or omissions constituting neglect or breach of duty.

The underwriting agreements, which are filed as exhibits to the registration statement of which this prospectus is a part, contain provisions whereby the underwriters agree to indemnify Puget Energy, its directors and certain officers and other persons, and are incorporated herein by reference.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons under the foregoing provisions, we have been informed that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

LEGAL OPINIONS

Unless otherwise indicated in the applicable prospectus supplement, the validity of the common stock will be passed on for Puget Energy by Perkins Coie LLP, Seattle, Washington. Certain legal matters with respect to the common stock will be passed on by counsel for any underwriters, dealers or agents, each of whom will be named in the related prospectus supplement.

EXPERTS

The financial statements and financial statement schedule incorporated in this prospectus by reference to Puget Energy's Annual Report on Form 10-K for the year ended December 31, 2000, have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.

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\$500,000,000

Puget Energy, Inc.

COMMON STOCK

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PROSPECTUS  
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, 2002

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The information in this prospectus is not complete and may be changed. We may not sell these securities until the corresponding registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state in which the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED FEBRUARY 15, 2002

PROSPECTUS

Puget Sound Energy, Inc.

SENIOR NOTES  
UNSECURED DEBENTURES  
GUARANTEES

AND

Puget Sound Energy Capital Trust III

TRUST PREFERRED SECURITIES  
GUARANTEED TO THE EXTENT SET FORTH HEREIN BY  
PUGET SOUND ENERGY, INC.

OFFERING AMOUNT: 500,000,000

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Puget Sound Energy may offer, on one or more occasions:

- . secured senior debt or unsecured debt securities consisting of notes, debentures and other unsecured evidence of indebtedness and
- . guarantees of Puget Sound Energy with respect to trust preferred securities of Puget Sound Energy Capital Trust III.

Puget Sound Energy Capital Trust III, which is a Delaware business trust, may offer, on one or more occasions, trust preferred securities, which represent preferred undivided beneficial interests in the assets of Puget Sound Energy Capital Trust III.

For each type of security listed above, the amount, price and terms will be determined at or prior to the time of sale.

Each time we offer any of these securities, we will set forth the specific terms of these securities in one or more supplements to this prospectus. The prospectus supplement or supplements also will set forth the names of any underwriters, dealers or agents involved in the offering of the securities, the compensation of these parties and any other special terms of the offering and sale. You should read carefully this prospectus and the accompanying prospectus supplement or supplements before you invest.

This prospectus may not be used to consummate sales of any of these securities unless accompanied by a prospectus supplement.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is \_\_\_\_\_, 2002.

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#### ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement we filed with the Securities and Exchange Commission using a shelf registration process. Under this shelf process, we may sell the securities described in this prospectus in one or more offerings. This prospectus provides you with a general description of the securities. Each time we offer securities, we will provide you with a prospectus supplement that will describe the specific amounts, prices and terms of the offering. The prospectus supplement may also add, update or change information contained in this prospectus. You should read carefully both this prospectus and any prospectus supplement together with additional information described below.

This prospectus does not contain all the information provided in the registration statement we filed with the SEC. For further information about Puget Sound Energy, Puget Sound Energy Capital Trust III or the securities described in this prospectus, you should refer to that registration statement, which you can obtain from the SEC as described below under "Where You Can Find More Information."

You should rely only on the information contained or incorporated by reference in this prospectus or a prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. We are not making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus or any prospectus supplement, as well as information we have previously filed with the SEC and incorporated by reference, is accurate as of the date on the front of those documents only. Our business, financial condition, results of operations and prospects may have changed since those dates.

#### SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Our disclosure and analysis in this prospectus, in any prospectus supplement and in the documents incorporated by reference contain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. This Act provides a "safe harbor" for forward-looking statements to encourage companies to provide prospective information about themselves so long as they identify these statements as forward-looking and provide meaningful cautionary statements identifying important factors that could cause actual results to differ from the projected results. In some cases, you can identify forward-looking statements by terminology such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "might," "plan," "potential," "predict," "should" or "will" or the negative of those terms or comparable terminology. Forward-looking statements provide our current expectations or forecasts of future events.

Any or all of our forward-looking statements in this prospectus, in any prospectus supplement, in the documents incorporated herein by reference and in any other public statements we make may turn out to be wrong. Forward-looking statements reflect our current expectations and are inherently uncertain. Inaccurate assumptions we might make and known or unknown risks and uncertainties can affect the accuracy of our forward-looking statements. Consequently, no forward-looking statement can be guaranteed and our actual results may differ materially. Some important factors that could cause actual results or outcomes to differ materially from those discussed in our forward-looking statements include:

- . the outcome and timing of general and interim rate cases filed by Puget Sound Energy with the Washington Utilities and Transportation Commission (Washington Commission) on November 26, 2001 and December 3, 2001, respectively, that request electric and gas rate increases to address significant under recovery of Puget Sound Energy's projected power costs, among other issues;
- . governmental policies and regulatory actions, including those of the Federal Energy Regulatory Commission (FERC) and the Washington Commission with respect to allowed rates of return, financings, industry and rate structures, acquisition and disposal of assets and facilities, operation





plant facilities, recovery of purchased power and other capital investments, and present or prospective wholesale and retail competition;

- . weather and hydroelectric conditions, which can have a potentially serious impact on Puget Sound Energy's ability to procure adequate supplies of fuel or purchased power to serve its customers and on the cost of procuring such supplies;
- . wholesale energy prices, including the effect of price controls promulgated in June 2001 by the FERC on the availability and price of wholesale power purchases and sales in the western United States;
- . effect of wholesale and retail competition (including, but not limited to, electric retail wheeling and transmission costs);
- . changes in, and compliance with, environmental and endangered species laws and policies;
- . industrial, commercial and residential growth and demographic patterns in the service territories of Puget Sound Energy;
- . the loss of any significant customer, or changes in the business of a major customer that may result in changes in demand for the services of Puget Sound Energy;
- . the impact of significant events, such as the attack on September 11, 2001;
- . the ability of Puget Sound Energy to access the capital markets to support requirements for working capital, construction costs and the repayment of maturing debt;
- . capital market conditions, including changes in availability of capital or interest rate fluctuations;
- . changes in Puget Sound Energy's credit ratings, which may have an adverse impact on the availability and cost of capital;
- . legal and regulatory proceedings; and
- . employee workforce factors, including strikes, work stoppages or the loss of a key executive.

We undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events or otherwise. You are advised, however, to consult any further disclosures we make on related subjects in our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, as well as any section entitled "Risk Factors" that appears in any prospectus supplement accompanying this prospectus.

#### WHERE YOU CAN FIND MORE INFORMATION

Puget Sound Energy files reports and other information with the Securities and Exchange Commission. These SEC filings are available over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy any document Puget Sound Energy files at the SEC's public reference room at 450 Fifth Street N.W., Room 1024, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for more information on the public reference rooms and their copy charges. You may also inspect Puget Sound Energy's SEC reports and other information at the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

In connection with this offering, we have filed with the SEC a registration statement on Form S-3 under the Securities Act of 1933. As permitted by SEC rules, this prospectus omits certain information included in the registration statement. For a more complete understanding of the securities we may offer, you should refer to the registration statement, including its exhibits.

The SEC allows us to "incorporate by reference" into this prospectus the information we file separately with it, which means we may disclose important information by referring you to those other documents. The information we incorporate by reference is considered to be part of this prospectus, except for any information

superseded by information in this prospectus. This prospectus incorporates by reference the documents set forth below that Puget Sound Energy has filed previously with the SEC. These documents contain important information about Puget Sound Energy and its finances.

SEC Filings (File No. 1-4393)	Period/Date
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- . Annual Report on Form 10-K.... Year ended December 31, 2000
- . Quarterly Reports on Form 10-Q
  - Quarter ended March 31, 2001
  - Quarter ended June 30, 2001
  - (Amendment filed on October 18, 2001)
  - Quarter ended September 30, 2001
  - (Amendment filed on December 26, 2001)
- . Current Reports on Form 8-K...
  - Filed January 30, 2001
  - Filed March 13, 2001
  - Filed April 6, 2001
  - Filed May 22, 2001
  - Filed August 30, 2001
  - Filed September 4, 2001
  - Filed September 19, 2001
  - Filed October 15, 2001
  - Filed October 24, 2001
  - Filed November 28, 2001
  - Filed December 3, 2001
  - Filed December 4, 2001
  - Filed December 24, 2001
  - Filed January 4, 2002
  - Filed January 31, 2002
  - Filed February 8, 2002
  - Filed February 13, 2002

The documents filed by Puget Sound Energy with the SEC pursuant to Sections 13(a), 13(c), 14 and 15 of the Securities Exchange Act of 1934 after the date of this prospectus are also incorporated by reference into this prospectus.

You may request a copy of these filings at no cost by writing or telephoning Puget Sound Energy at the following address:

Investor Relations  
Puget Sound Energy, Inc.  
411-108/th/ Avenue N.E.  
Bellevue, Washington 98004-5515  
(425) 454-6363

Separate financial statements of the capital trust have not been included in this prospectus. Puget Sound Energy and the capital trust do not consider such financial statements to be helpful because:

- . Puget Sound Energy beneficially owns directly or indirectly all of the undivided beneficial interests in the assets of the capital trust (other than the beneficial interests represented by the trust preferred securities);
- . Puget Sound Energy will guarantee the trust preferred securities such that the holders of the trust preferred securities, with respect to the payment of distributions and amounts on liquidation, dissolution and winding up, are at least in the same position with regard to the assets of Puget Sound Energy as a preferred shareholder of Puget Sound Energy;

- . in future filings under the Securities Exchange Act of 1934, an audited footnote to Puget Sound Energy's annual financial statements will state that the capital trust is wholly owned by Puget Sound Energy, that the sole assets of the trust are the unsecured subordinated debentures of Puget Sound Energy having a specified total principal amount, and that, considered together, the back-up undertakings, including the guarantees, constitute a full and unconditional guarantee by Puget Sound Energy of the capital trust's obligations under the trust preferred securities issued by the capital trust; and
- . the capital trust is a newly created special purpose entity, has no operating history, no independent operations and is not engaged in, and does not propose to engage in, any activity other than as described under "Puget Sound Energy Capital Trust III."

#### PUGET SOUND ENERGY

Puget Sound Energy is a public utility incorporated in the State of Washington, furnishing electric and gas service in a territory covering approximately 6,000 square miles, principally in the Puget Sound region of Washington State. We are the principal subsidiary of Puget Energy, Inc, a holding company that owns all our common stock. Subject to limited exceptions, Puget Energy is exempt from regulation as a public utility holding company pursuant to Section 3(a)(2) of the Public Utility Holding Company Act of 1935. In addition to its ownership of Puget Sound Energy, Puget Energy also owns InfrastruX Group, Inc, a holding company for nonregulated businesses that provide design, construction, engineering and other infrastructure services to the utility industry.

As of December 31, 2001, Puget Sound Energy had approximately 940,600 electric customers, consisting of approximately 834,200 residential, 100,600 commercial, 4,000 industrial and 1,800 other customers; and approximately 606,000 gas customers, consisting of approximately 556,000 residential, 47,100 commercial, 2,800 industrial and 100 gas transportation customers. For the 12 months ended December 31, 2001, Puget Sound Energy added approximately 17,000 electric customers and approximately 15,200 gas customers, representing annualized growth rates of 1.8% and 2.6%, respectively. During the 12 months ended December 31, 2001, Puget Sound Energy's billed retail revenues from electric utility operations were derived 42% from residential customers, 36% from commercial customers, 20% from industrial customers and 2% from other customers. Puget Sound Energy's retail revenues from gas utility operations were derived 60% from residential customers, 32% from commercial customers, 6% from industrial customers, and 2% from transportation customers. During this period, the largest customer accounted for 3.4% of Puget Sound Energy's operating revenues.

Gross electric utility plant at December 31, 2001 was approximately \$4.2 billion, which consisted of 58% distribution, 27% generation, 6% transmission and 9% general plant and other. Gross gas utility plant at December 31, 2001 was approximately \$1.6 billion, which consisted of 85% distribution, 6% transmission and 9% general plant and other. Gross common utility general plant at December 31, 2001 was approximately \$363 million, which consisted of general plant and other.

At December 31, 2001 Puget Sound Energy had 2,480 aggregate full-time equivalent utility employees. Puget Sound Energy's executive office is located at 411 - 108th Avenue N.E., Bellevue, Washington 98004-5515, and its telephone number is (425) 454-6363.

#### PUGET SOUND ENERGY CAPITAL TRUST III

Puget Sound Energy Capital Trust III is a statutory business trust created under the Delaware Business Trust Act by way of

- . a trust agreement executed by Puget Sound Energy, as sponsor, and the trustee of the capital trust and



- . the filing of a certificate of trust with the Secretary of State of the State of Delaware.

At the time of public issuance of the trust preferred securities, the trust agreement will be amended and restated in its entirety and will be qualified as an indenture under the Trust Indenture Act of 1939. Puget Sound Energy will directly or indirectly acquire common securities of the capital trust in a total liquidation amount equal to approximately 3% of the total capital of the capital trust. The trust exists for the exclusive purposes of

- . issuing the trust preferred securities and common securities representing undivided beneficial interests in the assets of the capital trust;
- . investing the gross proceeds of the common securities and the trust preferred securities in unsecured subordinated debentures of Puget Sound Energy; and
- . engaging in only those other activities necessary or incidental thereto.

The capital trust has a term of approximately 55 years, but it may terminate earlier as provided in the amended and restated trust agreement.

The proceeds from the offering of the trust preferred securities and the sale of the common securities may be used by the capital trust to purchase from Puget Sound Energy unsecured subordinated debentures in a total principal amount equal to the total liquidation preference of the common securities and the trust preferred securities. The Puget Sound Energy debentures would bear interest at an annual rate equal to the annual distribution rate of the common securities and the trust preferred securities and would have certain redemption terms that correspond to the redemption terms for the common securities and the trust preferred securities. The subordinated debentures will rank subordinate in right of payment to all of Puget Sound Energy's senior indebtedness (as defined in this prospectus). Distributions on the common securities and the trust preferred securities may not be made unless the capital trust receives corresponding interest payments on the subordinated debentures from Puget Sound Energy. Puget Sound Energy will irrevocably guarantee, on a subordinated basis and to the extent set forth in the guarantee, with respect to each of the common securities and the trust preferred securities, the payment of distributions, the redemption price, including all accrued or deferred and unpaid distributions, and payment on liquidation, but only to the extent of funds on hand at the capital trust. Each guarantee will be unsecured and will be subordinate to all senior indebtedness of Puget Sound Energy. Upon the occurrence of certain events (subject to the conditions to be described in an accompanying prospectus supplement), the capital trust may be liquidated and the holders of the common securities and the trust preferred securities could receive the related subordinated debentures of Puget Sound Energy in lieu of any liquidating cash distribution.

The number of trustees of the capital trust will initially be four. Two of the trustees will be employees or officers of, or affiliated with, Puget Sound Energy and will be referred to as the Puget Sound Energy trustees. The third trustee will be a financial institution that is unaffiliated with Puget Sound Energy, which trustee will serve as property trustee under the amended and restated trust agreement and as indenture trustee for the purposes of compliance with the provisions of the Trust Indenture Act of 1939. Initially, Bank One Trust Company, N.A. will be the property trustee until removed or replaced by the holder of the common securities. For the purpose of compliance with the provisions of the Trust Indenture Act of 1939, Bank One Trust Company, N.A. will also act as guarantee trustee. The fourth trustee, Bank One Delaware, Inc., will act as the Delaware trustee for the purposes of the Delaware Business Trust Act, until removed or replaced by the holder of the common securities.

The property trustee will hold title to the subordinated debentures for the benefit of the holders of the common securities and the trust preferred securities, and the property trustee will have the power to exercise all rights, powers and privileges under the indenture as the holder of the subordinated debentures. In addition, the property trustee will maintain exclusive control of a segregated non-interest-bearing bank account to hold all payments made in respect of subordinated debentures for the benefit of the holders of

the common securities and



the trust preferred securities. The property trustee will make payments of distributions and payments on liquidation, redemption and otherwise to the holders of the common securities and the trust preferred securities out of funds from the segregated non-interest-bearing bank account. The guarantee trustee will hold the guarantees for the benefit of the holders of the common securities and the trust preferred securities. Puget Sound Energy, as the direct or indirect holder of all the common securities, will have the right to appoint, remove or replace any of the trustees. Puget Sound Energy will also have the right to increase or decrease the number of trustees, as long as the number of trustees shall be at least three, a majority of which shall be Puget Sound Energy trustees. Puget Sound Energy will pay all fees and expenses related to the trusts and the offering of the common securities and the trust preferred securities.

The rights of the holders of the trust preferred securities, including economic rights, rights to information and voting rights, are set forth in the amended and restated trust agreement, the Delaware Business Trust Act and the Trust Indenture Act of 1939.

The Delaware trustee for the capital trust in the State of Delaware is Bank One Delaware, Inc., Three Christiana Center, 201 North Walnut Street, Wilmington, Delaware, 19801. The principal place of business of the capital trust will be c/o Puget Sound Energy, Inc. 411-108/th/ Avenue N.E., Bellevue, Washington 98004-5515.

#### USE OF PROCEEDS

The proceeds received by the capital trust from the sale of its trust preferred securities and the common securities will be invested in unsecured subordinated debentures of Puget Sound Energy. As will be more specifically set forth in the applicable prospectus supplement, Puget Sound Energy will use those borrowed amounts and the net proceeds from the sale of senior notes or unsecured debentures offered hereby for its general corporate purposes, including capital expenditures, investment in subsidiaries, working capital and repayment of debt. Any specific allocation of the proceeds to a particular purpose that has been made at the date of any prospectus supplement will be described in the appropriate prospectus supplement.

#### RATIOS OF EARNINGS TO FIXED CHARGES AND TO COMBINED FIXED CHARGES AND PREFERRED DIVIDENDS

The following table sets forth Puget Sound Energy's ratios of earnings to fixed charges and to combined fixed charges and preferred dividends for the periods indicated. For purposes of computing the ratios, earnings represent income from continuing operations before extraordinary items and cumulative effect of changes in accounting principles plus applicable income taxes and fixed charges. Fixed charges include all interest expense and the proportion deemed representative of the interest factor of rent expense.

December 31,	Twelve Months		Years Ended			
	Ended September 30,					
	2001	2000	2000	1999	1998	1997
Ratio of earnings to fixed charges.....	2.6x	2.6x	2.7x	2.7x	2.8x	2.5x
Ratio of earnings to combined fixed charges and preferred dividends.....	2.4x	2.4x	2.5x	2.5x	2.5x	2.0x

(1) The ratios for the years ended December 31, 1997 and 1996 include charges incurred in connection with Puget Sound Energy's merger with Washington Energy Company and its principal subsidiary, Washington Natural Gas Company. Had such charges been excluded from earnings, the ratio of earnings to fixed charges for such periods would have been 2.9x and 3.2x, respectively, and the ratio of earnings to combined fixed charges and preferred dividends would have been 2.4x and 2.5x, respectively.



## DESCRIPTION OF SECURITIES

### Debt Securities

Senior notes will be issued under a senior note indenture. The unsecured debentures will be issued under an unsecured debt indenture. Unless otherwise provided in the applicable prospectus supplement, the trustee under the senior note indenture will be State Street Bank and Trust Company, and the trustee under the unsecured debt indenture will be Bank One Trust Company, N.A. The senior note indenture and the unsecured debt indenture are sometimes referred to in this prospectus individually as an "indenture" and collectively as the "indentures."

The following briefly summarizes the material provisions of the indentures and the debt securities. You should read the more detailed provisions of the applicable indenture, including the defined terms, for provisions that may be important to you. The indentures have been filed as exhibits to the registration statement of which this prospectus is a part. Copies of the indentures may also be obtained from Puget Sound Energy or the applicable trustee.

The indentures provide that debt securities of Puget Sound Energy may be issued in one or more series, with different terms, in each case as authorized on one or more occasions by Puget Sound Energy. The applicable prospectus supplement relating to any series of debt securities will describe the following terms, where applicable:

- . the title of the debt securities;
- . whether the debt securities will be senior or subordinated debt;
- . the total principal amount of the debt securities;
- . the percentage of the principal amount at which the debt securities will be sold and, if applicable, the method of determining the price;
- . the maturity date or dates;
- . the interest rate or the method of computing the interest rate;
- . the date or dates from which any interest will accrue, or how such date or dates will be determined, and the interest payment date or dates and any related record dates;
- . the location where payments on the debt securities will be made;
- . the terms and conditions on which the debt securities may be redeemed at the option of Puget Sound Energy;
- . any obligation of Puget Sound Energy to redeem, purchase or repay the debt securities at the option of a holder upon the happening of any event and the terms and conditions of redemption, purchase or repayment;
- . any provisions for the discharge of Puget Sound Energy's obligations relating to the debt securities by deposit of funds or United States government obligations;
- . whether the debt securities are to trade in book-entry form and the terms and any conditions for exchanging the global security in whole or in part for paper certificates;
- . any material provisions of the applicable indenture described in this prospectus that do not apply to the debt securities;
- . any additional amounts with respect to the debt securities that Puget Sound Energy will pay to a non-United States person because of any tax, assessment or governmental charge withheld or deducted and, if so, any

option of Puget Sound Energy to redeem the debt securities rather than pay these additional amounts;

- . any additional events of default; and
- . any other specific terms of the debt securities.

Federal income tax consequences and other special considerations applicable to any debt securities issued by Puget Sound Energy at a discount will be described in the applicable prospectus supplement.

Debt securities may be presented for exchange. Registered debt securities may be presented for registration of transfer at the offices of the applicable trustee and, subject to the restrictions set forth in the debt security and in the applicable prospectus supplement, without service charge, but upon payment of any taxes or other governmental charges due in connection with the transfer, subject to any limitations contained in the applicable indenture.

Distributions on the debt securities in registered form will be made at the office or agency of the applicable trustee in its designated office. However, at the option of Puget Sound Energy, payment of any interest may be made by check or wire transfer. Payment of any interest due on debt securities in registered form will be made to the persons in whose names the debt securities are registered at the close of business on the record date for such interest payments. Payments made in any other manner will be specified in the applicable prospectus supplement.

#### Senior Notes

##### Security; Release Date

Until the release date (as described in the next paragraph), the senior notes will be secured by one or more series of Puget Sound Energy's first mortgage bonds from either or both of Puget Sound Energy's current first mortgage indentures issued and delivered by Puget Sound Energy to the senior note trustee. Upon the issuance of a series of senior notes prior to the release date, Puget Sound Energy will simultaneously issue and deliver to the senior note trustee, as security for all senior notes, a series of first mortgage bonds that will have the same stated maturity date and corresponding redemption provisions, and will be in the same total principal amount as the series of the senior notes being issued. Any series of first mortgage bonds securing senior notes may, but need not, bear interest. Any payment by Puget Sound Energy to the senior note trustee of principal of, and interest and/or any premium on, a series of first mortgage bonds will be applied by the senior note trustee to satisfy Puget Sound Energy's obligations with respect to principal of, and interest and/or any premium on, the corresponding senior notes.

The "release date" will be the date that all first mortgage bonds of Puget Sound Energy issued and outstanding under its electric utility mortgage indenture with State Street Bank and Trust Company and its gas utility mortgage indenture with The Bank of New York Company, Inc., other than first mortgage bonds securing senior notes, have been retired (at, before or after their maturity) through payment, redemption or otherwise. On the release date, the senior note trustee will deliver to Puget Sound Energy, for cancellation, all first mortgage bonds securing senior notes. Not later than 30 days thereafter, the senior note trustee will provide notice to all holders of senior notes of the occurrence of the release date. As a result, on the release date, the first mortgage bonds securing senior notes will cease to secure the senior notes. The senior notes will then become, at Puget Sound Energy's option, either

- . unsecured general obligations of Puget Sound Energy or
- . obligations secured by substitute first mortgage bonds issued under a substitute mortgage indenture other than Puget Sound Energy's electric utility mortgage or gas utility mortgage.

A lien on certain property owned by Puget Sound Energy will secure each series of first mortgage bonds that secures senior notes. Upon the payment or cancellation of any outstanding senior notes, the senior note trustee will surrender to Puget Sound Energy for cancellation an equal principal amount of the related series of first mortgage bonds. Puget Sound Energy will not permit, at any time prior to the release date, the total principal



amount of first mortgage bonds securing senior notes held by the senior note trustee to be less than the total principal amount of senior notes outstanding. Following the release date, Puget Sound Energy will cause the mortgages to be discharged and will not issue any additional first mortgage bonds under its electric utility mortgage or gas utility mortgage. While Puget Sound Energy will be precluded after the release date from issuing additional first mortgage bonds, it will not be precluded under the senior note indenture or senior notes from issuing or assuming other secured debt, or incurring liens on its property, except to the extent indicated below under "-- Certain Covenants of Puget Sound Energy -- Limitation on Liens."

#### Events of Default

The following constitute events of default under senior notes of any series:

- . failure to pay principal of, and any premium on, any senior note of the series when due for five days;
- . failure to pay interest on any senior note of the series when due for 30 days;
- . failure to perform any other covenant or agreement of Puget Sound Energy in the senior notes of the series for 90 days after written notice to Puget Sound Energy by the senior note trustee or the holders of at least a majority in total principal amount of the outstanding senior notes;
- . prior to the release date, a default occurs under the gas utility mortgage and the gas utility mortgage trustee or the holders of at least a majority in total principal amount of the outstanding senior notes give notice of the default to the senior note trustee;
- . prior to the release date, a default occurs under the electric utility mortgage and the electric utility mortgage trustee or the holders of at least a majority in total principal amount of the outstanding senior notes give notice of the default to the senior note trustee;
- . if any substituted mortgage bonds are outstanding, a default occurs under the substitute mortgage and the trustee under the substitute mortgage or the holders of at least a majority in total principal amount of the outstanding senior notes give notice of the default to the senior note trustee; and
- . events of bankruptcy, insolvency or reorganization of Puget Sound Energy specified in the senior note indenture.

If an event of default occurs and is continuing, either the senior note trustee or the holders of at least a majority in total principal amount of the outstanding senior notes may declare the principal amount of all senior notes to be due and payable immediately.

The senior note trustee generally will be under no obligation to exercise any of its rights or powers under the senior note indenture at the request or direction of any of the holders of senior notes of a series unless those holders have offered to the senior note trustee reasonable security or indemnity. Subject to the provisions for indemnity and certain other limitations contained in the senior note indenture, the holders of at least a majority in total principal amount of the outstanding senior notes of a series generally will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the senior note trustee, or of exercising any trust or power conferred on the senior note trustee. The holders of at least a majority in principal amount of the outstanding senior notes of such series generally will have the right to waive any past default or event of default (other than a payment default) on behalf of all holders of senior notes of the series.

No holder of senior notes of a series may institute any action against Puget Sound Energy under the senior note indenture unless

- . that holder gives to the senior note trustee advance written notice of default and its continuance;
- . the holders of not less than a majority in total principal amount of senior notes of the series then outstanding affected by that event of default request the senior note trustee to institute such action;



- . that holder has offered the senior note trustee reasonable indemnity; and
- . the senior note trustee shall not have instituted such action within 60 days of such request.

Furthermore, no holder of senior notes will be entitled to institute any such action if and to the extent that the action would disturb or prejudice the rights of other holders of senior notes of the series.

Within 90 days after the occurrence of a default with respect to the senior notes of a series, the senior note trustee must give the holders of the senior notes of that series notice of the default if known to the senior note trustee, unless cured or waived. The senior note trustee may withhold the notice if it determines in good faith that it is in the interest of the holders to do so except in the case of default in the payment of principal of, and interest and/or any premium on, any senior notes of the series. Puget Sound Energy is required to deliver to the senior note trustee each year a certificate as to whether or not, to the knowledge of the officers signing the certificate, Puget Sound Energy is in compliance with the conditions and covenants under the senior note indenture.

#### Modification

Except as provided in the paragraph below, Puget Sound Energy and the senior note trustee cannot modify or amend the senior note indenture without the consent of the holders of at least a majority in principal amount of the outstanding affected senior notes. In addition, Puget Sound Energy and the senior note trustee cannot modify or amend the senior note indenture without the consent of the holder of each outstanding senior note of a series to

- . change the maturity date of any senior note of the series;
- . reduce the rate (or change the method of calculation of the rate) or extend the time of payment of interest on any senior note of the series;
- . reduce the principal amount of, or premium payable on, any senior note of the series;
- . change the coin or currency of any payment of principal of, and interest and/or any premium on, any senior note of the series;
- . change the date on which any senior note of the series may be redeemed or repaid at the option of its holder or adversely affect the rights of a holder to institute suit for the enforcement of any payment on or with respect to any senior note of the series;
- . impair the interest of the senior note trustee in the first mortgage bonds securing the senior notes of the series held by it or, prior to the release date, reduce the principal amount of any series of first mortgage bonds securing the senior notes of the series to an amount less than the principal amount of the related series of senior notes or alter the payment provisions of the first mortgage bonds in a manner adverse to the holders of the senior notes; or
- . modify or reduce the percentage of holders of senior notes of the series necessary to modify or amend the senior note indenture or to waive any past default to less than a majority.

Puget Sound Energy and the senior note trustee can modify and amend the senior note indenture without the consent of the holders in certain cases, including

- . to add to the covenants of Puget Sound Energy for the benefit of the holders or to surrender a right conferred on Puget Sound Energy in the senior note indenture;
- . to add further security for the senior notes of the series;

- . to supply omissions, cure ambiguities or correct defects, which actions, in each case, are not prejudicial to the interests of the holders in any material respect; or
- . to make any other changes that are not prejudicial to the holders of senior notes of the series.

### Defeasance and Discharge

The senior note indenture provides that Puget Sound Energy will be discharged from any and all obligations with respect to the senior notes of a series and the senior note indenture (except for obligations to register the transfer or exchange of senior notes, replace stolen, lost or mutilated senior notes and maintain paying agencies) if, among other things, Puget Sound Energy irrevocably deposits with the senior note trustee, in trust for the benefit of holders of senior notes of the series, money or certain United States government obligations, or any combination of money or government obligations, which through the payment of interest and principal on the deposits in accordance with their terms must provide money in an amount sufficient, without reinvestment, to make all payments of principal of, and any premium and interest on, the senior notes on the dates those payments are due in accordance with the terms of the senior note indenture and the senior notes of the series. Unless all the senior notes of the series are to be due within 90 days of the deposit by redemption or otherwise, Puget Sound Energy must also deliver to the senior note trustee an opinion of counsel to the effect that the holders of the senior notes of the series will not recognize income, gain or loss for federal income tax purposes as a result of the defeasance or discharge of the senior notes. Thereafter, the holders of senior notes must look only to the deposit for payment of the principal of, and interest and any premium on, the senior notes.

### Consolidation, Merger and Sale or Disposition of Assets

Puget Sound Energy may consolidate with or merge into, or sell or otherwise dispose of its properties as or substantially as an entirety if

- . the successor or transferee corporation is a corporation organized and existing under the laws of the United States, any state thereof or the District of Columbia;
- . the new corporation assumes the due and punctual payment of the principal of, and premium and interest on, all the senior notes and the performance of every covenant of the senior note indenture to be performed or observed by Puget Sound Energy;
- . prior to the release date, the new corporation assumes Puget Sound Energy's obligations under its electric utility mortgage and gas utility mortgage with respect to first mortgage bonds securing senior notes; and
- . after the release date and there are substitute first mortgage bonds outstanding, the new corporation assumes Puget Sound Energy's obligations under the substitute first mortgage with respect to substitute first mortgage bonds securing senior notes.

The senior note indenture defines "all or substantially all" of the assets of Puget Sound Energy as being 50% or more of the total assets of Puget Sound Energy as shown on its balance sheet as of the end of the prior year. The senior note indenture specifically permits any sale, transfer or other disposition during a calendar year of less than 50% of total assets without the consent of the holders of the senior notes and without the assumption by the transferee of Puget Sound Energy's obligations on the senior notes and covenants contained in the senior note indenture.

### Certain Covenants of Puget Sound Energy

#### Limitation on Liens

Puget Sound Energy cannot issue any first mortgage bonds other than first mortgage bonds that secure senior notes. After the release date, Puget Sound Energy will be precluded from issuing additional first mortgage bonds under its electric utility mortgage and gas utility mortgage. Unless substitute first mortgage bonds are issued to secure senior notes, after the release date, Puget Sound Energy may not issue, assume, guarantee or permit to exist any debt that is secured by any mortgage, security interest, pledge or other lien of or upon any real property or other depreciable asset used in Puget Sound Energy's electric and gas utility business without effectively securing the senior notes (together with, if Puget Sound Energy shall so determine, any other



indebtedness of Puget Sound Energy ranking equally with the senior notes) equally and ratably with that debt. The foregoing restriction will not apply to

- . liens on any property existing at the time of its acquisition (but excluding any extension of or addition to that property unless the terms of the mortgage as of the date of the acquisition of the property provide that the mortgage shall be secured by extensions or additions to the property);
- . liens to secure the payment of all or part of the purchase price of property or to secure any debt incurred prior to, at the time of or within 180 days after the acquisition of that property for the purpose of financing all or part of the purchase price of the property;
- . liens secured by property used in the generation of electricity;
- . liens existing as of the date of the senior note indenture;
- . permitted encumbrances similar to the permitted encumbrances under the electric utility mortgage;
- . any extension, renewal or replacement (or successive extensions, renewals or replacements), in whole or in part, of any lien referred to in the bullet points above; provided, however, that the principal amount of debt secured thereby may not exceed the principal amount of debt (plus any premium or fee payable in connection with such extension, renewal or replacement) so secured at the time of such extension, renewal or replacement; and provided, further, that such lien must be limited to all or such part of the property which was subject to the mortgage so extended, renewed or replaced (plus improvements on such property);
- . liens in favor of the United States, any state thereof, any other country or any political subdivision of any of the foregoing, to secure partial, progress, advance or other payments under any contract or statute; or
- . liens securing industrial development, pollution control or similar revenue bonds.

Notwithstanding the foregoing restriction, Puget Sound Energy may create, assume or incur any lien not excepted above without equally and ratably securing the senior notes if the aggregate amount of all debt then outstanding and secured by that lien or any other lien not excepted above, together with all net sale proceeds from sale and leaseback transactions that are not described in " -- Limitations on Sale and Leaseback Transactions" below, does not exceed 15% of Puget Sound Energy's total consolidated capitalization as shown on its latest audited consolidated balance sheet.

#### Limitations on Sale and Lease Back Transactions

Unless substituted first mortgage bonds are issued to secure the senior notes, after the release date Puget Sound Energy may not sell or transfer any real property interest or other depreciable asset and take back a lease of that property unless

- . the sale and leaseback transaction occurs within 180 days after the later of the date of acquisition of the property or the date of the completion of construction or commencement of full operations on the property or
- . within 120 days after the sale and leaseback transaction, Puget Sound Energy applies or causes to be applied to the retirement of debt of Puget Sound Energy (other than debt which is subordinate in right of payment to senior notes) an amount not less than the net proceeds of the sale of the property.

Notwithstanding the foregoing restriction, Puget Sound Energy may effect any sale and leaseback transaction not excepted above if the net sale proceeds from the sale and leaseback transaction, together with the net sale proceeds from all other sale and leaseback transactions not excepted above and all debt then outstanding and secured by

mortgages not described in any of the bullet points under "-- Limitations on Liens," do not exceed 15% of Puget Sound Energy's total consolidated capitalization as shown on its latest audited consolidated balance sheet. Puget Sound Energy may also effect any sale and leaseback transaction involving a lease for a period, including renewals, of not more than 36 months.

#### Voting of First Mortgage Bonds Held by Senior Note Trustee

The senior note trustee, as the holder of first mortgage bonds securing senior notes, will attend any meeting of bondholders under Puget Sound Energy's electric utility mortgage and gas utility mortgage or, at its option, will deliver its proxy in connection therewith as it relates to matters with respect to which it is entitled to vote or consent. The senior note trustee will vote all the electric utility bonds or gas utility bonds held by it, or will consent with respect thereto, as directed by holders of at least a majority in total principal amount of the outstanding senior notes; provided, however, that the senior note trustee is not required to vote the electric utility bonds or gas utility bonds of any particular issue in favor of, or give consent to, any action except upon notification by the senior note trustee to the holders of the related issue of senior notes of such proposal and consent thereto of the holders of at least a majority in principal amount of the outstanding senior notes of such issue.

#### Concerning the Senior Note Trustee

State Street Bank and Trust Company is both the senior note trustee under the senior note indenture and the mortgage trustee under the electric utility mortgage indenture. Puget Sound Energy and its affiliates do not currently maintain any other banking relationships with State Street Bank and Trust Company in the ordinary course of business, but Puget Sound Energy may choose to do so in the future.

The senior note trustee may resign at any time by giving written notice to Puget Sound Energy specifying the day on which the resignation is to take effect. The resignation will take effect immediately upon the later of the appointment of a successor senior note trustee and the day specified by the senior note trustee.

The senior note trustee may be removed at any time by a written instrument filed with the senior note trustee and signed by the holders of at least a majority in total principal amount of outstanding senior notes. In addition, if no event of default has occurred and is continuing, Puget Sound Energy may remove the senior note trustee upon notice to the holder of each senior note outstanding and the senior note trustee, and appointment of a successor senior note trustee.

#### Description of the First Mortgage Bonds

The first mortgage bonds securing the senior notes are to be issued under Puget Sound Energy's electric utility mortgage indenture or its gas utility mortgage indenture, each as amended and supplemented by various supplemental indentures. State Street Bank and Trust Company will act as the electric utility mortgage trustee and The Bank of New York Company, Inc. will act as the gas utility mortgage trustee.

The statements herein concerning these mortgage indentures are outlines and are not complete and are subject to, and qualified in their entirety by, all the provisions of the electric utility mortgage indenture and the gas utility mortgage indenture, which are exhibits to the registration statement of which this prospectus forms a part. They make use of defined terms and are qualified in their entirety by express reference to the mortgage indentures, copies of which are available upon request to the senior note trustee.

First mortgage bonds securing senior notes will be issued as security for Puget Sound Energy's obligations under the senior note indenture and will be immediately delivered to and registered in the name of the senior note trustee. The first mortgage bonds securing senior notes will be issued as security for senior notes of a series and will secure the senior notes of that series until the release date. The senior note indenture provides that the senior note trustee shall not transfer any first mortgage bonds securing senior notes except to a successor trustee, to Puget Sound Energy (as provided in the senior note indenture) or in compliance with a court order in connection with a bankruptcy or reorganization proceeding of Puget Sound Energy.

First mortgage bonds securing senior notes will correspond to the senior notes of their related series in respect of principal amount, interest rate, maturity date and redemption provisions. Upon payment of the





principal or any premium or interest on senior notes of a series, the related first mortgage bonds in a principal amount equal to the principal amount of the senior notes will, to the extent of the payment of principal, premium or interest, be deemed fully paid and the obligation of Puget Sound Energy to make the payment shall be discharged.

#### The Electric Utility Mortgage Bonds

##### Priority and Security

The electric utility mortgage bonds securing senior notes of any series will rank equally as to security with bonds of other series now outstanding or issued later under the electric utility mortgage. This security is a direct first lien on Puget Sound Energy's electric utility property and its electric franchises and permits, other than property expressly excluded from the lien. Property expressly excluded from the lien includes

- . cash, securities, notes, accounts receivable and similar instruments;
- . conditional sales, appliance rental or lease agreements;
- . materials and supplies held for use in the ordinary course of business;
- . merchandise held for the purpose of sale, lease or distribution;
- . fuel (including fissionable material) and personal property consumable in operations;
- . timber, oil, gas and other minerals under or upon lands of Puget Sound Energy;
- . office furniture and equipment, automobiles and similar transportation equipment; and
- . nonutility property.

The lien of the electric utility mortgage is subject to excepted encumbrances (and certain other limitations) as defined and described in the electric utility mortgage indenture. It is also subject to the lien of the gas utility mortgage with respect to Puget Sound Energy's gas utility property that was acquired in connection with the merger with Washington Energy Company on February 10, 1997. The electric utility mortgage indenture permits the acquisition of property subject to prior liens.

##### Dividend Restriction

So long as any of the electric utility mortgage bonds are outstanding, Puget Sound Energy shall not do either of the following, except out of net income available for dividends on its common stock, accumulated after December 31, 1957, plus the sum of \$7,500,000:

- . declare or pay any dividends (other than dividends payable in Puget Sound Energy's common stock) or make any other distribution on any shares of its common stock or
- . purchase, redeem or otherwise retire for consideration any shares of stock.

##### Issuance of Electric Utility Mortgage Bonds and Withdrawal of Cash Deposited Against That Issuance

The principal amount of electric utility mortgage bonds that Puget Sound Energy may issue under the electric utility mortgage is not limited, provided that the issuance tests in the electric utility mortgage are satisfied. Electric utility mortgage bonds may be issued from time to time against one or more of the following:

- . 60% of unfunded net property additions;
- . deposit of cash with the electric utility mortgage trustee; and
- . 100% of unfunded electric utility mortgage bond credits.



The issuance of electric utility mortgage bonds is subject to net earnings available for interest being at least two times the annual interest requirements on all electric utility mortgage bonds and prior lien debt to be outstanding. Cash deposited is withdrawable against 60% of unfunded net additions and 100% of unfunded electric utility mortgage bond credits.

#### Depreciation Fund

Puget Sound Energy will pay cash or deliver electric utility mortgage bonds of any series to the electric utility mortgage trustee by May 31 of each year in an amount equal to the minimum provision for depreciation for the preceding year (i.e., an amount by which 15% of gross utility operating revenues of Puget Sound Energy, after deducting cost of electricity purchased, fuel costs, and rental and lease payments, exceeds maintenance, repairs and renewals). Cash held in the depreciation fund may be applied to the retirement of the electric utility mortgage bonds of certain of the Secured Medium-Term Notes, Series A, certain of the Secured Medium-Term Notes, Series B, the 7.05% Series due 2021, the 7.25% Series due 2021 and the 6.80% Series due 2022 (the last three series were issued as collateral for City of Forsyth, Rosebud County, Montana, Pollution Control Revenue Refunding Bonds) at a price not exceeding the applicable regular redemption price thereof, or other electric utility mortgage bonds at a price not exceeding the applicable special redemption price thereof. In lieu of paying cash or delivering electric utility mortgage bonds, Puget Sound Energy has the option of satisfying this obligation through the use of unfunded property additions or unfunded electric utility mortgage bond credits. Cash and electric utility mortgage bonds held in the depreciation fund may also be withdrawn by using either unfunded property additions or unfunded electric utility mortgage bond credits.

#### Modification of Mortgage

The rights of the bondholders under the electric utility mortgage may be modified by Puget Sound Energy with the consent of the holders of at least 66-2/3% in total principal amount of the electric utility bonds, and of not less than 66-2/3% of the total principal amount of each series affected. In general, however, no modification of the terms of payment of principal or interest and no modification affecting the lien or reducing the percentage required for modification is effective against any bondholder without the bondholder's consent.

#### Concerning the Mortgage Trustee

State Street Bank and Trust Company is the mortgage trustee under the electric utility mortgage indenture. Puget Sound Energy and its affiliates do not currently maintain any other banking relationships with State Street Bank and Trust Company in the ordinary course of business, but Puget Sound Energy may choose to do so in the future.

The holders of a majority in total principal amount of the electric utility mortgage bonds have the right to require the electric utility mortgage trustee to enforce the electric utility mortgage, but the electric utility mortgage trustee is entitled to receive reasonable indemnity and is not required to act under certain circumstances.

#### Defaults

The electric utility mortgage defines the following as "defaults:"

- . failure to pay principal and premium when due;
- . failure to pay interest for 30 days after becoming due;
- . failure to pay any installment of any sinking or other purchase fund for 60 days after becoming due;
- . an unstayed continuance for 90 days after an entry of an order for reorganization or an appointment of a trustee;

- . certain events in bankruptcy, insolvency or reorganization;
- . an unstayed continuance for 90 days after entry of a judgment in excess of \$100,000; and
- . failure for 90 days after notice to observe other covenants or conditions.

The electric utility mortgage indenture does not contain a provision requiring any periodic evidence to be furnished as to the absence of default or as to compliance with the terms thereof.

#### Gas Utility Mortgage Bonds

##### Priority and Security

The gas utility mortgage bonds securing senior notes of any series will rank equally as to security with gas utility mortgage bonds of other series now outstanding or issued later under the gas utility mortgage indenture. This security is a direct first lien on all of Puget Sound Energy's gas utility property, on its gas utility franchises and permits and on its gas purchase contracts (other than certain property expressly excluded from the lien. Property expressly excluded from the lien includes

- . cash, securities, notes, accounts receivable and similar instruments;
- . conditional sales, appliance rental or lease agreements;
- . equipment, materials, supplies and merchandise held by Puget Sound Energy for consumption in the ordinary course of business or acquired for sale, lease or distribution;
- . gas or liquid hydrocarbons in pipelines and in storage;
- . fuel and personal property consumable in operations;
- . oil, gas and other minerals and timber under or upon lands of Puget Sound Energy;
- . office furniture and equipment, automobiles and similar transportation equipment;
- . nonutility property; and
- . certain property of a successor corporation in a merger or consolidation.

All property owned by Puget Sound Energy immediately prior to its merger with Washington Energy Company on February 10, 1997 is excepted from the lien of the gas utility mortgage . All property acquired by Puget Sound Energy after the merger is also excepted from the lien, unless the property improves or replaces the gas utility property owned by Washington Energy Company at the time of the merger. This lien is subject to excepted encumbrances (and certain other limitations) as defined and described in the gas utility mortgage indenture. The mortgage indenture permits the acquisition of property subject to prior liens, but this property will not be considered as additional property under the gas utility mortgage until the prior lien is paid.

#### Dividend Restriction

If the aggregate amount of all the dividends, distributions and expenditures listed below made since September 30, 1994 would exceed the aggregate amount of the net income of Puget Sound Energy accumulated after September 30, 1994 plus the sum of \$20,000,000, Puget Sound Energy shall not do any of the following so long as any of Puget Sound Energy's Secured Medium-Term Notes, Series C, issued under the gas utility mortgage, are outstanding:

- . declare or pay any dividends (other than dividends payable in Puget Sound Energy's common stock) or make any other distribution on any shares of its common stock, or
- . purchase, redeem or otherwise retire for consideration any shares of stock (other than in exchange for, or from the net cash proceeds of, other new shares of capital stock of Puget Sound Energy and other than any shares of any class of stock ranking as to dividends or assets prior to Puget Sound Energy's common stock required to be purchased, redeemed or otherwise retired for any sinking fund or purchase fund for that class of stock).

#### Renewal Fund

Puget Sound Energy will pay cash and/or deliver gas utility mortgage bonds (taken at the principal amount thereof) to the gas utility mortgage trustee for deposit into a renewal fund on or before May 1 of each year in an amount equal to

- . the greater of
  - . the aggregate amount of the minimum provision for depreciation (i.e., an amount computed at the rate of 2% per annum, or another rate as may be permitted or required by the Washington Utilities and Transportation Commission, of the book value of depreciable gas utility property subject to the lien of the gas utility mortgage and not to prior liens) from March 1, 1957 to the end of the next preceding calendar year or
  - . the aggregate amount of retirements for the same period

in excess of

- . the greater of
  - . the aggregate amount for the minimum provision for depreciation or retirements, whichever is greater, shown in the next preceding renewal fund certificate filed with the gas utility mortgage trustee pursuant to the requirements of Section 4.04 of the gas utility mortgage or
  - . the aggregate amount for the minimum provision for depreciation or retirements, whichever is greater, shown in the latest certificate of available net additions delivered to the gas utility mortgage trustee pursuant to Section 2.01 of the gas utility mortgage;

less the aggregate amount of gas utility mortgage bonds retired by sinking fund operations, not theretofore used as a credit on account of the renewal fund in previous renewal fund certificates. The renewal fund obligation may be satisfied in whole or in part by credits consisting of unfunded property additions and/or unfunded gas utility mortgage bonds credits.

Any cash deposited in the renewal fund, if and to the extent that Puget Sound Energy at the time does not have property additions available for use as a credit to satisfy the renewal fund obligation, may, upon the written order of Puget Sound Energy, be applied by the gas utility mortgage trustee to the redemption of gas utility mortgage bonds or, if not so applied pursuant to the provisions of the gas utility mortgage, to the retirement of gas utility mortgage bonds.



#### Issuance of Gas Bonds and Withdrawal of Cash Deposited Against Such Issuance

The principal amount of gas utility mortgage bonds issuable under the gas utility mortgage is not limited, provided that the issuance tests in the gas utility mortgage are satisfied. Gas utility mortgage bonds may be issued from time to time against one or more of the following:

- . 60% of unfunded net property additions;
- . deposit of cash with the gas utility mortgage trustee; and
- . 100% of unfunded gas utility mortgage bond credits.

With certain exceptions, the issuance of gas utility mortgage bonds is subject to net earnings available for interest being at least

- . two times the annual interest requirements on all gas utility mortgage bonds and prior lien debt to be outstanding and
- . so long as gas utility mortgage bonds issued prior to the date of this prospectus are outstanding, 1.75 times the annual interest requirements on all indebtedness of Puget Sound Energy to be outstanding immediately after such issuance.

Cash deposited is withdrawable against 60% of unfunded net property additions in the case of moneys on deposit with the gas utility mortgage trustee for the purpose described above, 100% of the amount of unfunded net additions in the case of any other trust moneys and 100% of unfunded gas utility mortgage bond credits.

#### Modification of Mortgage

The rights of the bondholders under the gas utility mortgage may be modified by Puget Sound Energy with the consent of the holders of at least 66-2/3% in total principal amount of the gas utility mortgage bonds and of not less than 66-2/3% of the total principal amount of each series affected. In general, however, no modification of the terms of payment of principal or interest and no modification affecting the lien or reducing the percentage required for modification is effective against any bondholder without the bondholder's consent.

#### Concerning the Mortgage Trustee

The Bank of New York Company, Inc. is the gas utility mortgage trustee under the mortgage indenture. The Bank of New York Company, Inc. is one of the lenders under Puget Sound Energy's revolving credit facility.

The holders of at least a majority in total principal amount of the gas utility mortgage bonds have the right to require the gas utility mortgage trustee to enforce the gas utility mortgage, but the gas utility mortgage trustee is entitled to receive reasonable indemnity and is not required to act under certain circumstances.

#### Defaults

The gas utility mortgage defines the following as "defaults:"

- . failure to pay principal and premium when due;
- . failure to pay interest for 10 days after becoming due;
- . failure to pay any installment of any sinking or other purchase fund for 30 days after becoming due;
- . certain events in bankruptcy, insolvency or reorganization;
- . failure to pay money due under any indebtedness other than gas utility mortgage bonds in an amount of \$500,000 or more or the failure to perform any other agreement evidencing the indebtedness if Puget Sound Energy's

failure causes any payments to become due prior to the due date;



- . a judgment against Puget Sound Energy in excess of \$100,000 that continues unstayed and unsatisfied for a period of 90 days following entry of the judgment; and
- . failure for 30 days after notice to observe other covenants or conditions.

The gas utility mortgage indenture does not contain a provision requiring any periodic evidence to be furnished as to the absence of default or as to compliance with the terms thereof.

#### Unsecured Debentures

The unsecured debentures will be issued under the unsecured debt indenture and, unless otherwise specified in the applicable prospectus supplement, will rank equally with our other unsecured and unsubordinated indebtedness. The unsecured debt indenture does not limit the aggregate principal amount of unsecured debt securities that may be issued under the indenture.

#### Subordination

If unsecured debt securities are issued to the capital trust or the trustee of the capital trust in connection with the issuance of trust preferred securities of the capital trust, or if otherwise specified in the applicable prospectus supplement, the unsecured debentures will rank subordinated and junior in right of payment, to the extent set forth in the unsecured indenture, to all "senior indebtedness" of Puget Sound Energy.

"Senior indebtedness" means distributions on the following, whether outstanding on the date of execution of the subordinated debt indenture or thereafter incurred, created or assumed:

- . indebtedness of Puget Sound Energy for money borrowed by Puget Sound Energy or evidenced by debentures (other than the subordinated debentures), notes, bankers' acceptances or other corporate debt securities or similar instruments issued by Puget Sound Energy;
- . capital lease obligations of Puget Sound Energy;
- . obligations of Puget Sound Energy incurred for deferring the purchase price of property, with respect to conditional sales, and under any title retention agreement (but excluding trade accounts payable arising in the ordinary course of business);
- . obligations of Puget Sound Energy with respect to letters of credit;
- . all indebtedness of others of the type referred to in the four preceding clauses assumed by or guaranteed in any manner by Puget Sound Energy or in effect guaranteed by Puget Sound Energy;
- . all indebtedness of others of the type referred to in the five preceding bullet points secured by a lien on any of Puget Sound Energy's property or assets; or
- . renewals, extensions or refundings of any of the indebtedness referred to in the preceding five clauses unless, in the case of any particular indebtedness, renewal, extension or refunding, under the express provisions of the instrument creating or evidencing the same or the assumption or guarantee of the same, or pursuant to which the same is outstanding, such indebtedness or such renewal, extension or refunding thereof is not superior in right of payment to the subordinated debt securities.

If Puget Sound Energy defaults in the payment of any distributions on any senior indebtedness when it becomes due and payable after any applicable grace period, then, unless and until the default is cured or waived or ceases to exist, Puget Sound Energy cannot make a payment on account of or redeem or otherwise acquire the subordinated debentures issued under the unsecured debt indenture. The unsecured debt indenture provisions described in this paragraph, however, do not prevent Puget Sound Energy from

making sinking fund payments in subordinated debentures acquired prior to the maturity of senior indebtedness or, in the case of default, prior to

such default and notice thereof. If there is any insolvency, bankruptcy, liquidation or other similar proceeding relating to Puget Sound Energy, its creditors or its property, then all senior indebtedness must be paid in full before any payment may be made to any holders of subordinated debentures. Holders of subordinated debentures must return and deliver any payments received by them, other than in a plan of reorganization or through a defeasance trust as described above, directly to the holders of senior indebtedness until all senior indebtedness is paid in full.

The unsecured debt indenture does not limit the total amount of senior indebtedness that may be issued. As of December 31, 2001, senior indebtedness of Puget Sound Energy totaled approximately \$2,170,815,000.

Certain Covenants if Subordinated Debentures Are Issued to the Capital Trust  
If subordinated debt securities are issued to the capital trust or the trustee of the capital trust in connection with the issuance of trust preferred securities of the capital trust, Puget Sound Energy will covenant that it will not make the payments and distributions described below if

- . an event of default has occurred under the unsecured debt indenture;
- . an event occurs that Puget Sound Energy has actual knowledge of, which, with the giving of notice or the lapse of time, or both, would constitute an event of default under the unsecured debt indenture and which it has not taken reasonable steps to cure;
- . it is in default with respect to its payment obligations under the guarantees relating to the trust preferred securities; or
- . it has elected to defer payments of interest on the related subordinated debentures by extending the interest payment period and that deferral is continuing.

In these circumstances, Puget Sound Energy will not

- . declare or pay any dividends or distributions on, or redeem, purchase, or make a liquidation payment with respect to, any of Puget Sound Energy's capital stock other than
  - . dividends or distributions in shares of, or options, warrants or rights to subscribe for or purchase shares of, its common stock;
  - . transactions relating to a shareholders' rights plan;
  - . payments under the preferred securities guarantee;
  - . as a result of and only to the extent required in order to avoid the issuance of fractional shares of capital stock following a reclassification of its capital stock or the exchange or conversion of one class or series of its capital stock for another class or series of its capital stock; and
  - . the purchase of fractional share interests upon conversion or exchange of its capital stock or
- . make any payment of principal, interest or any premium on, or repay or repurchase or redeem any debt securities (including guarantees) of Puget Sound Energy that rank equal with or junior to, the subordinated debentures.

In addition, if subordinated debt securities are issued in connection with the issuance of trust preferred securities of the capital trust, Puget Sound Energy will agree

- . to maintain, directly or indirectly, 100% ownership of the capital trust common securities, provided that certain successors permitted pursuant to the indenture may succeed to Puget Sound Energy's ownership of the common

securities;

- . not to voluntarily dissolve, wind up or liquidate the trust, except
  - . in connection with a distribution of the subordinated debentures to the holders of the trust preferred securities in liquidation of the related capital trust or
  - . in connection with specified mergers, consolidations or amalgamations permitted by the amended and restated trust agreement and
- . to use its reasonable efforts to cause the related capital trust to remain classified as a grantor trust and not as an association taxable as a corporation for United States federal income tax purposes.

#### Events of Default

The unsecured debt indenture provides that events of default regarding any series of unsecured debentures include the following events which shall have occurred and be continuing:

- . failure to pay required interest on the series of unsecured debentures for 30 days;
- . failure to pay when due principal on the series of unsecured debentures;
- . failure to make any required deposit or payment of any sinking fund or analogous payment on the series of unsecured debentures when due;
- . failure to perform, for 90 days after notice, any other covenant in the unsecured debt indenture applicable to the series of unsecured debentures;
- . certain events of bankruptcy or insolvency, whether voluntary or not; and
- . with respect to a series of unsecured subordinated debentures issued to a capital trust in connection with the issuance by the capital trust of trust preferred securities, the capital trust is voluntarily or involuntarily dissolved, wound up or terminated, except in connection with
  - . the distribution of the subordinated debentures to the holders of the common securities and the trust preferred securities in liquidation of the capital trust;
  - . the redemption of all outstanding common securities and trust preferred securities of the capital trust; and
  - . mergers, consolidation or amalgamations permitted by the declaration of that capital trust.

If an event of default regarding unsecured debentures of any series should occur and be continuing, either the unsecured debenture trustee or the holders of at least 25% in total principal amount of outstanding unsecured debentures of such series may declare each unsecured debenture of that series immediately due and payable.

Holders of at least a majority in total principal amount of the outstanding unsecured debentures of any series will be entitled to control certain actions of the unsecured debenture trustee and to waive past defaults regarding such series. The trustee generally will not be required to take any action requested, ordered or directed by any of the holders of unsecured debentures, unless one or more of such holders shall have offered to the trustee reasonable security or indemnity.

Before any holder of any series of unsecured debentures may institute action for any remedy, except payment on such holder's unsecured debentures when due, the holders of not less than 25% in principal amount of the unsecured debentures of that series outstanding must request the unsecured debenture trustee to take action. Holders must also offer and give the unsecured debenture trustee satisfactory security and indemnity against liabilities incurred by the trustee for taking such action.

Puget Sound Energy is required to annually furnish the unsecured debenture trustee a statement as to Puget Sound Energy's compliance with all conditions and covenants under the unsecured debt indenture. The unsecured debenture trustee is required, within 90 days after the occurrence of a default with respect to a series of

unsecured debentures, to give notice of all defaults affecting such series of unsecured debentures to each holder of such series of debentures. However, the unsecured debt indenture provides that the unsecured debenture trustee may withhold notice to the holders of the unsecured debentures of any series of any default affecting such series, except payment on holders' unsecured debentures when due, if it considers withholding notice to be in the interests of the holders of the unsecured debentures of such series.

#### Consolidation, Merger or Sale of Assets

The unsecured debt indenture provides that Puget Sound Energy may consolidate with or merge into, or sell, lease or convey its property as an entirety or substantially as an entirety to, any other corporation if the successor corporation assumes the obligations of Puget Sound Energy under the unsecured debentures and the unsecured debt indenture and is organized and existing under the laws of the United States, any state thereof or the District of Columbia.

#### Modification of the Indenture

The unsecured debt indenture permits Puget Sound Energy and the unsecured debenture trustee to enter into supplemental indentures without the consent of the holders of the unsecured debentures to:

- . establish the form and terms of any series of securities under the unsecured debt indenture;
- . secure the debentures with property or assets;
- . evidence the succession of another corporation to Puget Sound Energy, and the assumption by the successor corporation of Puget Sound Energy's obligations, covenants and agreements under the unsecured debt indenture;
- . add covenants of Puget Sound Energy for the benefit of the holders of the unsecured debentures;
- . cure any ambiguity or correct or supplement any provision in the indenture or any supplement to the indenture, provided that no such action adversely affects the interests of the holders of the unsecured debentures; and
- . evidence and provide for the acceptance of a successor trustee.

The unsecured debt indenture also permits Puget Sound Energy and the unsecured debenture trustee, with the consent of the holders of at least a majority in total principal amount of the unsecured debentures of all series then outstanding and affected (voting as one class), to change in any manner the provisions of the unsecured debt indenture or modify in any manner the rights of the holders of the unsecured debentures of each such affected series. Puget Sound Energy and the trustee may not, without the consent of the holder of each unsecured debenture affected, enter into any supplemental indenture to

- . change the time of payment of the principal;
- . reduce the principal amount of such unsecured debentures;
- . reduce the rate or change the time of payment of interest on such unsecured debentures;
- . reduce any amount payable upon redemption of such unsecured debentures; or
- . impair the right to institute suit for the enforcement of any payment on any unsecured debentures when due.

In addition, no such modification may reduce the percentage in principal amount of the unsecured debentures of the affected series, the consent of whose holders is required for any such modification or for any waiver provided for in the unsecured debt indenture.

Prior to the acceleration of the maturity of any unsecured debentures, the holders, voting as one class, of a majority in total principal amount of the unsecured debentures with respect to which a default or event of default has occurred and is continuing, may, on behalf of the holders of all such affected unsecured debentures, waive any past default or event of default and its consequences, except a default or event of default in the payment of the principal or interest or in respect of a covenant or provision of the applicable indenture or of any unsecured debenture that cannot be modified or amended without the consent of the holder of each unsecured debenture affected.

#### Defeasance, Covenant Defeasance and Discharge

The unsecured debt indenture provides that, at the option of Puget Sound Energy, Puget Sound Energy will be discharged from all obligations in respect of the unsecured debentures of a particular series then outstanding (except for certain obligations to register the transfer of or exchange the unsecured debentures of such series, to replace stolen, lost or mutilated unsecured debentures of such series, to maintain paying agencies and to maintain the capital trust described below) if Puget Sound Energy in each case irrevocably deposits in trust with the relevant trustee money, and/or securities backed by the full faith and credit of the United States that, through the payment of the principal thereof and the interest thereon in accordance with their terms, will provide money in an amount sufficient to pay all the principal and interest on the unsecured debentures of such series on the stated maturities of such unsecured debentures in accordance with the terms thereof.

To exercise this option, Puget Sound Energy is required to deliver to the relevant trustee an opinion of independent counsel to the effect that the exercise of such option would not cause the holders of the unsecured debentures of such series to recognize income, gain or loss for United States federal income tax purposes as a result of such defeasance, and such holders will be subject to United States federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such defeasance had not occurred.

#### Trust Preferred Securities

The capital trust may issue only one series of trust preferred securities. The terms of the trust preferred securities will include those stated in the amended and restated trust agreement of the capital trust. For a complete description of the trust preferred securities, please read the applicable prospectus supplement and the amended and restated trust agreement, a form of which is an exhibit to the registration statement of which this prospectus forms a part. The prospectus supplement relating to trust preferred securities being offered will include specific terms relating to the offering. These terms will include some or all of the following:

- . the designation and number of trust preferred securities to be offered, which will represent undivided beneficial interests in the assets of the capital trust;
- . the annual distribution rate and the dates or date upon which such distributions will be paid;
- . any rights to defer distributions on the trust preferred securities by extending the interest payment period;
- . the amount of any liquidation preference;
- . any repurchase or redemption provisions;
- . the terms for any conversion or exchange of the trust preferred securities into other securities;
- . any voting rights of the trust preferred securities in addition to those required by law;
- . the terms and conditions upon which the related subordinated debentures of Puget Sound Energy may be distributed to holders of trust preferred



securities; and

- . any other relevant rights, powers, preferences, privileges, limitations or restrictions of the trust preferred securities.

All trust preferred securities offered hereby will be irrevocably guaranteed by Puget Sound Energy, on a subordinated basis and to the extent set forth below under "Guarantee." Any federal income tax considerations applicable to an offering of the trust preferred securities will be described in the related prospectus supplement. The total number of trust preferred securities that the capital trust will be authorized to issue will be set forth in the amended and restated trust agreement.

#### Effect of Obligations Under the Subordinated Debentures and the Guarantees

As will be set forth in the amended and restated trust agreement, the sole purpose of the capital trust is to issue the common securities and the trust preferred securities evidencing undivided beneficial interests in the assets of the capital trust and to invest the proceeds from the issuance and sale of those securities to acquire directly the subordinated debentures from Puget Sound Energy.

As long as payments of interest and other payments are made when due on the subordinated debentures, those payments will be sufficient to cover distributions and payments due on the common securities and the trust preferred securities because of the following factors:

- . the total principal amount of subordinated debentures will be equal to the sum of the total stated liquidation amount of the common securities and the trust preferred securities;
- . the interest rate, and the interest and other payment dates, on the subordinated debentures will match the distribution rate, and distribution and other payment dates, for the common securities and the trust preferred securities;
- . Puget Sound Energy will pay all, and the capital trust shall not be obligated to pay, directly or indirectly, any costs, expenses, debt and obligations of the capital trust (other than with respect to the common securities and the trust preferred securities); and
- . the amended and restated trust agreement will provide that the Puget Sound Energy trustees will not take or cause or permit the capital trust to, among other things, engage in any activity that is not consistent with the purposes of the capital trust.

Payments of distributions (to the extent funds for distributions are available) and other payments due on the trust preferred securities (to the extent funds for other payments are available) are guaranteed by Puget Sound Energy as and to the extent discussed under "Guarantee" below. If Puget Sound Energy does not make interest payments on the subordinated debentures purchased by the capital trust, it is expected that the capital trust will not have sufficient funds to pay distributions on the trust preferred securities. The Puget Sound Energy guarantee, which is for the purpose of ensuring that the capital trust performs its obligations to pay distributions on the trust preferred securities, does not apply to any payment of distributions unless and until the capital trust has sufficient funds for the payment of distributions and other payments on the trust preferred securities. The capital trust will have sufficient funds only if and to the extent that Puget Sound Energy has made a payment of interest or principal on the subordinated debentures held by the capital trust as its sole asset. The Puget Sound Energy guarantee, when taken together with Puget Sound Energy's obligations under the subordinated debentures and its obligations under the amended and restated trust agreement, including its obligations to pay costs, expenses, debts and liabilities of the capital trust (other than with respect to the common securities and the trust preferred securities), provides a full and unconditional guarantee of amounts on the trust preferred securities.

If Puget Sound Energy fails to make interest or other payments on the debt securities when due (taking account of any extension period), the amended and restated trust agreement will provide a mechanism whereby the holders of the trust preferred securities may direct the property trustee to enforce its rights under the subordinated debentures. If a property trustee fails to enforce its rights under the subordinated debentures, a holder of trust preferred securities may, to the fullest extent permitted by applicable law,

institute a legal proceeding against Puget Sound Energy to enforce the property trustee's rights under the subordinated debentures without first instituting any legal proceeding against a property trustee or any other person or entity.

Notwithstanding the foregoing, if an event of default has occurred and is continuing under the amended and restated trust agreement, and such event is attributable to the failure of Puget Sound Energy to pay interest or principal on the subordinated debentures on the date the interest or principal was otherwise payable (or in the case of redemption on the redemption date), then a holder of trust preferred securities may institute legal proceedings directly against Puget Sound Energy to obtain payment. If Puget Sound Energy fails to make payments under the guarantee, the guarantee provides a mechanism whereby the holders of the trust preferred securities may direct the guarantee trustee to enforce its rights under the guarantee. Any holder of trust preferred securities may institute a legal proceeding directly against Puget Sound Energy to enforce the guarantee trustee's rights under the guarantee without first instituting a legal proceeding against the capital trust, the guarantee trustee or any other person or entity.

#### Guarantee

The following is a summary of information concerning the guarantee that will be executed and delivered by Puget Sound Energy for the benefit of the holders of the trust preferred securities. The guarantee will be qualified as an indenture under the Trust Indenture Act of 1939. Bank One Trust Company, N.A. will act as indenture trustee under the guarantee for the purpose of compliance with the provisions of the Trust Indenture Act of 1939. This summary is subject in all respects to the provisions of, and is qualified in its entirety by reference to, the guarantee, a form of which is filed as an exhibit to the registration statement of which this prospectus forms a part.

Puget Sound Energy will irrevocably and unconditionally agree to pay in full, on a subordinated basis, to the extent set forth herein, the guarantee payments (as described below) to the holders of the trust preferred securities, as and when due, regardless of any defense, right of set off or counterclaim that the capital trust may have or assert. The following payments with respect to the trust preferred securities, to the extent not paid by or on behalf of the capital trust, will be subject to a guarantee by Puget Sound Energy

- . any accumulated and unpaid distributions required to be paid on the trust preferred securities, to the extent that the capital trust has funds on hand to make those distributions;
- . the redemption price with respect to any trust preferred securities called for redemption to the extent that the capital trust has funds on hand for the redemption; or
- . upon a voluntary or involuntary dissolution, winding up or liquidation of the capital trust (unless the subordinated debentures are distributed to holders of the trust preferred securities), the lesser of
- . the liquidation distribution, to the extent that the capital trust has funds on hand available for distribution at such time, and
- . the amount of assets of the capital trust remaining available for distribution to holders of the trust preferred securities.

Puget Sound Energy's obligation to make a guarantee payment may be satisfied by direct payment of the required amounts by Puget Sound Energy to the holders of the trust preferred securities or by causing the capital trust to pay the amounts to those holders.

The guarantee will be an irrevocable guarantee, on a subordinated basis, of the capital trust's obligations under the trust preferred securities, but it will apply only to the extent that the capital trust has funds sufficient to make the relevant payments. The guarantee is not a guarantee of collection. If Puget Sound Energy does not make interest payments on the subordinated debentures held by the capital trust, the capital trust will not be able to pay distributions on the trust preferred securities and will not have funds legally available to make those distributions.

Puget Sound Energy has, through the guarantee, the amended and restated trust agreement, and the subordinated debentures, taken together, fully, irrevocably and unconditionally guaranteed all the capital trust's



obligations under the trust preferred securities. It is only the combined operation of these documents that has the effect of providing a full, irrevocable and unconditional guarantee of the capital trust's obligations under the trust preferred securities.

Puget Sound Energy has also agreed separately to irrevocably and unconditionally guarantee the obligations of the capital trust with respect to the common securities to the same extent as the guarantee of the preferred securities, except that upon the occurrence and during the continuation of an event of default under the amended and restated trust agreement, the holders of trust preferred securities shall have priority over the holders of the common securities with respect to distributions and payments on liquidation, redemption or otherwise.

#### Amendments and Assignment

Except with respect to any changes that do not affect the rights of holders of the trust preferred securities in a materially adverse way (in which case no vote will be required), the guarantee of the trust preferred securities may not be amended without the prior approval of the holders of not less than a majority in total liquidation amount of the outstanding trust preferred securities. All guarantees and agreements contained in the guarantee shall bind the successors, assigns, receivers, trustees and representatives of Puget Sound Energy.

#### Termination of the Guarantee

Puget Sound Energy's guarantee of the trust preferred securities will terminate upon

- . full payment of the redemption price of the trust preferred securities;
- . full payment of the amounts payable upon liquidation of the capital trust;  
or
- . distribution of the subordinated debentures to the holders of the trust preferred securities in exchange for all the trust preferred securities.

The guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any holder of trust preferred securities must restore payment of any sums paid under the trust preferred securities or the guarantee.

#### Events of Default

An event of default under the guarantee of the trust preferred securities will occur upon the failure of Puget Sound Energy to perform any of its payment or other obligations under the guarantee. The holders of a majority in total liquidation amount of the trust preferred securities have the right to direct the time, method and place of conducting any proceeding for any remedy available to the guarantee trustee in respect of the guarantee or to direct the exercise of any trust or power conferred on the guarantee trustee under the guarantee.

Any holder of the trust preferred securities may institute a legal proceeding directly against Puget Sound Energy to enforce its rights under the guarantee without first instituting a legal proceeding against the capital trust, the guarantee trustee or any other person or entity. Puget Sound Energy has waived any right or remedy to require that any action be brought only against the capital trust, or any other person or entity before proceeding directly against Puget Sound Energy.

#### Status of the Guarantee

The guarantee of the trust preferred securities will constitute an unsecured obligation of Puget Sound Energy and will rank

- . equal to or subordinate and junior in right of payment to all other liabilities of Puget Sound Energy, as applicable;



- . equal with the most senior preferred stock now or hereafter issued by Puget Sound Energy and with any guarantee now or hereafter entered into by Puget Sound Energy in respect of any preferred or preference stock of any affiliate of Puget Sound Energy; and
- . senior to Puget Sound Energy's common stock.

#### PLAN OF DISTRIBUTION

Puget Sound Energy or the capital trust may sell the offered securities

- . through underwriters or dealers;
- . through agents;
- . directly to purchasers; or
- . through a combination of any of these methods.

The prospectus supplement with respect to any offered securities will set forth the terms of the related offering, including

- . the name or names of any underwriters, dealers or agents;
- . the name or names of any managing underwriter or underwriters;
- . the purchase price of the offered securities and the proceeds to Puget Sound Energy and/or the capital trust from their sale;
- . any underwriting discounts and commissions and other items constituting underwriters' compensation;
- . any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers;
- . any commissions paid to agent;
- . any delayed delivery arrangements; and
- . any securities exchange on which the offered securities may be listed.

#### Sale Through Underwriters or Dealers

If underwriters are used in the sale, they will acquire the offered securities for their own account and may resell them on one or more occasions in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The offered securities may be offered to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. Unless otherwise set forth in the applicable prospectus supplement, the obligations of the underwriters to purchase the offered securities will be subject to certain conditions precedent, and the underwriters will be obligated to purchase all the offered securities if any are purchased. The underwriters may change from time to time any initial public offering price and any discounts or concessions allowed or reallocated or paid to dealers.

During and after an offering through underwriters, the underwriters may purchase and sell the securities in the open market. These transactions may include over-allotment and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. The underwriters may also impose a penalty bid, which means that selling concessions allowed to syndicate members or other broker-dealers for the offered securities sold for their account may be reclaimed by the syndicate if the offered securities are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or





otherwise affect the market price of the offered securities, which may be higher than the price that might otherwise prevail in the open market. If commenced, the underwriters may discontinue these activities at any time.

If dealers are utilized in the sale of offered securities, Puget Sound Energy and/or the capital trust will sell the offered securities to the dealers as principals. The dealers may then resell the offered securities to the public at varying prices to be determined by the dealers at the time of resale.

#### Direct Sales and Sales Through Agents

The offered securities may be sold directly by Puget Sound Energy and/or the capital trust or through agents designated by Puget Sound Energy and/or the capital trust from time to time. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a best-efforts basis for the period of its appointment.

The offered securities may be sold directly by Puget Sound Energy and/or the capital trust to institutional investors or others, who may be deemed to be underwriters within the meaning of the Securities Act with respect to any resale of the securities. The terms of these sales will be described in the related prospectus supplement.

#### Delayed Delivery Contracts

If indicated in the prospectus supplement, Puget Sound Energy and/or the capital trust may authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase securities from Puget Sound Energy and/or the capital trust at the public offering price under delayed delivery contracts. These contracts would provide for payment and delivery on a specified date in the future. The contracts would be subject only to those conditions described in the prospectus supplement. The prospectus supplement will describe the commission payable for solicitation of those contracts.

#### General Information

Agents, dealers and underwriters may be entitled under agreements with Puget Sound Energy and/or the capital trust to indemnification by Puget Sound Energy and/or the capital trust against certain civil liabilities, including liabilities under the Securities Act, or to contribution with respect to payments which the agents, dealers or underwriters may be required to make in respect of liabilities under the Securities Act. Agents, dealers and underwriters may be customers of, engage in transactions with, or perform services for Puget Sound Energy and/or the capital trust in the ordinary course of business.

The offered securities may or may not be listed on a national securities exchange. You should read the applicable prospectus supplement for a discussion of this matter. We cannot assure you there will be a market for any of the offered securities.

DISCLOSURE OF COMMISSION POSITION ON INDEMNIFICATION FOR  
SECURITIES ACT LIABILITIES

Sections 23B.08.500 through 23B.08.600 of the Washington Business Corporation Act authorize a court to award, or a corporation's board of directors to grant, indemnification to directors and officers on terms sufficiently broad to permit indemnification under certain circumstances for liabilities arising under the Securities Act of 1933. Section 6 of Puget Sound Energy's bylaws provides for indemnification of Puget Sound Energy's directors and officers to the maximum extent permitted by Washington law.

Section 23B.08.320 of the Washington Business Corporation Act authorizes a corporation to limit a director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director, except in certain circumstances involving intentional misconduct, knowing violations of law or illegal corporate loans or distributions, or any transaction from which the director personally receives a benefit in money, property or services to which the director is not legally entitled. Article X of Puget Sound Energy's restated articles of incorporation, as amended, contains provisions implementing, to the fullest extent permitted by Washington law, such limitations on a director's liability to Puget Sound Energy and its shareholders.

Officers and directors of Puget Sound Energy are covered by insurance (with certain exceptions and certain limitations) that indemnifies them against losses and liabilities arising from certain alleged "wrongful acts," including alleged errors or misstatements, or certain other alleged wrongful acts or omissions constituting neglect or breach of duty.

The underwriting agreements, which are filed as exhibits to the registration statement of which this prospectus is a part, contain provisions whereby the underwriters agree to indemnify Puget Sound Energy, its directors and certain officers and other persons, and are incorporated herein by reference.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to our directors, officers and controlling persons under the foregoing provisions, we have been informed that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

LEGAL OPINIONS

Opinions as to the legality of certain of the offered securities will be rendered for Puget Sound Energy by Perkins Coie LLP, Seattle, Washington. Certain matters of Delaware law relating to the validity of the trust preferred securities will be passed upon on behalf of the capital trust by Skadden, Arps, Slate, Meagher & Flom LLP, special Delaware counsel to the capital trust. Certain United States federal income taxation matters may be passed upon for Puget Sound Energy and the capital trust by either Perkins Coie LLP, tax counsel for Puget Sound Energy, or by special tax counsel to Puget Sound Energy and the capital trust, who will be named in the related prospectus supplement. Certain legal matters with respect to offered securities will be passed upon by counsel for any underwriters, dealers or agents, each of whom will be named in the related prospectus supplement.

EXPERTS

The financial statements and financial statement schedule incorporated in this prospectus by reference to Puget Sound Energy's Annual Report on Form 10-K for the year ended December 31, 2000, have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, independent accountants, given on the authority of said firm as experts in auditing and accounting.

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\$500,000,000

Puget Sound Energy, Inc.

SENIOR NOTES  
UNSECURED DEBENTURES  
GUARANTEES

AND

Puget Sound Energy Capital Trust III

TRUST PREFERRED SECURITIES  
GUARANTEED TO THE EXTENT SET FORTH HEREIN BY  
PUGET SOUND ENERGY, INC.

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PROSPECTUS  
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, 2002

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 14. Other Expenses of Issuance and Distribution

Securities and Exchange Commission Fees	\$46,000	
Listing fees.....		*
Printing fees.....		*
Trustee fees (including counsel fees) ..		*
Legal fees and expenses.....		*
Blue Sky fees and expenses.....		*
Rating agency fees.....		*
Independent accountant fees.....		*
Miscellaneous.....		*
	-----	
Total.....	\$	*
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\* To be provided by amendment or as an exhibit to a filing with the SEC under Section 13(a), 13(c) or 15(d) of the Securities Exchange Act of 1934, as amended, and incorporated herein by reference.

Item 15. Indemnification of Directors and Officers

Sections 23B.08.500 through 23B.08.600 of the Washington Business Corporation Act (the "WBCA") authorize a court to award, or a corporation's board of directors to grant, indemnification to directors and officers on terms sufficiently broad to permit indemnification under certain circumstances for liabilities arising under the Securities Act of 1933, as amended (the "Securities Act"). Section 6 of Puget Energy's bylaws and Puget Sound Energy's bylaws provide for indemnification of Puget Energy's and Puget Sound Energy's, as the case may be, directors and officers to the maximum extent permitted by Washington law.

Section 23B.08.320 of the WBCA authorizes a corporation to limit a director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director, except in certain circumstances involving intentional misconduct, knowing violations of law or illegal corporate loans or distributions, or any transaction from which the director personally receives a benefit in money, property or services to which the director is not legally entitled. Article II of Puget Energy's restated articles of incorporation and Article X of Puget Sound Energy's restated articles of incorporation, as amended, contain provisions implementing, to the fullest extent permitted by Washington law, such limitations on a director's liability to Puget Energy and Puget Sound Energy, as the case may be, and their shareholders.

Officers and directors of Puget Energy and Puget Sound Energy are covered by insurance (with certain exceptions and certain limitations) that indemnifies them against losses and liabilities arising from certain alleged "wrongful acts," including alleged errors or misstatements, or certain other alleged wrongful acts or omissions constituting neglect or breach of duty.

The underwriting agreements, filed as Exhibits 1.1, 1.2, 1.3 and 1.4 hereto, contain provisions whereby the underwriters agree to indemnify the registrants, their directors and certain officers and other persons, and are incorporated herein by reference.

Item 16. List of Exhibits

Exhibit Number -----	Description -----
1.1*	Form of Underwriting agreement with respect to the common stock of Puget Energy.
1.2*	Form of Underwriting Agreement with respect to the senior notes.
1.3*	Form of Underwriting Agreement with respect to the trust preferred securities.
1.4*	Form of Underwriting Agreement with respect to the unsecured debentures (other than unsecured debentures issued in connection with the trust preferred securities).
4.1	Indenture defining the rights of the holders of Puget Sound Energy's senior notes (incorporated herein by reference to Exhibit 4-a to Quarterly Report on Form 10-Q for the quarter ended June 30, 1998, Commission File No. 1-4393).
4.2	First, Second and Third Supplemental Indentures defining the rights of the holders of Puget Sound Energy's senior notes (incorporated herein by reference to Exhibit 4-b to Quarterly Report on Form 10-Q for the quarter ended June 30, 1998, Commission File No. 1-4393; Exhibit 4.26 to Current Report on Form 8-K, dated March 4, 1999, Commission File No. 1-4393; and Exhibit 4.1 to Current Report on Form 8-K, dated November 2, 2000, Commission File No. 1-4393).
4.3	Fortieth through Seventy-eighth Supplemental Indentures defining the rights of the holders of Puget Sound Energy's Electric Utility First Mortgage Bonds (incorporated herein by reference to Exhibit 2-d to Registration No. 2-60200; Exhibit 4-c to Registration No. 2-13347; Exhibits 2-e through and including 2-k to Registration No. 2-60200; Exhibit 4-h to Registration No. 2-17465; Exhibits 2-1, 2-m and 2-n to Registration No. 2-60200; Exhibit 2-m to Registration No. 2-37645; Exhibit 2-o through and including 2-s to Registration No. 2-60200; Exhibit 5-b to Registration No. 2-62883; Exhibit 2-h to Registration No. 2-65831; Exhibit (4)-j-1 to Registration No. 2-72061; Exhibit (4)-a to Registration No. 2-91516; Exhibit (4)-b to Annual Report on Form 10-K for the fiscal year ended December 31, 1985, Commission File No. 1-- 4393; Exhibits (4) (a) and (4) (b) to Puget Sound Energy's Current Report on Form 8-K, dated April 22, 1986; Exhibit (4) a to Puget Sound Energy's Current Report on Form 8-K, dated September 5, 1986; Exhibit (4)-b to Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended September 30, 1986, Commission File No. 1-4393; Exhibit (4)-c to Registration No. 33-18506; Exhibit (4)-b to Annual Report on Form 10-K for the fiscal year ended December 31, 1989, Commission File No. 1-4393; Exhibit (4)-b to Annual Report on Form 10-K for the fiscal year ended December 31, 1990,

Commission File

No. 1-4393; Exhibits (4)-b and (4)-- c to Registration No. 33-45916; Exhibit (4)-c to Registration

No. 33-50788; Exhibit (4)-a to Registration No. 33-53056; Exhibit 4.3 to Registration No. 33-63278;

Exhibit 4-c to Quarterly Report on Form 10-Q for the quarter ended June 30, 1998, Commission File

No. 1-4393; Exhibit 4.27 to Current Report on Form 8-K, dated March 1, 1999, Commission File

No. 1-4393; and Exhibit 4.2 to Current Report on Form 8-K, dated November 2, 2000, Commission File No. 1-4393).

4.4 Indenture of First Mortgage, dated as of April 1, 1957, defining the rights of the holders of Puget

Sound Energy's Gas Utility First Mortgage Bonds (incorporated herein by reference to Washington

Natural Gas Company Exhibit 4-B, Registration No. 2-14307).

4.5 First Supplemental Indenture to the Gas Utility Mortgage, dated April 1, 1957 (incorporated herein

by reference to Washington Natural Gas Company Exhibit 4-D, Registration No. 2-17876).

4.6 Sixth and Seventh Supplemental Indentures to the Gas Utility First Mortgage, dated as of August 1,

1966 and February 1, 1967, respectively (incorporated herein by reference to Washington Natural

Gas Company Exhibit to Form 8-K for month of August 1966, File No. 0-951; and Exhibit 4-M,

Registration No. 2-27038).

Exhibit Number -----	Description -----
4.7	Sixteenth Supplemental Indenture to the Gas Utility First Mortgage, dated as of June 1, 1977 (incorporated herein by reference to Washington Natural Gas Company Exhibit 6-05, Registration No. 2-60352).
4.8	Seventeenth Supplemental Indenture to the Gas Utility First Mortgage, dated as of August 9, 1978 (incorporated herein by reference to Washington Energy Company Exhibit 5-K.18, Registration No. 2-64428).
4.9	Twenty-second Supplemental Indenture to the Gas Utility Mortgage, dated as of July 15, 1986 (incorporated herein by reference to Washington Natural Gas Company Exhibit 4-B.20 to Form 10-K for the year ended September 30, 1986, File No. 0-951).
4.10	Twenty-seventh through Thirtieth Supplemental Indentures to the Gas Utility First Mortgage (incorporated herein by reference to Washington Natural Gas Company Exhibit 4-B.20, Form 10-K for the year ended September 30, 1988, File No. 0-951; Washington Natural Gas Company Exhibit 4-A, Form 10-Q for the quarter ended March 31, 1993, File No. 0-951; Exhibit 4-A of Washington Natural Gas Company's S-3 Registration Statement, Registration No. 33-49599; and Exhibit 4-A of Washington Natural Gas Company's S-3 Registration Statement, Registration No. 33-61859).
4.11	Indenture between Puget Sound Energy and the First National Bank of Chicago, dated June 6, 1997, defining the rights of the Puget Sound Energy's subordinated debentures issued in connection with the issuance of trust preferred securities by the Puget Sound Energy Capital Trust I (incorporated herein by reference to Exhibit 4.1 of Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended June 30, 1997, Commission File No. 1-4393).
4.12	Amended and Restated Declaration of Trust of Puget Sound Energy Capital Trust I, dated June 6, 1997 (incorporated herein by reference to Exhibit 4.2 of Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended June 30, 1997, Commission File No. 1-4393).
4.13	Series A Capital Securities Guarantee Agreement between Puget Sound Energy and the First National Bank of Chicago, dated June 6, 1997, for the benefit of the holders of the trust preferred securities of the Puget Sound Energy Capital Trust I (incorporated herein by reference to Exhibit 4.3 of Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended June 30, 1997, Commission File No. 1-4393).



- 4.14 Unsecured Debt Indenture between Puget Sound Energy and Bank One Trust Company, N.A., dated  
as of May 18, 2001, defining the rights of the holders of Puget Sound Energy's unsecured debentures  
(incorporated herein by reference to Exhibit 4.3 to Puget Sound Energy's Current Report on  
Form 8-K, filed May 22, 2001, Commission File No. 1-4393).
- 4.15 First Supplemental Indenture to the Unsecured Debt Indenture, dated May 18, 2001, defining the  
rights of the Puget Sound Energy's 8.40% Subordinated Deferrable Interest Debentures due June 30,  
2041 (incorporated herein by reference to Exhibit 4.4 to Puget Sound Energy's Current Report on  
Form 8-K, filed May 22, 2001, Commission File No. 1-4393).
- 4.16 Amended and Restated Declaration of Trust of Puget Sound Energy Capital Trust II, dated May 18,  
2001 (incorporated herein by reference to Exhibit 4.2 to Puget Sound Energy's Current Report on  
Form 8-K, filed May 22, 2001, Commission File No. 1-4393).
- 4.17 Preferred Securities Guarantee Agreement, dated May 18, 2001, between Puget Sound Energy and  
Bank One Trust Company, N.A., for the benefit of the holders of the trust preferred securities of the  
Puget Sound Energy Capital Trust II (incorporated herein by reference to Exhibit 4.5 to Puget Sound  
Energy's Current Report on Form 8-K, filed May 22, 2001, Commission File No. 1-4393).
- 4.18 Certificate of Trust of Puget Sound Energy Capital Trust III, dated February 13, 2002.
- 4.19 Declaration of Trust of Puget Sound Energy Capital Trust III, dated February 13, 2002.

Exhibit Number -----	Description -----
4.20	Form of Amended and Restated Declaration of Trust of Puget Sound Energy Capital Trust III.
4.21	Form of Preferred Securities Guarantee Agreement, for the benefit of the holders of trust preferred securities of the Puget Sound Energy Capital Trust III.
4.22	Form of Common Securities Guarantee Agreement, for the benefit of the holders of common securities of the Puget Sound Energy Capital Trust III.
4.23	Rights Agreement, dated as of December 21, 2000, between Puget Energy and Mellon Investor Services LLC, as Rights Agent (incorporated herein by reference to Exhibit 2.1 to Puget Energy's Registration Statement on Form 8-A, dated January 2, 2001, Commission File No. 1-16305).
4.24	Pledge Agreement dated August 1, 1991, between Puget Sound Energy and The First National Bank of Chicago, as Trustee (incorporated herein by reference to Exhibit (4)-j to Registration No. 33-45916).
4.25	Loan Agreement dated August 1, 1991, between the City of Forsyth, Rosebud County, Montana and Puget Sound Energy (incorporated herein by reference to Exhibit (4)-k to Registration No. 33-45916).
4.26	Pledge Agreement, dated as of March 1, 1992, by and between Puget Sound Energy and Chemical Bankrelating to a series of first mortgage bonds (incorporated herein by reference to Exhibit 4.15 to Annual Report on Form 10-K for the fiscal year ended December 31, 1993, Commission File No. 1-4393).
4.27	Pledge Agreement, dated as of April 1, 1993, by and between Puget Sound Energy and The First National Bank of Chicago, relating to a series of first mortgage bonds (incorporated herein by reference to Exhibit 4.16 to Annual Report on Form 10-K for the fiscal year ended December 31, 1993, Commission File No. 1-4393).
4.28	Statement of Relative Rights and Preferences for the 7/34% Series Preferred Stock Cumulative, \$100 par value (incorporated herein by reference to Exhibit 1.6 to Puget Sound Energy Registration Statement on Form 8-A, filed February 14, 1994, Commission File No. 1-4393).
5.1	Opinion of Perkins Coie LLP regarding the legality of the senior notes, the unsecured debentures and the preferred securities guarantee.
5.2	Opinion of Skadden, Arps, Slate, Meagher &Flom LLP regarding the legality of the

trust preferred  
securities.

8.1\* Opinion of Perkins Coie LLP regarding tax matters.

12.1 Statement setting forth computations of ratios of earnings to fixed charges and to combined fixed charges and preferred dividends.

23.1 Consent of Perkins Coie LLP (contained in opinion referenced as Exhibit 5.1).

23.2 Consent of Skadden, Arps, Slate, Meagher &Flom LLP (contained in opinion referenced as Exhibit 5.2).

23.3 Consent of PricewaterhouseCoopers LLP.

24.1 Power of attorney (contained on signature pages of Registration Statement on pages II-6 and II-8).

25.1 Statement of Eligibility of The State Street Bank and Trust Company.

25.2 Statement of Eligibility of Bank One Trust Company, N.A.

25.3 Statement of Eligibility of Bank One Trust Company, N.A.

-----  
\* To be filed by amendment or incorporated by reference in connection with the offering of securities.

Item 17. Undertakings

A. The undersigned registrants hereby undertake:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(a) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(b) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high and of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commissions pursuant to Rule 424(b) if, in the aggregate, the changes in the volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

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

provided, however, that paragraphs (1)(a) and (1)(b) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or forwarded to the Commission by the registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

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

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

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

C. Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrants pursuant to the foregoing provisions described under Item 15 above, or otherwise, the registrants have been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrants of expenses incurred or paid by a director, officer or controlling person of the registrants in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrants will, unless in the opinion of their counsel the

matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by them is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

D. The undersigned registrants hereby undertake to file an application for the purpose of determining the eligibility of the trustees to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the Commission under Section 305(b)(2) of the Trust Indenture Act.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, Puget Energy, Inc. certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunder duly authorized, in the City of Bellevue, State of Washington, on February 15, 2002.

PUGET ENERGY, INC.

By: /s/ STEPHEN P. REYNOLDS

-----  
Stephen P. Reynolds  
President and Chief Executive  
Officer

POWER OF ATTORNEY

Each person whose individual signature appears below hereby authorizes and appoints Richard L. Hawley, Donald E. Gaines and Tommy G. Leong, and each of them, with full power of substitution and resubstitution and full power to act without the other, as his or her true and lawful attorney-in-fact and agent to act in his or her name, place and stead and to execute in the name and on behalf of each person, individually and in each capacity stated below, and to file, any and all amendments to this registration statement, including any and all post-effective amendments, or any registration statements to be filed in connection with this registration statement pursuant to Rule 462 under the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing, ratifying and confirming all that said attorneys-in-fact and agents or any of them or their or his substitute or substitutes may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities indicated below on the 15th day of February, 2002.

Signature -----	Title -----
/s/ STEPHEN P. REYNOLDS ----- Stephen P. Reynolds	President, Chief Executive Officer and Director (Principal Executive Officer)
/s/ RICHARD L. HAWLEY ----- Richard L. Hawley	Vice President and Chief Financial Officer (Principal Financial Officer)
/s/ JAMES W. ELDREDGE ----- James W. Eldredge	Corporate Secretary and Chief Accounting Officer (Principal Accounting Officer)
/s/ DOUGLAS P. BEIGHLE ----- Douglas P. Beighle	Director
/s/ CHARLES W. BINGHAM ----- Charles W. Bingham	Director
/s/ PHYLLIS J. CAMPBELL ----- Phyllis J. Campbell	Director



Signature

Title

-----  
/s/ CRAIG W. COLE

Director

-----  
Craig W. Cole

/s/ ROBERT L. DRYDEN

Director

-----  
Robert L. Dryden

/s/ JOHN D. DURBIN

Director

-----  
John D. Durbin

/s/ TOMIO MORIGUCHI

Director

-----  
Tomio Moriguchi

/s/ KENNETH P. MORTIMER

Director

-----  
Kenneth P. Mortimer

/s/ SALLY G. NARODICK

Director

-----  
Sally G. Narodick



SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, Puget Sound Energy, Inc. certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunder duly authorized, in the City of Bellevue, State of Washington, on February 15, 2002.

PUGET SOUND ENERGY, INC.

By: /S/ STEPHEN P. REYNOLDS

-----  
Stephen P. Reynolds  
President and Chief Executive  
Officer

POWER OF ATTORNEY

Each person whose individual signature appears below hereby authorizes and appoints Richard L. Hawley, Donald E. Gaines and Tommy G. Leong, and each of them, with full power of substitution and resubstitution and full power to act without the other, as his or her true and lawful attorney-in-fact and agent to act in his or her name, place and stead and to execute in the name and on behalf of each person, individually and in each capacity stated below, and to file, any and all amendments to this registration statement, including any and all post-effective amendments, or any registration statements to be filed in connection with this registration statement pursuant to Rule 462 under the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing, ratifying and confirming all that said attorneys-in-fact and agents or any of them or their or his substitute or substitutes may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities indicated below on the 15th day of February, 2002.

Signature -----	Title -----
/S/ STEPHEN P. REYNOLDS ----- Stephen P. Reynolds	President, Chief Executive Officer and Director (Principal Executive Officer)
/S/ RICHARD L. HAWLEY ----- Richard L. Hawley	Vice President and Chief Financial Officer (Principal Financial Officer)
/S/ JAMES W. ELDREDGE ----- James W. Eldredge	Vice President, Corporate Secretary and Controller (Principal Accounting Officer)
/S/ DOUGLAS P. BEIGHLE ----- Douglas P. Beighle	Director
/S/ CHARLES W. BINGHAM ----- Charles W. Bingham	Director
/S/ PHYLLIS J. CAMPBELL -----	

Phyllis J. Campbell      Director

/S/    CRAIG W. COLE

-----  
Craig W. Cole      Director

Signature

-----

Title

-----

/S/ ROBERT L. DRYDEN

-----  
Robert L. Dryden

Director

/S/ JOHN D. DURBIN

-----  
John D. Durbin

Director

/S/ TOMIO MORIGUCHI

-----  
Tomio Moriguchi

Director

/S/ KENNETH P. MORTIMER

-----  
Kenneth P. Mortimer

Director

/S/ SALLY G. NARODICK

-----  
Sally G. Narodick

Director

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, Puget Sound Energy Capital Trust III certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunder duly authorized, in the City of Bellevue, State of Washington, on February 15, 2002.

PUGET SOUND ENERGY CAPITAL TRUST III

By: /s/ RICHARD L. HAWLEY

-----  
Richard L. Hawley  
Trustee

By: /s/ DONALD E. GAINES

-----  
Donald E. Gaines  
Trustee

II-10

EXHIBIT INDEX

Exhibit Number -----	Description -----
1.1*	Form of Underwriting agreement with respect to the common stock of Puget Energy.
1.2*	Form of Underwriting Agreement with respect to the senior notes.
1.3*	Form of Underwriting Agreement with respect to the trust preferred securities.
1.4*	Form of Underwriting Agreement with respect to the unsecured debentures (other than unsecured debentures issued in connection with the trust preferred securities).
4.1	Indenture defining the rights of the holders of Puget Sound Energy's senior notes (incorporated herein by reference to Exhibit 4-a to Quarterly Report on Form 10-Q for the quarter ended June 30, 1998, Commission File No. 1-4393).
4.2	First, Second and Third Supplemental Indentures defining the rights of the holders of Puget Sound Energy's senior notes (incorporated herein by reference to Exhibit 4-b to Quarterly Report on Form 10-Q for the quarter ended June 30, 1998, Commission File No. 1-4393; Exhibit 4.26 to Current Report on Form 8-K, dated March 4, 1999, Commission File No. 1-4393; and Exhibit 4.1 to Current Report on Form 8-K, dated November 2, 2000, Commission File No. 1-4393).
4.3	Fortieth through Seventy-eighth Supplemental Indentures defining the rights of the holders of Puget Sound Energy's Electric Utility First Mortgage Bonds (incorporated herein by reference to Exhibit 2-d to Registration No. 2-60200; Exhibit 4-c to Registration No. 2-13347; Exhibits 2-e through and including 2-k to Registration No. 2-60200; Exhibit 4-h to Registration No. 2-17465; Exhibits 2-1, 2-m and 2-n to Registration No. 2-60200; Exhibit 2-m to Registration No. 2-37645; Exhibit 2-o through and including 2-s to Registration No. 2-60200; Exhibit 5-b to Registration No. 2-62883; Exhibit 2-h to Registration No. 2-65831; Exhibit (4)-j-1 to Registration No. 2-72061; Exhibit (4)-a to Registration No. 2-91516; Exhibit (4)-b to Annual Report on Form 10-K for the fiscal year ended December 31, 1985, Commission File No. 1-4393; Exhibits (4)(a) and (4)(b) to Puget Sound Energy's Current Report on Form 8-K, dated April 22, 1986; Exhibit (4)a to Puget Sound Energy's Current Report on Form 8-K, dated September 5, 1986; Exhibit (4)-b to Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended September 30, 1986, Commission File No. 1-4393; Exhibit (4)-c to Registration No. 33-18506; Exhibit (4)-b to Annual Report on Form 10-K for the fiscal year ended December 31, 1989, Commission File No. 1-4393; Exhibit (4)-b to Annual Report on Form 10-K for the fiscal year ended December 31, 1990,

Commission File

No. 1-4393; Exhibits (4)-b and (4)-c to Registration No. 33-45916; Exhibit (4)-c to Registration

No. 33-50788; Exhibit (4)-a to Registration No. 33-53056; Exhibit 4.3 to Registration No. 33-63278;

Exhibit 4-c to Quarterly Report on Form 10-Q for the quarter ended June 30, 1998, Commission File

No. 1-4393; Exhibit 4.27 to Current Report on Form 8-K, dated March 1, 1999, Commission File

No. 1-4393; and Exhibit 4.2 to Current Report on Form 8-K, dated November 2, 2000, Commission

File No. 1-4393).

4.4 Indenture of First Mortgage, dated as of April 1, 1957, defining the rights of the holders of Puget

Sound Energy's Gas Utility First Mortgage Bonds (incorporated herein by reference to Washington

Natural Gas Company Exhibit 4-B, Registration No. 2-14307).

4.5 First Supplemental Indenture to the Gas Utility Mortgage, dated April 1, 1957 (incorporated herein

by reference to Washington Natural Gas Company Exhibit 4-D, Registration No. 2-17876).

Exhibit Number -----	Description -----
4.6	Sixth and Seventh Supplemental Indentures to the Gas Utility First Mortgage, dated as of August 1, 1966 and February 1, 1967, respectively (incorporated herein by reference to Washington Natural Gas Company Exhibit to Form 8-K for month of August 1966, File No. 0-951; and Exhibit 4-M, Registration No. 2-27038).
4.7	Sixteenth Supplemental Indenture to the Gas Utility First Mortgage, dated as of June 1, 1977 (incorporated herein by reference to Washington Natural Gas Company Exhibit 6-05, Registration No. 2-60352).
4.8	Seventeenth Supplemental Indenture to the Gas Utility First Mortgage, dated as of August 9, 1978 (incorporated herein by reference to Washington Energy Company Exhibit 5-K.18, Registration No. 2-64428).
4.9	Twenty-second Supplemental Indenture to the Gas Utility Mortgage, dated as of July 15, 1986 (incorporated herein by reference to Washington Natural Gas Company Exhibit 4-B.20 to Form 10-K for the year ended September 30, 1986, File No. 0-951).
4.10	Twenty-seventh through Thirtieth Supplemental Indentures to the Gas Utility First Mortgage (incorporated herein by reference to Washington Natural Gas Company Exhibit 4-B.20, Form 10-K for the year ended September 30, 1988, File No. 0-951; Washington Natural Gas Company Exhibit 4-A, Form 10-Q for the quarter ended March 31, 1993, File No. 0-951; Exhibit 4-A of Washington Natural Gas Company's S-3 Registration Statement, Registration No. 33-49599; and Exhibit 4-A of Washington Natural Gas Company's S-3 Registration Statement, Registration No. 33-61859).
4.11	Indenture between Puget Sound Energy and the First National Bank of Chicago, dated June 6, 1997, defining the rights of the Puget Sound Energy's subordinated debentures issued in connection with the issuance of trust preferred securities by the Puget Sound Energy Capital Trust I (incorporated herein by reference to Exhibit 4.1 of Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended June 30, 1997, Commission File No. 1-4393).
4.12	Amended and Restated Declaration of Trust of Puget Sound Energy Capital Trust I, dated June 6, 1997 (incorporated herein by reference to Exhibit 4.2 of Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended June 30, 1997, Commission File No. 1-4393).
4.13	Series A Capital Securities Guarantee Agreement between Puget Sound Energy and

the First

National Bank of Chicago, dated June 6, 1997, for the benefit of the holders of the trust preferred securities of the Puget Sound Energy Capital Trust I (incorporated herein by reference to Exhibit 4.3 of Puget Sound Energy's Quarterly Report on Form 10-Q for the quarter ended June 30, 1997, Commission File No. 1-4393).

4.14 Unsecured Debt Indenture between Puget Sound Energy and Bank One Trust Company, N.A., dated as of May 18, 2001, defining the rights of the holders of Puget Sound Energy's unsecured debentures (incorporated herein by reference to Exhibit 4.3 to Puget Sound Energy's Current Report on Form 8-K, filed May 22, 2001, Commission File No. 1-4393).



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4.15	First Supplemental Indenture to the Unsecured Debt Indenture, dated May 18, 2001, defining the rights of the Puget Sound Energy's 8.40% Subordinated Deferrable Interest Debentures due June 30, 2041 (incorporated herein by reference to Exhibit 4.4 to Puget Sound Energy's Current Report on Form 8-K, filed May 22, 2001, Commission File No. 1-4393).
4.16	Amended and Restated Declaration of Trust of Puget Sound Energy Capital Trust II, dated May 18, 2001 (incorporated herein by reference to Exhibit 4.2 to Puget Sound Energy's Current Report on Form 8-K, filed May 22, 2001, Commission File No. 1-4393).
4.17	Preferred Securities Guarantee Agreement, dated May 18, 2001, between Puget Sound Energy and Bank One Trust Company, N.A., for the benefit of the holders of the trust preferred securities of the Puget Sound Energy Capital Trust II (incorporated herein by reference to Exhibit 4.5 to Puget Sound Energy's Current Report on Form 8-K, filed May 22, 2001, Commission File No. 1-4393).
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4.25	Loan Agreement dated August 1, 1991, between the City of Forsyth, Rosebud County, Montana and Puget Sound Energy (incorporated herein by reference to Exhibit (4)-k to Registration

No. 33-45916).

4.26 Pledge Agreement, dated as of March 1, 1992, by and between Puget Sound Energy and Chemical

Bank relating to a series of first mortgage bonds (incorporated herein by reference to Exhibit 4.15 to

Annual Report on Form 10-K for the fiscal year ended December 31, 1993, Commission File

No. 1-4393).

4.27 Pledge Agreement, dated as of April 1, 1993, by and between Puget Sound Energy and The First

National Bank of Chicago, relating to a series of first mortgage bonds (incorporated herein by

reference to Exhibit 4.16 to Annual Report on Form 10-K for the fiscal year ended December 31,

1993, Commission File No. 1-4393).

Exhibit  
Number  
-----

Description  
-----

4.28 Statement of Relative Rights and Preferences for the 7/34% Series Preferred Stock Cumulative, \$100 par value (incorporated herein by reference to Exhibit 1.6 to Puget Sound Energy Registration Statement on Form 8-A, filed February 14, 1994, Commission File No. 1-4393).

5.1 Opinion of Perkins Coie LLP regarding the legality of the senior notes, the unsecured debentures and the preferred securities guarantee.

5.2 Opinion of Skadden, Arps, Slate, Meagher &Flom LLP regarding the legality of the trust preferred securities.

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25.2 Statement of Eligibility of Bank One Trust Company, N.A.

25.3 Statement of Eligibility of Bank One Trust Company, N.A.

-----  
\* To be filed by amendment or incorporated by reference in connection with the offering of securities.

CERTIFICATE OF TRUST

OF

PUGET SOUND ENERGY CAPITAL TRUST III

This Certificate of Trust is being executed as of February 13, 2002 for the purposes of organizing a business trust pursuant to the Delaware Business Trust Act, 12 Del C. (S)(S) 3801 et seq (the "Act")

--- -- -- ---

The undersigned hereby certifies as follows:

1. Name: The name of the business trust is "Puget Sound Energy Capital Trust III" (the "Trust").

2. Delaware Trustee. The name and business address of the Delaware resident trustee of the Trust meeting the requirements of Section 3807 of the Act are as follows:

Bank One Delaware, Inc.  
Three Christiana Center  
201 North Walnut Street  
Wilmington, Delaware 19801  
Attn: Legal Dept./First USA

3. Effective. This Certificate of Trust shall be effective immediately upon filing in the Office of the Secretary of State of the State of Delaware.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the undersigned, being all of the trustees of the Trust, have duly executed this Certificate of Trust as of the day and year first above written.

BANK ONE DELAWARE, INC., as  
Delaware Trustee

By: /s/ Sandra L. Caruba

-----  
Name: Sandra L. Caruba  
Title: Vice President

BANK ONE TRUST COMPANY, NA, as  
Property Trustee

By: /s/ Sandra L. Caruba

-----  
Name: Sandra L. Caruba  
Title: Vice President

ADMINISTRATIVE TRUSTEE

By: /s/ Richard L. Hawley

-----  
Richard L. Hawley

ADMINISTRATIVE TRUSTEE

By: /s/ Donald E. Gaines

-----  
Donald E. Gaines

---

DECLARATION OF TRUST

PUGET SOUND ENERGY CAPITAL TRUST III

Dated as of February 13, 2002

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DECLARATION OF TRUST

OF

PUGET SOUND ENERGY CAPITAL TRUST III

February 13, 2002

DECLARATION OF TRUST ("Declaration") dated and effective as of February 13, 2002 by the Trustees (as defined herein), the Sponsor (as defined herein), and by the holders, from time to time, of undivided beneficial interests in the Trust to be issued pursuant to this Declaration;

WHEREAS, the Trustees and the Sponsor desire to establish a trust (the "Trust") pursuant to the Business Trust Act (as defined herein) for the sole purpose of (i) issuing and selling certain securities representing undivided beneficial interests in the assets of the Trust, (ii) holding certain Debentures of the Debenture Issuer (each as defined herein) and (iii) engaging in only those other activities necessary, advisable or incidental thereto;

NOW, THEREFORE, it being the intention of the parties hereto that the Trust constitute a business trust under the Business Trust Act and that this Declaration constitutes the governing instrument of such business trust, the Trustees declare that all assets contributed to the Trust will be held in trust for the benefit of the holders, from time to time, of the securities representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Declaration.

ARTICLE I  
DEFINITIONS

1.1 Definitions

Unless the context otherwise requires:

(a) Capitalized terms used in this Declaration but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1;

(b) a term defined anywhere in this Declaration has the same meaning throughout;

(c) all references to "the Declaration" or "this Declaration" are to this Declaration of Trust as modified, supplemented or amended from time to time;

(d) all references in this Declaration to Articles and Sections are to Articles and Sections of this Declaration unless otherwise specified;



(e) a reference to the singular includes the plural and vice versa;

(f) a reference to any Person shall include its successors and assigns;

(g) a reference to any agreement or instrument shall mean such agreement or instrument as supplemented, modified, amended and restated and in effect from time to time; and

(h) a reference to any statute, law, rule or regulation, shall include any amendments thereto and any successor, statute, law, rule or regulation.

"Administrative Trustee" means any Trustee other than the Delaware Trustee  
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and Property Trustee.

"Affiliate" has the same meaning as given to that term in Rule 405 of the  
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Securities Act or any successor rule thereunder.

"Business Day" means any day other than a day on which banking institutions  
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in New York, Chicago, Illinois or Seattle, Washington are authorized or required  
by any applicable law or executive order to close.

"Business Trust Act" means Chapter 38 of Title 12 of the Delaware Code, 12  
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Del. C. (S) (S) 3801 et seq., as it may be amended from time to time, or any  
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successor legislation.

"Capital Security" means a security representing an undivided interest in  
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the assets of the Trust with such terms as may be set out in any amendment to  
this Declaration.

"Commission" means the Securities and Exchange Commission.  
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"Common Security" means a security representing an undivided beneficial  
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interest in the assets of the Trust with such terms as may be set out in any  
amendment to this Declaration.

"Company Indemnified Person" means (a) any Administrative Trustee; (b) any  
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Affiliate of any Administrative Trustee; (c) any officers, directors,  
shareholders, members, partners, employees, representatives or agents of any  
Administrative Trustee; or (d) any employee or agent of the Trust or its  
Affiliates.

"Covered Person" means any officer, director, shareholder, partner, member,  
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representative, employee or agent of the Trust or the Trust's Affiliates.

"Debenture Issuer" means Puget in its capacity as the issuer of the  
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Debentures under the Indenture.

"Debentures" means Debentures to be issued by the Debenture Issuer and  
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acquired by the Trust.

"Debenture Trustee" means the original trustee under the Indenture until a  
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successor is appointed thereunder, and thereafter means any such successor  
trustee.

"Delaware Trustee" has the meaning set forth in Section 3.1.  
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"Exchange Act" means the Securities Exchange Act of 1934, as amended from  
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time to time, or any successor legislation.

"Fiduciary Indemnified Person" has the meaning set forth in Section 4.3(b).  
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"Indemnified Person" means a Company Indemnified Person or a Fiduciary  
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Indemnified Person.

"1933 Act Registration Statement" means a registration statement on Form  
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S-3.

"1934 Act Registration Statement" means a registration statement on Form  
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8-A.

"Indenture" means the indenture to be entered into between Puget and the  
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Debenture Trustee pursuant to which the Debentures are to be issued.

"Puget" means Puget Sound Energy, Inc., a Washington corporation, or any  
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successor entity in a merger.

"Person" means a legal person, including any individual, corporation,  
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estate, partnership, joint venture, association, joint stock company, limited  
liability company, trust, unincorporated association, or government or any  
agency or political subdivision thereof, or any other entity of whatever nature.

"Property Trustee" has the meaning set forth in Section 3.1.  
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"Securities" means collectively the Common Securities and the Capital  
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Securities.

"Securities Act" means the Securities Act of 1933, as amended from time to  
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time, or any successor legislation.

"Sponsor" means Puget in its capacity as sponsor of the Trust.  
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"Trustee" or "Trustees" means each Person who has signed this Declaration  
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as a trustee, so long as such Person shall continue in office in accordance with  
the terms hereof, and all other Persons who may from time to time be duly  
appointed, qualified and serving as Trustees in accordance with the provisions  
hereof, and reference herein to a Trustee or the Trustees shall refer to such  
Person or Persons solely in their capacity as trustees hereunder.



ARTICLE II  
ORGANIZATION

2.1 Name

The Trust created by this Declaration is named "Puget Sound Energy Capital Trust III". The Trust's activities may be conducted under the name of the Trust or any other name deemed advisable by the Administrative Trustees.

2.2 Office

The address of the principal office of the Trust is c/o Puget Sound Energy, Inc., 411-108th Avenue N.E., Bellevue, Washington 98004-5515, Attention: Richard L. Hawley, Administrative Trustee. On ten Business Days written notice to the holders of Securities, the Administrative Trustees may designate another principal office.

2.3 Purpose

The exclusive purposes and functions of the Trust are (a) to issue and sell Securities, (b) purchase and hold certain Debentures of the Debenture Issuer and (c) engage in only those other activities necessary, advisable or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments, pledge any of its assets, or otherwise undertake (or permit to be undertaken) any activity that would cause the Trust not to be classified for United States federal income tax purposes as a grantor Trust.

2.4 Authority

Subject to the limitations provided in this Declaration, the Administrative Trustees shall have exclusive and complete authority to carry out the purposes of the Trust. An action taken by the Administrative Trustees in accordance with their powers shall constitute the act of and serve to bind the Trust. In dealing with the Administrative Trustees acting on behalf of the Trust, no person shall be required to inquire into the authority of the Administrative Trustees to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Administrative Trustees as set forth in this Declaration.

2.5 Title to Property of the Trust

Legal title to all assets of the Trust shall be vested in the Trust.

2.6 Powers of the Trustees

The Administrative Trustees shall have the exclusive power and authority to cause the Trust to engage in the following activities:

(a) to issue and sell the Capital Securities and the Common Securities in accordance with this Declaration; provided, however, that the

Trust may issue no more than

one series of Capital Securities and no more than one series of Common Securities, and, provided further, that there shall be no interests in the Trust

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other than the Securities;

(b) in connection with the issue and sale of the Capital Securities, at the direction of the Sponsor, to:

(i) file with the Commission and execute, in each case on behalf of the Trust, (A) a 1933 Act Registration Statement, including any pre-effective or post-effective amendments to the 1933 Act Registration Statement, relating to the registration under the Securities Act of the Capital Securities and (B) a 1934 Act Registration Statement including all pre-effective and post-effective amendments thereto, relating to the registration of the Capital Securities under Section 12(b) of the Exchange Act;

(ii) file with the New York Stock Exchange and execute on behalf of the Trust a listing application and all other applications, statements, certificates, agreements and other instruments as shall be necessary or desirable to cause the Capital Securities to be listed on the New York Stock Exchange;

(iii) execute and file any documents prepared by the Sponsor, or take any acts as determined by the Sponsor to be necessary in order to qualify or register all or part of the Capital Securities in any State or foreign jurisdiction in which the Sponsor has determined to qualify or register such Capital Securities for sale;

(iv) execute and deliver letters, documents, or instruments with The Depository Trust Company relating to the Capital Securities;

(v) execute and enter into subscription agreements, purchase agreements and other related agreements providing for the sale of the Common Securities and the Capital Securities;

(c) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors, and consultants and provide for reasonable compensation for such services;

(d) to incur expenses that are necessary or incidental to carry out any of the purposes of this Declaration, which expenses shall be paid for by the Sponsor in all respects; and

(e) to execute all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing.

2.7 Filing of Certificate of Trust

On or after the date of execution of this Declaration, the Trustees shall cause the filing of the Certificate of Trust for the Trust in the form attached hereto as Exhibit A with the Secretary of State of the State of Delaware.

2.8 Duration of Trust

The Trust, absent termination pursuant to the provisions of Section 5.2, shall have existence for thirty-one (31) years from the date hereof.

2.9 Responsibilities of the Sponsor

In connection with the issue and sale of the Capital Securities, the Sponsor shall have the exclusive right and responsibility to engage in the following activities:

(a) to prepare the 1933 Act Registration Statement and the 1934 Act Registration Statement, including any amendments or supplements thereto;

(b) to determine the States and foreign jurisdictions in which to take appropriate action to qualify or register for sale all or part of the Capital Securities and to do any and all such acts, other than actions which must be taken by the Trust, and advise the Trust of actions it must take, and prepare for execution and filing any documents to be executed and filed by the Trust, as the Sponsor deems necessary or advisable in order to comply with the applicable laws of any such States and foreign jurisdictions; and

(c) to negotiate the terms of subscription agreements, purchase agreements and other related agreements providing for the sale of the Common Securities and Capital Securities.

2.10 Declaration Binding on Holders of Securities

Every Person by virtue of having become a holder of a Security or any interest therein in accordance with the terms of this Declaration, shall be deemed to have expressly assented and agreed to the terms of, and shall be bound by, this Declaration.

ARTICLE III  
TRUSTEES

3.1 Trustees

The number of Trustees initially shall be four (4), and thereafter the number of Trustees shall be such number as shall be fixed from time to time by a written instrument signed by the Sponsor. The Sponsor is entitled to appoint or remove without cause any Trustee at any time; provided, however that the number

of Trustees shall in no event be less than two (2); provided further that (a) one (1) Trustee, in the case of a natural person, shall be

a person who is a resident of the State of Delaware or which, if not a natural person, is an entity which has its principal place of business in the State of Delaware (the "Delaware Trustee") and (b) there shall be at least one (1) Administrative Trustee who is an employee or officer of, or is affiliated with, the Sponsor.

Except as expressly set forth in this Declaration, if there are more than two (2) Administrative Trustees, any power of such Administrative Trustees may be exercised by, or with the consent of, a majority of such Administrative Trustees; provided that if there are two (2) Administrative Trustees, any power

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of such Administrative Trustees shall be exercised by both Administrative Trustees; provided further that if there is only one Administrative Trustee, all  
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powers of the Administrative Trustees shall be exercised by such one Administrative Trustee.

The initial Administrative Trustee(s) shall be:

Richard L. Hawley  
Donald E. Gaines

The initial Delaware Trustee shall be:

Bank One Delaware, Inc.

The initial property trustee (the "Property Trustee"), meeting the requirements of the Trust Indenture Act of 1939, as amended, shall be:

Bank One Trust Company, NA

### 3.2 Delaware Trustee

Notwithstanding any other provision of this Declaration, the Delaware Trustee shall not be entitled to exercise any of the powers, nor shall the Delaware Trustee have any of the duties and responsibilities, of the Trustees described in this Declaration (except as required under the Business Trust Act). The Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of Section 3807(a) of the Business Trust Act. Notwithstanding anything herein to the contrary, the Delaware Trustee shall not be liable for the acts or omissions to act of the Trust or of the Administrative Trustees except such acts as the Delaware Trustee is expressly obligated or authorized to undertake under this Declaration or the Business Trust Act and except for the negligence or willful misconduct of the Delaware Trustee.

### 3.3 Execution of Documents

(a) Unless otherwise determined by the Administrative Trustees, and except as otherwise required by the Business Trust Act, any Administrative Trustee is, or if there are more than two (2) Administrative Trustees, any two (2) Administrative Trustees are,

authorized to execute on behalf of the Trust any documents which the Administrative Trustees have the power and authority to cause the Trust to execute pursuant to Section 2.6; and

(b) an Administrative Trustee may, by power of attorney consistent with applicable law, delegate to any other natural person over the age of 21 his or her power for the purposes of signing any documents which the Administrative Trustees have power and authority to cause the Trust to execute pursuant to Section 2.6.

#### 3.4 Not Responsible for Recitals or Sufficiency of Declaration

The recitals contained in this Declaration shall be taken as the statements of the Sponsor, and the Trustees do not assume any responsibility for their correctness. The Trustees make no representations as to the value or condition of the property of the Trust or any part thereof. The Trustees make no representations as to the validity or sufficiency of this Declaration.

### ARTICLE IV LIMITATION OF LIABILITY OF HOLDERS OF SECURITIES, TRUSTEES OR OTHERS

#### 4.1 Exculpation

(a) No Indemnified Person shall be liable, responsible or accountable for damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Declaration or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's negligence or willful misconduct with respect to such acts or omissions; and

(b) an Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which distributions to holders of Securities might properly be paid.

#### 4.2 Fiduciary Duty

(a) To the extent that, at law or in equity, an Indemnified Person has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to any other Covered Person, an Indemnified Person acting under this Declaration shall not be liable to the Trust or to any other



Covered Person, an Indemnified Person acting under this Declaration shall not be liable to the Trust or to any other Covered Person for its good faith reliance on the provisions of this Declaration. The provisions of this Declaration, to the extent that they restrict the duties and liabilities of an Indemnified Person otherwise existing at law or in equity, are agreed by the parties hereto to replace such other duties and liabilities of such Indemnified Person;

(b) unless otherwise expressly provided herein:

(i) whenever a conflict of interest exists or arises between Covered Persons; or

(ii) whenever this Declaration or any other agreement contemplated herein provides that an Indemnified Person shall act in a manner that is, or provides terms that are, fair and reasonable to the Trust or any holder of Securities,

the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the Indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Declaration or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise; and

(c) whenever in this Declaration an Indemnified Person is permitted or required to make a decision:

(i) in its "discretion" or under a grant of similar authority, the Indemnified Person shall be entitled to consider such interests and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Trust or any other Person; or

(ii) in its "good faith" or under another express standard, the Indemnified Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Declaration or by applicable law.

#### 4.3 Indemnification

(a) (i) The Sponsor shall indemnify, to the full extent permitted by law, any Company Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Trust) by reason of the fact that he is or was a Company Indemnified Person against expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement

actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Company Indemnified Person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(ii) The Sponsor shall indemnify, to the full extent permitted by law, any Company Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Trust to procure a judgment in its favor by reason of the fact that he is or was a Company Indemnified Person against expenses (including reasonable attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust, except that no such indemnification shall be made in respect of any claim, issue or matter as to which such Company Indemnified Person shall have been adjudged to be liable to the Trust unless and only to the extent that the Court of Chancery of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such Court of Chancery or such other court shall deem proper.

(iii) Any indemnification under paragraphs (i) and (ii) of this Section 4.3(a) (unless ordered by a court) shall be made by the Debenture Issuer only as authorized in the specific case upon a determination that indemnification of the Company Indemnified Person is proper in the circumstances because the Company Indemnified Person has met the applicable standard of conduct set forth in paragraphs (i) and (ii). Such determination shall be made (1) by the Administrative Trustees by a majority vote of a quorum consisting of such Administrative Trustees who were not parties to such action, suit or proceeding, (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Administrative Trustees so directs, by independent legal counsel in a written opinion, or (3) by the Common Security Holder of the Trust.

(iv) Expenses (including reasonable attorneys' fees) incurred by a Company Indemnified Person in defending a civil, criminal, administrative or investigative action, suit or proceeding referred to in paragraphs (i) and (ii) of this Section 4.3(a) shall be paid by the Debenture Issuer in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Company Indemnified Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Debenture Issuer as authorized in this Section 4.3(a). Notwithstanding the foregoing, no advance shall be made by the Debenture Issuer if a determination is

reasonably and promptly made (i) by the Administrative Trustees by a majority vote of a quorum of disinterested Administrative Trustees, (ii) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Administrative Trustees so directs, by independent legal counsel in a written opinion or (iii) by the Common Security Holder of the Trust, that, based upon the facts known to such Administrative Trustees, counsel or the Common Security Holder at the time such determination is made, such Company Indemnified Person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Trust, or, with respect to any criminal proceeding, that such Company Indemnified Person believed or had reasonable cause to believe his conduct was unlawful. In no event shall any advance be made in instances where the Administrative Trustees, independent legal counsel or Common Security Holder reasonably determine that such person deliberately breached his duty to the Trust or the Common Security or Capital Security Holders.

(v) The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Section 4.3(a) shall not be deemed exclusive of any other rights to which a person seeking indemnification and advancement of expenses may be entitled under any agreement, vote of shareholders or disinterested directors of the Debenture Issuer or Capital Security Holders of the Trust or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. All rights to indemnification under this Section 4.3(a) shall be deemed to be provided by a contract between the Debenture Issuer and each Company Indemnified Person who serves in such capacity at any time while this Section 4.3(a) is in effect. Any repeal or modification of this Section 4.3(a) shall not affect any rights or obligations then existing.

(vi) The Sponsor or the Trust may purchase and maintain insurance on behalf of any person who is or was a Company Indemnified Person against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Debenture Issuer would have the power to indemnify him against such liability under the provisions of this Section 4.3(a).

(vii) For purposes of this Section 4.3(a), references to "the Trust" shall include, in addition to the resulting or surviving entity, any constituent entity (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director, trustee, officer or employee of such constituent entity, or is or was serving at the request of such constituent entity as a director, trustee, officer, employee or agent of another entity, shall stand in the same position under the provisions of this Section 4.3(a) with respect to the resulting or surviving entity as he would have with respect to such constituent entity if its separate existence had continued.

(viii) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 4.3(a) shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Company Indemnified

Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(b) The Sponsor agrees to indemnify the (i) the Property Trustee and the Delaware Trustee, (ii) any Affiliate of the Property Trustee or the Delaware Trustee, and (iii) any officers, directors, shareholders, members, partners, employees, representatives, nominees, custodians or agents of the Property Trustee or the Delaware Trustee (each of the Persons in (i) through (iii) being referred to as a "Fiduciary Indemnified Person") for, and to hold each Fiduciary Indemnified Person harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against, or investigating, any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The provisions of this Section 4.3(b) shall survive the termination of this Declaration or the resignation or removal of the Property Trustee and the Delaware Trustee.

#### 4.4 Outside Businesses

Any Covered Person, the Sponsor and the Delaware Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the holders of Securities shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. No Covered Person, the Sponsor or the Delaware Trustee shall be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Sponsor and the Delaware Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person and the Delaware Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act as depository for, trustee or agent for or may act on any committee or body of holders of, securities or other obligations of the Sponsor or its Affiliates.

### ARTICLE V AMENDMENTS, TERMINATION, MISCELLANEOUS

#### 5.1 Amendments

At any time before the issue of any Securities, this Declaration may be amended by, and only by, a written instrument executed by all of the Administrative Trustees and the Sponsor.

## 5.2 Termination of Trust

(a) The Trust shall terminate and be of no further force or effect:

(i) upon the bankruptcy of the Sponsor;

(ii) upon the filing of a certificate of dissolution or its equivalent with respect to the Sponsor or the revocation of the Sponsor's charter or of the Trust's certificate of trust;

(iii) upon the entry of a decree of judicial dissolution of the Sponsor or the Trust; and

(iv) before the issuance of any Securities, with the consent of all of the Administrative Trustees and the Sponsor.

(b) As soon as is practicable after the occurrence of an event referred to in Section 5.2(a), the Trustees shall file a certificate of cancellation with the Secretary of State of the State of Delaware.

## 5.3 Governing Law

THIS DECLARATION AND THE RIGHTS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE AND ALL RIGHTS AND REMEDIES SHALL BE GOVERNED BY SUCH LAWS WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICT OF LAWS.

## 5.4 Headings

Headings contained in this Declaration are inserted for convenience of reference only and do not affect the interpretation of this Declaration or any provision hereof.

## 5.5 Successors and Assigns

Whenever in this Declaration any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Declaration by the Sponsor and the Trustees shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed.

## 5.6 Partial Enforceability

If any provision of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

### 5.7 Counterparts

This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signature of each of the Trustees to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be executed as of the day and year first above written.

/s/ Richard L. Hawley

-----  
Richard L. Hawley  
As Administrative Trustee

/s/ Donald E. Gaines

-----  
Donald E. Gaines  
As Administrative Trustee

BANK ONE DELAWARE, INC., as  
Delaware Trustee

By: /s/ Sandra L. Caruba

-----  
Name: Sandra L. Caruba  
Title: Vice President

BANK ONE TRUST COMPANY, NA, as  
Property Trustee

By: /s/ Sandra L. Caruba

-----  
Name: Sandra L. Caruba  
Title: Vice President

PUGET SOUND ENERGY, INC., as  
Sponsor

By: /s/ Tommy G. Leong

-----  
Name: Tommy G. Leong  
Title: Assistant Treasurer



AMENDED AND RESTATED DECLARATION  
OF TRUST

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Dated as of \_\_\_\_\_, \_\_\_\_\_

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of 1939, as amended

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\*This Cross-Reference Table does not constitute part of the Declaration and shall not affect the interpretation of any of its terms or provisions.

AMENDED AND RESTATED  
DECLARATION OF TRUST  
OF

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AMENDED AND RESTATED DECLARATION OF TRUST of \_\_\_\_\_ (this "Declaration") dated as of \_\_\_\_\_, \_\_\_\_\_, by the Trustees (as defined herein), the Sponsor (as defined herein) and by the holders, from time to time, of undivided beneficial interests in the assets of the Trust to be issued pursuant to this Declaration;

WHEREAS, the Regular Trustees, the Delaware Trustee and the Sponsor created \_\_\_\_\_ (the "Trust"), a statutory business trust under the Business Trust Act (as defined herein) pursuant to a Declaration of Trust dated as of \_\_\_\_\_, \_\_\_\_\_ (the "Original Declaration"), and a Certificate of Trust filed with the Secretary of State of the State of Delaware on \_\_\_\_\_, \_\_\_\_\_ (the "Certificate of Trust"), for the sole purpose of issuing and selling certain securities representing undivided beneficial interests in the assets of the Trust and investing the proceeds thereof in certain Debentures of the Debenture Issuer;

WHEREAS, as of the date hereof, no interests in the Trust have been issued; and

WHEREAS, all of the Trustees and the Sponsor, by this Declaration, amend and restate each and every term and provision of the Original Declaration.

NOW, THEREFORE, it being the intention of the parties hereto to continue the Trust as a business trust under the Business Trust Act and that this Declaration constitute the governing instrument of such business trust, the Trustees declare that all assets contributed to the Trust will be held in trust for the benefit of the holders, from time to time, of the securities representing undivided beneficial interests in the assets of the Trust issued hereunder, subject to the provisions of this Declaration.

ARTICLE I INTERPRETATION AND DEFINITIONS

SECTION 1.1 Definitions

Unless the context otherwise requires:

(a) Capitalized terms used in this Declaration but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1;



(b) a term defined anywhere in this Declaration has the same meaning throughout;

(c) all references to "the Declaration" or "this Declaration" are to this Declaration as modified, supplemented or amended from time to time;

(d) all references in this Declaration to Articles, Sections, Annexes and Exhibits are to Articles and Sections of and Annexes and Exhibits to this Declaration unless otherwise specified, and all references in this Declaration to the "terms of the Securities" are to the terms of the Securities as set forth in Annex I hereto;

(e) a term defined in the Trust Indenture Act has the same meaning when used in this Declaration unless otherwise defined in this Declaration or unless the context otherwise requires; and

(f) a reference to the singular includes the plural and vice versa.

"Affiliate" has the same meaning as given to that term in Rule 405 of the Securities Act or any successor rule thereunder.

"Authorized Officer" of a Person means any Person that is authorized to bind such Person.

"Book Entry Interest" means a beneficial interest in a Global Certificate, ownership and transfers of which shall be maintained and made through book entries by a Clearing Agency as described in Section 9.4.

"Business Day" means any day other than a day on which banking institutions in New York, New York or Chicago, Illinois are authorized or required by law to close.

"Business Trust Act" means Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. 3801, et seq., as it may be amended from time to time, or any successor legislation.

"Certificate" means a Common Security Certificate or a Preferred Security Certificate.

"Clearing Agency" means an organization registered as a "Clearing Agency" pursuant to Section 17A of the Exchange Act that is acting as depository for the

Preferred Securities and in whose name or in the name of a nominee of that organization shall be registered a Global Certificate and which shall undertake to effect book entry transfers and pledges of the Preferred Securities.

"Clearing Agency Participant" means a broker, dealer, bank, other financial institution or other Person for whom from time to time the Clearing Agency effects book entry transfers and pledges of securities deposited with the Clearing Agency.

"Closing Date" means \_\_\_\_\_, \_\_\_\_.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor legislation.

"Commission" means the Securities and Exchange Commission.

"Common Securities Guarantee" means the guarantee agreement to be dated as of \_\_\_\_\_, \_\_\_\_ of the Sponsor in respect of the Common Securities.

"Common Security" has the meaning specified in Section 7.1.

"Common Security Certificate" means a definitive certificate in fully registered form representing a Common Security substantially in the form of Exhibit A-2.

"Company Indemnified Person" means (a) any Regular Trustee; (b) any Affiliate of any Regular Trustee; (c) any officers, directors, shareholders, members, partners, employees, representatives or agents of any Regular Trustee; or (d) any officer, employee or agent of the Trust or its Affiliates.

"Corporate Trust Office" means the office of the Property Trustee at which the corporate trust business of the Preferred Guarantee Trustee shall, at any particular time, be principally administered, which office at the date of execution of this Agreement is located at \_\_\_\_\_.

"Covered Person" means: (a) any officer, director, shareholder, partner, member, representative, employee or agent of (i) the Trust or (ii) the Trust's Affiliates; and (b) any Holder of Securities.

"Debenture Issuer" means \_\_\_\_\_ in its capacity as issuer of the series of Debentures to be acquired by the Trust.

"Debenture Trustee" means \_\_\_\_\_, as trustee under the Indenture until a successor is appointed thereunder, and thereafter means such successor trustee.

"Debentures" means the series of Debentures to be issued by the Debenture Issuer under the Indenture to be held by the Property Trustee, a specimen certificate for such series of Debentures being Exhibit B.

"Definitive Preferred Security Certificates" has the meaning set forth in Section 9.4.

"Delaware Trustee" has the meaning set forth in Section 5.2.

"Distribution" means a distribution payable to Holders of Securities in accordance with Section 6.1.

"DTC" means The Depository Trust Company, the initial Clearing Agency.

"Event of Default" in respect of the Securities means an Event of Default (as defined in the Indenture) has occurred and is continuing in respect of the Debentures.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, or any successor legislation.

"Fiduciary Indemnified Person" has the meaning set forth in Section 10.4(b).

"Global Certificate" has the meaning set forth in Section 9.4.

"Holder" means a Person in whose name a Certificate representing a Security is registered, such Person being a beneficial owner within the meaning of the Business Trust Act.

"Indemnified Person" means a Company Indemnified Person or a Fiduciary Indemnified Person.

"Indenture" means the Indenture dated as of \_\_\_\_\_, \_\_\_\_\_, between the Debenture Issuer and the Debenture Trustee, and any indenture supplemental thereto pursuant to which the Debentures are to be issued.

"Investment Company" means an investment company as defined in the Investment Company Act.

"Investment Company Act" means the Investment Company Act of 1940, as amended from time to time, or any successor legislation.

"Investment Company Event" has the meaning set forth in Section 4(c) of Annex I hereto.

"Legal Action" has the meaning set forth in Section 3.6(g).

"Majority in liquidation amount of the Securities" means, except as provided in the terms of the Securities or by the Trust Indenture Act, Holder(s) of outstanding Securities voting together as a single class or, as the context may require, Holders of outstanding Preferred Securities or Holders of outstanding Common Securities voting separately as a class, who are the record owners of more than 50% of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accrued and unpaid Distributions to the date upon which the voting percentages are determined) of all outstanding Securities of the relevant class.

"Ministerial Action" has the meaning set forth in Section 4(c) of Annex I.

"Officers' Certificate" means, with respect to any Person, a certificate signed by two Authorized Officers of such Person. Any Officers' Certificate delivered with respect to compliance with a condition or covenant provided for in this Declaration shall include:

(a) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definitions relating thereto;

(b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;

(c) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

"Paying Agent" has the meaning specified in Section 3.8(i).

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Preferred Guarantee Trustee" means \_\_\_\_\_, as trustee under the Preferred Securities Guarantee until a successor is appointed thereunder, and thereafter means such successor trustee.

"Preferred Securities Guarantee" means the guarantee agreement to be dated as of \_\_\_\_\_, \_\_\_\_\_ of the Sponsor in respect of the Preferred Securities.

"Preferred Security" has the meaning specified in Section 7.1.

"Preferred Security Beneficial Owner" means, with respect to a Book Entry Interest, a Person who is the beneficial owner of such Book Entry Interest, as reflected on the books of the Clearing Agency, or on the books of a Person maintaining an account with such Clearing Agency (directly as a Clearing Agency Participant or as an indirect participant, in each case in accordance with the rules of such Clearing Agency).

"Preferred Security Certificate" means a certificate representing a Preferred Security substantially in the form of Exhibit A-1.

"Pricing Agreement" means the pricing agreement between the Trust, the Debenture Issuer, and the underwriters designated by the Regular Trustees with respect to the offer and sale of the Preferred Securities.

"Property Trustee" means the Trustee meeting the eligibility requirements set forth in Section 5.3.

"Property Trustee Account" has the meaning set forth in Section 3.8(c).

"Quorum" means a majority of the Regular Trustees or, if there are only two Regular Trustees, both of them, or if there is only one Regular Trustee, such Regular Trustee.

"Regular Trustee" means any Trustee other than the Property Trustee and the Delaware Trustee.

"Related Party" means, with respect to the Sponsor, any direct or indirect wholly owned subsidiary of the Sponsor or any other Person that owns, directly or indirectly, 100% of the outstanding voting securities of the Sponsor.

"Responsible Officer" means, with respect to the Property Trustee, any officer assigned to administer corporate trust matters and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

"Rule 3a-5" means Rule 3a-5 under the Investment Company Act.

"Securities" means the Common Securities and the Preferred Securities.

"Securities Act" means the Securities Act of 1933, as amended from time to time or any successor legislation.

"Special Event" has the meaning set forth in Section 4(c) of Annex I.

"Sponsor" means \_\_\_\_\_, a \_\_\_\_\_ corporation, or any successor entity in a merger, consolidation or amalgamation, in its capacity as sponsor of the Trust.

"Successor Property Trustee" has the meaning set forth in Section 5.6(b).

"Super Majority" has the meaning set forth in Section 2.6(a)(ii).

"Tax Event" has the meaning set forth in Section 4(c) of Annex I.

"10% in liquidation amount of the Securities" means, except as provided in the terms of the Securities or by the Trust Indenture Act, Holder(s) of outstanding Securities voting together as a single class or, as the context may require, Holders of outstanding Preferred Securities or Holders of outstanding Common Securities voting separately as a class, who are the record owners of 10% or more of the aggregate liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accrued and unpaid Distributions to the date upon which the voting percentages are determined) of all outstanding Securities of the relevant class.

"Treasury Regulations" means the income tax regulations, including temporary and proposed regulations, promulgated under the Code by the United States Treasury, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Trustee" or "Trustees" means each Person who has signed this Declaration as a trustee, so long as such Person shall continue in office in accordance with the terms hereof, and all other Persons who may from time to time be duly appointed, qualified and serving as Trustees in accordance with the provisions hereof, and references herein to a Trustee or the Trustees shall refer to such Person or Persons solely in their capacity as trustees hereunder.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended from time to time, or any successor legislation.

"Underwriting Agreement" means the Underwriting Agreement for the offering and sale of Preferred Securities in the form of Exhibit C including any Pricing Agreement as contemplated therein.

## ARTICLE II TRUST INDENTURE ACT

### SECTION 2.1 Trust Indenture Act; Application

(a) This Declaration is subject to the provisions of the Trust Indenture Act that are required to be part of this Declaration and shall, to the extent applicable, be governed by such provisions.

(b) The Property Trustee shall be the only Trustee which is a trustee for the purposes of the Trust Indenture Act.

(c) If and to the extent that any provision of this Declaration limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

(d) The application of the Trust Indenture Act to this Declaration shall not affect the nature of the Securities as equity securities representing undivided beneficial interests in the assets of the Trust.

### SECTION 2.2 Lists of Holders of Securities

(a) Each of the Sponsor and the Regular Trustees, on behalf of the Trust, shall provide the Property Trustee (i) within 14 days after each record date for payment of Distributions, a list, in such form as the Property Trustee may reasonably require, of the names and addresses of the Holders of the Securities ("List of Holders") as of such record date, provided that neither the Sponsor nor the Regular Trustees, on behalf of the Trust, shall be obligated to provide such List of Holders at any time the List of Holders does not differ from the most recent List of Holders given

to the Property Trustee by the Sponsor and the Regular Trustees on behalf of the Trust, and (ii) at any other time, within 30 days of receipt by the Trust of a written request for a List of Holders as of a date no more than 14 days before such List of Holders is given to the Property Trustee. The Property Trustee shall preserve, in as current a form as is reasonably practicable, all information contained in Lists of Holders given to it or which it receives in the capacity as Paying Agent (if acting in such capacity), provided that the Property Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) The Property Trustee shall comply with its obligations under Sections 311(a), 311(b) and 312(b) of the Trust Indenture Act.

#### SECTION 2.3 Reports by the Property Trustee

Within 60 days after May 1 of each year, the Property Trustee shall provide to the Holders of the Preferred Securities such reports as are required by Section 313 of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act. The Property Trustee shall also comply with the requirements of Section 313(d) of the Trust Indenture Act.

#### SECTION 2.4 Periodic Reports to Property Trustee

Each of the Sponsor and the Regular Trustees, on behalf of the Trust, shall provide to the Property Trustee such documents, reports and information as required by Section 314 (if any) and the compliance certificate required by Section 314 of the Trust Indenture Act in the form, in the manner and at the times required by Section 314 of the Trust Indenture Act.

#### SECTION 2.5 Evidence of Compliance with Conditions Precedent

Each of the Sponsor and the Regular Trustees on behalf of the Trust shall provide to the Property Trustee such evidence of compliance with any conditions precedent, if any, provided for in this Declaration that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c)(1) may be given in the form of an Officers' Certificate.

#### SECTION 2.6 Events of Default; Waiver

(a) The Holders of a Majority in liquidation amount of Preferred Securities may, by vote, on behalf of the Holders of all of the Preferred Securities, waive any



past Event of Default in respect of the Preferred Securities and its consequences, provided that, if the underlying Event of Default under the Indenture:

(i) is not waivable under the Indenture, the Event of Default under the Declaration shall also not be waivable; or

(ii) requires the consent or vote of greater than a majority in principal amount of the holders of the Debentures (a "Super Majority") to be waived under the Indenture, the Event of Default under the Declaration may only be waived by the vote of the Holders of at least the proportion in liquidation amount of the Preferred Securities that the relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding.

The foregoing provisions of this Section 2.6(a) shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act. Upon such waiver, any such default shall cease to exist, and any Event of Default with respect to the Preferred Securities arising therefrom shall be deemed to have been cured, for every purpose of this Declaration, but no such waiver shall extend to any subsequent or other default or an Event of Default with respect to the Preferred Securities or impair any right consequent thereon. Any waiver by the Holders of the Preferred Securities of an Event of Default with respect to the Preferred Securities shall also be deemed to constitute a waiver by the Holders of the Common Securities of any such Event of Default with respect to the Common Securities for all purposes of this Declaration without any further act, vote, or consent of the Holders of the Common Securities.

(b) The Holders of a Majority in liquidation amount of the Common Securities may, by vote, on behalf of the Holders of all of the Common Securities, waive any past Event of Default with respect to the Common Securities and its consequences, provided that, if the underlying Event of Default under the Indenture:

(i) is not waivable under the Indenture, except where the Holders of the Common Securities are deemed to have waived such Event of Default under the Declaration as provided below in this Section 2.6(b), the Event of Default under the Declaration shall also not be waivable; or

(ii) requires the consent or vote of a Super Majority to be waived, except where the Holders of the Common Securities are deemed to have waived such Event of Default under the Declaration as provided below in this Section 2.6(b), the Event of Default under the Declaration may only be waived by the vote of the Holders of at least the proportion in liquidation amount of the Common Securities that the

relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding;

provided further, each Holder of Common Securities will be deemed to have waived any such Event of Default and all Events of Default with respect to the Common Securities and its consequences until all Events of Default with respect to the Preferred Securities have been cured, waived or otherwise eliminated, and until such Events of Default have been so cured, waived or otherwise eliminated, the Property Trustee will be deemed to be acting solely on behalf of the Holders of the Preferred Securities and only the Holders of the Preferred Securities will have the right to direct the Property Trustee in accordance with the terms of the Securities. The foregoing provisions of this Section 2.6(b) shall be in lieu of Sections 316(a)(1)(A) and 316(a)(1)(B) of the Trust Indenture Act and such Sections 316(a)(1)(A) and 316(a)(1)(B) of the Trust Indenture Act are hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act. Subject to the foregoing provisions of this Section 2.6(b), upon such waiver, any such default shall cease to exist and any Event of Default with respect to the Common Securities arising therefrom shall be deemed to have been cured for every purpose of this Declaration, but no such waiver shall extend to any subsequent or other default or Event of Default with respect to the Common Securities or impair any right consequent thereon.

(c) A waiver of an Event of Default under the Indenture by the Property Trustee at the direction of the Holders of the Preferred Securities constitutes a waiver of the corresponding Event of Default under this Declaration. The foregoing provisions of this Section 2.6(c) shall be in lieu of Section 316(a)(1)(B) of the Trust Indenture Act and such Section 316(a)(1)(B) of the Trust Indenture Act is hereby expressly excluded from this Declaration and the Securities, as permitted by the Trust Indenture Act.

#### SECTION 2.7 Event of Default; Notice

(a) The Property Trustee shall, within 90 days after the occurrence of an event of Default actually known to a Responsible Officer of the Property Trustee, transmit by mail, first class postage prepaid, to the Holders of the Securities, notices of all such defaults with respect to the Securities, unless such defaults have been cured before the giving of such notice (the term "defaults" for the purposes of this Section 2.7(a) being hereby defined to be an Event of Default as defined in the Indenture, not including any periods of grace provided for therein and irrespective of the giving of any notice provided therein); provided that, except for a default in the payment of principal of (or premium, if any) or interest on any of the Debentures or in the payment of any sinking fund installment established for the Debentures, the

Property Trustee shall be protected in withholding such notice if and so long as a Responsible Officer of the Property Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Securities. Such notice shall state that such Event of Default also constitutes a Declaration event of default.

(b) The Property Trustee shall not be deemed to have knowledge of any default except:

(i) a default under Sections 5.1(a) and 5.1(b) of the Indenture; or

(ii) any default as to which the Property Trustee shall have received written notice or of which a Responsible Officer of the Property Trustee charged with the administration of the Declaration shall have actual knowledge.

### ARTICLE III ORGANIZATION

#### SECTION 3.1 Name

The Trust is named "\_\_\_\_\_", as such name may be modified from time to time by the Regular Trustees following written notice to the Holders of Securities. The Trust's activities may be conducted under the name of the Trust or any other name deemed advisable by the Regular Trustees.

#### SECTION 3.2 Office

The address of the principal office of the Trust is \_\_\_\_\_. On ten Business Days' prior written notice to the Holders of Securities, the Regular Trustees may designate another principal office.

#### SECTION 3.3 Purpose

The exclusive purposes and functions of the Trust are (a) to issue and sell Securities and use the proceeds from such sale to acquire the Debentures, and (b) except as otherwise limited herein, to engage in only those other activities necessary, appropriate, convenient or incidental thereto. The Trust shall not borrow money, issue debt or reinvest proceeds derived from investments, pledge any of its assets, or otherwise undertake (or permit to be undertaken) any activity that would cause the Trust not to be classified for United States federal income tax purposes as a grantor trust.

#### SECTION 3.4 Authority

Subject to the limitations provided in this Declaration and to the specific duties of the Property Trustee, the Regular Trustees shall have exclusive and complete authority to carry out the purposes of the Trust. An action taken by the Regular Trustees in accordance with their powers shall constitute the act of and serve to bind the Trust and an action taken by the Property Trustee on behalf of the Trust in accordance with its powers shall constitute the act of and serve to bind the Trust. In dealing with the Trustees acting on behalf of the Trust, no person shall be required to inquire into the authority of the Trustees to bind the Trust. Persons dealing with the Trust are entitled to rely conclusively on the power and authority of the Trustees as set forth in this Declaration.

#### SECTION 3.5 Title to Property of the Trust

Legal title to all assets of the Trust shall be vested in the Property Trustee (acting in such capacity) and shall be administered by the Property Trustee for the Trust and for the benefit of the Trust and the Holders in accordance with this Declaration. The Holders shall not have legal title to any part of the assets of the Trust, but shall have an undivided beneficial interest in the assets of the Trust.

#### SECTION 3.6 Powers and Duties of the Regular Trustees

The Regular Trustees shall have the exclusive power, duty and authority to cause the Trust to engage in the following activities:

(a) to issue and sell the Preferred Securities and the Common Securities in accordance with this Declaration; provided, however, that the Trust may issue no more than one series of Preferred Securities and no more than one series of Common Securities, and, provided further, that there shall be no interests in the Trust other than the Securities, and the issuance of Securities shall be limited to a one-time, simultaneous issuance of both the Preferred Securities and Common Securities on the Closing Date;

(b) in connection with the issue and sale of the Preferred Securities to:

(i) execute and file with the Commission the registration statement on Form S-3 prepared by the Sponsor, including any amendments thereto, pertaining to, among other securities, the Preferred Securities;

(ii) execute and file any documents prepared by the Sponsor, or take any acts as determined by the Sponsor to be necessary, appropriate, convenient or

advisable in order to qualify or register all or part of the Preferred Securities in any State in which the Sponsor has determined to qualify or register such Preferred Securities for sale;

(iii) execute and file an application, prepared by the Sponsor, to the New York Stock Exchange or any other national stock exchange or the Nasdaq National Market for listing upon notice of issuance of any Preferred Securities;

(iv) execute and file with the Commission a registration statement on Form 8-A, including any amendments thereto, prepared by the Sponsor, relating to the registration of the Preferred Securities under Section 12(b) of the Exchange Act; and

(v) execute and enter into the Underwriting Agreement providing for the sale of the Preferred Securities;

(c) to acquire the Debentures with the proceeds of the sale of the Preferred Securities and the Common Securities; provided, however, that the Regular Trustees shall cause legal title to the Debentures to be held of record in the name of the Property Trustee for the benefit of the Holders of the Preferred Securities and the Holders of the Common Securities;

(d) to give the Sponsor and the Property Trustee prompt written notice of the occurrence of a Special Event; provided that the Regular Trustees shall consult with the Sponsor and the Property Trustee before taking or refraining from taking any Ministerial Action in relation to a Special Event;

(e) to establish a record date with respect to all actions to be taken hereunder that require a record date be established, including and with respect to, for the purposes of Section 316(c) of the Trust Indenture Act, Distributions, voting rights, redemptions and exchanges, and to issue relevant notices to the Holders of Preferred Securities and Holders of Common Securities as to such actions and applicable record dates;

(f) to take all actions and perform such duties as may be required of the Regular Trustees pursuant to the terms of the Securities;

(g) to bring or defend, pay, collect, compromise, arbitrate, resort to legal action, or otherwise adjust claims or demands of or against the Trust ("Legal Action"), unless pursuant to Section 3.8(f), the Property Trustee has the exclusive power to bring such Legal Action;

(h) to employ or otherwise engage employees and agents (who may be designated as officers with titles) and managers, contractors, advisors, and consultants and pay reasonable compensation for such services;

(i) to cause the Trust to comply with the Trust's obligations under the Trust Indenture Act;

(j) to give the certificate required by Section 314(a)(4) of the Trust Indenture Act to the Property Trustee, which certificate may be executed by any Regular Trustee;

(k) to incur expenses that are necessary, appropriate, convenient or incidental to carry out any of the purposes of the Trust;

(l) to act as, or appoint another Person to act as, registrar and transfer agent for the Securities;

(m) to give prompt written notice to the Holders of the Securities of any notice received from the Debenture Issuer of its election to defer payments of interest on the Debentures by extending the interest payment period under the Indenture;

(n) to take all action that may be necessary or appropriate for the preservation and the continuation of the Trust's valid existence, rights, franchises and privileges as a statutory business trust under the laws of the State of Delaware and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Holders of the Preferred Securities or to enable the Trust to effect the purposes for which the Trust was created;

(o) to take any action, not inconsistent with this Declaration or with applicable law, that the Regular Trustees determine in their discretion to be necessary, desirable, convenient or incidental in carrying out the activities of the Trust as set out in this Section 3.6, including, but not limited to:

(i) causing the Trust not to be deemed to be an Investment Company required to be registered under the Investment Company Act;

(ii) causing the Trust to be classified for United States federal income tax purposes as a grantor trust; and

(iii) cooperating with the Debenture Issuer to ensure that the Debentures will be treated as indebtedness of the Debenture Issuer for United States

federal income tax purposes, provided that such action does not materially adversely affect the interests of Holders;

(p) to take all action necessary to cause all applicable tax returns and tax information reports that are required to be filed with respect to the Trust to be duly prepared and filed by the Regular Trustees, on behalf of the Trust; and

(q) to execute all documents or instruments, perform all duties and powers, and do all things for and on behalf of the Trust in all matters necessary or incidental to the foregoing.

The Regular Trustees must exercise the powers set forth in this Section 3.6 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.3, and the Regular Trustees shall not take any action that is inconsistent with the purposes and functions of the Trust set forth in Section 3.3.

Subject to this Section 3.6, the Regular Trustees shall have none of the powers or the authority of the Property Trustee set forth in Section 3.8.

Any expenses incurred by the Regular Trustees pursuant to this Section 3.6 shall be paid by the Debenture Issuer.

#### SECTION 3.7 Prohibition of Actions by the Trust and the Trustees

The Trust shall not, and the Trustees (including the Property Trustee) shall cause the Trust not to, engage in any activity other than as required or authorized by this Declaration. In particular, the Trust shall not and the Trustees (including the Property Trustee) shall cause the Trust not to:

(a) invest any proceeds received by the Trust from holding the Debentures, but shall distribute all such proceeds to Holders of Securities pursuant to the terms of this Declaration and of the Securities;

(b) acquire any assets other than as expressly provided herein;

(c) possess Trust property for other than a Trust purpose;

(d) make any loans or incur any indebtedness other than loans represented by the Debentures;

(e) possess any power or otherwise act in such a way as to vary the Trust assets or the terms of the Securities in any way whatsoever;

(f) issue any securities or other evidences of beneficial ownership of, or beneficial interest in, the Trust other than the Securities: or

(g) other than as provided in this Declaration or Annex I, (A) direct the time, method and place of exercising any trust or power conferred upon the Debenture Trustee with respect to the Debentures, (B) waive any past default that is waivable under the Indenture, (C) exercise any right to rescind or annul any declaration that the principal of all the Debentures shall be due and payable, or (D) consent to any amendment, modification or termination of the Indenture or the Debentures where such consent shall be required unless the Trust shall have received an opinion of counsel to the effect that such modification will not cause more than an insubstantial risk that for United States federal income tax purposes the Trust will not be classified as a grantor trust.

#### SECTION 3.8 Powers and Duties of the Property Trustee

(a) The legal title to the Debentures shall be owned by and held of record in the name of the Property Trustee (acting in such capacity) in trust for the benefit of the Trust and the Holders of the Securities. The right, title and interest of the Property Trustee to the Debentures shall vest automatically in each Person who may hereafter be appointed as Property Trustee in accordance with Section 5.6. Such vesting and cessation of title shall be effective whether or not conveyancing documents with regard to the Debentures have been executed and delivered.

(b) The Property Trustee shall not transfer its right, title and interest in the Debentures to the Regular Trustees or to the Delaware Trustee (if the Property Trustee does not also act as Delaware Trustee).

(c) The Property Trustee shall:

(i) establish and maintain a segregated non-interest bearing trust account (the "Property Trustee Account") in the name of and under the exclusive control of the Property Trustee on behalf of the Holders of the Securities and, upon the receipt of payments of funds made in respect of the Debentures held by the Property Trustee, deposit such funds into the Property Trustee Account and make payments to the Holders of the Preferred Securities and Holders of the Common Securities from the Property Trustee Account in accordance with Section 6.1. Funds in the Property Trustee Account shall be held uninvested until disbursed in accordance with this Declaration. The Property Trustee Account shall be an account that is maintained with a banking institution the rating on whose long-term unsecured indebtedness is at least equal to the rating assigned to the Preferred Securities by a



"nationally recognized statistical rating organization," as that term is defined for purposes of Rule 436(g)(2) under the Securities Act;

(ii) engage in such ministerial activities as shall be necessary, appropriate, convenient or incidental to effect the redemption of the Preferred Securities and the Common Securities to the extent the Debentures are redeemed or mature; and

(iii) upon written notice of distribution issued by the Regular Trustees in accordance with the terms of the Securities, engage in such ministerial activities as shall be necessary or appropriate to effect the distribution of the Debentures to Holders of Securities upon the occurrence of certain special events (as may be defined in the terms of the Securities) arising from a change in law or a change in legal interpretation or other specified circumstances pursuant to the terms of the Securities.

(d) The Property Trustee shall take all actions and perform such duties as may be specifically required of the Property Trustee pursuant to the terms of the Securities.

(e) The Property Trustee shall hold the Preferred Securities Guarantee and the Common Securities Guarantee, for the benefit of the Holders of the Preferred Securities and the Common Securities, respectively.

(f) The Property Trustee shall take any Legal Action which arises out of or in connection with an Event of Default of which a Responsible Officer of the Property Trustee has actual knowledge or the Property Trustee's duties and obligations under this Declaration or the Trust Indenture Act.

(g) The Property Trustee shall continue to serve as a Trustee until either:

(i) the Trust has been completely liquidated and the proceeds of the liquidation distributed to the Holders of Securities pursuant to the terms of the Securities; or

(ii) a Successor Property Trustee has been appointed and has accepted that appointment in accordance with Section 5.6.

(h) The Property Trustee shall have the legal power to exercise all of the rights, powers and privileges of a holder of Debentures under the Indenture and, if an Event of Default actually known to a Responsible Officer of the Property Trustee occurs and is continuing, the Property Trustee shall, for the benefit of Holders of the

Securities, enforce its rights as holder of the Debentures subject to the rights of the Holders pursuant to the terms of such Securities.

(i) The Property Trustee may authorize one or more Persons (each, a "Paying Agent") to pay Distributions, redemption payments or liquidation payments on behalf of the Trust with respect to all Securities, and any such Paying Agent shall comply with Section 317(b) of the Trust Indenture Act. Any Paying Agent may be removed by the Property Trustee at any time and a successor Paying Agent or additional Paying Agents may be appointed at any time by the Property Trustee.

(j) Subject to this Section 3.8, the Property Trustee shall have none of the duties, liabilities, powers or the authority of the Regular Trustees set forth in Section 3.6.

The Property Trustee must exercise the powers set forth in this Section 3.8 in a manner that is consistent with the purposes and functions of the Trust set out in Section 3.3, and the Property Trustee shall not take any action that is inconsistent with the purposes and functions of the Trust set out in Section 3.3

#### SECTION 3.9 Duties and Responsibilities of the Property Trustee

(a) The Property Trustee, before the occurrence of any Event of Default and after the curing of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Declaration and no implied covenants shall be read into this Declaration against the Property Trustee. In case an Event of Default has occurred (that has not been cured or waived pursuant to Section 2.6) of which a Responsible Officer of the Property Trustee has actual knowledge, the Property Trustee shall exercise such of the rights and powers vested in it by this Declaration, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs;

(b) No provision of this Declaration shall be construed to relieve the Property Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) prior to the occurrence of an Event of Default and after the curing or waiving of all such Events of Default that may have occurred:

(A) the duties and obligations of the Property Trustee shall be determined solely by the express provisions of this Declaration and the Property Trustee shall not be liable except for the performance of such duties and obligations as

are specifically set forth in this Declaration, and no implied covenants or obligations shall be read into this Declaration against the Property Trustee; and

(B) in the absence of bad faith on the part of the Property Trustee, the Property Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Property Trustee and conforming to the requirements of this Declaration; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Property Trustee, the Property Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Declaration;

(ii) the Property Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Property Trustee, unless it shall be proved that the Property Trustee was grossly negligent in ascertaining the pertinent facts;

(iii) the Property Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a Majority in liquidation amount of the Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under this Declaration;

(iv) no provision of this Declaration shall require the Property Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Declaration or indemnity reasonably satisfactory to the Property Trustee against such risk or liability is not reasonably assured to it;

(v) the Property Trustee's sole duty with respect to the custody, safe keeping and physical preservation of the Debentures and the Property Trustee Account shall be to deal with such property in a similar manner as the Property Trustee deals with similar property for its own account, subject to the protections and limitations on liability afforded to the Property Trustee under this Declaration and the Trust Indenture Act;

(vi) the Property Trustee shall have no duty or liability for or with respect to the value, genuineness, existence or sufficiency of the Debentures or the payment of any taxes or assessments levied thereon or in connection therewith;

(vii) the Property Trustee shall not be liable for any interest on any money received by it except as it may otherwise agree with the Sponsor. Money held by the Property Trustee need not be segregated from other funds held by it except in relation to the Property Trustee Account maintained by the Property Trustee pursuant to Section 3.8(c)(i) and except to the extent otherwise required by law; and

(viii) the Property Trustee shall not be responsible for monitoring the compliance by the Regular Trustees or the Sponsor with their respective duties under this Declaration, nor shall the Property Trustee be liable for any default or misconduct of the Regular Trustees or the Sponsor.

#### SECTION 3.10 Certain Rights of Property Trustee

(a) Subject to the provisions of Section 3.9:

(i) the Property Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed, sent or presented by the proper party or parties;

(ii) any direction or act of the Sponsor or the Regular Trustees contemplated by this Declaration shall be sufficiently evidenced by an Officers' Certificate;

(iii) whenever in the administration of this Declaration, the Property Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Property Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an Officers' Certificate which, upon receipt of such request, shall be promptly delivered by the Sponsor or the Regular Trustees;

(iv) the Property Trustee shall have no duty to see to any recording, filing or registration of any instrument (including any financing or continuation statement or any filing under tax or securities laws) or any rerecording, refiling or registration thereof;

(v) the Property Trustee may consult with counsel of its choice or other experts and the advice or opinion of such counsel and experts with respect to legal matters or advice within the scope of such experts' area of expertise shall be full and complete authorization and protection in respect of any action taken, suffered or

omitted by it hereunder in good faith and in accordance with such advice or opinion, such counsel may be counsel to the Sponsor or any of its Affiliates, and may include any of its employees. The Property Trustee shall have the right at any time to seek instructions concerning the administration of this Declaration from any court of competent jurisdiction;

(vi) the Property Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Declaration at the request or direction of any Holder, unless such Holder shall have provided to the Property Trustee security and indemnity, reasonably satisfactory to the Property Trustee, against the costs, expenses (including reasonable attorneys' fees and expenses and the expenses of the Property Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Property Trustee provided, that, nothing contained in this Section 3.10(a) (vi) shall be taken to relieve the Property Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Declaration; (vii) the Property Trustee shall not be bound to make any investigation into the facts or matters stated in any resolutions certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Property Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(viii) the Property Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Property Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

(ix) any action taken by the Property Trustee or its agents hereunder shall bind the Trust and the Holders of the Securities, and the signature of the Property Trustee or its agents alone shall be sufficient and effective to perform any such action and no third party shall be required to inquire as to the authority of the Property Trustee to so act or as to its compliance with any of the terms and provisions of this Declaration, both of which shall be conclusively evidenced by the Property Trustee's or its agent's taking such action;

(x) whenever in the administration of this Declaration the Property Trustee shall deem it desirable to receive instructions with respect to enforcing any

remedy or right or taking any other action hereunder, the Property Trustee (i) may request instructions from the Holders of the Securities which instructions may only be given by the Holders of the same proportion in liquidation amount of the Securities as would be entitled to direct the Property Trustee under the terms of the Securities in respect of such remedy, right or action, (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (iii) shall be protected in conclusively relying on or acting in or accordance with such instructions; and

(xi) except as otherwise expressly provided by this Declaration, the Property Trustee shall not be under any obligation to take any action that is discretionary under the provisions of this Declaration.

(b) No provision of this Declaration shall be deemed to impose any duty or obligation on the Property Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it, in any jurisdiction in which it shall be illegal, or in which the Property Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts, or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Property Trustee shall be construed to be a duty.

#### SECTION 3.11 Delaware Trustee

Notwithstanding any other provision of this Declaration other than Section 5.2, the Delaware Trustee shall not be entitled to exercise any powers, nor shall the Delaware Trustee have any of the duties and responsibilities of the Trustees described in this Declaration. Except as set forth in Section 5.2, the Delaware Trustee shall be a Trustee for the sole and limited purpose of fulfilling the requirements of Section 3807(a) of the Business Trust Act.

#### SECTION 3.12 Execution of Documents

Except as otherwise required by the Business Trust Act, any Regular Trustee is authorized to execute on behalf of the Trust any documents that the Regular Trustees have the power and authority to execute pursuant to Section 3.6; provided that, the registration statement referred to in Section 3.6(b)(i), including any amendments thereto, shall be signed by all of the Regular Trustees.

#### SECTION 3.13 Not Responsible for Recitals or Issuance of Securities

The recitals contained in this Declaration and the Securities shall be taken as the statements of the Sponsor, and the Trustees do not assume any responsibility for

their correctness. The Trustees make no representations as to the value or condition of the property of the Trust or any part thereof. The Trustees make no representations as to the validity or sufficiency of this Declaration or the Securities.

SECTION 3.14 Duration of Trust

The Trust, unless terminated pursuant to the provisions of Article VIII hereof, shall have existence until \_\_\_\_\_, \_\_\_\_', \_\_\_\_.

SECTION 3.15 Mergers

(a) The Trust may not consolidate, amalgamate, merge with or into, or be replaced by, or convert to, or convey, transfer or lease its properties and assets substantially as an entirety to any business trust or other business entity (as defined in the Business Trust Act), except as described in Section 3.15(b) and (c).

(b) The Trust may, with the consent of the Regular Trustees or, if there are more than two, a majority of the Regular Trustees and without the consent of the Holders of the Securities, the Delaware Trustee or the Property Trustee, consolidate, amalgamate, merge with or into, be replaced by or convey, transfer or lease its properties and assets as an entirety or substantially as an entirety to a trust organized as such under the laws of any State; provided that:

(i) such successor entity (the "Successor Entity") either:

(A) expressly assumes all of the obligations of the Trust under the Securities; or

(B) substitutes for the Securities other securities having substantially the same terms as the Preferred Securities (the "Successor Securities") so long as the Successor Securities rank the same as the Preferred Securities rank with respect to Distributions and payments upon liquidation, redemption and otherwise;

(ii) the Debenture Issuer expressly acknowledges a trustee of the Successor Entity that possesses the same powers and duties as the Property Trustee as the Holder of the Debentures;

(iii) the Preferred Securities or any Successor Securities are listed, or any Successor Securities will be listed upon notification of issuance, on any national securities exchange or with any other organization on which the Preferred Securities are then listed or quoted;

(iv) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not cause the Preferred Securities (including any Successor Securities) to be downgraded by any nationally recognized statistical rating organization;

(v) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the material rights, preferences and privileges of the Holders of the Securities (including any Successor Securities) in any material respect (other than with respect to any dilution of such Holders' interests in the Preferred Securities as a result of such merger, consolidation, amalgamation or replacement);

(vi) such Successor Entity has a purpose substantially identical to that of the Trust;

(vii) prior to such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease the Sponsor has received an opinion of a nationally recognized independent counsel to the Trust experienced in such matters to the effect that:

(A) such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the material rights, preferences and privileges of the Holders of the Securities (including any Successor Securities) in any material respect (other than with respect to any dilution of the Holders' interest in the new entity); and

(B) following such merger, consolidation, amalgamation or replacement, neither the Trust nor the Successor Entity will be required to register as an Investment Company; and

(C) following such merger, consolidation, amalgamation or replacement, the Trust (or the Successor Entity) will continue to be classified as a grantor trust for United States federal income tax purposes; and

(viii) the Sponsor guarantees the obligations of such Successor Entity under the Successor Securities at least to the extent provided by the Preferred Securities Guarantee.

(c) Notwithstanding Section 3.15(b), the Trust shall not, except with the consent of Holders of 100% in liquidation amount of the Securities, consolidate, amalgamate, merge with or into, convert to, be replaced by, or convey, transfer or lease its properties and assets as an entirety or substantially as an entirety to any other



entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it if such consolidation, amalgamation, merger, conversion or replacement would cause the Trust or Successor Entity to be classified as other than a grantor trust for United States federal income tax purposes.

#### ARTICLE IV SPONSOR

##### SECTION 4.1 Sponsor's Purchase of Common Securities

On the Closing Date the Sponsor will purchase all of the Common Securities issued by the Trust, in an amount at least equal to \_\_% of the capital of the Trust, at the same time as the Preferred Securities are sold.

##### SECTION 4.2 Responsibilities of the Sponsor

In connection with the issue and sale of the Preferred Securities, the Sponsor shall have the exclusive right and responsibility to engage in the following activities:

(a) to prepare for filing by the Trust with the Commission a registration statement on Form S-3 in relation to, among other securities, the Preferred Securities, including any amendments thereto;

(b) to determine the States in which to take appropriate action to qualify or register for sale all or part of the Preferred Securities and to do any and all such acts, other than actions which must be taken by the Trust, and advise the Trust of actions it must take, and prepare for execution and filing any documents to be executed and filed by the Trust, as the Sponsor deems necessary or advisable in order to comply with the applicable laws of any such States;

(c) to prepare for filing by the Trust an application to the New York Stock Exchange or any other national stock exchange or the Nasdaq National Market for listing upon notice of issuance of any Preferred Securities;

(d) to prepare for filing by the Trust with the Commission a registration statement on Form 8-A relating to the registration of the Preferred Securities under Section 12(b) of the Exchange Act, including any amendments thereto; and

(e) to negotiate the terms of the Underwriting Agreement and Pricing Agreement providing for the sale of the Preferred Securities.

## ARTICLE V TRUSTEES

### SECTION 5.1 Number of Trustees

The number of Trustees initially shall be four (4), and:

(a) at any time before the issuance of any Securities, the Sponsor may, by written instrument, increase or decrease the number of Trustees; and

(b) after the issuance of any Securities, the number of Trustees may be increased or decreased by vote of the Holders of a majority in liquidation amount of the Common Securities voting as a class at a meeting of the Holders of the Common Securities.

provided that, in any case, the number of Trustees shall at least be four (4) unless the Trustee that acts as the Property Trustee also acts as Delaware Trustee pursuant to Section 5.2, in which case the number of Trustees, shall be at least three (3).

### SECTION 5.2 Delaware Trustee

If required by the Business Trust Act, one Trustee (the "Delaware Trustee") shall be:

(a) a natural person who is a resident of the State of Delaware; or

(b) if not a natural person, an entity which has its principal place of business in the State of Delaware, and otherwise meets the requirements of applicable law,

provided that, if the Property Trustee has a principal place of business in the State of Delaware and otherwise meets the requirements of applicable law, then the Property Trustee shall also be the Delaware Trustee and Section 3.11 shall have no application.

### SECTION 5.3 Property Trustee; Eligibility

(a) There shall at all times be one Trustee which shall act as Property Trustee which shall:

(i) not be an Affiliate of the Sponsor; and

(ii) be a corporation organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a corporation or other Person permitted by the Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to

exercise corporate trust powers, having a combined capital and surplus of at least 50 million U.S. dollars (\$50,000,000), and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority. If such corporation or other Person publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then for the purposes of this Section 5.3(a)(ii), the combined capital and surplus of such corporation or other Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Property Trustee shall cease to be eligible to so act under Section 5.3(a), the Property Trustee shall immediately resign in the manner and with the effect set forth in Section 5.6(c).

(c) If the Property Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Property Trustee and the Holder of the Common Securities (as if it were the obligor referred to in Section 310(b) of the Trust Indenture Act) shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

(d) The Preferred Securities Guarantee shall be deemed to be specifically described in this Declaration for purposes of clause (i) of the first provision contained in Section 310(b) of the Trust Indenture Act.

#### SECTION 5.4 Qualifications of Regular Trustees and Delaware Trustee Generally

Each Regular Trustee and the Delaware Trustee (unless the Property Trustee also acts as Delaware Trustee) shall be either a natural person who is at least 21 years of age or a legal entity that shall act through one or more Authorized Officers.

#### SECTION 5.5 Initial Trustees

The initial Regular Trustees shall be:

The initial Delaware Trustee shall be:

The initial Property Trustee shall be:

SECTION 5.6 Appointment, Removal and Resignation of Trustees

(a) Subject to Section 5.6(b), Trustees may be appointed or removed without cause at any time:

(i) until the issuance of any Securities, by written instrument executed by the Sponsor; and

(ii) after the issuance of any Securities, by vote of the Holders of a Majority in liquidation amount of the Common Securities voting as a class at a meeting of the Holders of the Common Securities.

(b) (i) The Trustee that acts as Property Trustee shall not be removed in accordance with Section 5.6(a) until a successor Trustee possessing the qualifications to act as Property Trustee under Section 5.3 (a "Successor Property Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Property Trustee and delivered to the Regular Trustees and the Sponsor; and (ii) the Trustee that acts as Delaware Trustee shall not be removed in accordance with this Section 5.6(a) until a successor Trustee possessing the qualifications to act as Delaware Trustee under Sections 5.2 and 5.4 (a "Successor Delaware Trustee") has been appointed and has accepted such appointment by written instrument executed by such Successor Delaware Trustee and delivered to the Regular Trustees and the Sponsor.

(c) A Trustee appointed to office shall hold office until his successor shall have been appointed or until his death, removal or resignation. Any Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the Sponsor and the Trust, which resignation shall take effect upon such delivery or upon such later date as is specified therein; provided, however, that:

(i) No such resignation of the Trustee that acts as the Property Trustee shall be effective:

(A) until a Successor Property Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Property Trustee and delivered to the Trust, the Sponsor and the resigning Property Trustee; or

(B) until the assets of the Trust have been completely liquidated and the proceeds thereof distributed to the Holders of the Securities; and

(ii) no such resignation of the Trustee that acts as the Delaware Trustee shall be effective until a Successor Delaware Trustee has been appointed and has accepted such appointment by instrument executed by such Successor Delaware Trustee and delivered to the Trust, the Sponsor and the resigning Delaware Trustee.

(d) The Holders of the Common Securities shall use their best efforts to promptly appoint a Successor Delaware Trustee or Successor Property Trustee as the case may be if the Property Trustee or the Delaware Trustee delivers an instrument of resignation in accordance with this Section 5.6.

(e) If no Successor Property Trustee or Successor Delaware Trustee shall have been appointed and shall have accepted such appointment as provided in this Section 5.6 within 60 days after delivery to the Sponsor and the Trust of an instrument of resignation, the resigning Property Trustee or Delaware Trustee, as applicable, may petition any court of competent jurisdiction for appointment of a Successor Property Trustee or Successor Delaware Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Property Trustee or Successor Delaware Trustee, as the case may be.

(f) No Property Trustee or Delaware Trustee shall be liable for the acts or omissions to act of any Successor Property Trustee or Successor Delaware Trustee, as the case may be.

#### SECTION 5.7 Vacancies among Trustees

If a Trustee ceases to hold office for any reason and the number of Trustees is not reduced pursuant to Section 5.1, or if the number of Trustees is increased pursuant to Section 5.1, a vacancy shall occur. A resolution certifying the existence of such vacancy by the Regular Trustee, if there is one, or by each of the Regular Trustees, if there are two or, if there are more than two, a majority of the Regular Trustees, shall be conclusive evidence of the existence of such vacancy. The vacancy shall be filled with a Trustee appointed in accordance with Section 5.6.

#### SECTION 5.8 Effect of Vacancies

The death, resignation, retirement, removal, bankruptcy, dissolution, liquidation, incompetence or incapacity to perform the duties of a Trustee shall not operate to annul the Trust. Whenever a vacancy in the number of Regular Trustees shall occur, until such vacancy is filled by the appointment of a Regular Trustee in accordance with Section 5.6, the Regular Trustees in office, regardless of their number, shall have all the powers granted to the Regular Trustees and shall discharge all the duties imposed upon the Regular Trustees by this Declaration.

#### SECTION 5.9 Meetings

If there is more than one Regular Trustee, meetings of the Regular Trustees shall be held from time to time upon the call of any Regular Trustee. Regular meetings of the Regular Trustees may be held at a time and place fixed by resolution of the Regular Trustees. Notice of any in-person meetings of the Regular Trustees shall be hand delivered or otherwise delivered in writing (including by facsimile, with a hard copy by overnight courier) not less than 48 hours before such meeting. Notice of any telephonic meetings of the Regular Trustees or any committee thereof shall be hand delivered or otherwise delivered in writing (including by facsimile, with a hard copy by overnight courier) not less than 24 hours before a meeting. Notices shall contain a brief statement of the time, place and anticipated purposes of the meeting. The presence (whether in person or by telephone) of a Regular Trustee at a meeting shall constitute a waiver of notice of such meeting except where a Regular Trustee attends a meeting for the express purpose of objecting to the transaction of any activity on the ground that the meeting has not been lawfully called or convened. Unless provided otherwise in this Declaration, any action of the Regular Trustees may be taken at a meeting by vote of a majority of the Regular Trustees present (whether in person or by telephone) and eligible to vote with respect to such matter, provided that a Quorum is present, or without a meeting, by the unanimous written consent of the Regular Trustees. In the event there is only one Regular Trustee, any and all action of such Regular Trustee shall be evidenced by a written consent of such Regular Trustee.

#### SECTION 5.10 Delegation of Power

(a) Any Regular Trustee may, by power of attorney consistent with applicable law, delegate to another natural person over the age of 21 his or her power for the purpose of executing any documents contemplated in Section 3.6, including any registration statement or amendment thereto filed with the Commission, or making any other governmental filing; and

(b) the Regular Trustees shall have power to delegate from time to time to such of their number or to officers of the Trust the doing of such things and the execution of such instruments either in the name of the Trust or the names of the Regular Trustees or otherwise as the Regular Trustees may deem expedient, to the extent such delegation is not prohibited by applicable law or contrary to the provisions of the Trust, as set forth herein.

#### SECTION 5.11 Merger, Conversion, Consolidation or Succession to Business

Any Person into which the Property Trustee or the Delaware Trustee, as the case may be, may be merged or converted or with which either may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Property Trustee or the Delaware Trustee, as the case may be, shall be a party, or any Person succeeding to all or substantially all the corporate trust business of the Property Trustee or the Delaware Trustee, as the case may be, shall be the successor of the Property Trustee or the Delaware Trustee, as the case may be, hereunder, provided such Person shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the Parties hereto.

### ARTICLE VI DISTRIBUTIONS

#### SECTION 6.1 Distributions

Holders shall receive Distributions in accordance with the applicable terms of the relevant Holder's Securities. Distributions shall be made on the Preferred Securities and the Common Securities in accordance with the preferences set forth in their respective terms. If and to the extent that the Debenture issuer makes a payment of interest (including Compounded Interest (as defined in the Indenture) and Additional Interest (as defined in the Indenture)), premium and/or principal on the Debentures held by the Property Trustee (the amount of any such payment being a "Payment Amount"), the Property Trustee shall and is directed, to the extent funds are available for that purpose, to make a distribution (a "Distribution") of the Payment Amount to Holders.

### ARTICLE VII ISSUANCE OF SECURITIES

#### SECTION 7.1 General Provisions Regarding Securities

(a) The Regular Trustees shall, on behalf of the Trust, issue one class of preferred securities representing undivided beneficial interests in the assets of the

Trust having such terms as are set forth in Annex I (the "Preferred Securities"), which terms are incorporated by reference in, and made a part of, this Declaration as if specifically set forth herein, and one class of common securities representing undivided beneficial interests in the assets of the Trust having such terms as are set forth in Annex I (the "Common Securities"), which terms are incorporated by reference in, and made a part of, this Declaration as if specifically set forth herein. The Trust shall issue no securities or other interests in the assets of the Trust other than the Preferred Securities and the Common Securities.

(b) The Certificates shall be signed on behalf of the Trust by a Regular Trustee. Any such signature shall be the manual signature of any present or any future Regular Trustee. In case any Regular Trustee of the Trust who shall have signed any of the Securities shall cease to be such Regular Trustee before the Certificates so signed shall be delivered by the Trust, such Certificates nevertheless may be delivered as though the person who signed such Certificates had not ceased to be such Regular Trustee; and any Certificate may be signed on behalf of the Trust by such persons who, at the actual date of execution of such Certificate, shall be the Regular Trustees of the Trust, although at the date of the execution and delivery of the Declaration any such person was not such a Regular Trustee. Certificates shall be printed, lithographed or engraved or may be produced in any other manner as is reasonably acceptable to the Regular Trustees, or any one of them, as evidenced by their execution thereof, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements as the Regular Trustees, or any one of them may deem appropriate, or as may be required to comply with any law or with any rule or regulation of any stock exchange on which the Securities may be listed, or to conform to usage.

(c) The consideration received by the Trust for the issuance of the Securities shall constitute a contribution to the capital of the Trust and shall not constitute a loan to the Trust.

(d) Upon issuance of the Securities as provided in this Declaration, the Securities so issued shall be deemed to be validly issued, fully paid and non-assessable subject to Section 10.1(b) with respect to the Common Securities.

(e) Every Person, by virtue of having become a Holder or a Preferred Security Beneficial Owner in accordance with the terms of this Declaration, shall be deemed to have expressly assented and agreed to the terms of, and shall be bound by, this Declaration, the Preferred Securities Guarantee and the Indenture.



ARTICLE VIII TERMINATION OF TRUST

SECTION 8.1 Dissolution and Termination of Trust

(a) The Trust shall dissolve:

(i) upon the bankruptcy of the Holder of the Common Securities or the Sponsor;

(ii) upon the filing of a certificate of dissolution or its equivalent with respect to the Holder of the Common Securities or the Sponsor or the revocation of the charter of the Holder of the Common Securities, or the Sponsor's charter and the expiration of 90 days after the date of revocation without a reinstatement thereof;

(iii) upon the entry of a decree of judicial dissolution of the Holder of the Common Securities, the Sponsor or the Trust;

(iv) when all of the Securities shall have been called for redemption and the amounts necessary for redemption thereof shall have been paid to the Holders in accordance with the terms of the Securities;

(v) upon the occurrence and continuation of a Special Event pursuant to which the Trust shall have been dissolved in accordance with the terms of the Securities and all of the Debentures endorsed thereon shall have been distributed to the Holders of Securities in exchange for all of the Securities;

(vi) before the issuance of any Securities, with the consent of all of the Regular Trustees and the Sponsor; or

(vii) upon the expiration of the term of the Trust as set forth in Section 3.14.

(b) After the occurrence of an event referred to in Section 8.1(a) and upon the completion of winding-up of the Trust and its termination, the Trustees shall file a certificate of cancellation with the Secretary of State of the State of Delaware.

(c) The provisions of Section 3.9 and Article X shall survive the termination of the Trust.

## ARTICLE IX TRANSFER OF INTERESTS

### SECTION 9.1 Transfer of Securities

(a) Securities may only be transferred, in whole or in part, in accordance with the terms and conditions set forth in this Declaration and in the terms of the Securities. Any transfer or purported transfer of any Security not made in accordance with this Declaration, and the terms of the Securities shall be null and void.

(b) Subject to this Article IX, Preferred Securities shall be freely transferable.

(c) Subject to this Article IX, the Sponsor and any Related Party may only transfer Common Securities to the Sponsor or a Related Party of the Sponsor; provided that, any such transfer is subject to the condition precedent that the transferor obtain the written opinion of nationally recognized independent counsel experienced in such matters that such transfer would not cause more than an insubstantial risk that:

(i) the Trust would not be classified for United States federal income tax purposes as a grantor trust; and

(ii) the Trust would be an Investment Company or the transferee would become an Investment Company.

### SECTION 9.2 Transfer of Certificates

The Regular Trustees shall provide for the registration of Certificates and of transfers of Certificates, which will be effected without charge but only upon payment (with such indemnity as the Regular Trustees may require) in respect of any tax or other governmental charges that may be imposed in relation to it. Upon surrender for registration of transfer of any Certificate, the Regular Trustees shall cause one or more new Certificates to be issued in the name of the designated transferee or transferees. Every Certificate surrendered for registration of transfer shall be accompanied by a written instrument of transfer in form satisfactory to the Regular Trustees duly executed by the Holder or such Holder's attorney duly authorized in writing. Each Certificate surrendered for registration of transfer shall be canceled by the Regular Trustees. A transferee of a Certificate shall be entitled to the rights and subject to the obligations of a Holder hereunder upon the receipt by such transferee of a Certificate. By acceptance of a Certificate, each transferee shall be deemed to have agreed to be bound by this Declaration. In the event that the Preferred Securities do not remain in book-entry only form, the Property Trustee will act as paying agent and may designate an additional or substitute paying agent at any time.

SECTION 9.3 Deemed Security Holders

The Trustees may treat the Person in whose name any Certificate shall be registered on the books and records of the Trust as the sole holder of such Certificate and of the Securities represented by such Certificate for purposes of receiving Distributions and for all other purposes whatsoever and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Certificate or in the Securities represented by such Certificate on the part of any Person, whether or not the Trust shall have actual or other notice thereof.

SECTION 9.4 Book Entry Interests

Unless otherwise specified in the terms of the Preferred Securities, the Preferred Securities Certificates, on original issuance, will be issued in the form of one or more, fully registered, global Preferred Security Certificates (each a "Global Certificate"), to be delivered to DTC, the initial Clearing Agency, by, or on behalf of, the Trust. Such Global Certificate(s) shall initially be registered on the books and records of the Trust in the name of Cede & Co., the nominee of DTC, and no Preferred Security Beneficial Owner will receive a definitive Preferred Security Certificate representing such Preferred Security Beneficial Owner's interests in such Global Certificate(s), except as provided in Section 9.7. Unless and until definitive, fully registered Preferred Security Certificates (the "Definitive Preferred Security Certificates") have been issued to the Preferred Security Beneficial Owners pursuant to Section 9.7:

- (a) the provisions of this Section 9.4 shall be in full force and effect;
- (b) the Trust and the Trustees shall be entitled to deal with the Clearing Agency for all purposes of this Declaration (including the payment of Distributions on the Global Certificate(s) and receiving approvals, votes or consents hereunder) as the Holder of the Preferred Securities and the sole holder of the Global Certificate(s) and shall have no notice obligation to the Preferred Security Beneficial Owners;
- (c) to the extent that the provisions of this Section 9.4 conflict with any other provisions of this Declaration, the provisions of this Section 9.4 shall control; and
- (d) the rights of the Preferred Security Beneficial Owners shall be exercised only through the Clearing Agency and shall be limited to those established by law and agreements between such Preferred Security Beneficial Owners and the Clearing Agency and/or the Clearing Agency Participants. DTC will make book entry transfers

among the Clearing Agency Participants and receive and transmit payments of Distributions on the Global Certificates to such Clearing Agency Participants.

SECTION 9.5 Notices to Clearing Agency

Whenever a notice or other communication to the Preferred Security Holders is required under this Declaration, unless and until Definitive Preferred Security Certificates shall have been issued to the Preferred Security Beneficial Owners pursuant to Section 9.7, the Regular Trustees shall give all such notices and communications specified herein to be given to the Preferred Security Holders to the Clearing Agency, and shall have no notice obligations to the Preferred Security Beneficial Owners.

SECTION 9.6 Appointment of Successor Clearing Agency

If any Clearing Agency elects to discontinue its services as securities depository with respect to the Preferred Securities, the Regular Trustees may, in their sole discretion, appoint a successor Clearing Agency with respect to such Preferred Securities.

SECTION 9.7 Definitive Preferred Security Certificates

If:

(a) a Clearing Agency elects to discontinue its services as securities depository with respect to the Preferred Securities and a successor Clearing Agency is not appointed within 90 days after such discontinuance pursuant to Section 9.6; or

(b) the Regular Trustees elect after consultation with the Sponsor to terminate the book entry system through the Clearing Agency with respect to the Preferred Securities,

then:

(i) Definitive Preferred Security Certificates shall be prepared by the Regular Trustees on behalf of the Trust with respect to such Preferred Securities; and

(ii) upon surrender of the Global Certificate(s) by the Clearing Agency, accompanied by registration instructions, the Regular Trustees shall cause Definitive Preferred Security Certificates to be delivered to Preferred Security Beneficial Owners in accordance with the instructions of the Clearing Agency. Neither the Trustees nor the Trust shall be liable for any delay in delivery of such instructions and each of them may conclusively rely on and shall be protected in

relying on, said instructions of the Clearing Agency. The Definitive Preferred Security Certificates shall be printed, lithographed or engraved or may be produced in any other manner as is reasonably acceptable to the Regular Trustees, as evidenced by their execution thereof, and may have such letters, numbers or other marks of identification or designation and such legends or endorsements as the Regular Trustees may deem appropriate, or as may be required to comply with any law or with any Rule or regulation made pursuant thereto or with any Rule or regulation of any stock exchange on which Preferred Securities may be listed, or to conform to usage.

SECTION 9.8 Mutilated, Destroyed, Lost or Stolen Certificates

If:

(a) any mutilated Certificates should be surrendered to the Regular Trustees, or if the Regular Trustees shall receive evidence to their satisfaction of the destruction, loss or theft of any Certificate; and

(b) there shall be delivered to the Regular Trustees such security or indemnity as may be required by them to keep each of them harmless, then, in the absence of notice that such Certificate shall have been acquired by a bona fide purchaser, any Regular Trustee on behalf of the Trust shall execute and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Certificate, a new Certificate of like denomination. In connection with the issuance of any new Certificate under this Section 9.8, the Regular Trustees may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith. Any duplicate Certificate issued pursuant to this Section 9.8 shall constitute conclusive evidence of an ownership interest in the relevant Securities, as if originally issued, whether or not the lost, stolen or destroyed Certificate shall be found at any time.

ARTICLE X LIMITATION OF LIABILITY OF HOLDERS  
OF SECURITIES, TRUSTEES OR OTHERS

SECTION 10.1 Liability

(a) Except as expressly set forth in this Declaration, the Preferred Securities Guarantee, the Common Securities Guarantee and the terms of the Securities, the Sponsor shall not be:

(i) personally liable for the return of any portion of the capital contributions (or any return thereon) of the Holders of the Securities which shall be made solely from assets of the Trust; and

(ii) required to pay to the Trust or to any Holder of Securities any deficit upon dissolution of the Trust or otherwise.

(b) The Holder of the Common Securities shall be liable for all of the debts and obligations of the Trust (other than with respect to the Securities) to the extent not satisfied out of the Trust's assets.

(c) Pursuant to Section 3803(a) of the Business Trust Act, the Holders of the Preferred Securities shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the General Corporation Law of the State of Delaware.

#### SECTION 10.2 Exculpation

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Trust or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith on behalf of the Trust and in a manner such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Declaration or by law, except that an Indemnified Person shall be liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Trust and upon such information, opinions, reports or statements presented to the Trust by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Trust, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Distributions to Holders of Securities might properly be paid.

#### SECTION 10.3 Fiduciary Duty

(a) To the extent that, at law or in equity, an Indemnified Person has duties (including fiduciary duties) and liabilities relating thereto to the Trust or to any other Covered Person, an Indemnified Person acting under this Declaration shall not be liable to the Trust or to any other Covered Person for its good faith reliance on the provisions of this Declaration. The provisions of this Declaration, to the extent that they restrict the duties and liabilities of an Indemnified Person otherwise existing at law or in equity (other than the duties imposed on the Property Trustee under the Trust

Indenture Act), are agreed by the parties hereto to replace such other duties and liabilities of such Indemnified Person.

(b) Unless otherwise expressly provided herein:

(i) whenever a conflict of interest exists or arises between any Covered Persons; or

(ii) whenever this Declaration or any other agreement contemplated herein or therein provides that an Indemnified Person shall act in a manner that is, or provide terms that are, fair and reasonable to the Trust or any Holder of Securities, the Indemnified Person shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the indemnified Person, the resolution, action or term so made, taken or provided by the Indemnified Person shall not constitute a breach of this Declaration or any other agreement contemplated herein or of any duty or obligation of the Indemnified Person at law or in equity or otherwise.

(c) Whenever in this Declaration an Indemnified Person is permitted or required to make a decision:

(i) in its "discretion" or under a grant of similar authority, the Indemnified Person shall be entitled to consider such interests and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Trust or any other Person; or

(ii) in its "good faith" or under another express standard, the Indemnified Person shall act under such express standard and shall not be subject to any other or different standard imposed by this Declaration or by applicable law.

#### SECTION 10.4 Indemnification

(a) (i) The Debenture Issuer shall indemnify, to the full extent permitted by law, any Company Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Trust) by reason of the fact that he is or was a Company Indemnified Person against expenses (including attorneys' fees), judgments, fines and amounts paid

in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Company Indemnified Person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Trust, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(ii) The Debenture Issuer shall indemnify, to the full extent permitted by law, any Company Indemnified Person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Trust to procure a judgment in its favor by reason of the fact that he is or was a Company Indemnified Person against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Trust and except that no such indemnification shall be made in respect of any claim, issue or matter as to which such Company Indemnified Person shall have been adjudged to be liable to the Trust unless and only to the extent that the Court of Chancery of the State of Delaware or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such Court of Chancery or such other court shall deem proper.

(iii) To the extent that a Company Indemnified Person shall be successful on the merits or otherwise (including dismissal of an action without prejudice or the settlement of an action without admission of liability) in defense of any action, suit or proceeding referred to in paragraphs (i) and (ii) of this Section 10.4(a), or in defense of any claim, issue or matter therein, he shall be indemnified, to the full extent permitted by law, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(iv) Any indemnification under paragraphs (i) and (ii) of this Section 10.4(a) (unless ordered by a court) shall be made by the Debenture Issuer only as authorized in the specific case upon a determination that indemnification of the Company Indemnified Person is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraphs (i) and (ii). Such determination shall be made (1) by the Regular Trustees by a majority vote of a quorum consisting of



such Regular Trustees who were not parties to such action, suit or proceeding, (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Regular Trustees so directs, by independent legal counsel in a written opinion, or (3) by the Common Security Holder of the Trust.

(v) To the fullest extent permitted by applicable law, expenses (including attorneys' fees) incurred by a Company Indemnified Person in defending a civil, criminal, administrative or investigative action, suit or proceeding referred to in paragraphs (i) and (ii) of this Section 10.4(a) shall be paid by the Debenture Issuer in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Company Indemnified Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Debenture Issuer as authorized in this Section 10.4(a). Notwithstanding the foregoing, no advance shall be made by the Debenture Issuer if a determination is reasonably and promptly made (i) by the Regular Trustees by a majority vote of a quorum of disinterested Regular Trustees, (ii) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Regular Trustees so directs, by independent legal counsel in a written opinion or (iii) the Common Security Holder of the Trust, that, based upon the facts known to the Regular Trustees, counsel or the Common Security Holder at the time such determination is made, such Company Indemnified Person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Trust, or, with respect to any criminal proceeding, that such Company Indemnified Person believed or had reasonable cause to believe his conduct was unlawful. In no event shall any advance be made in instances where the Regular Trustees, independent legal counsel or Common Security Holder reasonably determine that such person deliberately breached his duty to the Trust or its Common or Preferred Security Holders.

(vi) The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Section 10.4(a) shall not be deemed exclusive of any other rights to which those seeking indemnification and advancement of expenses may be entitled under any agreement, vote of stockholders or disinterested directors of the Debenture Issuer or Preferred Security Holders of the Trust or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. All rights to indemnification under this Section 10.4(a) shall be deemed to be provided by a contract between the Debenture Issuer and each Company Indemnified Person who serves in such capacity at any time while this Section 10.4(a) is in effect. Any repeal or modification of this Section 10.4(a) shall not affect any rights or obligations then existing.

(vii) The Debenture Issuer or the Trust may purchase and maintain insurance on behalf of any person who is or was a Company Indemnified Person against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Debenture Issuer would have the power to indemnify him against such liability under the provisions of this Section 10.4(a).

(viii) For purposes of this Section 10.4(a), references to "the Trust" shall include, in addition to the resulting or surviving entity, any constituent entity (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director, trustee, officer or employee of such constituent entity, or is or was serving at the request of such constituent entity as a director, trustee, officer, employee or agent of another entity, shall stand in the same position under the provisions of this Section 10.4(a) with respect to the resulting or surviving entity as he would have with respect to such constituent entity if its separate existence had continued.

(ix) The indemnification and advancement of expenses provided by, or granted pursuant to this Section 10.4(a) shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a Company Indemnified Person and shall inure to the benefit of the heirs, executors and administrators of such a person.

(b) The Debenture Issuer agrees to indemnify the (i) Property Trustee, (ii) the Delaware Trustee, (iii) any Affiliate of the Property Trustee and the Delaware Trustee, and (iv) any officers, directors, shareholders, members, partners, employees, representatives, custodians, nominees or agents of the Property Trustee and the Delaware Trustee (each of the Persons in (i) through (iv) being referred to as a "Fiduciary Indemnified Person") for, and to hold each Fiduciary Indemnified Person harmless against, any loss, liability or expense incurred without gross negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against or investigating any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The provisions of this Section 10.4(b) shall survive the satisfaction and discharge of this Declaration or the resignation or removal of any Trustee.

SECTION 10.5            Businesses

Any Covered Person, the Sponsor, the Delaware Trustee and the Property Trustee may engage in or possess an interest in other business ventures of any nature or description, independently or with others, similar or dissimilar to the business of the Trust, and the Trust and the Holders of Securities shall have no rights by virtue of this Declaration in and to such independent ventures or the income or profits derived therefrom, and the pursuit of any such venture, even if competitive with the business of the Trust, shall not be deemed wrongful or improper. No Covered Person, the Sponsor, the Delaware Trustee, or the Property Trustee shall be obligated to present any particular investment or other opportunity to the Trust even if such opportunity is of a character that, if presented to the Trust, could be taken by the Trust, and any Covered Person, the Sponsor, the Delaware Trustee and the Property Trustee shall have the right to take for its own account (individually or as a partner or fiduciary) or to recommend to others any such particular investment or other opportunity. Any Covered Person, the Delaware Trustee and the Property Trustee may engage or be interested in any financial or other transaction with the Sponsor or any Affiliate of the Sponsor, or may act as depository for, trustee or agent for, or act on any committee or body of holders of, securities or other obligations of the Sponsor or its Affiliates.

ARTICLE XI ACCOUNTING

SECTION 11.1            Fiscal Year

The fiscal year ("Fiscal Year") of the Trust shall be the calendar year, or such other year as is required by the Code.

SECTION 11.2            Certain Accounting Matters

(a) At all times during the existence of the Trust, the Regular Trustees shall keep, or cause to be kept, full books of account, records and supporting documents, which shall reflect in reasonable detail, each transaction of the Trust. The books of account shall be maintained on the accrual method of accounting, in accordance with generally accepted accounting principles, consistently applied. The Trust shall use the accrual method of accounting for United States federal income tax purposes. The books of account and the records of the Trust shall be examined by and reported upon as of the end of each Fiscal Year of the Trust by a firm of independent certified public accountants selected by the Regular Trustees.

(b) The Regular Trustees shall cause to be prepared and delivered to each of the Holders of Securities, within 90 days after the end of each Fiscal Year of the

Trust, annual financial statements of the Trust, including a balance sheet of the Trust as of the end of such Fiscal Year, and the related statements of income or loss.

(c) The Regular Trustees shall cause to be duly prepared and delivered to each of the Holders of Securities, any annual United States federal income tax information statement, required by the Code, containing such information with regard to the Securities held by each Holder as is required by the Code and the Treasury Regulations. Notwithstanding any right under the Code to deliver any such statement at a later date, the Regular Trustees shall endeavor to deliver all such statements within 30 days after the end of each Fiscal Year of the Trust.

(d) The Regular Trustees shall cause to be duly prepared and filed with the appropriate taxing authority, an annual United States federal income tax return, on a Form 1041 or such other form required by United States federal income tax law, and any other annual income tax returns required to be filed by the Regular Trustees on behalf of the Trust with any state or local taxing authority.

#### SECTION 11.3 Banking

The Trust shall maintain one or more bank accounts in the name and for the sole benefit of the Trust; provided, however, that all payments of funds in respect of the Debentures held by the Property Trustee shall be made directly to the Property Trustee Account and no other funds of the Trust shall be deposited in the Property Trustee Account. The sole signatories for such accounts shall be designated by the Regular Trustees; provided, however, that the Property Trustee shall designate the signatories for the Property Trustee Account.

#### SECTION 11.4 Withholding

The Trust and the Regular Trustees shall comply with all withholding requirements under United States federal, state and local law. The Trust shall request, and the Holders shall provide to the Trust, such forms or certificates as are necessary to establish an exemption from withholding with respect to each Holder, and any representations and forms as shall reasonably be requested by the Trust to assist it in determining the extent of, and in fulfilling, its withholding obligations. The Regular Trustees shall file required forms with applicable jurisdictions and, unless an exemption from withholding is properly established by a Holder, shall remit amounts withheld with respect to the Holder to applicable jurisdictions. To the extent that the Trust is required to withhold and pay over any amounts to any authority with respect to distributions or allocations to any Holder, the amount withheld shall be deemed to be a distribution in the amount of the withholding to the Holder. In the event of any claimed over withholding, Holders shall be limited to an action against the applicable

jurisdiction. If the amount required to be withheld was not withheld from actual Distributions made, the Trust may reduce subsequent Distributions by the amount of such withholding.

## ARTICLE XIII AMENDMENTS AND MEETINGS

### SECTION 12.1 Amendments

(a) Except as otherwise provided in this Declaration or by any applicable terms of the Securities, this Declaration may only be amended by a written instrument approved and executed by the Regular Trustees (or, if there are more than two Regular Trustees a majority of the Regular Trustees); and

(i) if the amendment affects the rights, powers, duties, obligations or immunities of the Property Trustee, also by the Property Trustee; and

(ii) if the amendment affects the rights, powers, duties, obligations or immunities of the Delaware Trustee, also by the Delaware Trustee.

(b) No amendment shall be made, and any such purported amendment shall be void and ineffective:

(i) unless, in the case of any proposed amendment, the Property Trustee shall have first received an Officers' Certificate from each of the Trust and the Sponsor that such amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Securities);

(ii) unless, in the case of any proposed amendment which affects the rights, powers, duties, obligations or immunities of the Property Trustee or the Delaware Trustee, the Property Trustee or the Delaware Trustee as the case may be, shall have first received:

(A) an Officers' Certificate from each of the Trust and the Sponsor that such amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Securities); and

(B) an opinion of counsel (who may be counsel to the Sponsor or the Trust) that such amendment is permitted by, and conforms to, the terms of this Declaration (including the terms of the Securities); and

(iii) to the extent the result of such amendment would be to:

(A) cause the Trust to fail to continue to be classified for purposes of United States federal income taxation as a grantor trust;

(B) reduce or otherwise adversely affect the powers of the Property Trustee in contravention of the Trust Indenture Act; or

(C) cause the Trust to be deemed to be an Investment Company required to be registered under the Investment Company Act;

(c) At such time after the Trust has issued any Securities that remain outstanding, any amendment that would adversely affect the rights, privileges or preferences of any Holder of Securities may be effected only with such additional requirements as may be set forth in the terms of such Securities;

(d) Section 9.1(c) and this Section 12.1 shall not be amended without the consent of all of the Holders of the Securities;

(e) Article IV shall not be amended without the consent of the Holders of a Majority in liquidation amount of the Common Securities;

(f) The rights of the holders of the Common Securities under Article V to increase or decrease the number of, and appoint and remove, Trustees shall not be amended without the consent of the Holders of a Majority in liquidation amount of the Common Securities; and

(g) Notwithstanding Section 12.1(c), this Declaration may be amended without the consent of the Holders of the Securities to:

(i) cure any ambiguity;

(ii) correct or supplement any provision in this Declaration that may be defective or inconsistent with any other provision of this Declaration;

(iii) add to the covenants, restrictions or obligations of the Sponsor;  
or

(iv) to conform to any change in Rule 3a-5 or written change in interpretation or application of Rule 3a-5 by any legislative body, court, government agency or regulatory authority which amendment does not have a material adverse effect on the rights, preferences or privileges of the Holders of the Preferred Securities.

SECTION 12.2 Meetings of the Holders of Securities; Action by  
Written Consent

(a) Meetings of the Holders of any class of Securities may be called at any time by the Regular Trustees (or as provided in the terms of the Securities) to consider and act on any matter on which Holders of such class of Securities are entitled to act under the terms of this Declaration, the terms of the Securities or the rules of any stock exchange on which the Preferred Securities are listed or admitted for trading. The Regular Trustees shall call a meeting of the Holders of such class if directed to do so by the Holders of at least 10% in liquidation amount of such class of Securities. Such direction shall be given by delivering to the Regular Trustees one or more calls in writing stating that the signing Holders of Securities wish to call a meeting and indicating the general or specific purpose for which the meeting is to be called. Any Holders of Securities calling a meeting shall specify in writing the Certificates held by the Holders of Securities exercising the right to call a meeting and only those Securities specified shall be counted for purposes of determining whether the required percentage set forth in the second sentence of this paragraph has been met.

(b) Except to the extent otherwise provided in the terms of the Securities, the following provisions shall apply to meetings of Holders of Securities:

(i) notice of any such meeting shall be given to all the Holders of Securities having a right to vote thereat at least 7 days and not more than 60 days before the date of such meeting. Whenever a vote, consent or approval of the Holders of Securities is permitted or required under this Declaration or the rules of any stock exchange on which the Preferred Securities are listed or admitted for trading, such vote, consent or approval may be given at a meeting of the Holders of Securities. Any action that may be taken at a meeting of the Holders of Securities may be taken without a meeting if a consent in writing setting forth the action so taken is signed by the Holders of Securities owning not less than the minimum amount of Securities in liquidation amount that would be necessary to authorize or take such action at a meeting at which all Holders of Securities having a right to vote thereon were present and voting. Prompt notice of the taking of action without a meeting shall be given to the Holders of Securities entitled to vote who have not consented in writing. The Regular Trustees may specify that any written ballot submitted to the Security Holder for the purpose of taking any action without a meeting shall be returned to the Trust within the time specified by the Regular Trustees;

(ii) each Holder of a Security may authorize any Person to act for it by proxy on all matters in which a Holder of Securities is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. No

proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the Holder of Securities executing it. Except as otherwise provided herein, all matters relating to the giving, voting or validity of proxies shall be governed by the General Corporation Law of the State of Delaware relating to proxies, and judicial interpretations thereunder, as if the Trust were a Delaware corporation and the Holders of the Securities were stockholders of a Delaware corporation;

(iii) each meeting of the Holders of the Securities shall be conducted by the Regular Trustees or by such other Person that the Regular Trustees may designate; and

(iv) unless the Business Trust Act, this Declaration, the terms of the Securities, the Trust Indenture Act or the listing rules of any stock exchange on which the Preferred Securities are then listed or trading, otherwise provides, the Regular Trustees, in their sole discretion, shall establish all other provisions relating to meetings of Holders of Securities, including notice of the time, place or purpose of any meeting at which any matter is to be voted on by any Holders of Securities, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

#### ARTICLE XIII REPRESENTATIONS OF PROPERTY TRUSTEE AND DELAWARE TRUSTEE

##### SECTION 13.1 Representations and Warranties of Property Trustee

The Trustee that acts as initial Property Trustee represents and warrants to the Trust and to the Sponsor at the date of this Declaration, and each Successor Property Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Property Trustee's acceptance of its appointment as Property Trustee that:

(a) the Property Trustee is a national banking association with trust powers, duly organized, validly existing and in good standing under the laws of the United States, with trust power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, the Declaration;

(b) the execution, delivery and performance by the Property Trustee of the Declaration has been duly authorized by all necessary corporate action on the part of the Property Trustee. The Declaration has been duly executed and delivered by the Property Trustee, and it constitutes a legal, valid and binding obligation of the Property Trustee, enforceable against it in accordance with its terms, subject to



applicable bankruptcy, reorganization, moratorium, insolvency, and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law);

(c) the execution, delivery and performance of the Declaration by the Property Trustee does not conflict with or constitute a breach of the Articles of Organization or By-laws of the Property Trustee; and

(d) no consent, approval or authorization of, or registration with or notice to, any State or Federal banking authority is required for the execution, delivery or performance by the Property Trustee, of the Declaration.

#### SECTION 13.2 Representation and Warranties of Delaware Trustee

The Trustee that acts as initial Delaware Trustee represents and warrants to the Trust and to the Sponsor at the date of this Declaration, and each Successor Delaware Trustee represents and warrants to the Trust and the Sponsor at the time of the Successor Delaware Trustee's acceptance of its appointment as Delaware Trustee that:

(a) the Delaware Trustee is a Delaware corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, with corporate power and authority to execute and deliver, and to carry out and perform its obligations under the terms of, the Declaration.

(b) the Delaware Trustee has been authorized to perform its obligations under the Certificate of Trust and the Declaration. The Declaration under Delaware law constitutes a legal, valid and binding obligation of the Delaware Trustee, enforceable against it in accordance with its terms, subject to applicable bankruptcy, reorganization, moratorium, insolvency, and other similar laws affecting creditors' rights generally and to general principles of equity and the discretion of the court (regardless of whether the enforcement of such remedies is considered in a proceeding in equity or at law).

(c) no consent, approval or authorization of, or registration with or notice to, any State or Federal banking authority is required for the execution, delivery or performance by the Delaware Trustee, of the Declaration.

(d) the Delaware Trustee is a natural person who is a resident of the State of Delaware or, if not a natural person, an entity which has its principal place of business in the State of Delaware.

ARTICLE XIV MISCELLANEOUS

SECTION 14.1 Notices

All notices provided for in this Declaration shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by registered or certified mail, as follows:

(a) if given to the Trust, in care of the Regular Trustees at the Trust's mailing address set forth below (or such other address as the Trust may give notice of to the Holders of the Securities):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Facsimile: \_\_\_\_\_

(b) if given to the Delaware Trustee, at the mailing address set forth below (or such other address as Delaware Trustee may give notice of to the Holders of the Securities):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) if given to the Property Trustee, at its Corporate Trust Office to the attention of the Administrator (or such other address as the Property Trustee may give notice of to the Holders of the Securities):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facsimile: \_\_\_\_\_

(d) if given to the Holder of the Common Securities, at the mailing address of the Sponsor set forth below (or such other address as the Holder of the Common Securities may give notice to the Trust):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Facsimile: \_\_\_\_\_

(e) if given to any other Holder, at the address set forth on the books and records of the Trust.

All such notices shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid, except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 14.2 Governing Law

This Declaration and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of \_\_\_\_\_ and all rights and remedies shall be governed by such laws without regard to principles of conflict of laws.

SECTION 14.3 Intention of the Parties

It is the intention of the parties hereto that the Trust be classified for United States federal income tax purposes as a grantor trust. The provisions of this Declaration shall be interpreted to further this intention of the parties.

SECTION 14.4 Headings

Headings contained in this Declaration are inserted for convenience of reference only and do not affect the interpretation of this Declaration or any provision hereof.

SECTION 14.5 Successors and Assigns

Whenever in this Declaration any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included, and all covenants and agreements in this Declaration by the Sponsor and the Trustees shall bind and inure to the benefit of their respective successors and assigns, whether so expressed.

SECTION 14.6 Partial Enforceability

If any provision of this Declaration, or the application of such provision to any Person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SECTION 14.7 Counterparts

This Declaration may contain more than one counterpart of the signature page and this Declaration may be executed by the affixing of the signature of each party hereto to one of such counterpart signature pages. All of such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

SECTION 14.8 Recitals

The recitals contained herein and in the Securities shall be taken as the statements of the Sponsor and Trust, and the Trustees assume no responsibility for their correctness. The Trustees make no representations as to the validity or sufficiency of this Declaration or of the Securities.

IN WITNESS WHEREOF, the undersigned have caused these presents to be executed as of the day and year first above written.

\_\_\_\_\_  
\_\_\_\_\_, as Regular Trustee

\_\_\_\_\_  
\_\_\_\_\_, as Regular Trustee

\_\_\_\_\_  
\_\_\_\_\_, as Delaware Trustee

By: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_, as  
Property Trustee

By: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_, as  
Sponsor and Debenture Issuer

By: \_\_\_\_\_  
Name:  
Title:

ANNEX I

TERMS OF

\_\_\_\_\_% TRUST ORIGINATED PREFERRED SECURITIES

\_\_\_\_\_% TRUST ORIGINATED COMMON SECURITIES

Pursuant to Section 7.1 of the Amended and Restated Declaration of Trust, dated as of \_\_\_\_\_, \_\_\_\_\_, (as amended from time to time, the "Declaration"), the designation, rights, privileges, restrictions, preferences and other terms and provisions of the Preferred Securities and the Common Securities are set out below (each capitalized term used but not defined herein has the meaning set forth in the Declaration or, if not defined in such Declaration, as defined in the Prospectus referred to below:

1. Designation and Number

(a) Preferred Securities. Preferred Securities of the Trust with an aggregate liquidation amount with respect to the assets of the Trust of \_\_\_\_\_ dollars (\_\_\_\_\_) and a liquidation amount with respect to the assets of the Trust of \$\_\_\_\_ per preferred security, are hereby designated, for the purposes of identification only, as "\_\_\_\_\_% Trust Originated Preferred Securities SM `TOPrSSM')" (the "Preferred Securities"). The Preferred Security Certificates evidencing the Preferred Securities shall be substantially in the form of Exhibit A-1 to the Declaration, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice or to conform to the rules of any stock exchange on which the Preferred Securities are listed.

(b) Common Securities. Common Securities of the Trust with an aggregate liquidation amount with respect to the assets of the Trust of \_\_\_\_\_ dollars (\$\_\_\_\_\_) and a liquidation amount with respect to the assets of the Trust of \$\_\_\_\_ per common security, are hereby designated, for the purposes of identification only, as "\_\_\_\_\_% Trust Originated Common Securities" (the "Common Securities"). The Common Security Certificates evidencing the Common Securities shall be substantially in the form of Exhibit A-2 to the Declaration, with such changes and additions thereto or deletions therefrom as may be required by ordinary usage, custom or practice.

2. Distributions

(a) Distributions payable on each Security will be fixed at a rate per annum of \_\_\_\_% (the "Coupon Rate") of the stated liquidation amount of \$\_\_\_\_ per Security,

such rate being the rate of interest payable on the Debentures to be held by the Property Trustee. Distributions in arrears for more than one quarter will bear interest thereon compounded quarterly at the Coupon Rate (to the extent permitted by applicable law). The term "Distributions" as used herein includes such cash distributions and any such interest payable unless otherwise stated. A Distribution is payable only to the extent that payments are made in respect of the Debentures held by the Property Trustee and to the extent the Property Trustee has funds available therefor. The amount of Distributions payable for any period will be computed for any full quarterly Distribution period on the basis of a 360-day year of twelve 30-day months, and for any period shorter than a full quarterly Distribution period for which Distributions are computed. Distributions will be computed on the basis of the actual number of days elapsed per 90-day quarter.

(b) Distributions on the Securities will be cumulative, will accrue from \_\_\_\_\_, \_\_\_\_\_, and will be payable quarterly in arrears, on \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing on \_\_\_\_\_, \_\_\_\_\_, except as otherwise described below. The Debenture Issuer has the right under the Indenture to defer payments of interest by extending the interest payment period from time to time on the Debentures for a period not exceeding 20 consecutive quarters (each an "Extension Period"), during which Extension Period no interest shall be due and payable on the Debentures, provided that no Extension Period shall last beyond the date of maturity of the Debentures. As a consequence of such deferral, Distributions will also be deferred. Despite such deferral, quarterly Distributions will continue to accrue with interest thereon (to the extent permitted by applicable law) at the Coupon Rate compounded quarterly during any such Extension Period. Prior to the termination of any such Extension Period, the Debenture Issuer may further extend such Extension Period; provided that such Extension Period together with all such previous and further extensions thereof may not exceed 20 consecutive quarters. Payments of accrued Distributions will be payable to Holders as they appear on the books and records of the Trust on the first record date after the end of the Extension Period. Upon the termination of any Extension Period and the payment of all amounts then due, the Debenture Issuer may commence a new Extension Period, subject to the above requirements.

(c) Distributions on the Securities will be payable to the Holders thereof as they appear on the books and records of the Trust on the relevant record dates. While the Preferred Securities remain in book-entry only form, the relevant record dates shall be one Business Day prior to the relevant payment dates which payment dates correspond to the interest payment dates on the Debentures. Subject to any applicable laws and regulations and the provisions of the Declaration, each such payment in respect of the Preferred Securities will be made as described under the heading

"Description of the Preferred Securities -- Book-Entry Only Issuance -- DTC" in the Prospectus dated \_\_\_\_\_, \_\_\_\_\_, (the "Prospectus"), of the Trust included in the Registration Statement on Form S-3 of the Sponsor and the Trust. The relevant record dates for the Common Securities shall be the same record date as for the Preferred Securities. If the Preferred Securities shall not continue to remain in book-entry only form, the relevant record dates for the Preferred Securities shall conform to the rules of any securities exchange on which the securities are listed and, if none, shall be selected by the Regular Trustees, which dates shall be at least one Business Day but less than 60 Business Days before the relevant payment dates, which payment dates correspond to the interest payment dates on the Debentures. Distributions payable on any Securities that are not punctually paid on any Distribution payment date, as a result of the Debenture Issuer having failed to make a payment under the Debentures, will cease to be payable to the Person in whose name such Securities are registered on the relevant record date, and such defaulted Distribution will instead be payable to the Person in whose name such Securities are registered on the special record date or other specified date determined in accordance with the Indenture. If any date on which Distributions are payable on the Securities is not a Business Day, then payment of the Distribution payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day is in the next succeeding calendar year, such payment shall be made on the immediately preceding Business Day, in each case with the same force and effect as if made on such date.

(d) In the event that there is any money or other property held by or for the Trust that is not accounted for hereunder, such property shall be distributed Pro Rata (as defined herein) among the Holders of the Securities.

### 3. Liquidation Distribution Upon Dissolution

In the event of any voluntary or involuntary dissolution, winding-up or termination of the Trust, the Holders of the Securities on the date of the dissolution, winding-up or termination, as the case may be, will be entitled to receive out of the assets of the Trust available for distribution to Holders of Securities, after satisfaction of liabilities to creditors of the Trust, an amount equal to the aggregate of the stated liquidation amount of \$\_\_\_ per Security plus accrued and unpaid Distributions thereon to the date of payment (such amount being the "Liquidation Distribution"), unless, in connection with such dissolution, winding-up or termination, after satisfaction of liabilities to creditors of the Trust, Debentures in an aggregate principal amount equal to the aggregate stated liquidation amount of such Securities, with an interest rate equal to the Coupon Rate of, and bearing accrued and unpaid interest in an amount



equal to the accrued and unpaid Distributions on, such Securities, shall be distributed on a Pro Rata basis to the Holders of the Securities in exchange for such Securities.

If, upon any such dissolution, the Liquidation Distribution can be paid only in part because the Trust has insufficient assets available to pay in full the aggregate Liquidation Distribution, then the amounts payable directly by the Trust on the Securities shall be paid on a Pro Rata basis.

#### 4. Redemption and Distribution

(a) Upon the repayment of the Debentures in whole or in part, whether at maturity or upon redemption (either at the option of the Debenture Issuer or pursuant to a Special Event as described below), the proceeds from such repayment or payment shall be simultaneously applied to redeem Securities having an aggregate liquidation amount equal to the aggregate principal amount of the Debentures so repaid or redeemed at a redemption price of \$\_\_\_ per Security plus an amount equal to accrued and unpaid Distributions thereon at the date of the redemption, payable in cash (the "Redemption Price"). Holders will be given not less than 30 nor more than 60 days notice of such redemption, except in the case of payments upon maturity.

(b) If fewer than all the outstanding Securities are to be so redeemed, the Common Securities and the Preferred Securities will be redeemed Pro Rata and the Preferred Securities to be redeemed will be as described in Section 4(f) (ii) below.

(c) If a Tax Event or an Investment Company Event (each as defined below, and each a "Special Event") shall occur and be continuing the Regular Trustees shall, except in the case of a redemption described in this Section 4(c), dissolve the Trust and, after satisfaction of creditors, cause Debentures held by the Property Trustee, having an aggregate principal amount equal to the aggregate stated liquidation amount of, with an interest rate identical to the Coupon Rate of, and accrued and unpaid interest equal to accrued and unpaid Distributions on, and having the same record date for payment as the Securities, to be distributed to the Holders of the Securities in liquidation of such Holders' interests in the Trust on a Pro Rata basis, within 90 days following the occurrence of such Special Event (the "90 Day Period"); provided, however, that in the case of the occurrence of a Tax Event, as a condition of such dissolution and distribution, the Regular Trustees shall have received an opinion of a nationally recognized independent tax counsel experienced in such matters (a "No Recognition Opinion"), which opinion may rely on published revenue rulings of the Internal Revenue Service, to the effect that the Holders of the Securities will not recognize any gain or loss for United States federal income tax purposes as a result of the dissolution of the Trust and the distribution of Debentures, and provided, further, that, if at the time there is available to the Trust the opportunity to eliminate, within

the 90 Day Period, the Special Event by taking some ministerial action, such as filing a form or making an election, or pursuing some other similar reasonable measure that has no adverse effect on the Trust, the Debenture Issuer, the Sponsor or the Holders of the Securities ("Ministerial Action"), the Trust will pursue such Ministerial Action in lieu of dissolution.

If (a) a Tax Event has occurred and is continuing, and (i) the Debenture Issuer has received an opinion (a "Redemption Tax Opinion") of a nationally recognized independent tax counsel experienced in such matters that, as a result of a Tax Event, there is more than an insubstantial risk that the Debenture Issuer would be precluded from deducting the interest on the Debentures for United States federal income tax purposes even if the Debentures were distributed to the Holders of Securities in liquidation of such Holders' interests in the Trust as described in this Section 4(c), or (ii) the Regular Trustees shall have been informed by such tax counsel that a No Recognition Opinion cannot be delivered to the Trust, or (b) if an Investment Company Event has occurred and is continuing, then the Debenture Issuer shall have the right at any time, upon not less than 30 nor more than 60 days' notice, to redeem the Debentures in whole or in part for cash within 90 days following the occurrence of such Tax Event, or Investment Company Event, as the case may be and, following such redemption, Securities with an aggregate liquidation amount equal to the aggregate principal amount of the Debentures so redeemed shall be redeemed by the Trust at the Redemption Price on a Pro Rata basis; provided, however, that, if at the time there is available to the Trust the opportunity to eliminate, within such 90 day period, such Special Event by taking some Ministerial Action, the Trust or the Debenture Issuer will pursue such Ministerial Action in lieu of redemption.

"Tax Event" means that the Regular Trustees shall have received an opinion of a nationally recognized independent tax counsel experienced in such matters to the effect that on or after the date of the Prospectus, as a result of (a) any amendment to, or change (including any announced prospective change) in, the laws (or any regulations thereunder) of the United States or any political subdivision or taxing authority therefor or therein, or (b) any amendment to, or change in, an interpretation or application of any such laws or regulations by any legislative body, court, governmental agency or regulatory authority, which amendment or change is enacted, promulgated, issued or announced or which interpretation or pronouncement is issued or announced or which action is taken, in each case on or after the date of the Prospectus, there is more than an insubstantial risk that (i) the Trust is or will be within 90 days of the date thereof, subject to United States federal income tax with respect to interest accrued or received on the Debentures, (ii) the Trust is, or will be within 90 days of the date thereof, subject to more than a de minimis amount of taxes, duties or other governmental charges, or (iii) interest payable by the Debenture Issuer

to the Trust on the Debentures is not, or within 90 days of the date thereof will not be, deductible, in whole or in part, by the Debenture Issuer for United States federal income tax purposes.

"Investment Company Event" means that the Regular Trustees shall have received an opinion of a nationally recognized independent counsel experienced in practice under the Investment Company Act (an "Investment Company Event Opinion") that, as a result of the occurrence of a change in law or regulation or a written change in interpretation or application of law or regulation by any legislative body, court, governmental agency or regulatory authority (a "Change in 1940 Act Law"), there is a more than an insubstantial risk that the Trust is or will be considered an Investment Company which is required to be registered under the Investment Company Act, which Change in 1940 Act Law becomes effective on or after the date of the Prospectus.

On and from the date fixed by the Regular Trustees for any distribution of Debentures and dissolution of the Trust: (i) the Securities will no longer be deemed to be outstanding, (ii) The Depository Trust Company (the "Depository") or its nominee (or any successor Clearing Agency or its nominee), as the record Holder of the Preferred Securities, will receive a registered global certificate or certificates representing the Debentures to be delivered upon such distribution and (iii) any certificates representing Securities, except for certificates representing Preferred Securities held by the Depository or its nominee (or any successor Clearing Agency or its nominee), will be deemed to represent beneficial interests in the Debentures having an aggregate principal amount equal to the aggregate stated liquidation amount of, with an interest rate identical to the Coupon Rate of, and accrued and unpaid interest equal to accrued and unpaid Distributions on such Securities until such certificates are presented to the Debenture Issuer or its agent for transfer or reissue.

(d) The Trust may not redeem fewer than all the outstanding Securities unless all accrued and unpaid Distributions have been paid on all Securities for all quarterly Distribution periods terminating on or before the date of redemption.

(e) If the Debentures are distributed to holders of the Securities, pursuant to the terms of the Indenture, the Debenture Issuer will use its best efforts to have the Debentures listed on the New York Stock Exchange or on such other exchange as the Preferred Securities were listed immediately prior to the distribution of the Debentures.

(f) "Redemption or Distribution Procedures."

(i) Notice of any redemption of, or notice of distribution of Debentures in exchange for the Securities (a "Redemption/Distribution Notice") will be given by the Trust by mail to each Holder of Securities to be redeemed or exchanged not fewer than 30 nor more than 60 days before the date fixed for redemption or exchange thereof which, in the case of a redemption, will be the date fixed for redemption of the Debentures. For purposes of the calculation of the date of redemption or exchange and the dates on which notices are given pursuant to this Section 4(f)(i), a Redemption/Distribution Notice shall be deemed to be given on the day such notice is first mailed by first-class mail, postage prepaid, to Holders of Securities. Each Redemption/Distribution Notice shall be addressed to the Holders of Securities at the address of each such Holder appearing in the books and records of the Trust. No defect in the Redemption/Distribution Notice or in the mailing of either thereof with respect to any Holder shall affect the validity of the redemption or exchange proceedings with respect to any other Holder.

(ii) In the event that fewer than all the outstanding Securities are to be redeemed, the Securities to be redeemed shall be redeemed Pro Rata from each Holder of Preferred Securities, it being understood that, in respect of Preferred Securities registered in the name of and held of record by the Depository or its nominee (or any successor Clearing Agency or its nominee) or any nominee, the distribution of the proceeds of such redemption will be made to each Clearing Agency Participant (or Person on whose behalf such nominee holds such securities) in accordance with the procedures applied by such agency or nominee.

(iii) If Securities are to be redeemed and the Trust gives a Redemption/Distribution Notice, which notice may only be issued if the Debentures are redeemed as set out in this Section 4 (which notice will be irrevocable), then (A) while the Preferred Securities are in book-entry only form, with respect to the Preferred Securities, by 12:00 noon, New York City time, on the redemption date, provided that the Debenture Issuer has paid the Property Trustee a sufficient amount of cash in connection with the related redemption or maturity of the Debentures, the Property Trustee will deposit irrevocably with the Depository or its nominee (or successor Clearing Agency or its nominee) funds sufficient to pay the applicable Redemption Price with respect to the Preferred Securities and will give the Depository irrevocable instructions and authority to pay the Redemption Price to the Holders of the Preferred Securities, and (B) with respect to Preferred Securities issued in definitive form and Common Securities, provided that the Debenture Issuer has paid the Property Trustee a sufficient amount of cash in connection with the related redemption or maturity of the Debentures, the Property Trustee will pay the relevant Redemption Price to the Holders of such Securities by check mailed to the address of the relevant Holder appearing on the books and records of the Trust on the redemption

date. If a Redemption/Distribution Notice shall have been given and funds deposited as required, if applicable, then immediately prior to the close of business on the date of such deposit, or on the redemption date, as applicable, distributions will cease to accrue on the Securities so called for redemption and all rights of Holders of such Securities so called for redemption will cease, except the right of the Holders of such Securities to receive the Redemption Price, but without interest on such Redemption Price. Neither the Regular Trustees nor the Trust shall be required to register or cause to be registered the transfer of any Securities that have been so called for redemption. If any date fixed for redemption of Securities is not a Business Day, then payment of the Redemption Price payable on such date will be made on the next succeeding day that is a Business Day (and without any interest or other payment in respect of any such delay) except that, if such Business Day falls in the next calendar year, such payment will be made on the immediately preceding Business Day, in each case with the same force and effect as if made on such date fixed for redemption. If payment of the Redemption Price in respect of any Securities is improperly withheld or refused and not paid either by the Property Trustee or by the Sponsor as guarantor pursuant to the relevant Securities Guarantee, Distributions on such Securities will continue to accrue from the original redemption date to the actual date of payment, in which case the actual payment date will be considered the date fixed for redemption for purposes of calculating the Redemption Price.

(iv) Redemption/Distribution Notices shall be sent by the Regular Trustees on behalf of the Trust to (A) in respect of the Preferred Securities, the Depository or its nominee (or any successor Clearing Agency or its nominee) if the Global Certificate(s) have been issued or, if Definitive Preferred Security Certificates have been issued, to the Holder thereof, and (B) in respect of the Common Securities to the Holder thereof.

(v) Subject to the foregoing and applicable law (including, without limitation, United States federal securities laws), provided the acquirer is not the Holder of the Common Securities or the obligor under the Indenture, the Sponsor or any of its subsidiaries may at any time and from time to time purchase outstanding Preferred Securities by tender, in the open market or by private agreement.

#### 5. Voting Rights - Preferred Securities

(a) Except as provided under Sections 5(b) and 7 and as otherwise required by law and the Declaration, the Holders of the Preferred Securities will have no voting rights.

(b) Subject to the requirements set forth in this paragraph, the Holders of a Majority in liquidation amount of the Preferred Securities, voting separately as a class

may direct the time, method, and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under the Declaration, including (i) directing the time, method, place of conducting any proceeding for any remedy available to the Debenture Trustee, or exercising any trust or power conferred on the Debenture Trustee with respect to the Debentures, (ii) waive any past default and its consequences that is waivable under Section 5.10 of the Indenture, or (iii) exercise any right to rescind or annul a declaration that the principal of all the Debentures shall be due and payable. The Property Trustee shall not revoke any action previously authorized or approved by a vote of the Holders of the Preferred Securities. Other than with respect to directing the time, method and place of conducting any remedy available to the Property Trustee or the Debenture Trustee as set forth above, the Property Trustee shall not take any action in accordance with the directions of the Holders of the Preferred Securities under this paragraph unless the Property Trustee has obtained an opinion of tax counsel, at the reasonable expense of the Trust, to the effect that for the purposes of United States federal income tax the Trust will not be classified as other than a grantor trust on account of such action. In addition, a Holder of Preferred Securities may directly institute a proceeding for enforcement of payment to such Holder directly of the principal of or interest on Subordinated Notes having a principal amount equal to the aggregate liquidation preference amount of the Preferred Securities of such Holder on or after the respective due dates specified in the Subordinated Notes. With respect to the Property Trustee's rights other than its rights to receive payment on the Debentures as holder of the Debentures, if the Property Trustee fails to enforce its rights under the Declaration, to the fullest extent permitted by law, any Holder of Preferred Securities may, institute a legal proceeding directly against any Person to enforce the Property Trustee's rights under the Declaration without first instituting a legal proceeding against the Property Trustee or any other Person.

Any approval or direction of Holders of Preferred Securities may be given at a separate meeting of Holders of Preferred Securities convened for such purpose, at a meeting of all of the Holders of Securities in the Trust or pursuant to written consent. The Regular Trustees will cause a notice of any meeting at which Holders of Preferred Securities are entitled to vote, or of any matter upon which action by written consent of such Holders is to be taken, to be mailed to each Holder of record of Preferred Securities. Each such notice will include a statement setting forth (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote or of such matter upon which written consent is sought and (iii) instructions for the delivery of proxies or consents.

No vote or consent of the Holders of the Preferred Securities will be required for the Trust to redeem and cancel Preferred Securities or to distribute the Debentures in accordance with the Declaration and the terms of the Securities.

Notwithstanding that Holders of Preferred Securities are entitled to vote or consent under any of the circumstances described above, any of the Preferred Securities that are owned by the Sponsor or any Affiliate of the Sponsor shall not be entitled to vote or consent and shall, for purposes or such vote or consent, be treated as if they were not outstanding.

6. Voting Rights - Common Securities

(a) Except as provided under Sections 6(b), (c) and 7 and as otherwise required by law and the Declaration, the Holders of the Common Securities will have no voting rights.

(b) The Holders of the Common Securities are entitled, in accordance with Article V of the Declaration, to vote to appoint, remove or replace any Trustee or to increase or decrease the number of Trustees.

(c) Subject to Section 2.6 of the Declaration and only after the Event of Default with respect to the Preferred Securities has been cured, waived, or otherwise eliminated and subject to the requirements of the second to last sentence of this paragraph, the Holders of a Majority in liquidation amount of the Common Securities, voting separately as a class, may direct the time, method, and place of conducting any proceeding for any remedy available to the Property Trustee, or exercising any trust or power conferred upon the Property Trustee under the Declaration, including (i) directing the time, method, place of conducting any proceeding for any remedy available to the Debenture Trustee, or exercising any trust or power conferred on the Debenture Trustee with respect to the Debentures, (ii) waive any past default and its consequences that is waivable under Section 5.10 of the Indenture, or (iii) exercise any right to rescind or annul a declaration that the principal of all the Debentures shall be due and payable, provided that, where a consent or action under the Indenture would require the consent or act of the Holders of greater than a majority in principal amount of Debentures affected thereby (a "Super Majority"), the Property Trustee may only give such consent or take such action at the written direction of the Holders of at least the proportion in liquidation amount of the Common Securities which the relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding. Pursuant to this Section 6(c), the Property Trustee shall not revoke any action previously authorized or approved by a vote of the Holders of the Preferred Securities. Other than with respect to directing the time, method and place of conducting any remedy available to the Property Trustee or the Debenture Trustee

as set forth above, the Property Trustee shall not take any action in accordance with the directions of the Holders of the Common Securities under this paragraph unless the Property Trustee has obtained an opinion of tax counsel, at the reasonable expense of the Trust, to the effect that for the purposes of United States federal income tax the Trust will not be classified as other than a grantor trust on account of such action. In addition, a Holder of Common Securities may directly institute a proceeding for enforcement of payment to such Holder directly of the principal of or interest on Debentures having a principal amount equal to the aggregate liquidation preference amount of the Common Securities of such Holder on or after the respective due dates specified in the Debentures. With respect to the Property Trustee's rights other than its rights to receive payment on the Debentures as holder of the Debentures, if the Property Trustee fails to enforce its rights under the Declaration, to the fullest extent permitted by applicable law, any Holder of Common Securities may institute a legal proceeding directly against any Person to enforce the Property Trustee's rights under the Declaration, without first instituting a legal proceeding against the Property Trustee or any other Person.

Any approval or direction of Holders of Common Securities may be given at a separate meeting of Holders of Common Securities convened for such purpose, at a meeting of all of the Holders of Securities in the Trust or pursuant to written consent. The Regular Trustees will cause a notice of any meeting at which Holders of Common Securities are entitled to vote, or of any matter upon which action by written consent of such Holders is to be taken, to be mailed to each Holder of record of Common Securities. Each such notice will include a statement setting forth (i) the date of such meeting or the date by which such action is to be taken, (ii) a description of any resolution proposed for adoption at such meeting on which such Holders are entitled to vote or of such matter upon which written consent is sought and (iii) instructions for the delivery of proxies or consents.

No vote or consent of the Holders of the Common Securities will be required for the Trust to redeem and cancel Common Securities or to distribute the Debentures in accordance with the Declaration and the terms of the Securities.

#### 7. Amendments to Declaration and Indenture

(a) In addition to any requirements under Section 12.1 of the Declaration, if any proposed amendment to the Declaration provides for, or the Regular Trustees otherwise propose to effect, (i) any action that would adversely affect the powers, preferences or special rights of the Securities, whether by way of amendment to the Declaration or otherwise, or (ii) the dissolution, winding-up or termination of the Trust, other than as described in Section 8.1 of the Declaration, then the Holders of



outstanding Securities as a class will be entitled to vote on such amendment or proposal (but not on any other amendment or proposal) and such amendment or proposal shall not be effective except with the approval of the Holders of at least a Majority in liquidation amount of the Securities, voting together as a single class; provided, however, if any amendment or proposal referred to in clause (i) above would adversely affect only the Preferred Securities or only the Common Securities, then only the affected class will be entitled to vote on such amendment or proposal and such amendment or proposal shall not be effective except with the approval of a Majority in liquidation amount of such class of Securities; and provided further, that no such amendment or proposal which would reduce the principal amount or the distribution rate or change the payment dates or maturity of the Preferred Securities shall be permitted without the consent of each holder of Preferred Securities.

(b) In the event the consent of the Property Trustee as the holder of the Debentures is required under the Indenture with respect to any amendment, modification or termination on the Indenture or the Debentures, the Property Trustee shall request the written direction of the Holders of the Securities with respect to such amendment, modification or termination and shall vote with respect to such amendment, modification or termination as directed by a Majority in liquidation amount of the Preferred Securities, and if no Event of Default has occurred and is continuing, a majority in liquidation amount of the Common Securities voting together as a single class; provided, however, that where a consent under the Indenture would require the consent of the holders of greater than a majority in aggregate principal amount of the Debentures (a "Super Majority"), the Property Trustee may only give such consent at the direction of the Holders of at least the proportion in liquidation amount of the Securities which the relevant Super Majority represents of the aggregate principal amount of the Debentures outstanding; provided, further, that the Property Trustee shall not take any action in accordance with the directions of the Holders of the Securities under this Section 7(b) unless the Property Trustee has obtained an opinion of tax counsel to the effect that for the purposes of United States federal income tax the Trust will not be classified as other than a grantor trust on account of such action.

#### 8. Pro Rata

A reference in these terms of the Securities to any payment, distribution or treatment as being "Pro Rata" shall mean pro rata to each Holder of Securities according to the aggregate liquidation amount of the Securities held by the relevant Holder in relation to the aggregate liquidation amount of all Securities outstanding unless, in relation to a payment, an Event of Default under the Declaration has occurred and is continuing, in which case any funds available to make such payment

shall be paid first to each Holder of the Preferred Securities pro rata according to the aggregate liquidation amount of Preferred Securities held by the relevant Holder relative to the aggregate liquidation amount of all Preferred Securities outstanding, and only after satisfaction of all amounts owed to the Holders of the Preferred Securities, to each Holder of Common Securities pro rata according to the aggregate liquidation amount of Common Securities held by the relevant Holder relative to the aggregate liquidation amount of all Common Securities outstanding.

9. Ranking

The Preferred Securities rank pari passu and payment thereon shall be made Pro Rata with the Common Securities except that, where an Event of Default occurs and is continuing under the Indenture in respect of the Debentures held by the Property Trustee, the rights of Holders of the Common Securities to payment in respect of Distributions and payments upon liquidation, redemption and otherwise are subordinated to the rights to payment of the Holders of the Preferred Securities.

10. Listing

The Regular Trustees shall use their best efforts to cause the Preferred Securities to be listed for quotation on the New York Stock Exchange.

11. Acceptance of Securities Guarantee and Indenture

Each Holder of Preferred Securities and Common Securities, by the acceptance thereof, agrees to the provisions of the Preferred Securities Guarantee and the Common Securities Guarantee, respectively, including the subordination provisions therein and to the provisions of the Indenture, including the subordination provisions therein.

12. No Preemptive Rights

The Holders of the Securities shall have no preemptive rights to subscribe for any additional securities.

13. Miscellaneous

These terms constitute a part of the Declaration.

The Sponsor will provide a copy of the Declaration, the Preferred Securities Guarantee or the Common Securities Guarantee (as may be appropriate), and the Indenture to a Holder without charge on written request to the Sponsor at its principal place of business.

EXHIBIT A-1

FORM OF PREFERRED SECURITY CERTIFICATE

[IF THE PREFERRED SECURITY IS TO BE A GLOBAL CERTIFICATE INSERT -- THIS PREFERRED SECURITY IS A GLOBAL CERTIFICATE WITHIN THE MEANING OF THE DECLARATION HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITORY TRUST COMPANY (THE "DEPOSITORY") OR A NOMINEE OF THE DEPOSITORY. THIS PREFERRED SECURITY IS EXCHANGEABLE FOR PREFERRED SECURITIES REGISTERED IN THE NAME OF A PERSON OTHER THAN THE DEPOSITORY OR ITS NOMINEE ONLY IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE DECLARATION AND NO TRANSFER OF THIS PREFERRED SECURITY (OTHER THAN A TRANSFER OF THIS PREFERRED SECURITY AS A WHOLE BY THE DEPOSITORY TO A NOMINEE OF THE DEPOSITORY OR BY A NOMINEE OF THE DEPOSITORY TO THE DEPOSITORY OR ANOTHER NOMINEE OF THE DEPOSITORY) MAY BE REGISTERED EXCEPT IN LIMITED CIRCUMSTANCES .

UNLESS THIS PREFERRED SECURITY IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) TO THE TRUST OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY PREFERRED SECURITY ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY AND ANY PAYMENT HEREON IS MADE TO CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY A PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]

Certificate Number: 1-

Number of Preferred Securities: \_\_\_\_\_

CUSIP NO.: [\_\_\_\_\_]

Certificate Evidencing Preferred Securities

of

\_\_\_\_\_ % Trust Originated Preferred Securities (SM)  
("TOPrS" (SM)) (liquidation amount \$25 per Preferred Security)  
\_\_\_\_\_, a statutory business trust created under the laws of the State of Delaware (the "Trust"), hereby certifies that \_\_\_\_\_, not in its individual capacity, but solely as Property Trustee of \_\_\_\_\_ (the "Holder") is the registered owner of preferred securities of the Trust representing undivided beneficial interests in the assets of the Trust designated the \_\_\_\_\_ % Trust Originated Preferred Securities (SM) (liquidation amount \$\_\_ per Preferred Security) (the "Preferred Securities"). The Preferred Securities are transferable on the books and records of the Trust, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designation, rights, privileges, restrictions, preferences and other terms and provisions of the Preferred Securities represented hereby are issued and shall in all respects be subject to the provisions of the Amended and Restated Declaration of Trust of the Trust dated as of \_\_\_\_\_, \_\_\_\_\_, as the same may be amended from time to time (the "Declaration"), including the designation of the terms of the Preferred Securities as set forth in Annex I to the Declaration. Capitalized terms used herein but not defined shall have the meaning given them in the Declaration. The Holder is entitled to the benefits of the Preferred Securities Guarantee to the extent provided therein. The Sponsor will provide a copy of the Declaration, the Preferred Securities Guarantee and the Indenture to a Holder without charge upon written request to the Trust at its principal place of business.

Upon receipt of this certificate, the Holder is bound by the Declaration and is entitled to the benefits thereunder.

By acceptance, the Holder agrees to treat, for United States federal income tax purposes, the Debentures as indebtedness and the Preferred Securities as evidence of indirect beneficial ownership in the Debentures.

IN WITNESS WHEREOF, the \_\_\_\_\_ has executed this certificate this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Name:  
Title:

PROPERTY TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Preferred Securities referred to in the within-mentioned Declaration.

Dated: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_ as  
Property Trustee

By: \_\_\_\_\_  
Name:  
Title:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Preferred Security Certificate to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Insert assignee's social security or tax identification number)

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(Insert address and zip code of assignee)

and irrevocably appoints

---

---

agent to transfer this Preferred Security Certificate on the books of the Trust.  
The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

(Sign exactly as your name appears on the other side of this Preferred Security Certificate)

EXHIBIT A-2  
FORM OF COMMON SECURITY CERTIFICATE

Certificate Number: 1  
Number of Common Securities: \_\_\_\_\_

Certificate Evidencing Common Securities

of

\_\_\_\_\_  
\_\_\_\_\_ % Trust Originated Common Securities  
(liquidation amount \$\_\_ per Common Security)

\_\_\_\_\_, a statutory business trust created under the laws of the State of Delaware (the "Trust"), hereby certifies that \_\_\_\_\_, (the "Holder"), is the registered owner of common securities of the Trust representing undivided beneficial interests in the assets of the Trust designated the \_\_\_ % Trust Originated Common Securities (liquidation amount \$\_\_ per Common Security) (the "Common Securities"). The Common Securities are transferable on the books and records of the Trust, in person or by a duly authorized attorney, upon surrender of this certificate duly endorsed and in proper form for transfer. The designation, rights, privileges, restrictions, preferences and other terms and provisions of the Common Securities represented hereby are issued and shall in all respects be subject to the provisions of the Amended and Restated Declaration of Trust of the Trust dated as of \_\_\_\_\_, \_\_\_\_\_, as the same may be amended from time to time (the "Declaration"), including the designation of the terms of the Common Securities as set forth in Annex I to the Declaration. Capitalized terms used herein but not defined shall have the meaning given them in the Declaration. The Holder is entitled to the benefits of the Common Securities Guarantee to the extent provided therein. The Sponsor will provide a copy of the Declaration, the Common Securities Guarantee and the Indenture to a Holder without charge upon written request to the Sponsor at its principal place of business.

Upon receipt of this certificate, the Sponsor is bound by the Declaration and is entitled to the benefits thereunder.

By acceptance, the Holder agrees to treat, for United States federal income tax purposes, the Debentures as indebtedness and the Common Securities as evidence of indirect beneficial ownership in the Debentures.

IN WITNESS WHEREOF, \_\_\_\_\_ has executed this certificate  
this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_

Name:

Title:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned assigns and transfers this Common Security Certificate to:

\_\_\_\_\_  
\_\_\_\_\_  
(Insert assignee's social security or tax identification number)

\_\_\_\_\_  
\_\_\_\_\_  
(Insert address and zip code of assignee)

and irrevocably appoints

\_\_\_\_\_  
\_\_\_\_\_  
agent to transfer this Common Security Certificate on the books of the Trust.  
The agent may substitute another to act for him or her.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

(Sign exactly as your name appears on this Preferred Security Certificate)



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PREFERRED SECURITIES GUARANTEE AGREEMENT

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Dated as of \_\_\_\_\_ \_\_, \_\_\_\_\_

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PREFERRED SECURITIES GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT (the "Preferred Securities Guarantee"), dated as of \_\_\_\_\_, \_\_\_\_\_, is executed and delivered by \_\_\_\_\_, a \_\_\_\_\_ corporation (the "Guarantor"), and \_\_\_\_\_, as trustee (the "Preferred Guarantee Trustee"), for the benefit of the Holders (as defined herein) from time to time of the Preferred Securities (as defined herein) of \_\_\_\_\_, a Delaware statutory business trust (the "Issuer").

WHEREAS, pursuant to an Amended and Restated Declaration of Trust (the "Declaration"), dated as of \_\_\_\_\_, \_\_\_\_\_, among the trustees of the Issuer named therein, the Guarantor, as sponsor, and the holders from time to time of undivided beneficial interests in the assets of the Issuer, the Issuer is issuing on the date hereof \_\_\_\_\_ preferred securities, having an aggregate liquidation amount of \_\_\_\_\_ designated the \_\_\_\_\_ % Trust Originated Preferred Securities (the "Preferred Securities");

WHEREAS, as incentive for the Holders to purchase the Preferred Securities, the Guarantor desires irrevocably and unconditionally to agree, to the extent set forth in this Preferred Securities Guarantee, to pay to the Holders of the Preferred Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein; and

WHEREAS, the Guarantor is also executing and delivering a guarantee agreement (the "Common Securities Guarantee") in substantially identical terms to this Preferred Securities Guarantee for the benefit of the holders of the Common Securities (as defined herein), except that if an Event of Default (as defined in the Indenture), has occurred and is continuing, the rights of holders of the Common Securities to receive Guarantee Payments under the Common Securities Guarantee are subordinated to the rights of Holders of Preferred Securities to receive Guarantee Payments under this Preferred Securities Guarantee;

NOW, THEREFORE, in consideration of the purchase by each Holder of Preferred Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Preferred Securities Guarantee for the benefit of the Holders.

ARTICLE I DEFINITIONS AND INTERPRETATION

SECTION 1.1 Definitions and Interpretation

In this Preferred Securities Guarantee, unless the context otherwise requires:

- (a) Capitalized terms used in this Preferred Securities Guarantee but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1;
- (b) a term defined anywhere in this Preferred Securities Guarantee has the same meaning throughout;
- (c) all references to "the Preferred Securities Guarantee" or "this Preferred Securities Guarantee" are to this Preferred Securities Guarantee as modified, supplemented or amended from time to time;
- (d) all references in this Preferred Securities Guarantee to Articles and Sections are to Articles and Sections of this Preferred Securities Guarantee, unless otherwise specified;
- (e) a term defined in the Trust Indenture Act has the same meaning when used in this Preferred Securities Guarantee, unless otherwise defined in this Preferred Securities Guarantee or unless the context otherwise requires; and
- (f) a reference to the singular includes the plural and vice versa.

"Affiliate" has the same meaning as given to that term in Rule 405 of the Securities Act of 1933, as amended, or any successor rule thereunder.

"Authorized Officer" of a Person means any Person that is authorized to bind such Person.

"Business Day" means any day other than a day on which banking institutions in the City of New York, New York or Chicago Illinois are authorized or required by any applicable law to close.

"Common Securities" means the securities representing common undivided beneficial interests in the assets of the Issuer.

"Corporate Trust Office" means the office of the Preferred Guarantee Trustee at which the corporate trust business of the Preferred Guarantee Trustee shall, at any

particular time, be principally administered, which office at the date of execution of this Agreement is located at \_\_\_\_\_.

"Covered Person" means any Holder or beneficial owner of Preferred Securities.

"Debentures" means the series of junior subordinated debt securities of the Guarantor designated the \_\_\_\_% Subordinated Deferrable Interest Notes due \_\_\_\_\_, \_\_\_\_\_ held by the Property Trustee (as defined in the Declaration) of the Issuer.

"Event of Default" means a default by the Guarantor on any of its payment or other obligations under this Preferred Securities Guarantee.

"Guarantee Payments" means the following payments or distributions, without duplication, with respect to the Preferred Securities, to the extent not paid or made by the Issuer: (i) any accrued and unpaid Distributions (as defined in the Declaration) that are required to be paid on such Preferred Securities to the extent the Issuer shall have funds available therefor, (ii) the redemption price, including all accrued and unpaid Distributions to the date of redemption (the "Redemption Price") to the extent the Issuer has funds available therefor, with respect to any Preferred Securities called for redemption by the Issuer, and (iii) upon a voluntary or involuntary dissolution, winding-up or termination of the Issuer (other than in connection with the distribution of Debentures to the Holders in exchange for Preferred Securities as provided in the Declaration), the lesser of (a) the aggregate of the liquidation amount and all accrued and unpaid Distributions on the Preferred Securities to the date of payment, to the extent the Issuer shall have funds available therefor, and (b) the amount of assets of the Issuer remaining available for distribution to Holders in liquidation of the Issuer (in either case, the "Liquidation Distribution"). If an event of default under the Indenture has occurred and is continuing, the rights of holders of the Common Securities to receive payments under the Common Securities Guarantee Agreement are subordinated to the rights of Holders of Preferred Securities to receive Guarantee Payments.

"Holder" shall mean any holder, as registered on the books and records of the Issuer of any Preferred Securities; provided, however, that, in determining whether the holders of the requisite percentage of Preferred Securities have given any request, notice, consent or waiver hereunder, "Holder" shall not include the Guarantor or any Affiliate of the Guarantor.

"Indemnified Person" means the Preferred Guarantee Trustee, any Affiliate of the Preferred Guarantee Trustee, or any officers, directors, shareholders, members,

partners, employees, representatives, nominees, custodians or agents of the Preferred Guarantee Trustee.

"Indenture" means the Indenture dated as of \_\_\_\_\_, \_\_\_\_\_, between the Guarantor (the "Debenture Issuer") and \_\_\_\_\_, as trustee, and any indenture supplemental thereto pursuant to which certain subordinated debt securities of the Debenture Issuer are to be issued to the Property Trustee of the Issuer.

"Majority in liquidation amount of the Securities" means, except as provided by the Trust Indenture Act, a vote by Holder(s) of Preferred Securities, voting separately as a class, of more than 50% of the liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accrued and unpaid Distributions to the date upon which the voting percentages are determined) of all Preferred Securities.

"Officers' Certificate" means, with respect to any Person, a certificate signed by two Authorized Officers of such Person. Any Officers' Certificate delivered with respect to compliance with a condition or covenant provided for in this Preferred Securities Guarantee shall include:

- (a) a statement that each officer signing the Officers' Certificate has read the covenant or condition and the definition relating thereto;
- (b) a brief statement of the nature and scope of the examination or investigation undertaken by each officer in rendering the Officers' Certificate;
- (c) a statement that each such officer has made such examination or investigation as, in such officer's opinion, is necessary to enable such officer to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (d) a statement as to whether, in the opinion of each such officer, such condition or covenant has been complied with.

"Person" means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated association, or government or any agency or political subdivision thereof, or any other entity of whatever nature.

"Preferred Guarantee Trustee" means \_\_\_\_\_, until a Successor Preferred Guarantee Trustee has been appointed and has accepted such

appointment pursuant to the terms of this Preferred Securities Guarantee and thereafter means each such Successor Preferred Guarantee Trustee.

"Responsible Officer" means, with respect to the Preferred Guarantee Trustee, any officer assigned to administer corporate trust matters and also means, with respect to a particular matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

"Successor Preferred Guarantee Trustee" means a successor Preferred Guarantee Trustee possessing the qualifications to act as Preferred Guarantee Trustee under Section 4.1.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended.

## ARTICLE II TRUST INDENTURE ACT

### SECTION 2.1 Trust Indenture Act; Application

(a) This Preferred Securities Guarantee is subject to the provisions of the Trust Indenture Act that are required to be part of this Preferred Securities Guarantee and shall, to the extent applicable, be governed by such provisions; and

(b) if and to the extent that any provision of this Preferred Securities Guarantee limits, qualifies or conflicts with the duties imposed by Sections 310 to 317, inclusive, of the Trust Indenture Act, such imposed duties shall control.

### SECTION 2.2 Lists of Holders of Securities

(a) The Guarantor shall provide the Preferred Guarantee Trustee with a list, in such form as the Preferred Guarantee Trustee may reasonably require, of the names and addresses of the Holders of the Preferred Securities ("List of Holders") as of such date, (i) within 14 days after January 1 and June 30 of each year, and (ii) at any other time within 30 days of receipt by the Guarantor of a written request for a List of Holders as of a date no more than 14 days before such List of Holders is given to the Preferred Guarantee Trustee provided, that the Guarantor shall not be obligated to provide such List of Holders at any time the List of Holders does not differ from the most recent List of Holders given to the Preferred Guarantee Trustee by the Guarantor. The Preferred Guarantee Trustee may destroy any List of Holders previously given to it on receipt of a new List of Holders.

(b) The Preferred Guarantee Trustee shall comply with its obligations under 311(a), 311(b) and 312(b) of the Trust Indenture Act.



SECTION 2.3 Reports by the Preferred Guarantee Trustee

Within 60 days after May 15 of each year, the Preferred Guarantee Trustee shall provide to the Holders of the Preferred Securities such reports as are required by Section 313 of the Trust Indenture Act, if any, in the form and in the manner provided by Section 313 of the Trust Indenture Act.

SECTION 2.4 Reports to Preferred Guarantee Trustee

The Guarantor shall provide to the Preferred Guarantee Trustee such documents, reports and information as required by Section 314 (if any) and the compliance certificate required by Section 314 of the Trust Indenture Act in the form, in the manner and at the times required by Section 314 of the Trust Indenture Act.

SECTION 2.5 Evidence of Compliance with Conditions Precedent

The Guarantor shall provide to the Preferred Guarantee Trustee such evidence of compliance with any conditions precedent, if any, provided for in this Preferred Securities Guarantee that relate to any of the matters set forth in Section 314(c) of the Trust Indenture Act. Any certificate or opinion required to be given by an officer pursuant to Section 314(c) (1) may be given in the form of an Officers' Certificate.

SECTION 2.6 Events of Default; Waiver

The Holders of a Majority in liquidation amount of Preferred Securities may, by vote, on behalf of the Holders of all of the Preferred Securities, waive any past Event of Default and its consequences. Upon such waiver, any such Event of Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Preferred Securities Guarantee, but no such waiver shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

SECTION 2.7 Event of Default; Notice

(a) The Preferred Guarantee Trustee shall, within 90 days after the occurrence of an Event of Default actually known to a Responsible Officer of the Preferred Guarantee Trustee, transmit by mail, first class postage prepaid, to the Holders of the Preferred Securities, notices of all such Events of Default, unless such defaults have been cured before the giving of such notice, provided, that, the Preferred Guarantee Trustee shall be protected in withholding such notice, to the extent permitted by the Trust Indenture Act, if and so long as a Responsible Officer of the

Preferred Guarantee Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Preferred Securities.

(b) The Preferred Guarantee Trustee shall not be deemed to have knowledge of any Event of Default unless the Preferred Guarantee Trustee shall have received written notice, or a Responsible Officer of the Preferred Guarantee Trustee charged with the administration of the Declaration shall have obtained actual knowledge thereof.

#### SECTION 2.8 Conflicting Interests

The Declaration shall be deemed to be specifically described in this Preferred Securities Guarantee for the purposes of clause (i) of the first proviso contained in Section 310(b) of the Trust Indenture Act.

### ARTICLE III POWERS, DUTIES AND RIGHTS OF PREFERRED GUARANTEE TRUSTEE

#### SECTION 3.1 Powers and Duties of the Preferred Guarantee Trustee

(a) This Preferred Securities Guarantee shall be held by the Preferred Guarantee Trustee for the benefit of the Holders of the Preferred Securities, and the Preferred Guarantee Trustee shall not transfer this Preferred Securities Guarantee to any Person except a Holder of Preferred Securities exercising his or her rights pursuant to Section 5.4(b) or to a Successor Preferred Guarantee Trustee on acceptance by such Successor Preferred Guarantee Trustee of its appointment to act as Successor Preferred Guarantee Trustee. The right, title and interest of the Preferred Guarantee Trustee shall automatically vest in any Successor Preferred Guarantee Trustee, and such vesting and cessation of title shall be effective whether or not conveyancing documents have been executed and delivered pursuant to the appointment of such Successor Preferred Guarantee Trustee.

(b) If an Event of Default actually known to a Responsible Officer of the Preferred Guarantee Trustee has occurred and is continuing, the Preferred Guarantee Trustee shall enforce this Preferred Securities Guarantee for the benefit of the Holders of the Preferred Securities.

(c) The Preferred Guarantee Trustee, before the occurrence of any Event of Default and after the curing of all Events of Default that may have occurred, shall undertake to perform only such duties as are specifically set forth in this Preferred Securities Guarantee, and no implied covenants shall be read into this Preferred Securities Guarantee against the Preferred Guarantee Trustee. In case an Event of

Default has occurred (that has not been cured or waived pursuant to Section 2.6) and is actually known to a Responsible Officer of the Preferred Guarantee Trustee, the Preferred Guarantee Trustee shall exercise such of the rights and powers vested in it by this Preferred Securities Guarantee, and use the same degree of care and skill in its exercise thereof, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(d) No provision of this Preferred Securities Guarantee shall be construed to relieve the Preferred Guarantee Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

- (i) prior to the occurrence of any Event of Default and after the curing or waiving of all such Events of Default that may have occurred:
  - (A) the duties and obligations of the Preferred Guarantee Trustee shall be determined solely by the express provisions of this Preferred Securities Guarantee, and the Preferred Guarantee Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Preferred Securities Guarantee, and no implied covenants or obligations shall be read into this Preferred Securities Guarantee against the Preferred Guarantee Trustee; and
  - (B) in the absence of bad faith on the part of the Preferred Guarantee Trustee, the Preferred Guarantee Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Preferred Guarantee Trustee and conforming to the requirements of this Preferred Securities Guarantee; but in the case of any such certificates or opinions that by any provision hereof are specifically required to be furnished to the Preferred Guarantee Trustee, the Preferred Guarantee Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Preferred Securities Guarantee;
- (ii) the Preferred Guarantee Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Preferred Guarantee Trustee, unless it shall be proved that the Preferred Guarantee Trustee was negligent in ascertaining the pertinent facts upon which such judgment was made;

- (iii) the Preferred Guarantee Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a Majority in liquidation amount of the Preferred Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Preferred Guarantee Trustee, or exercising any trust or power conferred upon the Preferred Guarantee Trustee under this Preferred Securities Guarantee; and
- (iv) no provision of this Preferred Securities Guarantee shall require the Preferred Guarantee Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if the Preferred Guarantee Trustee shall have reasonable grounds for believing that the repayment of such funds or liability is not reasonably assured to it under the terms of this Preferred Securities Guarantee or indemnity, reasonably satisfactory to the Preferred Guarantee Trustee, against such risk or liability is not reasonably assured to it.

SECTION 3.2 Certain Rights of Preferred Guarantee Trustee

- (a) Subject to the provisions of Section 3.1:
  - (i) The Preferred Guarantee Trustee may conclusively rely, and shall be fully protected in acting or refraining from acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed, sent or presented by the proper party or parties.
  - (ii) Any direction or act of the Guarantor contemplated by this Preferred Securities Guarantee shall be sufficiently evidenced by an Officers' Certificate.
  - (iii) Whenever, in the administration of this Preferred Securities Guarantee, the Preferred Guarantee Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Preferred Guarantee Trustee (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, request and conclusively rely upon an Officers' Certificate which, upon

receipt of such request, shall be promptly delivered by the Guarantor.

- (iv) The Preferred Guarantee Trustee shall have no duty to see to any recording, filing or registration of any instrument (or any rerecording, refiling or registration thereof).
- (v) The Preferred Guarantee Trustee may consult with counsel of its choice, and the written advice or opinion of such counsel with respect to legal matters shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in accordance with such advice or opinion. Such counsel may be counsel to the Guarantor or any of its Affiliates and may include any of its employees. The Preferred Guarantee Trustee shall have the right at any time to seek instructions concerning the administration of this Preferred Securities Guarantee from any court of competent jurisdiction.
- (vi) The Preferred Guarantee Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Preferred Securities Guarantee at the request or direction of any Holder, unless such Holder shall have provided to the Preferred Guarantee Trustee such security and indemnity, reasonably satisfactory to the Preferred Guarantee Trustee, against the costs, expenses (including attorneys' fees and expenses and the expenses of the Preferred Guarantee Trustee's agents, nominees or custodians) and liabilities that might be incurred by it in complying with such request or direction, including such reasonable advances as may be requested by the Preferred Guarantee Trustee; provided that, nothing contained in this Section 3.2(a)(vi) shall be taken to relieve the Preferred Guarantee Trustee, upon the occurrence of an Event of Default, of its obligation to exercise the rights and powers vested in it by this Preferred Securities Guarantee.
- (vii) The Preferred Guarantee Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Preferred Guarantee Trustee, in its discretion, may make such further

inquiry or investigation into such facts or matters as it may see fit.

- (viii) The Preferred Guarantee Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, nominees, custodians or attorneys, and the Preferred Guarantee Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.
- (ix) Any action taken by the Preferred Guarantee Trustee or its agents hereunder shall bind the Holders of the Preferred Securities, and the signature of the Preferred Guarantee Trustee or its agents alone shall be sufficient and effective to perform any such action. No third party shall be required to inquire as to the authority of the Preferred Guarantee Trustee to so act or as to its compliance with any of the terms and provisions of this Preferred Securities Guarantee, both of which shall be conclusively evidenced by the Preferred Guarantee Trustee's or its agent's taking such action.
- (x) Whenever in the administration of this Preferred Securities Guarantee the Preferred Guarantee Trustee shall deem it desirable to receive instructions with respect to enforcing any remedy or right or taking any other action hereunder, the Preferred Guarantee Trustee (i) may request instructions from the Holders of a Majority in liquidation amount of the Preferred Securities, (ii) may refrain from enforcing such remedy or right or taking such other action until such instructions are received, and (iii) shall be protected in conclusively relying on or acting in accordance with such instructions.

(b) No provision of this Preferred Securities Guarantee shall be deemed to impose any duty or obligation on the Preferred Guarantee Trustee to perform any act or acts or exercise any right, power, duty or obligation conferred or imposed on it in any jurisdiction in which it shall be illegal, or in which the Preferred Guarantee Trustee shall be unqualified or incompetent in accordance with applicable law, to perform any such act or acts or to exercise any such right, power, duty or obligation. No permissive power or authority available to the Preferred Guarantee Trustee shall be construed to be a duty.

SECTION 3.3 Not Responsible for Recitals or Issuance of Guarantee

The recitals contained in this Guarantee shall be taken as the statements of the Guarantor, and the Preferred Guarantee Trustee does not assume any responsibility for their correctness. The Preferred Guarantee Trustee makes no representation as to the validity or sufficiency of this Preferred Securities Guarantee.

ARTICLE IV PREFERRED GUARANTEE TRUSTEE

SECTION 4.1 Preferred Guarantee Trustee; Eligibility

(a) There shall at all times be a Preferred Guarantee Trustee which shall:

(i) not be an Affiliate of the Guarantor; and

(ii) be a bank organized and doing business under the laws of the United States of America or any State or Territory thereof or of the District of Columbia, or a bank or Person permitted by the Securities and Exchange Commission to act as an institutional trustee under the Trust Indenture Act, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least 50 million U.S. dollars (\$50,000,000), and subject to supervision or examination by Federal, State, Territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of the supervising or examining authority referred to above, then, for the purposes of this Section 4.1(a)(ii), the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(b) If at any time the Preferred Guarantee Trustee shall cease to be eligible to so act under Section 4.1(a), the Preferred Guarantee Trustee shall immediately resign in the manner and with the effect set out in Section 4.2(c).

(c) If the Preferred Guarantee Trustee has or shall acquire any "conflicting interest" within the meaning of Section 310(b) of the Trust Indenture Act, the Preferred Guarantee Trustee and Guarantor shall in all respects comply with the provisions of Section 310(b) of the Trust Indenture Act.

SECTION 4.2 Appointment, Removal and Resignation of Preferred Guarantee Trustees

(a) Subject to Section 4.2(b), the Preferred Guarantee Trustee may be appointed or removed without cause at any time by the Guarantor.

(b) The Preferred Guarantee Trustee shall not be removed in accordance with Section 4.2(a) until a Successor Preferred Guarantee Trustee has been appointed and has accepted such appointment by written instrument executed by such Successor Preferred Guarantee Trustee and delivered to the Guarantor.

(c) The Preferred Guarantee Trustee appointed to office shall hold office until a Successor Preferred Guarantee Trustee shall have been appointed or until its removal or resignation. The Preferred Guarantee Trustee may resign from office (without need for prior or subsequent accounting) by an instrument in writing executed by the Preferred Guarantee Trustee and delivered to the Guarantor, which resignation shall not take effect until a Successor Preferred Guarantee Trustee has been appointed and has accepted such appointment by instrument in writing executed by such Successor Preferred Guarantee Trustee and delivered to the Guarantor and the resigning Preferred Guarantee Trustee.

(d) If no Successor Preferred Guarantee Trustee shall have been appointed and accepted appointment as provided in this Section 4.2 within 60 days after delivery to the Guarantor of an instrument of resignation, the resigning Preferred Guarantee Trustee may petition any court of competent jurisdiction for appointment of a Successor Preferred Guarantee Trustee. Such court may thereupon, after prescribing such notice, if any, as it may deem proper, appoint a Successor Preferred Guarantee Trustee.

(e) No Preferred Guarantee Trustee shall be liable for the acts or omissions to act of any Successor Preferred Guarantee Trustee.

(f) Upon termination of this Preferred Securities Guarantee or removal or resignation of the Preferred Guarantee Trustee pursuant to this Section 4.2, the Guarantor shall pay to the Preferred Guarantee Trustee all amounts accrued to the date of such termination, removal or resignation.



## ARTICLE V GUARANTEE

### SECTION 5.1 Guarantee

The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by the Issuer), as and when due, regardless of any defense, right of set-off or counterclaim that the Issuer may have or assert. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Issuer to pay such amounts to the Holders. Notwithstanding anything to the contrary herein, the Guarantor retains all of its rights under the Indenture to extend the interest payment period on the Debentures and the Guarantor shall not be obligated hereunder to pay during an Extension Period (as defined in the Indenture) any monthly distributions on the Preferred Securities.

### SECTION 5.2 Waiver of Notice and Demand

The Guarantor hereby waives notice of acceptance of this Preferred Securities Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Issuer or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

### SECTION 5.3 Obligations Not Affected

Except as otherwise provided herein, the obligations, covenants, agreements and duties of the Guarantor under this Preferred Securities Guarantee shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied agreement, covenant, term or condition relating to the Preferred Securities to be performed or observed by the Issuer;

(b) the extension of time for the payment by the Issuer of all or any portion of the Distributions, Redemption Price, Liquidation Distribution or any other sums payable under the terms of the Preferred Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Preferred Securities (other than an extension of time for payment of Distributions, Redemption Price, Liquidation Distribution or other sum payable that results from the

extension of any interest payment period on the Debentures or any extension of the maturity date of the Debentures permitted by the Indenture);

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Preferred Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;

(e) any invalidity of, or defect or deficiency in, the Preferred Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 5.3 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

#### SECTION 5.4 Rights of Holders

(a) The Holders of a Majority in liquidation amount of the Preferred Securities have the right to direct the time, method and place of conducting of any proceeding for any remedy available to the Preferred Guarantee Trustee in respect of this Preferred Securities Guarantee or exercising any trust or power conferred upon the Preferred Guarantee Trustee under this Preferred Securities Guarantee.

(b) Any Holder of Preferred Securities may institute a legal proceeding directly against the Guarantor to enforce its rights under this Preferred Securities Guarantee, without first instituting a legal proceeding against the Issuer, the Preferred Guarantee Trustee or any other Person.

#### SECTION 5.5 Guarantee of Payment

This Preferred Securities Guarantee creates a guarantee of payment and not of collection.

#### SECTION 5.6 Subrogation

The Guarantor shall be subrogated to all (if any) rights of the Holders of Preferred Securities against the Issuer in respect of any amounts paid to such Holders by the Guarantor under this Preferred Securities Guarantee; provided, however, that the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any right that it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Preferred Securities Guarantee, if, at the time of any such payment, any amounts are due and unpaid under this Preferred Securities Guarantee. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

#### SECTION 5.7 Independent Obligations

The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Issuer with respect to the Preferred Securities, and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Preferred Securities Guarantee notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 5.3 hereof.

### ARTICLE VI LIMITATION OF TRANSACTIONS; SUBORDINATION

#### SECTION 6.1 Limitation of Transactions

So long as any Preferred Securities remain outstanding, if there shall have occurred an Event of Default or an event of default under the Declaration, then (a) the Guarantor shall not declare or pay any dividend on, make any distributions with respect to, or redeem, purchase, acquire or make a liquidation payment with respect to, any of its capital stock, (b) the Guarantor shall not make any payment of interest, principal or premium, if any, on or repay, repurchase or redeem any debt securities (including guarantees) issued by the Guarantor which rank pari passu with or junior to the Debentures or (c) the Guarantor shall not make any guarantee payments with respect to the foregoing (other than, with respect to clauses (a), (b) and (c), (i) dividends or distributions in shares of, or options, warrants or rights to subscribe for or purchase shares of, common stock of the Guarantor; (ii) any declaration of a dividend in connection with the implementation of a shareholder's rights plan, or the issuance of stock under any such plan in the future, or the redemption or repurchase of any such rights pursuant thereto; (iii) payments under the Preferred Securities Guarantee Agreement; (iv) as a direct result of, and only to the extent required in

order to avoid the issuance of fractional shares of capital stock, following a reclassification of the Guarantor's capital stock or the exchange or conversion of one class or series of the Guarantor's capital stock for another class or series of the Guarantor's capital stock; and (v) the purchase of fractional interests in shares of the Guarantor's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged).

#### SECTION 6.2 Ranking

This Preferred Securities Guarantee will constitute an unsecured obligation of the Guarantor and will rank (i) subordinate and junior in right of payment to all other liabilities of the Guarantor including the Debentures, except those liabilities of the Guarantor made pari passu or subordinate by their terms, (ii) pari passu with the most senior preferred or preference stock now or hereafter issued by the Guarantor and with any guarantee now or hereafter entered into by the Guarantor in respect of any preferred or preference stock of any Affiliate of the Guarantor, and (iii) senior to the Guarantor's common stock.

### ARTICLE VII TERMINATION

#### SECTION 7.1 Termination

This Preferred Securities Guarantee shall terminate (i) upon full payment of the Redemption Price of all Preferred Securities, (ii) upon the distribution of the Debentures to the Holders of all of the Preferred Securities or (iii) upon full payment of the amounts payable in accordance with the Declaration upon liquidation of the Issuer. Notwithstanding the foregoing, this Preferred Securities Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any Holder of Preferred Securities must restore payment of any sums paid under the Preferred Securities or under this Preferred Securities Guarantee.

### ARTICLE VIII INDEMNIFICATION

#### SECTION 8.1 Exculpation

(a) No Indemnified Person shall be liable, responsible or accountable in damages or otherwise to the Guarantor or any Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Indemnified Person in good faith in accordance with this Preferred Securities Guarantee and in a manner that such Indemnified Person reasonably believed to be within the scope of the authority conferred on such Indemnified Person by this Preferred Securities Guarantee or by law, except that an Indemnified Person shall be

liable for any such loss, damage or claim incurred by reason of such Indemnified Person's gross negligence or willful misconduct with respect to such acts or omissions.

(b) An Indemnified Person shall be fully protected in relying in good faith upon the records of the Guarantor and upon such information, opinions, reports or statements presented to the Guarantor by any Person as to matters the Indemnified Person reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Guarantor, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits, losses, or any other facts pertinent to the existence and amount of assets from which Distributions to Holders of Preferred Securities might properly be paid.

#### SECTION 8.2 Indemnification

The Guarantor agrees to indemnify each Indemnified Person for, and to hold each Indemnified Person harmless against, any loss, liability or expense incurred without gross negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the costs and expenses (including reasonable legal fees and expenses) of defending itself against, or investigating, any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder. The obligation to indemnify as set forth in this Section 8.2 shall survive the termination of this Preferred Securities Guarantee or the resignation or removal of the Preferred Guarantee Trustee.

### ARTICLE IX MISCELLANEOUS

#### SECTION 9.1 Successors and Assigns

All guarantees and agreements contained in this Preferred Securities Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Preferred Securities then outstanding.

#### SECTION 9.2 Amendments

Except with respect to any changes that do not adversely affect the rights of Holders (in which case no consent of Holders will be required), this Preferred Securities Guarantee may only be amended with the prior approval of the Holders of at least a Majority in liquidation amount (including the stated amount that would be paid on redemption, liquidation or otherwise, plus accrued and unpaid Distributions to the date upon which the voting percentages are determined) of all the outstanding

Preferred Securities. The provisions of Section 12.2 of the Declaration with respect to meetings of Holders of the Securities apply to the giving of such approval.

SECTION 9.3 Notices

All notices provided for in this Preferred Securities Guarantee shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by registered or certified mail, as follows:

(a) If given to the Preferred Guarantee Trustee, at the Preferred Guarantee Trustee's mailing address set forth below (or such other address as the Preferred Guarantee Trustee may give notice of to the Holders of the Preferred Securities):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

(b) If given to the Guarantor, at the Guarantor's mailing address set forth below (or such other address as the Guarantor may give notice of to the Holders of the Preferred Securities):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

(c) If given to any Holder of Preferred Securities, at the address set forth on the books and records of the Issuer.

All such notices shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 9.4 Benefit

This Preferred Securities Guarantee is solely for the benefit of the Holders of the Preferred Securities and, subject to Section 3.1(a), is not separately transferable from the Preferred Securities.

SECTION 9.5 Governing Law

This preferred securities guarantee shall be governed by, and construed and interpreted in accordance with, the laws of the state of \_\_\_\_\_ without regard to the conflict of law principles thereof.

THIS PREFERRED SECURITIES GUARANTEE is executed as of the day and year first above written.

\_\_\_\_\_, as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_, as Preferred  
Guarantee Trustee

By: \_\_\_\_\_  
Name:  
Title:

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COMMON SECURITIES GUARANTEE AGREEMENT

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Dated as of \_\_\_\_\_, \_\_\_\_\_

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COMMON SECURITIES GUARANTEE AGREEMENT

This GUARANTEE AGREEMENT (the "Common Securities Guarantee"), dated as of \_\_\_\_\_, \_\_\_\_\_, is executed and delivered by \_\_\_\_\_, a \_\_\_\_\_ corporation (the "Guarantor"), for the benefit of the Holders (as defined herein) from time to time of the Common Securities (as defined herein) of \_\_\_\_\_, a Delaware statutory business trust (the "Issuer").

WHEREAS, pursuant to an Amended and Restated Declaration of Trust (the "Declaration"), dated as of \_\_\_\_\_, \_\_\_\_\_, among the trustees of the Issuer named therein, the Guarantor, as sponsor, and the holders from time to time of undivided beneficial interests in the assets of the Issuer, the Issuer is issuing on the date hereof \_\_\_\_\_ common securities, having an aggregate stated liquidation amount of \_\_\_\_\_ designated the \_\_\_\_\_% Trust Originated Common Securities (the "Common Securities");

WHEREAS, as incentive for the Holders to purchase the Common Securities, the Guarantor desires to irrevocably and unconditionally agree, to the extent set forth in this Common Securities Guarantee, to pay to the Holders of the Common Securities the Guarantee Payments (as defined herein) and to make certain other payments on the terms and conditions set forth herein; and

WHEREAS, the Guarantor is also executing and delivering a guarantee agreement (the "Preferred Securities Guarantee") in substantially identical terms to this Common Securities Guarantee for the benefit of the holders of the Preferred Securities (as defined herein), except that if an Event of Default (as defined in the Indenture), has occurred and is continuing, the rights of Holders of the Common Securities to receive Guarantee Payments under this Common Securities Guarantee are subordinated to the rights of holders of Preferred Securities to receive Guarantee Payments under the Preferred Securities Guarantee.

NOW, THEREFORE, in consideration of the purchase by each Holder of Common Securities, which purchase the Guarantor hereby agrees shall benefit the Guarantor, the Guarantor executes and delivers this Common Securities Guarantee for the benefit of the Holders.

ARTICLE I DEFINITIONS AND INTERPRETATION

SECTION 1.1 Definitions and Interpretation

In this Common Securities Guarantee, unless the context otherwise requires:

(a) Capitalized terms used in this Common Securities Guarantee but not defined in the preamble above have the respective meanings assigned to them in this Section 1.1;

(b) Terms defined in the Declaration as of the date of execution of this Common Securities Guarantee have the same meaning when used in this Common Securities Guarantee unless otherwise defined in this Common Securities Guarantee;

(c) a term defined anywhere in this Common Securities Guarantee has the same meaning throughout;

(d) all references to "the Common Securities Guarantee" or "this Common Securities Guarantee" are to this Common Securities Guarantee modified, supplemented or amended from time to time;

(e) all references in this Common Securities Guarantee to Articles and Sections are to Articles and Sections of this Common Securities Guarantee unless otherwise specified; and

(f) a reference to the singular includes the plural and vice versa.

"Guarantee Payments" shall mean the following payments or distributions, without duplication, with respect to the Common Securities, to the extent not paid or made by the Issuer: (i) any accrued and unpaid Distributions (as defined in the Declaration) that are required to be paid on such Common Securities to the extent the Issuer shall have funds available therefor, (ii) the redemption price, including all accrued and unpaid Distributions to the date of redemption (the "Redemption Price") to the extent the Issuer has funds available therefor, with respect to any Common Securities called for redemption by the Issuer, and (iii) upon a voluntary or involuntary dissolution, winding-up or termination of the Issuer (other than in connection with the distribution of Debentures to the Holders in exchange for Common Securities as provided in the Declaration), the lesser of (a) the aggregate of the liquidation amount and all accrued and unpaid Distributions on the Common Securities to the date of payment, to the extent the Issuer shall have funds available therefor, and (b) the amount of assets of the Issuer remaining available for distribution to

Holders in liquidation of the Issuer (in either case, the "Liquidation Distribution"). If an Event of Default (as defined in the Indenture) has occurred and is continuing, the rights of Holders of the Common Securities to receive Guarantee Payments under this Common Securities Guarantee are subordinated to the rights of holders of Preferred Securities to receive Guarantee Payments.

"Holder" shall mean any holder, as registered on the books and records of the Issuer, of any Common Securities.

"Preferred Securities" mean the securities representing preferred undivided beneficial interests in the assets of the Issuer.

## ARTICLE II GUARANTEE

### SECTION 2.1 Guarantee

The Guarantor irrevocably and unconditionally agrees to pay in full to the Holders the Guarantee Payments (without duplication of amounts theretofore paid by the Issuer), as and when due, regardless of any defense, right of set-off or counterclaim which the Issuer may have or assert. The Guarantor's obligation to make a Guarantee Payment may be satisfied by direct payment of the required amounts by the Guarantor to the Holders or by causing the Issuer to pay such amounts to the Holders.

### SECTION 2.2 Waiver of Notice and Demand

The Guarantor hereby waives notice of acceptance of this Common Securities Guarantee and of any liability to which it applies or may apply, presentment, demand for payment, any right to require a proceeding first against the Issuer or any other Person before proceeding against the Guarantor, protest, notice of nonpayment, notice of dishonor, notice of redemption and all other notices and demands.

### SECTION 2.3 Obligations Not Affected

Except as otherwise provided herein, the obligations, covenants, agreements and duties of the Guarantor under this Common Securities Guarantee shall in no way be affected or impaired by reason of the happening from time to time of any of the following:

(a) the release or waiver, by operation of law or otherwise, of the performance or observance by the Issuer of any express or implied agreement,

covenant, term or condition relating to the Common Securities to be performed or observed by the Issuer;

(b) the extension of time for the payment by the Issuer of all or any portion of the Distributions, Redemption Price, Liquidation Distribution or any other sums payable under the terms of the Common Securities or the extension of time for the performance of any other obligation under, arising out of, or in connection with, the Common Securities (other than an extension of time for payment of Distributions, Redemption Price, Liquidation Distribution or other sum payable that results from the extension of any interest payment period on the Debentures or any extension of the maturity date of the Debentures permitted by the Indenture);

(c) any failure, omission, delay or lack of diligence on the part of the Holders to enforce, assert or exercise any right, privilege, power or remedy conferred on the Holders pursuant to the terms of the Common Securities, or any action on the part of the Issuer granting indulgence or extension of any kind;

(d) the voluntary or involuntary liquidation, dissolution, sale of any collateral, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of debt of, or other similar proceedings affecting, the Issuer or any of the assets of the Issuer;

(e) any invalidity of, or defect or deficiency in, the Common Securities;

(f) the settlement or compromise of any obligation guaranteed hereby or hereby incurred; or

(g) any other circumstance whatsoever that might otherwise constitute a legal or equitable discharge or defense of a guarantor, it being the intent of this Section 2.3 that the obligations of the Guarantor hereunder shall be absolute and unconditional under any and all circumstances.

There shall be no obligation of the Holders to give notice to, or obtain consent of, the Guarantor with respect to the happening of any of the foregoing.

#### SECTION 2.4 Rights of Holders

The Guarantor expressly acknowledges that any Holder of Common Securities may institute a legal proceeding directly against the Guarantor to enforce its rights under this Common Securities Guarantee, without first instituting a legal proceeding against the Issuer or any other Person.

## SECTION 2.5 Guarantee of Payment

This Common Securities Guarantee creates a guarantee of payment and not of collection.

## SECTION 2.6 Subrogation

The Guarantor shall be subrogated to all (if any) rights of the Holders of Common Securities against the Issuer in respect of any amounts paid to such Holders by the Guarantor under this Common Securities Guarantee; provided, however, that the Guarantor shall not (except to the extent required by mandatory provisions of law) be entitled to enforce or exercise any right that it may acquire by way of subrogation or any indemnity, reimbursement or other agreement, in all cases as a result of payment under this Common Securities Guarantee, if, at the time of any such payment, any amounts are due and unpaid under this Common Securities Guarantee. If any amount shall be paid to the Guarantor in violation of the preceding sentence, the Guarantor agrees to hold such amount in trust for the Holders and to pay over such amount to the Holders.

## SECTION 2.7 Independent Obligations

The Guarantor acknowledges that its obligations hereunder are independent of the obligations of the Issuer with respect to the Common Securities and that the Guarantor shall be liable as principal and as debtor hereunder to make Guarantee Payments pursuant to the terms of this Common Securities Guarantee notwithstanding the occurrence of any event referred to in subsections (a) through (g), inclusive, of Section 2.3 hereof.

## ARTICLE III LIMITATION OF TRANSACTIONS; SUBORDINATION

## SECTION 3.1 Limitation of Transactions

So long as any Common Securities remain outstanding, if (i) the Guarantor shall be in default with respect to its Guarantee Payments or other obligations hereunder, or (ii) there shall have occurred any Event of Default under the Indenture or an event of default under the Declaration, then (a) the Guarantor shall not declare or pay any dividend on, or make any distributions with respect to, or redeem, purchase, acquire or make a liquidation payment with respect to, any of its capital stock, (b) the Guarantor shall not make any payment of interest, principal or premium, if any, on or repay, repurchase or redeem any debt securities (including guarantees) issued by the Guarantor which rank pari passu with or junior to the Debentures or

(c) the Guarantor shall not make any guarantee payments with respect to the foregoing (other than, with respect to clauses (a), (b) and (c), (i) dividends or distributions in shares of, or options, warrants or rights to subscribe for or purchase shares of, common stock of the Guarantor; (ii) any declaration of a dividend in connection with the implementation of a shareholder's rights plan, or the issuance of stock under any such plan in the future, or the redemption or repurchase of any such rights pursuant thereto; (iii) payments under the Preferred Securities Guarantee Agreement; (iv) as a direct result of, and only to the extent required in order to avoid the issuance of fractional shares of capital stock, following a reclassification of the Guarantor's capital stock or the exchange or conversion of one class or series of the Guarantor's capital stock for another class or series of the Guarantor's capital stock; and (v) the purchase of fractional interests in shares of the Guarantor's capital stock pursuant to the conversion or exchange provisions of such capital stock or the security being converted or exchanged).

#### SECTION 3.2 Ranking

This Common Securities Guarantee will constitute an unsecured obligation of the Guarantor and will rank (i) subordinate and junior in right of payment to all other liabilities of the Guarantor, (ii) pari passu with the most senior preferred or preference stock now or hereafter issued by the Guarantor and with any guarantee now or hereafter entered into by the Guarantor in respect of any preferred or preference stock of any Affiliate of the Guarantor, and (iii) senior to the Guarantor's common stock.

### ARTICLE IV TERMINATION

#### SECTION 4.1 Termination

This Common Securities Guarantee shall terminate (i) upon full payment of the Redemption Price of all Common Securities, (ii) upon the distribution of the Debentures to the Holders of all of the Common Securities, or (iii) or upon full payment of the amounts payable in accordance with the Declaration upon liquidation of the Issuer. Notwithstanding the foregoing, this Common Securities Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any Holder of Common Securities must restore payment of any sums paid under the Common Securities or under this Common Securities Guarantee.

ARTICLE V MISCELLANEOUS

SECTION 5.1 Successors and Assigns

All guarantees and agreements contained in this Common Securities Guarantee shall bind the successors, assigns, receivers, trustees and representatives of the Guarantor and shall inure to the benefit of the Holders of the Common Securities then outstanding.

SECTION 5.2 Amendments

Except with respect to any changes which do not adversely affect the rights of Holders (in which case no consent of Holders will be required), this Common Securities Guarantee may only be amended with the prior approval of the Holders of at least a majority in liquidation amount of all the outstanding Common Securities. The provisions of Section 12.2 of the Declaration with respect to meetings of Holders of the Securities apply to the giving of such approval.

SECTION 5.3 Notices

All notices provided for in this Common Securities Guarantee shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by registered or certified mail, as follows:

- (a) if given to the Issuer, in care of the Regular Trustees at the Issuer's mailing address set forth below (or such other address as the Issuer may give notice of to the Holders of the Common Securities):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Facsimile \_\_\_\_\_

- (b) if given to the Guarantor, at the Guarantor's mailing address set forth below (or such other address as the Guarantor may give notice of to the Holders of the Common Securities):



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
\_\_\_\_\_  
Facsimile \_\_\_\_\_

(c) if given to any Holder of Common Securities, at the address set forth on the books and records of the Issuer.

All such notices shall be deemed to have been given when received in person, telecopied with receipt confirmed, or mailed by first class mail, postage prepaid except that if a notice or other document is refused delivery or cannot be delivered because of a changed address of which no notice was given, such notice or other document shall be deemed to have been delivered on the date of such refusal or inability to deliver.

SECTION 5.4 Benefit

This Common Securities Guarantee is solely for the benefit of the Holders of the Common Securities and is not separately transferable from the Common Securities.

SECTION 5.5 Governing Law

This Common Securities Guarantee shall be governed by, and construed and interpreted in accordance with, the laws of the State of \_\_\_\_\_.

(The remainder of this page has intentionally been left blank)

THIS COMMON SECURITIES GUARANTEE is executed as of the day and year first above written.

\_\_\_\_\_ as Guarantor

By: \_\_\_\_\_

Name:

Title:

[Perkins Coie LLP Letterhead]

February 15, 2002

Puget Energy, Inc.  
411 - 108/th/ Avenue N.E.  
Bellevue, WA 98004

Puget Sound Energy, Inc.  
411 - 108/th/ Avenue N.E.  
Bellevue, WA 98004

Re: Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Puget Energy, Inc., a Washington corporation ("Puget Energy") and Puget Sound Energy, Inc., a Washington corporation ("PSE"), in connection with the preparation and filing of the Registration Statement on Form S-3 (the "Registration Statement") with the Securities and Exchange Commission with respect to the registration under the Securities Act of 1933, as amended (the "Securities Act"), of \$500,000,000 of (a) common stock of Puget Energy (the "Common Stock"), (b) Senior Notes of PSE (the "Notes"), (c) Unsecured Debentures of PSE (the "Debentures") and (d) the guarantee by PSE of the trust preferred securities (the "Preferred Securities") of Puget Sound Energy Capital Trust III (the "Guarantee").

The Notes are to be issued under a senior note indenture between PSE and State Street Bank and Trust Company, as trustee (the "Note Trustee"), and one or more supplemental indentures thereto (collectively, the "Note Indenture"). PSE's obligations under the Notes will be secured by PSE's first mortgage bonds (the "Pledged Bonds") to be issued under either PSE's electric property first mortgage indenture (the "Electric Mortgage") between PSE and State Street Bank and Trust Company, as trustee (the "Electric Trustee") or PSE's gas property first mortgage indenture (the "Gas Mortgage") between PSE and The Bank of New York Company, Inc, as trustee (the "Gas Trustee"). The Debentures are to be issued under an indenture between PSE and Bank One Trust Company, N.A., as trustee (the "Debenture Trustee"), and one or more supplemental indentures thereto (collectively, the "Debenture Indenture"). The Guarantee is to be issued pursuant to a preferred securities guarantee agreement (the "Guarantee Agreement") to be entered into between PSE and Bank One Trust Company, N.A., as trustee (the "Guarantee Trustee").

We have examined the Registration Statement and such other instruments, documents and records of Puget Energy and PSE, certificates of public officials and other materials that we deemed necessary or appropriate in giving this opinion (collectively, the "Documents").

In such examination, we have assumed the following: (a) the authenticity of original Documents and the genuineness of all signatures, (b) the conformity to the originals of all Documents submitted to us as copies, (c) the requisite power and due authorization, corporate or otherwise, to enter into the Documents and to perform all obligations thereunder, (d) the validity, binding effect and enforceability in accordance with their terms, of the Documents and (e) the truth, accuracy and completeness of the information, representations and warranties contained in the Documents.

Based upon the foregoing examination, we are of the opinion that:

1. The Common Stock will be duly authorized, validly issued, fully paid and nonassessable when (a) the Registration Statement, and any amendments or supplements thereto (including any necessary post-effective amendments), shall have become effective under the Securities Act, (b) Puget Energy's Board of Directors or duly authorized committee thereof shall have duly adopted final resolutions authorizing the issuance and sale of the Common Stock, as contemplated by the Registration Statement and any amendments or supplements thereto, (c) the Common Stock shall have been duly executed by Puget Energy and registered by its registrar, (d) the Common Stock shall have been offered and sold by Puget Energy, as contemplated by the Registration Statement and any amendments or supplements thereto, and (e) Puget Energy shall have received the consideration required for the Common Stock to be sold by it as contemplated by the Registration Statement and any amendments or supplements thereto.

2. The Notes will be duly authorized, validly issued and binding obligations of PSE when

(a) the Registration Statement, and any amendments or supplements thereto (including any necessary post-effective amendments), shall have become effective under the Securities Act, and the Note Indenture shall have been qualified under the Trust Indenture Act of 1939, as amended (the "Trust Indenture Act"), and duly executed and delivered by PSE and the Note Trustee;

(b) the Washington Utilities and Transportation Commission shall have issued the appropriate orders authorizing the issuance and sale of the Notes;

(c) PSE's Board of Directors or duly authorized committee thereof shall have duly adopted final resolutions authorizing (i) the issuance and sale of the Notes, as contemplated by the Registration Statement (including any amendments or supplements thereto) and the Note Indenture, (ii) the execution and delivery of the Note Indenture,

including an indenture supplemental thereto pursuant to which PSE will issue a series of Notes, (iii) issuance and delivery of the Pledged Bonds; and (iv) the execution and delivery of an indenture supplemental to the Electric Mortgage or the Gas Mortgage, as the case may be, pursuant to which PSE will issue a series of Pledged Bonds (the "Pledged Bond Supplemental Indenture");

(d) the terms of the Notes and their issue and sale shall have been duly established in conformity with the Note Indenture so as not to violate any applicable law, agreement or instrument then binding upon PSE;

(e) the terms of the Pledged Bonds and their issue shall have been duly established in conformity with the Electric Mortgage or Gas Mortgage, as the case may be, so as not to violate any applicable law, agreement or instrument then binding upon PSE;

(f) PSE shall have complied with the terms and conditions of the Note Indenture with respect to the creation, authentication and delivery of a supplemental indenture thereto;

(g) the Notes shall have been duly executed by PSE, duly authenticated and delivered by the Note Trustee, and issued and sold by PSE as contemplated by the Registration Statement (including any amendments or supplements thereto) and in accordance with the above-mentioned corporate and governmental authorizations;

(h) PSE shall have complied with the terms and conditions of the Electric Mortgage or the Gas Mortgage, as the case may be, with respect to the creation, authentication and delivery of a supplemental indenture thereto;

(i) the Pledged Bonds shall have been duly executed by PSE, duly authenticated and delivered by the Electric Trustee or the Gas Trustee, as the case may be, and issued by PSE as contemplated by the Registration Statement (including any amendments or supplements thereto) and in accordance with the above-mentioned corporate and governmental authorizations; and

(j) the Pledged Bond Supplemental Indenture shall have been duly filed and recorded in the appropriate recording offices of all jurisdictions in which the properties subject to the Electric Mortgage or the Gas Mortgage, as the case may be, are located, and all appropriate Uniform Commercial Code filings shall have been duly filed and recorded.

3. The Debentures will be duly authorized, validly issued and binding obligations of PSE when (a) the Registration Statement, and any amendments or supplements thereto (including any necessary post-effective amendments) shall have become effective under the Securities Act, and the Debenture Indenture shall have been qualified under the Trust Indenture Act, and duly executed and delivered by PSE and the Debenture Trustee; (b) PSE's Board of Directors or duly authorized committee thereof shall have duly adopted final resolutions authorizing (i) the issuance and sale of the Debentures, as contemplated by the Registration Statement (including any amendments or supplements thereto) and the Debenture Indenture and (ii) the execution and delivery of the Debenture Indenture, including an indenture supplemental thereto pursuant to which PSE will issue a series of Debentures; (c) the Debenture Indenture, including any supplemental indenture thereto, under which such Debentures are to be issued shall have been duly executed as provided in such resolutions and the Debentures shall have been duly executed and authenticated as provided in the Debenture Indenture, including any such supplemental indenture, so as not to violate any applicable law, agreement or instrument then binding upon PSE, and shall have been duly delivered to the purchasers thereof against payment of the agreed consideration therefor; and (d) the Washington Utilities and Transportation Commission shall have issued the appropriate orders authorizing the issuance and sale of the Debentures.

4. The Guarantee will be a duly authorized, validly issued and binding obligation of PSE when (a) the Registration Statement, and any amendments or supplements thereto (including any necessary post-effective amendment) shall have become effective under the Securities Act; (b) the Guarantee shall have been qualified under the Trust Indenture Act, and duly executed and delivered by PSE and the Guarantee Trustee; (c) PSE's Board of Directors or duly authorized committee thereof shall have duly adopted final resolutions authorizing the execution and delivery of the Guarantee, as contemplated by the Registration Statement (including any amendments or supplements thereto) and the applicable amended and restated declaration of trust (d) the Preferred Securities shall have been legally issued, as provided in the applicable amended and restated declaration of trust; (e) the Guarantee shall have been duly executed and delivered as provided in the applicable preferred securities guarantee agreement so as not to violate any applicable law, agreement or instrument then binding upon PSE; and (f) the Washington Utilities and Transportation Commission shall have issued the appropriate orders authorizing the Guarantee.

The opinions expressed above are subject to the following exclusions and qualifications:

A. We express no opinion as to the validity, binding effect or enforceability of any right or obligation to the extent that such right or obligation may be limited by

Puget Energy, Inc.  
Puget Sound Energy, Inc.  
February 15, 2002  
Page 5

(i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer or other laws relating to or affecting creditors' rights generally, (ii) general principles of equity (regardless of whether considered in a proceeding in equity or at law), including those relating to the availability of the remedy of specific performance or injunctive relief or (iii) the effect of federal and state securities laws and principles of public policy on rights of indemnity and contribution.

B. We express no opinion as to any laws other than the federal laws of the United States and the state of Washington and we express no opinion with respect to the laws, regulations or ordinances of any county, municipality or governmental subdivision or agency thereof.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the reference to us under the heading "Legal Matters" in the related Prospectus. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act.

Very truly yours,

/s/ Perkins Coie LLP

OPINION OF SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP,  
RELATING TO THE LEGALITY OF THE TRUST PREFERRED SECURITIES



SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
FOUR TIMES SQUARE  
NEW YORK, NEW YORK 10036  
(212) 735-3000

February 15, 2002

Puget Sound Energy Capital Trust III  
411 - 108 th Avenue N.E.  
Bellevue, Washington 98004

Re: Trust Preferred Securities of  
Puget Sound Energy Capital Trust III  
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Ladies and Gentlemen:

We have acted as special counsel to Puget Sound Energy Capital Trust III (the "Trust"), a business trust created under the Business Trust Act of the State of Delaware (Chapter 38, Title 12, of the Delaware Code, 12 Del. C. ss.ss.3801 et. seq.) (the "Delaware Trust Act"), in connection with the preparation of the Registration Statement on Form S-3 (the "Registration Statement") filed with the Securities and Exchange Commission (the "Commission") with respect to the registration under the Securities Act of 1933, as amended, of trust preferred securities (the "Securities") of the Company to be offered from time to time as described in the form of the prospectus (the "Prospectus") included as part of the Registration Statement. Capitalized terms used and not defined herein have the meanings given to such terms in the Prospectus.

We are familiar with the proceedings taken and proposed to be taken by the Trust in connection with the proposed authorization, issuance and sale of the Securities. In this connection, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the Certificate of Trust of the Trust, as filed with the Secretary of State of the State of Delaware, the form of Amended and Restated Declaration of Trust of the Trust (the "Declaration of Trust") and such other documents, certificates and records as we have deemed necessary or appropriate as a basis for the opinion set forth herein.

In our examination, we have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed or photostatic copies and the authenticity of the originals of such copies. In making our examination of documents, we have assumed that the parties thereto had or will have the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and execution and delivery by such parties of such documents and the validity and binding effect thereof on such parties. As to any facts material to the opinions expressed herein which we have not independently established or verified, we have relied upon statements and representations of trustees and other representatives of the Trust and others.

The opinion expressed below is based on the following assumptions:

- (a) the Registration Statement will become effective;
  
- (b) the proposed transactions will have been consummated as contemplated in the Registration Statement;
  
- (c) prior to the issuance of any Securities:
  - (i) the Declaration of Trust will have been duly authorized, executed and delivered by the appropriate parties;
  
  - (ii) the terms of the Securities and their issue and sale will have been duly established in accordance with the terms of the Declaration of Trust; and
  
  - (iii) the underwriting agreement between the Trust and the underwriters of the Securities (the "Underwriting Agreement") will have been duly authorized, executed and delivered; and

- (d) the Declaration of Trust will be qualified in accordance with the provisions of the Trust Indenture Act of 1939, as amended.

Members of our firm are admitted to practice in the State of Delaware, and we do not express any opinion as to the laws of any other jurisdiction other than the federal laws of the United States.

In rendering the opinion set forth herein, we have assumed that the execution and delivery of the Declaration of Trust by the parties thereto and the execution, issuance and delivery Securities by the Trust do not and will not violate, conflict with or constitute a default under (i) any agreement or instrument to which the Trust or its properties is subject; (ii) any law, rule or regulation to which the Issuer is subject, except that we do not make such assumption with respect to those laws, rules and regulations of the State of Delaware and the United States of America which, in our experience, are normally applicable to transactions of the type contemplated by the Declaration of Trust and the Securities, but without our having made any special investigation concerning any other laws, rules or regulations ("Applicable Laws"); and (iii) any judicial or regulatory order or decree of any governmental authority.

Based on and subject to the foregoing, we are of the opinion that, when properly executed and authenticated in accordance with the Declaration of Trust and delivered against payment of the purchase price provided for in the Underwriting Agreement, and upon satisfaction of all other conditions contained in the Declaration of Trust and the Underwriting Agreement, the Securities will represent fully paid and nonassessable undivided beneficial interests in the assets of the Trust and will entitle the holders thereof to the benefits of the Declaration of Trust, except to the extent that enforcement thereof may be limited by (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally, and (ii) general principles of equity (regardless of whether enforcement is considered in a proceeding at law or in equity), and except to the extent that any rights to indemnity and contribution contained therein may be limited by state or federal securities laws or the public policy underlying such laws. We bring to your attention, however, that the holders of the Securities may be obligated, pursuant to the Declaration of Trust, to (i) provide indemnity in connection with, and pay taxes

Puget Sound Energy Capital Trust III

February 15, 2002

Page 4

or governmental charges arising from, transfers of the Securities and (ii) provide security and indemnity in connection with the requests of or directions to the property trustee to exercise its rights and powers under the Declaration of Trust.

We consent to the filing of this opinion as an Exhibit to the Registration Statement and to the references to this firm under the heading "Various Legal Matters Relating to the Securities" in the Prospectus included in the Registration Statement. In giving this consent, we do not thereby admit that we are included in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission.

Very truly yours,

/s/ Skadden, Arps, Slate,  
Meagher & Flom LLP

PUGET SOUND ENERGY  
STATEMENT SETTING FORTH COMPUTATIONS OF RATIOS OF  
EARNINGS TO COMBINED FIXED CHARGES AND DIVIDEND REQUIREMENTS  
(Dollars in Thousands)

EARNINGS AVAILABLE FOR COMBINED FIXED Year Ended December 31					12 Months Ending Sep	12 Months Ending Sep		
=====								
CHARGES AND PREFERRED DIVIDEND REQUIREMENTS				2001	2000	2000		
1999	1998	1997	1996					
=====								
Pre-tax Income:								
Net income per statement of income				179,651	184,390	193,831		
185,567	169,612	125,698	167,351					
Federal income taxes				124,045	113,749	128,973		
109,164	105,814	44,916	106,876					
Federal income taxes charged to other income - net				9,714	5,980	1,411		
2,909	3,986	14,807	(784)					
-----								
Subtotal				313,410	304,119	324,215		
297,640	279,412	185,421	273,443					
-----								
Capitalized Interest				(612)	(1,588)	(1,264)		
(3,692)	(1,782)	(360)	(600)					
Undistributed (earnings) or losses of less-than-fifty-percent-owned entities				--	--	--		
--	--	(608)	460					
-----								
Total				312,798	302,531	322,951		
293,948	277,630	184,453	273,303					
-----								
Fixed Charges:								
Interest on long-term debt				189,464	180,999	184,405		
160,966	146,248	123,543	122,635					
Other interest				612	1,588	1,264		
3,692	1,782	360	600					
Portion of rentals representative of the interest factor				5,195	4,948	5,002		
4,575	2,878	3,143	4,187					
-----								
Total				195,271	187,535	190,671		
169,233	150,908	127,046	127,422					
-----								

Earnings Available for combined Fixed Charges				-----		
and Preferred Dividend requirements				508,069	490,066	513,622
463,181	428,538	311,499	400,725			

Ratio of earnings to fixed charges				2.60	2.61	2.69
2.74	2.84	2.45	3.14			

COMBINED FIXED CHARGES AND PREFERRED  
DIVIDEND REQUIREMENTS:

Fixed charges above				195,271	187,535	190,671
169,233	150,908	127,046	127,422			
Preferred dividend requirements below				14,929	15,070	15,044
17,747	21,421	26,266	36,242			
-----						
Total				210,200	202,605	205,715
186,980	172,329	153,312	163,664			

Ratio of earnings to combined fixed charges and preferred dividend requirements				2.42	2.42	2.50
2.48	2.49	2.03	2.45			

COMPUTATION OF PREFERRED DIVIDEND  
REQUIREMENTS:

(a) Pre-tax income				313,410	304,119	324,215
297,640	279,412	185,421	273,443			
(b) Net income				179,651	184,390	193,831
185,567	169,612	125,698	167,351			
(c) Ratio of (a) to (b)				1.7445	1.6493	1.6727
1.6039	1.6474	1.4751	1.6339			
(d) Preferred dividends				8,558	9,137	8,994
11,065	13,003	17,806	22,181			
Preferred dividend requirements						
[(d) multiplied by (c)]				14,929	15,070	15,044
17,747	21,421	26,266	36,242			

CONSENT OF INDEPENDENT ACCOUNTANTS

We hereby consent to the incorporation by reference in this Registration Statement on Form S-3 of our report dated February 13, 2001 relating to the financial statements and financial statement schedule, which appears in Puget Energy, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2000. We also consent to the references to us under the headings "Experts" in such Registration Statement.

/S/ PRICEWATERHOUSECOOPERS LLP

Seattle, Washington  
February 14, 2002

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM T-1

STATEMENT OF ELIGIBILITY UNDER THE  
TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

Check if an Application to Determine Eligibility  
of a Trustee Pursuant to Section 305(b)(2)

STATE STREET BANK AND TRUST COMPANY  
(Exact name of trustee as specified in its charter)

Massachusetts  
(Jurisdiction of Incorporation or  
organization if not a U.S. national bank)

04-1867445  
(I.R.S. Employer  
Identification No.)

225 Franklin Street, Boston, Massachusetts 02110  
(Address of principal executive offices) (Zip Code)

Maureen Scannell Bateman, Esq. Executive Vice President and General Counsel  
225 Franklin Street, Boston, Massachusetts 02110  
(617) 654-3253  
(Name, address and telephone number of agent for service)

PUGET SOUND ENERGY, INC  
(Exact name of obligor as specified in its charter)

-----  
Washington  
(State or other jurisdiction of  
incorporation or organization)  
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-----  
91-0374630  
(I.R.S. Employer  
Identification No.)  
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411-108th Avenue N.E. Bellevue, Washing+A252ton 98004-5515  
(Address of principal executive offices) (Zip Code)

SENIOR NOTES  
(Title of indenture securities)



GENERAL

Item 1. General Information.

Furnish the following information as to the trustee:

(a) Name and address of each examining or supervisory authority to which it is subject.

Department of Banking and Insurance of The Commonwealth of Massachusetts, 100 Cambridge Street, Boston, Massachusetts.

Board of Governors of the Federal Reserve System, Washington, D.C., Federal Deposit Insurance Corporation, Washington, DC

(b) Whether it is authorized to exercise corporate trust powers.

Trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations with Obligor.

If the Obligor is an affiliate of the trustee, describe each such affiliation.

The obligor is not an affiliate of the trustee or of its parent, State Street Corporation.

(See note on page 2.)

Item 3. through Item 15. Not applicable.

Item 16. List of Exhibits.

List below all exhibits filed as part of this statement of eligibility.

1. A copy of the articles of association of the trustee as now in effect.

A copy of the Articles of Association of the trustee, as now in effect, is on file with the Securities and Exchange Commission as Exhibit 1 to Amendment No. 1 to the Statement of Eligibility and Qualification of Trustee (Form T-1) filed with the Registration Statement of Morse Shoe, Inc. (File No. 22-17940) and is incorporated herein by reference thereto.

2. A copy of the certificate of authority of the trustee to commence business, if not contained in the articles of association.

A copy of a Statement from the Commissioner of Banks of Massachusetts that no certificate of authority for the trustee to commence business was necessary or issued is on file with the Securities and Exchange Commission as Exhibit 2 to Amendment No. 1 to the Statement of Eligibility and Qualification of Trustee (Form T-1) filed with the Registration Statement of Morse Shoe, Inc. (File No. 22-17940) and is incorporated herein by reference thereto.

3. A copy of the authorization of the trustee to exercise corporate trust powers, if such authorization is not contained in the documents specified in paragraph (1) or (2), above.

A copy of the authorization of the trustee to exercise corporate trust powers is on file with the Securities and Exchange Commission as Exhibit 3 to Amendment No. 1 to the Statement of Eligibility and Qualification of Trustee (Form T-1) filed with the Registration Statement of Morse Shoe, Inc. (File No. 22-17940) and is incorporated herein by reference thereto.

4. A copy of the existing by-laws of the trustee, or instruments corresponding thereto.

A copy of the by-laws of the trustee, as now in effect, is on file with the Securities and Exchange Commission as Exhibit 4 to the Statement of Eligibility and Qualification of Trustee (Form T-1) filed with the Registration Statement of the Senior Housing Properties Trust (File No. 333-60392) and is incorporated herein by reference thereto.

5. A copy of each indenture referred to in Item 4. if the obligor is in default.

Not applicable.

6. The consents of United States institutional trustees required by Section 321(b) of the Act.

The consent of the trustee required by Section 321(b) of the Act is annexed hereto as Exhibit 6 and made a part hereof.

7. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.

A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority is annexed hereto as Exhibit 7 and made a part hereof.

#### NOTES

In answering any item of this Statement of Eligibility which relates to matters peculiarly within the knowledge of the obligor or any underwriter for the obligor, the trustee has relied upon information furnished to it by the obligor and the underwriters, and the trustee disclaims responsibility for the accuracy or completeness of such information.

The answer furnished to Item 2. of this statement will be amended, if necessary, to reflect any facts which differ from those stated and which would have been required to be stated if known at the date hereof.

#### SIGNATURE

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, State Street Bank and Trust Company, a corporation organized and existing under the laws of The Commonwealth of Massachusetts, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Boston and The Commonwealth of Massachusetts, on the 4th day of February, 2002.

STATE STREET BANK AND TRUST COMPANY

/s/ James E. Mogavero

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NAME: James E. Mogavero

TITLE: Vice President

EXHIBIT 6

CONSENT OF THE TRUSTEE

Pursuant to the requirements of Section 321(b) of the Trust Indenture Act of 1939, as amended, in connection with the proposed issuance by Puget Sound Energy, Inc. of its Senior Notes, we hereby consent that reports of examination by Federal, State, Territorial or District authorities may be furnished by such authorities to the Securities and Exchange Commission upon request therefor.

STATE STREET BANK AND TRUST COMPANY

/s/ James E. Mogavero

-----  
NAME: James E. Mogavero

TITLE: Vice President

Dated: February 4, 2002

EXHIBIT 7

Consolidated Report of Condition of State Street Bank and Trust Company, Massachusetts and foreign and domestic subsidiaries, a state banking institution organized and operating under the banking laws of this commonwealth and a member of the Federal Reserve System, at the close of business September 30, 2001 published in accordance with a call made by the Federal Reserve Bank of this District pursuant to the provisions of the Federal Reserve Act and in accordance with a call made by the Commissioner of Banks under General Laws, Chapter 172, Section 22(a).

ASSETS

Thousands of Dollars

Cash and balances due from depository institutions:

Noninterest-bearing balances and currency and coin  
 ..... \$ 2,078,210.00

Interest-bearing balances  
 .....  
 \$20,877,735.00

Securities

.....  
 \$17,960,077.00

Federal funds sold and securities purchased  
 under agreements to resell in domestic offices  
 of the bank and its Edge subsidiary

..... \$15,596,333.00

Loans and lease financing receivables:

Loans and leases, net of unearned income  
 ..... \$ 6,658,140.00

Allowance for loan and lease losses  
 ..... \$ 55,243.00

Allocated transfer risk reserve  
 ..... \$ 0.00

Loans and leases, net of unearned income and allowances  
 ..... \$ 6,602,897.00

Assets held in trading accounts

..... \$  
 1,893,178.00

Premises and fixed assets

.....  
 \$ 583,130.00

Other real estate owned

.....  
 \$ 0.00

Investments in unconsolidated subsidiaries

..... \$ 34,144.00

Customers' liability to this bank on acceptances outstanding

..... \$ 103,216.00

Intangible assets

.....  
 \$ 487,816.00

Other assets

.....  
 \$ 1,860,949.00

Total assets

.....  
 \$68,077,685.00

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LIABILITIES

Deposits:

In domestic offices

.....

\$17,285,276.00		
	Noninterest-bearing	
.....	.....	\$12,321,416.00
	Interest-bearing	
.....	.....	\$ 4,963,860.00
	In foreign offices and Edge subsidiary	
.....	.....	\$26,950,782.00
	Noninterest-bearing	
.....	.....	\$ 46,386.00
	Interest-bearing	
.....	.....	\$26,904,396.00
Federal funds purchased and securities sold under		
agreements to repurchase in domestic offices of		
the bank and of its Edge subsidiary		
.....		\$14,765,194.00
Demand notes issued to the U.S. Treasury		
.....		\$ 0.00
Trading liabilities		
.....		
\$ 1,216,739.00		
Other borrowed money		
.....		
\$ 911,701.00		
Subordinated Notes and Debentures		
.....		\$
0.00		
Bank's liability on acceptances executed and outstanding		
.....		\$ 103,216.00
Other liabilities		
.....		
\$ 2,605,447.00		
Total liabilities		
.....		
\$63,838,355.00		
-----		
Minority interest in consolidated subsidiaries		
.....		\$ 48,495.00
-----		
EQUITY CAPITAL		
Perpetual preferred stock and related surplus		
.....		\$ 0.00
Common stock		
.....		
\$ 29,931.00		
Surplus		
.....		
\$ 577,219.00		
Retained Earnings		
.....		
\$ 3,490,205.00		
Accumulated other comprehensive income		
.....		\$ 93,480.00
Other equity capital components		
.....		\$
0.00		
Undivided profits and capital reserves/Net unrealized holding gains (losses)		
.....		\$ 0.00
Net unrealized holding gains (losses) on available-for-sale securities		
.....		\$ 0.00
Cumulative foreign currency translation adjustments		
.....		\$ 0.00
Total equity capital		
.....		

\$ 4,190,835.00

Total liabilities, minority interest and equity capital

.....

\$68,077,685.00

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I, Frederick P. Baughman, Senior Vice President and Comptroller of the above named bank do hereby declare that this Report of Condition has been prepared in conformance with the instructions issued by the Board of Governors of the Federal Reserve System and is true to the best of my knowledge and belief.

Frederick P. Baughman

We, the undersigned directors, attest to the correctness of this Report of Condition and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the Board of Governors of the Federal Reserve System and is true and correct.

Ronald E. Logue  
David A. Spina  
Truman S. Casner



SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM T-1

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STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939  
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY  
OF A TRUSTEE PURSUANT TO SECTION 305(b)(2)

BANK ONE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

A National Banking Association

31-0838515  
(I.R.S. employer  
identification number)

100 East Broad Street, Columbus, Ohio  
(Address of principal executive offices)

43271-0181  
(Zip Code)

Bank One Trust Company, N.A.  
1 Bank One Plaza  
Chicago, Illinois 60670  
Attn: Sandra L. Caruba, First Vice President, (312) 336-9436  
(Name, address and telephone number of agent for service)

PUGET SOUND ENERGY CAPITAL TRUST III  
(Exact name of obligor as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

To Be Applied For  
(I.R.S. employer  
identification number)

411 - 108/th/ Avenue, N.E.  
Bellevue, Washington  
(Address of principal executive offices)

98004-5515  
(Zip Code)

Trust Preferred Securities  
(Title of Indenture Securities)

Item 1. General Information. Furnish the following information as to the  
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trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of Currency, Washington, D.C.; Federal Deposit Insurance Corporation, Washington, D.C.; The Board of Governors of the Federal Reserve System, Washington D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations With the Obligor. If the obligor is an affiliate of the  
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trustee, describe each such affiliation.

No such affiliation exists with the trustee.

Item 16. List of exhibits. List below all exhibits filed as a part of this  
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Statement of Eligibility.

1. A copy of the articles of association of the trustee now in effect.\*
2. A copy of the certificate of authority of the trustee to commence business.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers.\*
4. A copy of the existing by-laws of the trustee.\*
5. Not Applicable.
6. The consent of the trustee required by Section 321(b) of the Act.

7. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.
8. Not Applicable.
9. Not Applicable.

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Bank One Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Chicago and State of Illinois, on the 12th day of February, 2002.

Bank One Trust Company, National Association,  
Trustee

By /s/ Sandra L. Caruba

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Sandra L. Caruba  
First Vice President

\*Exhibits 1, 2, 3, and 4 are herein incorporated by reference to Exhibits bearing identical numbers in Item 16 of the Form T-1 of Bank One Trust Company, National Association, filed as Exhibit 25 to the Registration Statement on Form S-4 of U S WEST Communications, Inc., filed with the Securities and Exchange Commission on March 24, 2000 (Registration No. 333-32124).

EXHIBIT 6

THE CONSENT OF THE TRUSTEE REQUIRED  
BY SECTION 321(b) OF THE ACT

February 12, 2000

Securities and Exchange Commission  
Washington, D.C. 20549

Ladies and Gentlemen:

In connection with the qualification of a trust agreement between Puget Sound Energy Capital Trust III and Bank One Trust Company, National Association, as Trustee, the undersigned, in accordance with Section 321(b) of the Trust Indenture Act of 1939, as amended, hereby consents that the reports of examinations of the undersigned, made by Federal or State authorities authorized to make such examinations, may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Very truly yours,

Bank One Trust Company, National Association

By: /s/ Sandra L. Caruba

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Sandra L. Caruba  
First Vice President

EXHIBIT 7

Legal Title of Bank: Bank One Trust Company, N.A. Call Date: 12/31/01 State #: 391581 FFIEC 041  
 Address: 100 Broad Street Vendor ID: D Cert #: 21377 Page RC-1  
 City, State Zip: Columbus, OH 43271 Transit #: 04400003

Consolidated Report of Condition for Insured Commercial and State-Chartered Savings Banks for December 31, 2001

All schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding of the last business day of the quarter.

Schedule RC--Balance Sheet

Dollar Amounts in thousands C300

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ASSETS

1. Cash and balances due from depository institutions (from Schedule RC-A):

RCON

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	a. Noninterest-bearing balances and currency and coin(1) .....	
0081	285,199	1.a
	b. Interest-bearing balances(2) .....	
0071	0	1.b

2. Securities

	a. Held-to-maturity securities(from Schedule RC-B, column A) .....	
1754	0	2.a
	b. Available-for-sale securities (from Schedule RC-B, column D) .....	
1773	336	2.b

3. Federal funds sold and securities purchased under agreements to resell

1350	1,466,628	3.
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4. Loans and lease financing receivables: (from Schedule RC-C):

RCON

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	a. Loans and leases held for sale .....	
5369	0	4.a
	b. Loans and leases, net of unearned income .....	
B528	195,551	4.b
	c. LESS: Allowance for loan and lease losses .....	
3123	292	4.c
	d. Loans and leases, net of unearned income and allowance (item 4.b minus 4.c) .....	
B529	195,259	4.d

	5. Trading assets (from Schedule RC-D) .....	
3545	0	5.

	6. Premises and fixed assets (including capitalized leases) .....	
2145	13,065	6.

	7. Other real estate owned (from Schedule RC-M) .....	
2150	0	7.

8. Investments in unconsolidated subsidiaries and associated

companies (from Schedule RC-M) .....		
2130	0	8.
9. Customers' liability to this bank on acceptances outstanding .....		
2155	0	9.
10. Intangible assets .....		
a. Goodwill .....		
3163	0	10.a
b. Other intangible assets (from Schedule RC-M) .....		
0426	9,224	10.b
11. Other assets (from Schedule RC-F) .....		
2160	250,027	11.
12. Total assets (sum of items 1 through 11) .....		
2170	2,219,738	12.

- (1) Includes cash items in process of collection and unposted debits.
- (2) Includes time certificates of deposit not held for trading.

Legal Title of Bank: Bank One Trust Company, N.A. Call Date: 12/31/01 State #: 391581 FFIEC 041  
 Address: 100 East Broad Street Vendor ID: D Cert #"  
 21377 Page RC-2  
 City, State Zip: Columbus, OH 43271 Transit #: 04400003

Schedule RC-Continued

Dollar Amounts in  
 Thousands

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LIABILITIES

13. Deposits:

a. In domestic offices (sum of totals of columns A and C  
 RCON

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	from Schedule RC-E)	.....
2200	1,957,028 13.a	.....
	(1) Noninterest-bearing(1)	.....
6631	1,378,041 13.a1	.....
	(2) Interest-bearing	.....
6636	587,987 13.a2	.....

b. Not applicable

14. Federal funds purchased and securities sold under agreements  
 to repurchase

RCFD 2800	0	14.	.....
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15. Trading Liabilities (from Schedule RC-D)

RCFD 3548	0	15.	.....
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16. Other borrowed money (includes mortgage indebtedness and  
 obligations under capitalized leases) (from Schedule RC-M)

3190	0	16.	.....
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17. Not applicable

18. Bank's liability on acceptances executed and outstanding

2920	0	18.	.....
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19. Subordinated notes and debentures (2)

3200	0	19.	.....
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20. Other liabilities (from Schedule RC-G)

2930	72,264	20.	.....
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21. Total liabilities (sum of items 13 through 20)

2948	2,029,292	21.	.....
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22. Minority interest in consolidated subsidiaries

3000	0	22.	.....
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EQUITY CAPITAL

23. Perpetual preferred stock and related surplus

3838	0	23.	.....
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24. Common stock

3230	800	24.	.....
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25. Surplus (exclude all surplus related to preferred stock)

3839	45,157	25.	.....
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26. a. Retained earnings

3632	144,485	26.a	.....
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b. Accumulated other comprehensive income (3)

B530	4	26.b	.....
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27. Other equity capital components (4)

A130	0	27.	.....
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28. Total equity capital (sum of items 23 through 27)

3210	190,446	28.
29.	Total liabilities, minority interest, and equity capital (sum of items 21, 22, and 28) .....	
3300	2,219,738	29.

Memorandum

To be reported only with the March Report of Condition.

1. Indicate in the box at the right the number of the statement below that best describes the most comprehensive level of auditing work performed for the bank by independent external auditors as of any date during 2000.....
- | N/A       | Number  |                         |
|-----------|---|-------------------------|
| RCFD 6724 | M.1.  |                         |
| 1         | = Independent audit of the bank conducted in accordance with Directors' examination of the bank performed by generally accepted auditing standards by a certified other external auditors (may be required by public accounting firm which submits a report on the bank state chartering authority)   | 4. =                    |
| 2         | = Independent audit of the bank's parent holding company Review of the bank's financial statements by conducted in accordance with generally accepted auditing external auditors standards by a certified public accounting firm which submits a Compilation of the bank's financial statements report on the consolidated holding company (but not on the bank external auditors separately) | 5 =<br>6 =<br>by<br>7 = |
| 3         | = Directors' examination of the bank conducted in accordance with preparation work) generally accepted auditing standards by a certified public external audit work accounting firm (may be required by state chartering authority)   | 8 = No                  |
- (1) Includes total demand deposits and noninterest-bearing time and savings deposits.  
(2) Includes limited-life preferred stock and related surplus.  
(3) Includes net unrealized holding gains (losses) on available-for-sale securities, accumulated net gains (losses) on cash flow hedges, and minimum pension liability adjustments.  
(4) Includes treasury stock and unearned Employee Stock Ownership Plan shares.



SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM T-1  
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STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939  
OF A CORPORATION DESIGNATED TO ACT AS TRUSTEE

CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY  
OF A TRUSTEE PURSUANT TO SECTION 305(b)(2)

BANK ONE TRUST COMPANY, NATIONAL ASSOCIATION  
(Exact name of trustee as specified in its charter)

A National Banking Association

31-0838515  
(I.R.S. employer  
identification number)

100 East Broad Street, Columbus, Ohio  
(Address of principal executive offices)

43271-0181  
(Zip Code)

Bank One Trust Company, N.A.  
1 Bank One Plaza  
Chicago, Illinois 60670  
Attn: Sandra L. Caruba, First Vice President, (312) 336-9436  
(Name, address and telephone number of agent for service)

PUGET SOUND ENERGY CAPITAL TRUST III  
(Exact name of obligor as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

To Be Applied For  
(I.R.S. employer  
identification number)

411 - 108/th/ Avenue, N.E.  
Bellevue, Washington  
(Address of principal executive offices)

98004-5515  
(Zip Code)

Trust Preferred Securities  
(Title of Indenture Securities)

Item 1. General Information. Furnish the following  
-----  
information as to the trustee:

(a) Name and address of each examining or supervising authority to which it is subject.

Comptroller of Currency, Washington, D.C.;  
Federal Deposit Insurance Corporation,  
Washington, D.C.; The Board of Governors of  
the Federal Reserve System, Washington D.C.

(b) Whether it is authorized to exercise corporate trust powers.

The trustee is authorized to exercise corporate trust powers.

Item 2. Affiliations With the Obligor. If the obligor  
-----  
is an affiliate of the trustee, describe each such affiliation.

No such affiliation exists with the trustee.

Item 16. List of exhibits. List below all exhibits filed as a  
-----  
part of this Statement of Eligibility.

1. A copy of the articles of association of the trustee now in effect.\*
2. A copy of the certificate of authority of the trustee to commence business.\*
3. A copy of the authorization of the trustee to exercise corporate trust powers.\*
4. A copy of the existing by-laws of the trustee.\*
5. Not Applicable.
6. The consent of the trustee required by Section 321(b) of the Act.

7. A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority.
8. Not Applicable.
9. Not Applicable.

Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Bank One Trust Company, National Association, a national banking association organized and existing under the laws of the United States of America, has duly caused this Statement of Eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Chicago and State of Illinois, on the 12th day of February, 2002.

Bank One Trust Company, National Association,  
Trustee

By /s/ Sandra L. Caruba

-----

Sandra L. Caruba  
First Vice President

\*Exhibits 1, 2, 3, and 4 are herein incorporated by reference to Exhibits bearing identical numbers in Item 16 of the Form T-1 of Bank One Trust Company, National Association, filed as Exhibit 25 to the Registration Statement on Form S-4 of U S WEST Communications, Inc., filed with the Securities and Exchange Commission on March 24, 2000 (Registration No. 333-32124).

EXHIBIT 6

THE CONSENT OF THE TRUSTEE REQUIRED  
BY SECTION 321(b) OF THE ACT

February 12, 2000

Securities and Exchange Commission  
Washington, D.C. 20549

Ladies and Gentlemen:

In connection with the qualification of a trust agreement between Puget Sound Energy Capital Trust III and Bank One Trust Company, National Association, as Trustee, the undersigned, in accordance with Section 321(b) of the Trust Indenture Act of 1939, as amended, hereby consents that the reports of examinations of the undersigned, made by Federal or State authorities authorized to make such examinations, may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Very truly yours,

Bank One Trust Company, National Association

By: /s/ Sandra L. Caruba

-----  
Sandra L. Caruba  
First Vice President

EXHIBIT 7

Legal Title of Bank: Bank One Trust Company, N.A. Call Date: 12/31/01 State #: 391581 FFIEC 041  
 Address: 100 Broad Street Vendor ID: D Cert #: 21377  
 Page RC-1  
 City, State Zip: Columbus, OH 43271 Transit #: 04400003

Consolidated Report of Condition for Insured Commercial and State-Chartered Savings Banks for December 31, 2001  
 All schedules are to be reported in thousands of dollars. Unless otherwise indicated, report the amount outstanding of the last business day of the quarter.

Schedule RC--Balance Sheet

Dollar Amounts in thousands C300

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RCON BIL MIL THOU

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ASSETS

1. Cash and balances due from depository institutions (from Schedule RC-A):  
 RCON

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a. Noninterest-bearing balances and currency and coin(1)			
.....	0081	285,199	1.a
b. Interest-bearing balances(2)			
.....		0071	0

1.b

2. Securities

a. Held-to-maturity securities(from Schedule RC-B, column A)			
.....	1754	0	2.a
b. Available-for-sale securities (from Schedule RC-B, column D)			
.....	1773	336	2.b

3. Federal funds sold and securities purchased under agreements to resell  
 ..... 1350 1,466,628 3.

4. Loans and lease financing receivables: (from Schedule RC-C):  
 RCON

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a. Loans and leases held for sale			
.....		5369	0
4.a b. Loans and leases, net of unearned income			
.....	B528	195,551	4.b
c. LESS: Allowance for loan and lease losses			
.....	3123	292	4.c
d. Loans and leases, net of unearned income and allowance (item 4.b minus 4.c)			
.....	B529	195,259	4.d
5. Trading assets (from Schedule RC-D)			
.....		3545	0 5.
6. Premises and fixed assets (including capitalized leases)			
.....	2145	13,065	6.
7. Other real estate owned (from Schedule RC-M)			
.....	2150	0	7.

8. Investments in unconsolidated subsidiaries and associated companies (from Schedule RC-M) ..	2130	0	8.	
9. Customers' liability to this bank on acceptances outstanding .....	2155	0	9.	
10. Intangible assets				
a. Goodwill .....				3163
0      10.a				
b. Other intangible assets (from Schedule RC-M) .....	0426	9,224	10.b	
11. Other assets (from Schedule RC-F) .....		2160	250,027	
11.				
12. Total assets (sum of items 1 through 11) .....	2170	2,219,738	12.	

- (1) Includes cash items in process of collection and unposted debits.
- (2) Includes time certificates of deposit not held for trading.

Legal Title of Bank:	Bank One Trust Company, N.A.	Call Date:	12/31/01	
State #:	391581 FFIEC 041			
Address:	100 East Broad Street	Vendor ID:	D	Cert
#	21377 Page RC-2			
City, State Zip:	Columbus, OH 43271	Transit #:	04400003	

Schedule RC-Continued

Dollar Amounts in  
Thousands

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LIABILITIES

13. Deposits:

a. In domestic offices (sum of totals of columns A and C

RCON

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	from Schedule RC-E) .....	
2200	1,957,028	13.a
	(1) Noninterest-bearing(1) .....	
6631	1,378,041	13.a1
	(2) Interest-bearing .....	
6636	587,987	13.a2

b. Not applicable

14. Federal funds purchased and securities sold under agreements  
to repurchase

RCFD

2800	0	14.
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15. Trading Liabilities(from Schedule RC-D) .....

RCFD

3548	0	15.
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16. Other borrowed money (includes mortgage indebtedness and  
obligations under capitalized leases) (from Schedule RC-M) .....

3190	0	16.
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17. Not applicable

18. Bank's liability on acceptances executed and outstanding .....

2920	0	18.
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19. Subordinated notes and debentures (2) .....

3200	0	19.
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20. Other liabilities (from Schedule RC-G) .....

2930	72,264	20.
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21. Total liabilities (sum of items 13 through 20) .....

2948	2,029,292	21.
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22. Minority interest in consolidated subsidiaries .....

3000	0	22.
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EQUITY CAPITAL

23. Perpetual preferred stock and related surplus .....

3838	0	23.
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24. Common stock .....

3230	800	24.
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25. Surplus (exclude all surplus related to preferred stock) .....

3839	45,157	25.
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26. a. Retained earnings .....

3632	144,485	26.a
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b. Accumulated other comprehensive income (3) .....

B530	4	26.b
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27. Other equity capital components (4) .....

A130	0	27.
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28. Total equity capital (sum of items 23 through 27) .....

3210	190,446	28.
29.	Total liabilities, minority interest, and equity capital (sum of items 21, 22, and 28) .....	
3300	2,219,738	29.

Memorandum

To be reported only with the March Report of Condition.

1. Indicate in the box at the right the number of the statement below that best describes the most comprehensive level of auditing work performed for the bank by independent external auditors as of any date

N/A	Number		
	during 2000 .....		RCFD
6724	M.1.		
1 =	Independent audit of the bank conducted in accordance with generally accepted auditing standards by a certified public accounting firm which submits a report on the bank by state chartering authority)		4. =
2 =	Independent audit of the bank's parent holding company conducted in accordance with generally accepted auditing standards by a certified external auditors		5 =
	public accounting firm which submits a report on the Compilation of the bank's financial consolidated holding company (but not on the bank separately) statements by external auditors		6 =
3 =	Directors' examination of the bank conducted in accordance with other audit procedures (excluding tax preparation work)		7 =
	generally accepted auditing standards by a certified public accounting firm (may be required by state chartering authority)		8 =
	No external audit work		

- (1) Includes total demand deposits and noninterest-bearing time and savings deposits.
- (2) Includes limited-life preferred stock and related surplus.
- (3) Includes net unrealized holding gains (losses) on available-for-sale securities, accumulated net gains (losses) on cash flow hedges, and minimum pension liability adjustments.
- (4) Includes treasury stock and unearned Employee Stock Ownership Plan shares.