INTERIM REPORT
of the
ATTORNEY GENERAL
of the
STATE OF CONNECTICUT

REGARDING THE CONNECTICUT RESOURCES RECOVERY AUTHORITY-ENRON CORP.- CONNECTICUT LIGHT & POWER COMPANY RESTRUCTURING TRANSACTION

February 2002

INTERIM REPORT
TABLE OF CONTENTS

Page

I. Executive Summary 3

II. Scope of the Initial Investigation 14

III. Description of Participants and Chronology of Events. 14

IV. The NU-CRRA Buydown Negotiations 44

V. Analysis of the Enron-CRRA-NU Transaction 45

VI. Legal and Governance Standards Applicable to the Transaction. 54

VII. CRRA Should Have Considered Alternate Means for Utilizing the 1985 Contract Buydown Proceeds 59

VIII. Recommendations. 62

I. Executive Summary

Conclusion

Public agencies such as the Connecticut Resources Recovery Authority have strict statutory restrictions on their investment and loan authority. These limitations are specifically imposed to protect and preserve public assets and to avoid what happened here – a superficially enticing deal gone bad, with the staggering loss of $220 million of taxpayer money. The essence of the March 2001 agreement between the Connecticut Resources Recovery Authority and Enron was an unsecured loan of $220 million to Enron disguised and camouflaged as an "energy transaction." The $220 million was owed by NU to CRRA, but was paid to Enron at CRRA's direction. In return, Enron's only obligation was to repay the $220 million to CRRA at the rate of $2.375 million per month, an obligation unsecured by any Enron asset. In effect, Enron received a $220 million loan repayable at 7 percent interest in monthly installments of $2.375 million until the year 2012. The aggregate monthly payment consisted of a $2.2 million payment to the Mid-Connecticut Project and a separate $175,000 monthly payment to CRRA's "New Project Venture" enterprise.

The facts found so far indicate that CRRA's actions exceeded the explicit bounds of its statutory authority. Even if the statutes are read generously in CRRA's favor, there is no doubt that this transaction violated the spirit of the laws governing CRRA, which were specifically enacted to protect against the kind of financial calamity that occurred here. Those statutes must now be strengthened to prevent CRRA from circumventing laws intended to safeguard and protect the public's interest and taxpayers' money.

Using "energy" as a password, and Enron as a pass-through entity, CRRA sought to do indirectly that which it could not do directly. The statutes creating and empowering CRRA do not include the authority to make this $220 million loan to a private company such as Enron. CRRA employed "energy" as a euphemism to circumvent statutory restrictions on loans – restrictions that would have barred the loan to NU it considered but rejected, and restrictions that would have barred the loan it made to Enron.

The issue of CRRA's authority was apparently never analyzed by CRRA's legal advisors for CRRA's board or management. Documents made available so far indicate that no critical in depth legal assessment was given to the CRRA board. The only explanation provided to our investigation concerning the question of CRRA's authority for this transaction was a copy of CRRA's loan and investment authority statutes sent to CRRA, without comment or analysis, by Murtha Cullina. Their silence speaks volumes. There were indeed significant reasons to question whether some of these advisors could appropriately provide counsel since they were also acting on behalf of Enron as lobbyists and deal makers.

We conclude that the $220 million deal between CRRA and Enron was a $220 million unsecured loan for the following reasons:

1. The $220 million was owed to CRRA by NU from the proceeds of the buydown of the 1985 energy contract between CRRA and NU. Instead of taking the money itself, CRRA directed NU to pay the $220 million to Enron.

2. In exchange for the $220 million from CRRA, Enron neither assumed nor performed any actual responsibilities or obligations in the "energy transaction". It provided no energy-related services to CRRA or the Connecticut Light & Power Company ("CL&P") a subsidiary of Northeast Utilities ("NU"). All risks for the production and delivery of steam and electricity were guaranteed by CRRA. Even Enron's billing for the electricity delivered to NU was performed by CRRA.

3. The $2.2 million monthly "capacity payment" made by Enron, purportedly to guarantee CRRA's delivery of steam to Enron, was required to be paid to CRRA whether or not CRRA delivered any steam to Enron in any particular month.

4. The $175,000 "fixed monthly payment" made by Enron to CRRA had no relationship whatsoever to any purported "energy transaction" between CRRA and Enron.

5. Custody, control and risk of loss of the steam remained with CRRA. Although Enron gained title to CRRA's steam for an instant, for legal purposes, prior to "returning" the steam to CRRA, the steam stayed in CRRA's control at all times and Enron assumed no risk for any loss of the steam. CRRA's steam was "delivered" to Enron and "redelivered" to CRRA at no cost to either party.

6. Enron added no value to CRRA's sale of electricity to NU. CRRA would have sold the same amount of electricity and would have received the same amount of money from its electric sales to NU without Enron's presence in the transaction.

7. Enron was only a nominal party to CRRA's sale of electricity to NU. While Enron assumed legal title to the electricity generated by CRRA for NU for an instant prior to its receipt by NU, Enron had no responsibilities

related to the production or delivery of the electricity and had no obligation to provide substitute power to NU if the CRRA energy was not available.

8. Enron made no money on the steam traded with CRRA or the electricity sold to NU. If the "capacity payment" and the "fixed monthly payment" are considered part of the "energy transaction", Enron methodically and purposely lost $2.375 million for each month of the contract, an arrangement which on its face would appear to be financially irrational and irresponsible .

9. The only economic reason for Enron's participation in this transaction was to receive the initial $220 million payment from CRRA, which it apparently hoped to reinvest for a return greater than the $2.375 million per month it was paying to CRRA.

10. The only possible justification for CRRA's $220 million upfront payment to Enron was to receive from Enron payments of $2.375 millon per month until the year 2012. The monthly $2.2 million "capacity payment" and the monthly $175,000 payment, equal a return to CRRA of the $220 million principal plus 7 percent interest.

11. A loan document provided in this investigation shows that as late as the summer of 2000, CRRA had proposed making a $200 million loan to Northeast Utilities at an 8 percent interest rate, an amount and interest rate nearly identical to the deal that was struck with Enron and labeled an "energy transaction."

Aside from the issue of whether the $220 million payment to Enron was a loan camouflaged as an energy transaction, the evidence we have reviewed to date indicates other failings by the CRRA and its advisors:

(1) The payment to Enron on an unsecured basis of $220 million, by any measure, constituted a huge commitment by CRRA, comprising 44 percent of the total assets of the Mid-Connecticut Project and 85 percent of the project's equity. However, we have been provided with no evidence that an analysis was conducted at that time concerning the financial effect on CRRA if CRRA directly received the

$220 million and, instead of lending it to Enron, invested that money in safe U.S. government securities.

(2) CRRA and its advisors undertook inadequate due diligence in approving Enron for participation in the project, considering the scale and level of involvement by Enron;

(3) CRRA agreed to a financial arrangement with Enron which incurred risk inappropriate for a taxpayer-supported entity, such as CRRA; and

(4) CRRA siphoned away assets and proceeds from the Mid-Connecticut Project to an unrestricted New Project Venture enterprise, in connection with the transaction, in a manner which at best was not appropriate in light of the multiple project responsibilities of CRRA.

Recommendations

1. CRRA should take all appropriate legal action against Enron, and Arthur Andersen to recover the $220 million. Additionally CRRA should determine whether action is appropriate against its advisors for failure to perform an adequate due diligence analysis of this transaction or to properly advise CRRA of the legal limits on its lending and investment authority.

2. The General Assembly should require a management and financial audit by external independent reviewers with expertise in the subject matter of CRRA's Mid-Connecticut Project operations. The audit should extend to any financial recovery plan to be proposed by CRRA with respect to mitigation measures to be taken to respond to the Enron bankruptcy.

3. CRRA's statutory investment and loan restrictions should be strengthened to specifically prevent CRRA from making loans or investments camouflaged as energy transactions.

4. The Connecticut General Assembly should require an independent audit of all energy transactions conducted

by CRRA. The audit should be paid for by CRRA, but supervised by an independent committee appointed by the General Assembly or member municipalities.

Summary of the Interim Report

This interim report is submitted even before our ongoing investigation is completed, so that remedial steps may be considered and taken as soon as possible. These steps may include recovery of funds from Enron, Arthur Andersen, law firms and other advisors, along with legislation to prevent similar debacles in the future – and to prevent immediate unfair or unnecessary burdens on taxpayers and consumers. Such measures are for the CRRA Board, the legislature and the Governor to adopt. My office stands ready to assist aggressively in legal action that may be appropriate. Care has been taken in this report to avoid characterizing or disclosing information that might hamper such efforts. Indeed, this office adopted for the present time CRRA's decision not to disclose to us information about attorney advice that may relate to its possible future actions to recovery the $220 million lost to Enron.

In the Enron deal, CRRA may be viewed as a victim of the largest business failure and financial scandal in American history, but in truth the Enron deal should never have happened. It was a $220 million loan, camouflaged and disguised as an energy transaction – exceeding the role, responsibility and authority of CRRA intended by the legislature. An unsecured transfer of $220 million to a private company – especially one in the volatile energy industry – was simply inappropriate for a public agency like CRRA. This agency is a political subdivision of the state with the legal status of a Connecticut municipality. It is a government entity, bound by statutory standards and restrictions in investing and loaning funds, because its obligation first and foremost is to preserve and protect the assets of its almost 70 member municipalities. Its public trust is to taxpayers and citizens of these town and cities. Their money was and is at stake, and at risk.

There were numerous financial reasons to reject an unsecured loan to Enron. Enron's credit rating was only slightly above NU's. A similar loan to NU was considered, but not made. NU's history – a threat of bankruptcy under prior management -- showed how risky the energy business could be. No matter how promising any single company, a loan of $220 million without any diversification would seem to violate basic secured investment strategy; as commanded by the General Statutes. These facts, and many others, were known then, well before any fraud and wrongdoing were more recently revealed.

But even without these financial strikes against this deal and this debtor, this loan overstepped CRRA's statutory obligations. Camouflaging the transaction as an energy transaction, CRRA perhaps believed – possibly based on lawyers' advice – that it was acting within the expansive authority to promote energy technology and growth.

(Whether it was so advised remains unclear. None of the documents provided so far analyzes the issue of authority, and the restrictions on investments and loans.) To disguise or depict the Enron transaction as energy driven or even energy related essentially misrepresented its key elements. Funds were conveyed to Enron with no restriction on their use, no obligation other than to repay them at a set rate of return, no other contingent duties, no security.

At best, CRRA sought to do indirectly what it could not do directly. No credible explanation has been provided for how this loan is consistent with the restrictions on CRRA's authority.

In March 2001 the CRRA directed Northeast Utilities ("NU") to pay Enron $220 million of the $280 million CRRA was to receive from NU's buydown of its 1985 power purchase contract with the CRRA. The remaining $60 million was used by the CRRA to purchase NU's South Meadows generating facility, the turbines, four jet generators and to buy and environmentally remediate the 90 acres of land surrounding the plant. This buydown was mandated by the 1998 legislative initiative to restructure the Connecticut electric industry from a regulated industry into a competitive market. Under the Electric Restructuring Act, Northeast Utilities was required to sell its generating assets and was allowed to buy down high cost energy contracts which it had with private power producers and resource recovery facilities such as the CRRA. CRRA's 1985 contract extended to the year 2012 and provided NU with steam from CRRA's trash burning facility, which NU in turn used to generate electricity at its South Meadows facility in Hartford. CRRA charged NU the electric equivalent of 8.5 cents per kilowatt hour, an amount considerably above the market rate. To buy the CRRA contract down to a near market rate of 3 - 3.3 cents per kilowatt hour, NU eventually agreed to pay CRRA approximately $280 million, which NU would obtain from the issuance of rate reduction bonds, funded by monthly charges on the bills of Connecticut electric consumers.

The buy down of the NU contract presented CRRA with a significant challenge and a unique opportunity. The proceeds from the 1985 NU contract provided CRRA with an annual revenue stream of approximately $38.5 million, which CRRA used to support the garbage disposal fees -- "tipping fees" -- charged to its member towns. Without that contract, CRRA would have to use the buydown proceeds to establish a new revenue stream to prevent its tipping fees from increasing. Hence, the challenge. At the same time, the buydown revenue presented CRRA an opportunity to acquire NU's South Meadows generating facility in Hartford, which the Restructuring Act required NU to sell. The proceeds would provide CRRA with ready cash to purchase the plant, equipment, and land. Such a purchase would enable CRRA to generate its own electricity from the steam it had been selling to NU and own the land that CRRA was currently leasing from NU at the South Meadows site for its trash to energy operations. A purchase of the facility would also prevent a different electric energy company from acquiring these assets. Additionally, in 1998 CRRA was given the legislative authority to explore and participate in emerging energy technologies such as fuel cells, and the buydown proceeds could provide capital to help CRRA realize its new ambitions.

These considerations shaped CRRA's negotiations with NU regarding the price for the buydown of the 1985 contract. Beginning in 1998 CRRA hired a number of outside consultants and law firms to help it negotiate the contract buydown and plan for using buydown proceeds. The price that was eventually agreed upon for the 1985 contract buydown was approximately $280 million. As part of the agreement, approximately $60 million was dedicated to purchase NU's South Meadows generating facility and turbines and the 90 acres of land surrounding it in Hartford, including an environmental clean-up of the site. The remaining $220 million would be needed to replace the revenue stream from the NU contract which was to end with the buydown.

As a governmental entity CRRA has strict statutory limitations on what it can do with its money. Conn. Gen Stat. 22a- 267 allows CRRA to make loans only to persons or entities for the purpose of waste management facilities and such loans must be secured. Additionally, Conn. Gen. Stat. 22a-275(f) allows CRRA to lend money to municipal or regional authorities to establish solid waste management projects, disposal facilities, volume reduction plants or disposal areas. These loans must also be secured. There are clear restrictions on the types of investments CRRA can make. In general terms, the legislative restrictions on CRRA's investment authority require investments which are generally considered to be safe and conservative. Conn. Gen. Stat. 22a-265(14) limits CRRA's investment of "funds not needed for immediate use" to "obligations issued or guaranteed by the United States of America or the state of Connecticut and in obligations that are legal investments for savings banks in this state". Savings banks may only invest in marketable securities, including stocks, bonds and mutual funds, and for investments in other than federal and state government obligations, there are limits in many cases, tied to a percentage of the value of the bank's equity and loan loss reserves, on the amount that savings banks may invest in such securities or in any one company.

In addition to statutory restrictions on its investment and lending authority, the CRRA had other important restrictions related to the approximately $220 million in outstanding bonds which CRRA had issued for the construction of CRRA's Mid- Connecticut trash to energy facility. The bonds, originally issued in 1985 were refunded in 1996 with the new 1996 issue having a 2012 maturity date. The bonds were secured by a pledge of revenues from the tipping fees paid by participating municipalities under the waste hauling contracts with CRRA and revenues from the CRRA- NU energy purchase agreement. Any proposed use of the revenues from that contract, including the revenues from the buydown of that contract, would have to be presented to the bond trustee, the State Street Bank and Trust Company. The bond indenture contained investment limitations similar to those set forth in the General Statutes. Finally, as a non-profit entity, any income on investments made by the CRRA with revenues derived from the energy contract with CL&P were limited by the arbitrage provisions of the Internal Revenue Code applicable to tax exempt financing such as the CRRA bonds. According to IRS rules, if CRRA earned a return on an investment of the energy contract revenues above the rate of interest CRRA was paying on its bonds, any investment income above the bond rate would be returnable to the IRS.

While CRRA has strict limitations on its investment and loan authority, it has broad powers relating to the management and operation of its trash to energy facilities. Conn. Gen. Stat. § 22a-262(3), § 22a-265(3) and § 22a-265(12) give the CRRA the power to enter into contracts or agreements that CRRA may consider "necessary, desirable or convenient" (§ 22a-262(3)) or "incidental to the performance of its duties and execution of its powers" (§ 22a-265(3)) or for "the fulfillment of its obligations" and the conduct of its operations" (§ 22a-265(2)). In 1998 CRRA was also given the broad authority "to assist in the development of industries and commercial enterprises and the planning, design, construction financing, management, ownership operation and maintenance of systems, facilities and technologies within the state based upon or related to resources recovery, recycling, reuse, treatment, processing or disposal of solid waste," Conn. Gen. Stat. § 22a-265a(18), as well as to make equity investments in projects involving the development or operation of any system, facility or technology based on solid waste management. Conn. Gen. Stat. §22a-267(8).

According to CRRA management, numerous options for managing the $220 million were explored. Although a refund of the $220 million to the member towns was considered, CRRA officials stated in their testimony that it was rejected by CRRA because the loss of that money to CRRA, and the revenue stream it could generate, would cause in a significant annual budget gap, requiring substantial increases in CRRA's tipping fees. Use of the $220 million to immediately pay off the approximately $220 million in Mid Connecticut bonds was also not possible because the bonds could not be redeemed until 2006, at the earliest; and until 2008 without a pre-payment penalty.

The seeds for the eventual deal with Enron appear to have first been sown during CRRA's negotiations with NU over the price to be paid for the 1985 contract buydown. During those negotiations the concept of CRRA lending the $220 million to a third party to achieve an 8 percent return was raised. This concept for a third party loan became the primary structure that CRRA considered throughout 1999 and 2000 for using the $220 million to replace the 1985 contract's revenue stream. The repayment of the loan's principal and interest would provide CRRA with the annual revenue it was seeking. The first proposal that was considered was giving the money to the Connecticut Steam Corporation, later known as the Connecticut Brownfields Trust (CBT), entities that CRRA would create to receive the $220 million and which would lend the money to a third party. CRRA's tax advisors determined that the $220 million would have been immediately taxable to CBT.

CRRA also had lengthy discussions with NU about lending it the $220 with repayment to CRRA at an 8 percent interest rate and CRRA's attorney, Murtha Cullina, presented NU with a proposed "loan agreement". Significant discussions between CRRA and NU concerning this possible loan continued until the summer of 2000. Significantly, documents prepared for CRRA and NU include a loan agreement and the outline of a loan and "energy transaction" nearly identical to the agreement finally reached with Enron.

At about the same time CRRA was developing its plans for the NU buydown funds, it began a relationship with Enron. Both CRRA and Enron shared the services of the Murtha Cullina law firm in Hartford. Murtha Cullina served as CRRA's legal advisor and provided lobbying services for Enron. According to the testimony of CRRA President Robert Wright, he was first introduced to Enron in February or March of 2000 by Murtha Cullina lobbyist David McQuade. According to the testimony of CRRA's Chairman of the Board Peter Ellef, he was first introduced to Enron in the summer of 2000 by Murtha Cullina lobbyist Michael Martone. The relationship between CRRA and Enron intensified to include discussion of multiple business ventures, notably the development of a fuel cell energy farm at CRRA's facilities. In late December, 2000, Enron and CRRA reached a Memorandum of Understanding to jointly develop a CRRA-Enron fuel cell farm in Connecticut. The plan, as presented to the Department of Public Utility Control, called for the use of $120 million in funds collected from the state's electric ratepayers and earmarked for energy conservation projects and involved a $10 million payment to Enron for "development services". On its own, Enron was an investor in the company that would supply the fuel cells to the joint venture. This deal was subsequently rejected by the Department of Public Utility Control because the proposed fuel cell farm did not meet the statutory definition of an energy conservation project which would qualify for use of the specifically dedicated ratepayer funds.

Through these fuel cell project discussions, Enron positioned itself in the forefront of CRRA's plans for the NU buydown proceeds. NU officials have stated that they became less interested in borrowing the $220 million as NU's financial condition improved through the year 2000. But that summer of 2000 CRRA notified NU that Enron instead would serve as the financial vehicle for the $220 million, replacing both NU and CBT.

The plan eventually crafted was similar to the earlier third party loan transactions that CRRA had considered for NU and Connecticut Brownfields Trust. The core of the new deal involving Enron, however, was a complicated four contract transaction between CRRA, Enron and NU which called for CRRA to provide steam to Enron, which Enron automatically returned to CRRA at no additional charge or cost, and for CRRA to sell electricity to Enron for 3 to 3.3 cents per kilowatt hour, which Enron automatically sold to NU at the same price. The deal required NU to pay Enron the $220 million that NU owed CRRA under the contract buydown and Enron was required to pay CRRA a $2.2 million monthly "capacity charge" and a second "fixed monthly payment" of $175,000 until 2012. This second payment was designated as not being related to the Mid-Connecticut project and became available for CRRA's use in other ventures. The monthly capacity payment purportedly was to insure that CRRA would guarantee the availability of the steam used to generate the electricity which it promised to sell Enron, but under the contract the $2.2 million "capacity payment" was required to be made by Enron even if CRRA did not deliver any steam in any particular month. The $175,000 fixed monthly payment was also due CRRA irrespective of CRRA's steam or electricity production. No security was given by Enron for the $220 million it received, only a corporate guarantee. In a separate side agreement, CRRA and Enron agreed, on a non-binding basis, to negotiate further for the establishment of a joint venture for the development of emissions free technologies to which both would contribute and share in managing. CRRA officials have stated that this so called "energy transaction" met all of CRRA's goals. It provided a long term buyer for its energy whose credit rating was superior to NU's, it provided a long term revenue stream through the capacity charge to replace the revenues lost from the contract buydown, and it provided an additional separate payment of $175,000 per month to CRRA to help finance its new planned energy ventures. Additionally, the deal forged a relationship with one of the most powerful energy companies in America.

Unbeknownst to CRRA, Enron may well have needed this loan – a cash infusion that perhaps was booked as income – to sustain it through its darkening financial straits. Indeed, whether Enron and Arthur Andersen accounted for the $220 million as "income" is unknown at this moment. But Enron at the very least had unrestricted use of the $220 million with no requirement for collateral, or any reciprocal action or obligation.

Depicted as an energy deal, the three party transaction was submitted to the Department of Public Utility Control for its review. The DPUC approved it, finding that the $280 million buydown figure was appropriate and that the transaction would not have an adverse impact on electric consumers. CRRA's bond counsel Hawkins, Delafield and Wood opined to the board that there were no IRS arbitrage problems. This firm also conducted a review of Enron's financial statements, statements which had been audited for Enron by Arthur Andersen and, concluded that Enron was a good credit risk. State Street Bank, the bond trustee for the Mid-Connecticut project, was informed of the transaction, but was told by Hawkins Delafield that the trustee's consent was not required

By December 2001, when the essential components of the deal were starkly revealed, Enron filed for bankruptcy and CRRA's $220 million unsecured payment to Enron was lost.

Although the complicated deal was camouflaged as an energy transaction, its essence was the unsecured $220 million loan to Enron and Enron's 11 year, monthly repayment of that $220 million at a seven per cent interest rate. The electric energy component of the transaction was a mere pass through of electricity at the same price from CRRA to Enron to NU and a pass through of money from NU to Enron to CRRA. In fact, the payments for electricity from Enron to CRRA were due one day after the payments from NU to Enron.

If the deal had really been an energy transaction, there was no substantive or energy related reason for the $220 million up-front payment from CRRA to Enron. If Enron was interested in securing CRRA's capacity or guaranteeing its availability when it was needed, as the capacity payment purported to do, Enron would have paid the capacity charge on its own and would not have needed the $220 million prepayment from CRRA. Additionally, the "capacity payment" and the "fixed monthly payment" were due on a monthly basis whether or not CRRA generated any steam or electricity in any particular month. Furthermore, Enron assumed no risk in this transaction which would have required or accounted for a $220 million up-front payment from CRRA or NU. The contracts between CRRA, Enron and CL&P made CRRA ultimately liable for any shortfall in energy production or payments.   Nor was there any need for CRRA to seek the "creditworthiness" of Enron to protect its energy sales to NU. While Enron did have a higher credit rating than NU at that time, this fact did not mean that Enron was a less risky company than NU. NU was a regulated electric distribution company with a monopoly market, whereas Enron was an entrepreneurial entity. Furthermore, even at that time, Enron’s credit rating was only BBB+/Baa1. Moreover, there was a ready market for CRRA's electricity with or without Enron or NU. At 3 to 3.3 cents per kilowatt hour, CRRA's energy was very marketable to any buyer.

Based on the $220 million payment from CRRA, Enron was to repay CRRA $2.2 million in the form of a monthly "capacity payment' which CRRA was to use to support its tipping fees. Additionally, Enron was to make a “fixed monthly payment” of $175,000, which CRRA had designated as unrelated to the trash to energy project and which CRRA intended to use to finance its new energy ventures. The few payments made by Enron to CRRA in 2001 were used for that purpose. Clearly, the only reason for CRRA’s $220 million payment to Enron was to provide repayment in monthly installments at a 7 percent interest rate. The $220 million payment by CRRA was simply a $220 million loan camouflaged as an energy transaction.

There is no authority in the General Statutes that allowed CRRA to make a $220 million loan to Enron. Stripped to its essentials, as an unsecured loan it did not comply with any of the loan or investment restrictions placed on the CRRA by the General Assembly . CRRA's advisors appear to have virtually disregarded the issue of authority, encouraging action to dress and mask the deal as an energy transaction, thereby placing at risk $220 million of the public's money.

The intent, language and policy of this conclusion is not a financial assessment based on hindsight, but rather an evaluation of public policy and statutory law. This deal simply should not have been done by a governmental entity almost wholly dependent on taxpayer and ratepayer funds.

Finally, and importantly, other options were available to CRRA that would not have put the $220 million from the NU contract buydown at risk. Those revenues could have been paid to the bond trustee, not to Enron and CRRA could have developed proposals for the investment of the proceeds in safe investments to present to the trustee that would have provided CRRA with the replacement revenue stream it was seeking to support its tipping fees and which would have provided for the orderly payoff of the Mid Connecticut bonds. While the return that CRRA could have achieved through the bond trustee may not have been as high as the return it sought from Enron, it would have supported CRRA’s ongoing operations. Our examination concludes that such proposals were possible and we have presented an example that could have accomplished the same core financial objectives of CRRA without exposing the $220 million to the risk of loss that occurred in the Enron deal and which would have been consistent with the legislative restrictions on CRRA’s investment and lending authority.

II. Scope of the Initial investigation

This office issued subpoenas to the Connecticut Resources Recovery Authority, Enron and Northeast Utilities for all documents relating to the 1985 power purchase agreement buydown and the CRRA-Enron NU-2001 transaction. Documents relating to Arthur Andersen's involvement in this transaction have also been subpoenaed as part of the investigation being conducted by the Connecticut Board of Accountancy. As a result, this office has received approximately 36 cartons of documents responsive to these subpoenas, and is expecting to receive more documents as outstanding subpoenas are returned. In addition, Robert Wright, the President of CRRA, and Peter Ellef, the Chairman of the Board of CRRA, voluntarily provided testimony under oath. This office has interviewed five former CRRA employees, as well as and representatives from NU, representatives from State Street Bank, the bond trustee for CRRA's Mid Connecticut project bonds.

CRRA has asserted the attorney-client privilege with respect to numerous documents responsive to the Attorney General's subpoenas. CRRA agreed, for the present time, to make attorney-client communications leading up to the NU buydown transaction available for our inspection, but has not agreed to waive its attorney client privilege or provide this office with possession of the documents. Additionally, CRRA did not agree to allow us to inspect attorney work product documents dated before or after the transaction or attorney client communications occurring subsequent to the transaction and specifically created in response to the Enron bankruptcy. According to CRRA's attorneys, those documents may be related to future litigation. In addition, the law firm of Murtha Cullina, LLP has stated its intention to fully cooperate with this investigation, but individuals from that law firm have not yet been interviewed.

III. Description of Participants and Chronology of Events

A. The Participants.

1. <u>Connecticut Resources Recovery Authority ("CRRA")</u>.

The CRRA was created in 1973 by the Connecticut legislature to undertake the planning, development, construction, financing and operation of solid waste disposal in Connecticut in the "public interest". CRRA was created as a quasi-independent public authority, constituting a political subdivision of the State of Connecticut.[1] The CRRA is governed by a Board of Directors consisting of thirteen full members and eight "*ad hoc*"

[1] Conn. Gen. Stats. § 22a-261(a) ("There is hereby established and created a body politic and corporate, constituting a public instrumentality and political subdivision of the state of Connecticut established and created for the performance of an essential public and governmental function, to be known as the Connecticut Resources Recovery Authority. The Authority shall not be construed to be a department, institution, or agency of the state.")

members. The Governor appoints four full members and eight *ad hoc* members. Six full members are appointed by the legislature and three full members are *ex-officio*[2].

From its inception, CRRA was given the responsibility to manage and undertake a leading role in the setting up and operation of the vital infrastructure for municipal solid waste ("MSW") management and disposal within the state of Connecticut. *See, e.g.*, Conn. Gen. Stats. §22a-258 (containing the legislative finding supporting the creation of the CRRA). At the time of CRRA's creation, the state faced a solid waste disposal "crisis" due to limited landfill capacity and increasing waste volumes associated with increased development.

The CRRA was set up to develop, construct, finance and operate multiple MSW disposal facilities around the state, each one of which would constitute a separate project to serve the needs of different consortia of adjacent municipalities pursuant to long-term service contracts entered into by CRRA with each of the member towns. The legislature also granted CRRA the authority to issue bonds, secured by the revenues from the MSW disposal contracts with the municipalities and other sources, to be used to finance the construction of the MSW disposal facilities. The bonds were expressly not supported by the state of Connecticut's taxing power; but, as an enhancement to the CRRA's credit in issuing the bonds, the state did agree to appropriate from its general fund any deficiency in the so-called "special capital reserve fund"[3].

Pursuant to its mandate, the CRRA established four different projects, which include resource recovery facilities which burn MSW and utilize the resulting waste heat to generate electricity. The projects also own and operate other ancillary facilities such as transfer stations, landfills and regional recycling facilities. CRRA's facilities currently handle approximately 75% of the MSW generated in Connecticut.

The CRRA projects are known as the Bridgeport Project, the Wallingford Project, the Southeastern Connecticut project (located in Preston) and the Mid-Connecticut project. Each project has different consortia of participating municipalities. The Mid-Connecticut Project is the largest of the four CRRA projects, comprising 75% of CRRA's net assets, 87% of CRRA's outstanding long term debt and 52% of CRRA's operating revenue (all values for fiscal year 2001).

---

[2] The *ex officio* members are the Secretary of the Office of Policy and Management, the Commissioner of Transportation and the Commissioner of Economic and Community Development. Conn. Gen. Stats. §22a-261(b). These officials are appointees of the Governor in the first instance

[3] Conn. Gen. Stats. §22a-272(a) (CRRA bonds do not "constitute a debt or liability of the state or any municipality and shall not constitute bonds or notes issued or guaranteed by the state within the meaning of section 3-21"); §22a-272(b)(providing for appropriation from the State's General Fund to restore CRRA's "special capital reserve fund" to maintain the "required minimum capital reserve" equal to the maximum amount of principal and interest due in debt service in any one calendar year.).

2. The Mid-Connecticut Project.

The Mid-Connecticut Project provides MSW disposal services to sixty-six towns. It operates a series of facilities, including most significantly a 2710 ton per day refuse derived fuel resources recovery facility located at South Meadows, Hartford, CT. The resource recovery facility burns MSW and generates steam which is conveyed to two steam turbine electric generator sets, each with a nominal capacity of 45 MW (the "Electric Generating Facility" or "EGF"), which use the steam to generate electricity. The EGF operates at an effective generating capacity of approximately 65 MW, producing on average approximately 455 MM kwhs per year over the last three years. Prior to the CRRA-Enron-CL&P transaction, CL&P owned and operated the EGF and the land on which the Mid-Connecticut South Meadows facilities are located.

Prior to the CRRA-Enron-CL&P transaction, CRRA sold the steam generated at the resource recovery facility to CL&P at a price based on the equivalent electricity produced by the steam. CL&P, in turn, used the steam to generate electricity at the EGF, which it owned and operated. In addition, CRRA leased from CL&P the land on which its South Meadows facilities were located. Following the closing of the CRRA-Enron-CL&P transaction, ownership in the EGF and the land was transferred to CRRA.

The South Meadows facility was constructed during the mid-1980s and began operation in 1988. CRRA issued bonds, secured by the pledge of revenues from the long-term service contracts with the participating municipalities and the revenues derived from the sale of steam to CL&P. As of the end of fiscal year 2000 (the reporting period immediately prior to the closing of the CRRA-Enron-CL&P restructuring transaction), the Mid-Connecticut Project had the following selected financial attributes:

Mid Connecticut Project Key Financial Attributes, Fiscal Year ending June 30, 2000 (Values are Rounded)	
Long Term Debt Principal Outstanding (excluding current principal payable)	$209MM
Annual Debt Service (Principal and Interest)	$28.1MM
Operating Revenues (Total)	$87.3 MM
Solid Waste related	$42.9MM
Electric generation related	$39.9MM
Other Income	$4.5MM
Operating Expenses (excluding depreciation) (Total)	$57MM
Source: CRRA, Annual Financial Report for Year ended June 30, 2000	

3. Connecticut Light & Power Company ("CL&P").

CL&P was initially created in 1917 as a result of the merger of several companies operating early hydroelectric facilities in Connecticut. It is now the State's largest electric utility providing retail service within its franchise area in Connecticut pursuant to rates regulated by the CTDPUC. CL&P serves more than 1 million customers in the State, serves a peak load of approximately 4433 MW (2000) and has annual sales of almost $2.5 billion. As of September 30, 2001, it had total regulated assets of $4.984 billion.

CL&P is the largest subsidiary of Northeast Utilities, a publicly traded company, which, in addition, owns electric utility subsidiaries with retail service areas in Massachusetts (the Western Massachusetts Electric Company) and New Hampshire (the Public Service Company of New Hampshire). It also owns a subsidiary which operates electric generation facilities (Northeast Generation Services) and a subsidiary which purchases, sells and markets electric power on an unregulated basis both at the wholesale and retail levels (Select Energy).

The Hartford Electric Light Company, later merged into CL&P, began power plant operations at the South Meadows site in the early part of the twentieth century. Prior to the CRRA-Enron-CL&P transaction, CL&P owned and operated the EGF and the land on which the CRRA South Meadows facility is located. CL&P also owned another electric generating facility located adjacent to the CRRA facilities and the EGF (the "South Meadow Jets"). The South Meadow Jets consist of four gas turbine electric generating facilities, which operate in peaking mode, comprising an aggregate of 145/196 MW (winter/summer capacity ratings) electric generating capacity. These units operate on jet fuel, operate on a restricted basis pursuant to their environmental emissions permit and generate electricity to meet system peak load requirements or as quick start units in the event of an unanticipated outage on the system. As a result of the CRRA-Enron-CL&P transaction, the EGF, the land and the South Meadow Jets were transferred to CRRA.

4. Enron Corp.

Enron was the third party to the CRRA-Enron-CL&P restructuring transaction. Enron Corp., the parent corporation, acted through its subsidiaries in the transaction, Enron Power Marketing, Inc. ("EPMI") and Enron North America Corp. ("ENA"); but also directly guaranteed the performance of the subsidiaries.

By the date of this report, Enron Corp. is perhaps the leading example in recent decades of financial and corporate mis-management, involving possibly fraudulent and criminal actions. Enron's current notoriety was obviously not apparent during 2000 and early 2001 when CRRA negotiated for the entry of Enron into the CRRA-Enron-CL&P restructuring transaction. However, the degree of due diligence which CRRA conducted on Enron at the time of the transaction does not appear to have been extensive considering the size and importance of the transaction to CRRA. Moreover, the degree of financial exposure which CRRA incurred to Enron, by directing an upfront payment to Enron of $220 MM with no collateral security to guarantee repayment of that amount, is unprecedented for Connecticut governmental agencies such as CRRA.

In the press, Enron was described during 2000 as a very large and financially powerful company. Fortune Magazine, for example, declared them the 7th largest company on the

Fortune 500 in 2000. The internationally recognized credit rating firms evaluated Enron in a category slightly above the lowest investment grade credit. However, underlying these evaluations, in data available in Enron's financial statements and publicly available at the time, analysts could determine that Enron's financial status was much less significant and its financial health subject to question. Enron's reported revenues were highly volatile, moving from $40 billion (1999) to $100 billion (2000). Yet because Enron's primary activity was re-marketing or trading commodities it purchased from others, its sales, evaluated under traditional accounting methods in 2000 measuring Enron's margins on its trades, were only $6.3 billion. The company's financial statements also showed evidence of a cash squeeze in 2000. In that year, Enron reported net cash reported from operations of $4.8 billion, yet that total included $5.5 billion in deposits from customers in California required to provide financial assurance due to the extremely high energy prices experienced in California during that year. This meant that Enron's cash flow was a negative $700 million. If one-time activities such as asset sales are also deducted, Enron's cash flow in 2000 was a negative $2.56 billion.[4]

B. Chronology of Events.

The following is a chronology of major events leading up to and including the CRRA-ENRON-CL&P restructuring transaction and its aftermath, based on information gathered to the date of this report. Although the specific regulatory and other events creating the immediate context for the transaction stem from the relatively recent "restructuring" of the electric industry in Connecticut in 1998, some of the relevant events affecting the context of the transaction relate back to the inception of CRRA and the Mid-Connecticut Project. The chronology, accordingly, includes such events as well as the events immediately leading up to and following the closing of the transaction at the end of 2000 and the first quarter 2001.

The chronology proceeds by listing the date and a brief description of the event. Comments on the relevance of specific events are included at appropriate intervals.

Events relating to certain additional issues, such as the basis for the specific procurement and selection of Enron and its affiliates by CRRA (separate from the decisions regarding the overall structuring of the transaction), the selection, retention and role of CRRA's consultants and advisors with respect to the transaction, and additional business arrangements between CRRA and Enron or its affiliates (beyond those embodied in the CRRA-ENRON-CL&P restructuring agreement) are referred to in the chronology only insofar as information has become available during the course of this investigation. Such matters remain under continuing investigation.

Event No.	Date	Event
1	1973	The CRRA is created pursuant to Conn. Public Act, 73-459, as

[4] See, e.g., G. Morgenstern, *How 287 Turned into 7: Lessons in Fuzzy Math*, New York Times (January 20, 2002); Bethany McLean, *Is Enron Overpriced?*, Fortune Magazine (March 5, 2001).

		amended now codified at Conn. Gen. Stats. §§22a-257-285k (Chapter 446e).
2	1978	The US Congress enacts the federal Public Utility Regulatory Policies Act of 1978 ("PURPA"). PURPA, among other matters, mandates that regulated electric utilities procure electricity generated from renewable resources (including electricity generated by MSW facilities such as the Mid-Connecticut project) at the utilities' "avoided cost."

3	1/20/84	The DPUC approves the original CL&P-CRRA Mid-Connecticut EPA in DPUC docket 83 07 12. The EPA provides for the sale of steam produced at the CRRA MSW processing facility to be constructed to electric turbine/generator sets to be refurbished and owned by CL&P. The term of the EPA runs to May, 2012. The price of the electric equivalent of the steam is paid to CRRA and is subject to a floor of 8.5 cents/kwh, adjusting upwards based on a formula utilizing CL&P's administratively determined "avoided cost" and plant availability as variables.
4	3/13/85	The CRRA Mid-Connecticut original Bond Resolution becomes effective. The Bond Resolution effects and administers a pledge of the CL&P-CRRA EPA revenues and provides detailed procedures for the control and management of the cash flow, funds and operations of the Mid-Connecticut project for the benefit and security of the investors in the bonds to be issued by CRRA to fund the construction of the MSW processing facility.
6	3/13/85	CRRA arranges for the issuance of the original bonds to finance the construction of the Mid-Connecticut MSW waste processing facility located at South Meadows, CT in the principal amounts of $219MM variable rate bonds (5% initial interest rate) and $90 MM fixed rate bonds (at a 9% interest rate). The variable rate bonds were subsequently converted to fixed rate bonds in 1986 at an interest rate between 7 and 8%. The original term of the bonds ran to 2012 (the approximate term of the CL&P-CRRA Mid Connecticut EPA).
6	7/2/85	The DPUC approves an amendment to the original CL&P-CRRA Mid-Connecticut Energy Purchase Agreement in docket 85 05 13
7	10/1/88	The Mid-Connecticut Project begins operations following completion of construction.

Following the creation of the CRRA, the federal government, in response to the energy crises of the 1970s and the projections at the time of continuing future substantial increases in the cost of fuel and electric prices, enacted PURPA, the Public Utility Regulatory Policy Act. Among other matters, PURPA which mandated regulated electric utilities to procure power from so-called "qualifying facilities" (or "QFs") or "small power producers" at the utilities' "avoided cost" (*i.e.*, at a price equal to the cost which the utility was deemed to have had to make the purchase absent the purchase of the power output from the QF). Solid waste recovery facilities, such as those within CRRA's mandate, which generate electricity qualified as facilities entitled to sell power to regulated electric utilities at the utilities' "avoided cost." State public utility commissions were afforded delegated authority, under regulations issued by the Federal Energy Regulatory Commission ("FERC"), to administratively determine the level of "avoided cost."

In Connecticut, the legislature passed a state law analogue to PURPA, codified as Conn. Gen. Stats. §§16-243a, 16-243b. The cited statutes obligated "electric public service compan[ies]" among others to purchase electric energy produced by "private power production facility[ies]". The price of the purchased power was established as the "avoided cost" of the purchasing electric utility and the contract term could extend up to 30 years. The DPUC was charged with administering the law and approving contracts for the sale of power by private power producers. Based on then anticipated continuing escalation in the cost of fuel oil, DPUC approved determinations of "avoided cost" were set at high levels, relative to subsequent recent experience in the energy markets. The Connecticut legislature also enacted a specific law in the context of PURPA to encourage the development of resource recovery facilities "owned by, or operated by or for the benefit of, a municipality or municipalities" (which presumably includes the CRRA Mid-Connecticut project). Conn. Gen. Stats. §16-243e(a). This latter statute mandates that regulated electric companies enter into contracts for the purchase of electricity from such facilities for a duration of not less than twenty years and at a price equal to the retail rate charged by the electric company to the municipality. *Id.*[5]

During the early 1980s, CRRA undertook an extensive planning effort to initiate the Mid-Connecticut project. It first entered into long term service contracts with municipalities in the greater Hartford metropolitan area for the collection and disposal of MSW at the resource recovery facility which CRRA proposed to construct. Under these agreements, the municipalities agreed to minimum levels of MSW to be supplied to CRRA's proposed facilities and to pay CRRA a "tipping fee" per ton of MSW established on a non-discriminatory basis across all the member towns. The tipping fee would be set at a level sufficient to pay CRRA's annual operating expenses and debt service for any financing CRRA required to construct the facilities required to handle and dispose of the MSW. The level of tipping fee is dependent in part on the volume of MSW delivered to the project; the greater the volumes delivered in excess of the minimum commitment levels, the lower the resulting fee per ton paid by the participating municipalities because of the ability to spread the project's operating cost over more units of MSW. Increases in volumes of delivered MSW above the minimum commitment levels, in turn, is a function of the differential between CRRA's tipping fee and the cost of competitive alternatives for the disposal of MSW.

CRRA also availed itself of the previously cited requirements of PURPA and Conn. Gen. Stats. §§16-243a, 16-243e to secure a second source of revenue to moderate the level of tipping fees otherwise required from the participating municipalities, namely the generation by and sale of electricity from the Project. Thus, CRRA successfully negotiated with CL&P in 1985 a package of an energy purchase agreement, a land use

[5] Administratively determined "avoided cost" rates were typically between 6 and 8 cents per kwh. *See, e.g.*, CTDPUC, *DPUC Investigation into CL&P and UI Third Annual Filing of the Status of Cogeneration and Small Power Production Facilities Projected Avoided Costs and Related Matters*, CTDPUC docket 88-04-02 (December 29, 1988). The retail rate paid to resource recovery facilities pursuant to Conn. Gen. Stats. §16-243e approximated 8 cents and higher per kwh, reflecting the fact that the retail rate includes costs of transmission and distribution, not included in the generation and sale of electric power at wholesale.

agreement, a lease agreement and an operations and maintenance agreement which, among other matters, provided for the following:

(a) CL&P agreed to lease, on a long term basis, a portion of its property located at South Meadows to CRRA on which CRRA's MSW resource recovery facility would be constructed. The annual rental payment was set initially at $240,000 per year.

(b) CL&P agreed to refurbish and convert two existing steam generators located at the site, previously employed in utility service (the EGF), Following conversion, the EGF would be capable of utilizing the thermal output from the CRRA facility to generate electricity.

(c) CRRA agreed to loan to CL&P $77 MM to fund the construction of the EGF. The loan was secured by the EGF physical assets.

(d) CL&P agreed under the energy purchase agreement (the "1985 CL&P-CRRA EPA") to purchase from CRRA the steam output of the CRRA resource recovery facility and pay CRRA for the electric output equivalent of the steam at a rate set at a floor of 8.5 cents per kwh but subject to upward adjustment based on a formula in which the availability of the facility and CL&P's administratively determined under PURPA "avoided costs" were variables. The term of the EPA was established at approximately 25 years from the commencement of operations of the MSW facility to be constructed.

The DPUC approved the arrangement between CL&P and CRRA pursuant to its authority under Conn. Gen. Stats. §§16-43 and 16-243a.[6]

With these contractual arrangements pending, CRRA also undertook to secure financing through the issuance of tax exempt bonds to the investing public in the face amount of $309MM, which were issued in 1985. The bonds were successfully issued and the funds raised through the bonds were utilized to construct the CRRA resource recovery facility at South Meadows and pay for CL&P's conversion of the EGF.

As is customary for public authorities issuing bond financing, in order to secure the bonds, prior to and as a condition to issuing the bonds, CRRA in 1985 adopted a "Resolution" (the "Bond Resolution") for the conduct and management of the project during the period the CRRA bonds are outstanding and to define the rights and remedies of the bond holders in the event CRRA fails to comply with the Bond Resolution's requirements. The Bond Resolution operates as a contract between the holders of CRRA's bonds, the "trustee" charged with administering the procedures established by the Bond Resolution and CRRA and provides the mechanism for securing the repayment

---

[6] Order, CTDPUC docket 83-07-12/85-05-13 (July 2, 1985); Supplemental Order, CTDPUC docket 83-07-12/85-05-13 (November 12, 1985).

of the bonds.[7] The trustee is a recognized financial institution.[8] Under the Bond Resolution, CRRA pledges the revenues from the long term service contracts it entered into with member municipalities and from the CL&P EPA as security for the repayment of the bonds and obligates CRRA to collect tipping fees and sell electricity to generate revenue sufficient to pay CRRA's operating expenses and the repayment of the principal and interest due on the bonds. The Bond Resolution also provides for extensive controls over the receipt, investment and use of funds by CRRA, administered by the trustee, and the requirement for approvals from an independent engineer for budget-making and capital investments.

Significantly for purposes of the later CRRA-Enron-CL&P transaction, the Bond Resolution provided as follows:

> Unless required by law, [CRRA] will not consent to or permit any rescission, termination, amendment or other change to the Energy Purchase Agreement, the effect of which would increase the net Operating Expenses of the [CRRA], except with the express approval of the Municipalities.

Resolution Authorizing the Issuance of the Mid-Connecticut System Bonds (Adopted March 13, 1985), §7.15(A).

Finally, both CRRA's statutory authority and the Bond Resolution provide clear limits on the vehicles in which CRRA can invest funds, other than those used for project activities. CRRA's enabling act affords CRRA the power to "invest any funds not needed for immediate use or disbursement in obligations issued or guaranteed by the United States of America or the state of Connecticut and in obligations that are legal investments for savings banks in this state." Conn. Gen. Stats.§22a-265(14). The Bond Resolution also provides for the investment by the Bond Trustee at the direction of CRRA of any proceeds held by the Trustee in any Fund or Account in permitted "Investment Securities" as defined by the Bond Resolution. Resolution, §5.16(A). Investment Securities are defined to include "safe" investments including obligations of the federal and state governments and federal government agencies. Resolution §1.2

Construction began on the Mid-Connecticut project in 1985 and was successfully completed, with the plant commencing operations on October 1, 1988.

Given the two sources of revenue (from MSW tipping fees and electric sales), CRRA's history of operation of the Mid-Connecticut project has been successful, most recently maintaining tipping fees in the $50/ton range during the each year during last half of the 1990s. This level of cost for disposal of MSW was highly competitive with alternative

---

[7] *See* CRRA, Resolution Authorizing the Issuance of Mid-Connecticut System Bonds (Adopted March 13, 1985), § 2.2.

[8] The bond trustee during the relevant periods of the negotiation and closing of the CRRA-Enron-CL&P transaction was State Street Bank and Trust Company. State Street is the successor corporation to the entities which have served as bond trustee to the project since its inception.

methods for disposal of MSW in Connecticut. As a result, CRRA was able to attract sufficient volumes of MSW to the Mid Connecticut Project in excess of the minimum commitment levels of the participating municipalities to maintain a high level of utilization of the facility, resulting in a high level of generation of electricity at the EGF relative to the EGF's electric generating capacity. During fiscal year 2000 (ending on June 30, 2000), for example, CRRA processed approximately 832,000 tons through the mid-Connecticut facility and assessed a tipping fee per ton of $50, generating approximately $ 42 million in tipping fees as shown above.

CRRA operates each of its four projects as separate financial reporting entities. Each is accounted for as a separate enterprise fund with expenses and revenues maintained separately. Each is subject to different bond resolutions, to the extent bonds have been issued for each, which establish discrete and separate controls over the flows of funds associated with each project. The CRRA, by resolution of its Board of Directors, can declare funds derived from its operations as "surplus" and, therefore, not subject to the separate project treatment of each project's funds and operations Conn.Gen. Stats. §22a-267(6). Surplus funds are thus available for use by CRRA outside of the four CRRA projects.

8	8/20/96	CRRA issues refunding bonds in the principal amount of $209.675 MM for the outstanding CRRA bond principal relating to the Mid-Connecticut Project.

In 1996, the CRRA issued so-called "refunding" bonds for the Mid-Connecticut project. These bonds were issued at a weighted average annual interest rate of approximately 5.6% and were used to pay off CRRA's outstanding bonds issued in 1985. Similar to refinancing a home mortgage, the purpose of the refunding issue was to lower CRRA's interest expense based on the interest rates prevailing in the market in 1996, which were lower than those prevailing in 1985 when CRRA initially issued its bonds. These refunding bonds constitute the vast majority of CRRA's currently outstanding bonds and the cost of servicing the bonds comprises the majority of CRRA's annual debt service for the Mid-Connecticut Project. Three aspects of these bonds are worthy of note:

First, in issuing the bonds, CRRA obligated itself not to redeem the bonds absent certain extraordinary circumstances earlier than November 15, 2006 and to pay a 2% premium on the bond principal amount penalty for redeeming the bonds between Nov. 2006 and Nov. 2007, a 1% premium on the bond principal amount penalty for redeeming bonds between Nov. 2007 and Nov. 2008, with no penalty thereafter. Such redemption limitations are fairly typical for municipal debt in order to facilitate marketing of the bonds to investors. This redemption limitation, as discussed below, may have played a role in CRRA's structuring of the CRRA-Enron-CL&P transaction.

Second, CRRA confirmed an agreement, required by the federal income tax code, that it would, among other matters, not use the proceeds from the bond issue to earn income in excess of the interest rate on the refunding bonds (i.e., the 5.6% rate) (so-called "tax arbitrage"). Under the federal Internal Revenue Code, tax exempt entities may not utilize the proceeds from tax exempt bonds or the revenues pledged for the repayment of such bonds to earn a return in excess of the interest rate payable on the issued tax exempt bonds. Internal Revenue Code, §148. Any such excess must be rebated to the federal government. CRRA's Bond Resolution also precludes CRRA from making investments which would trigger the IRS tax arbitrage rebate requirement. CRRA Bond Resolution 5.16(A).

Third, to enhance the marketability of the bonds, CRRA arranged for the procurement of bond insurance. The payment of principal and interest on the bonds, accordingly, was guaranteed by a municipal bond insurance policy issued by MBIA.

9	7/1/98	Effective date of P.A. 98-28, the Connecticut Electric Restructuring Act, which, among other matters, authorizes CL&P to divest its generation assets, to arrange for the issuance of debt instruments to fund the "above market" costs of existing generation resources and to securitize such debt with dedicated charges from ratepayers.
10	1998	Passage of P.A. 98-184, expanding the statutory authorities of CRRA.

In 1998, the Connecticut legislature, in response to regional and national reforms affecting the electric industry, enacted the Act Concerning Electric Restructuring. Among other matters, the Act allows regulated electric companies to recover so-called "stranded costs" from ratepayers and to issue bonds (so-called "rate reduction bonds" or "RRBs") secured by dedicated payments from ratepayers to defray such stranded costs. Stranded costs are the net "above-market" costs associated with the electric companies' generation assets and power purchase contract commitments, such as the "above-market" portion of the costs of the CRRA-CL&P 1985 EPA.[9] The proceeds from the bonds become available to the electric company for general corporate purposes and otherwise to mitigate the company's stranded costs, by, for example, funding the "buy-down" of above-market electric power purchase contractual commitments.

In order to qualify for the recovery of stranded cost and the associated issuance of debt, the electric companies had to submit a plan for the sale of their non-nuclear and nuclear generation assets, respectively, to the DPUC for its approval pursuant to a schedule, which in the case of non-nuclear generation assets would permit the divestiture of such assets by January 1, 200l. Conn. Gen. Stats.§16-244f(b)(2). The electric companies also had to demonstrate that they had undertaken efforts to mitigate the level of stranded costs "to the fullest extent possible", which efforts had to include:

[9] By 1998, wholesale electric energy sales were ranging between 2 to 4 cents per kwh, reflecting a combination of factors including significant unused generation capacity, lower fuel prices and falling non-fuel costs of generation due to technological advances in generation equipment. The CRRA-CL&P 1985 EPA at 8.5 cents per kwh was significantly "above-market" in this context.

> good faith efforts to negotiate the buyout, buydown or renegotiation of independent power producer contracts and purchased power contracts approved by the Federal Energy Regulatory Commission provided the fixed present value of any contract to which a political subdivision of the state is a party shall be calculated using the political subdivision's tax exempt borrowing rate as the discount rate.

Conn. Gen. Stats. §16-245e(c)(1)(B).

The statute contemplated that the electric company (*e.g.*, CL&P) would negotiate the payment of a lump-sum amount to either terminate the power purchase contract or reduce the future payments under the contract to rates reflecting currently anticipated market rates for wholesale electric power. The lump-sum (the so-called "present value" payment) would reflect the current value of payments at the existing higher contract rate to be made in the future, discounted for their time value back to the present. The lump-sum also was intended to be less (after taking into account the time value of money) than payments which would have been made under the existing contract, thereby creating savings to ratepayers. The so-called "discount rate" is the factor utilized to ascribe time value to payments made in the future.

The CRRA-CL&P 1985 EPA constituted a power contract subject to the buy-down/buy-out obligation The cited provision regarding use of a particular "discount rate" had a significant impact on the cost of renegotiation of the power contract from the perspective of the electric company. The lower the discount rate, the greater the present value of a future stream of payments (or, alternatively, lower ratepayer savings accruing from a buy-down). Tax exempt borrowing rates are generally lower than (and CRRA's is below) CL&P's cost of capital, which would otherwise be used by CL&P to determine "present value". Thus, the statute required the valuation of the potential savings from a buy-down of CRRA's EPA at a higher level than a contract with the same terms and pricing with a privately owned entity and, therefore, supported a higher level of payment to CRRA. The present valued fixed amounts agreed to and approved by the DPUC for buyout or buydown of such power purchase contracts, by statute, became eligible for stranded cost recovery. Conn. Gen. Stats. §16-245e(f)(1).

While subject to the mitigation obligation with respect to purchase power obligations, electric companies could also satisfy their obligations with regards to such obligations by either (a) selling the contract outright and using the net proceeds or value of transferring the obligation to a third party to reduce stranded costs; or (b) failing the buy-down or transfer of the power purchase contract, the electric distribution company (*e.g.*, CL&P) could remain obligated on the unmodified contract with a right to collect the "above-market" portion of payments made under the contract through an annual rate recovery adjustment. Conn. Gen. Stats. §16-245e(f)(2). The annual rate recovery, however, could not be included in the amounts available for bonding through the rate reduction bonds. The latter route was followed by CRRA's Bridgeport project, for example.

During the same 1998 legislative session, P.A. 98-184 was also enacted, expanding CRRA's statutory authority. Specifically, the public act authorized CRRA: (a) "to assist in the development of "industries and commercial enterprises and the planning, design, construction, financing, management, ownership, operation and maintenance of systems, facilities and technology within the state [related to the handling of MSW]" Conn. Gen. Stats. §22a-266(a)(18) (*see also*, Conn. Gen. Stats. §22a-262(a)(2)); and (b) to act as an electric aggregator under the Electric Restructuring Act. Conn. Gen. Stats.§ 22a-266(a)(19). The public act also authorized CRRA to obtain rights in new technologies and invest in or acquire stocks, warrants, options and other ownership interests in connection with the development or operation of any system, facility or technology base on related to the handling and/or processing of MSW. Conn. Gen. Stats.§22a-267(8). Net revenue from any such activities would constitute surplus revenues to be redistributed to lower overall costs to CRRA users. Conn. Gen. Stats. §22a-262(a)(2).

11	1/8/99	DPUC approves the CL&P divestiture plan and sets a deadline, originally March 15, 1999 and later extended to March 31, 1999, for finalizing power purchase contract buy-down/buy-outs following which, if not agreed, CL&P may auction the contracts for assignment to a third party.
12	2/24/99	CTG, owner of Hartford downtown steam plant and steam delivery loop, rejects buy-out offer for removal of its facilities from Adriaen's Landing (proposed Patriots' stadium) site
13	3/31/99	CL&P and CRRA agree to a MOU which would provide for the buydown of the CL&P-CRRA 1985 EPA and payment of $290 MM from CL&P's prospective stranded asset securitization to Connecticut Steam Corporation (to be created) (to close by 1/1/00) with possible advance funding by CL&P of $80 MM by Oct. 1, 1999, even if prior to CL&P's receipt of securitization proceeds
14	4/2/99	CRRA announces that it has agreed in principle to pay for the CTG buy-out, to take over the downtown steam loop; to run piping from its facility in South Meadows to provide the steam for the loop and to sell the electric output to CTG.
15	4/5/99	CRRA and CL&P petition the DPUC to reopen dockets 83 07 12 and 85 05 13 to secure approval of CL&P –CRRA Mid-Connecticut EPA restructuring.
16	4/30/99	Robert Kraft announces that he is canceling the Patriots' move to Hartford

In response to the statute, CL&P filed its plan for divestiture of its non-nuclear generation assets, which the DPUC approved in January, 1999.[10] In the DPUC order, the Department, over the opposition of CRRA and other contract sellers to CL&P, confirmed that any bilaterally negotiated buyouts or buydowns of such power purchase contracts had to be completed by March 15, 1999. Following that date, if a buyout/buydown had not been agreed, CL&P was authorized to auction off the remaining unmodified power purchase commitments in a package to a third party. The DPUC subsequently extended this deadline to March 31, 1999.[11]

CRRA and CL&P engaged during this period in extensive negotiations for the buy-down/renegotiation of the CRRA-CL&P 1985 Mid-Connecticut EPA, culminating in a memorandum of understanding dated as of March 31, 1999. The MOU provided in relevant part as follows:

(a) CRRA agreed to the assignment of the 1985 CRRA-CL&P EPA, as modified to a third party "known as the Connecticut Steam Corporation (or other appropriate corporate name or names)…, which will neither be created or controlled by CRRA."[12] In exchange for this assignment, CL&P agreed to pay CRRA $290 MM upon receipt of the proceeds from the rate reduction bonds. (MOU, Art. II(a)).This amount presumably reflects the present value of the avoided payments to CRRA under the 1985 CRRA-CL&P EPA effected by the buy-down of the contract.
(b) CRRA and CL&P agreed to terminate the various agreements between them dating from 1985 for the use of the site, the operation of the EGF and the purchase of electricity. (MOU, Art. II(b)).
(c) CL&P agreed to advance fund $80 MM to CRRA by October 1, 1999 even if the rate reduction bonds have not issued by that date.
(d) CL&P and CSC (not CRRA) will enter into to a new energy purchase agreement for a term running to May, 2012 (the same term as the 1985 EPA) with prices beginning at 2.9 cents per kwh in 2000 and escalating at 0.1 cents per year until 2004 and thereafter remaining at 3.3 cents per kwh. (MOU, Art. III(b)). The sale/purchase obligation is described as: "CSC will be obligated to provide and CL&P will be obligated to purchase a minimum of 35 megawatts ("MW") and a maximum of 62 MW from the Project (MOU, Art. III(c)).

The MOU was expressly subject to the development, negotiation and execution of definitive agreements and the receipt of the required regulatory approvals.

---

[10] CTDPUC, Order, Docket 98-10-08 (January 8, 1999). Enron Energy Services appeared as a party in this proceeding represented by the law firm of Murtha Cullina.

[11] CTDPUC Order, Docket 98-10-08RE01 (March 24, 1999).

[12] The Connecticut Steam Corporation (or "CSC") went through several different formulations over the course of negotiation of the final CRRA-Enron-CL&P transaction. It will be referred to sometimes below as the "Third Party Entity."

At the same time as CRRA and CL&P were finalizing the MOU, the effort to complete development activities at Adriaen's Landing consistent with the development schedule negotiated with the Patriots football team was intensifying. CTG's office building and steam plant occupied a critical area required for the development of the proposed football stadium and convention center. In addition, the downtown steam loop was tied to the existing CTG facility, proposed for removal. Immediately following the execution of the CL&P-CRRA MOU in early April, 1999, CRRA publicly announced that they had reached a tentative agreement with CTG to pay for the removal of CTG's facilities and to assume responsibility for the generation of steam to service the downtown steam loop from the Mid-Connecticut Project facilities. CRRA and CL&P also filed for DPUC approval of the buy-down/buy-out arrangement as reflected in the MOU.[13]

Robert Kraft announced at the end of April, 1999 the cancellation of the proposed move of the Patriots to Hartford. Continuing CRRA involvement in the Adriaen's Landing project following this date was nonetheless mentioned in seeking DPUC approval of the Mid-Connecticut EPA buy-down transaction. Thus, CL&P in its brief in the proceeding stated as follows:

> A final benefit of the Proposed Transaction is that it will enable CRRA to provide steam energy to CTG Resources ("CTG") so that the steam production facilities owned by CTG that serve the Hartford steam loop can be moved to permit the Adriaen's Landing development to go forward as currently envisioned. [citation omitted]. Although not limited to electric utility services, the importance of Adriaen's Landing for economic development in the Hartford area and the State of Connecticut as a whole is well known and accepted.
> Brief of CL&P in docket 83-07-12RE01/85-05-13RE01 (July 7, 1999).

17	6/25/99	CRRA files with the DPUC for approval of its taking by eminent domain of CL&P's facilities and land interests at South Meadows.
18	9/1/99	DPUC approves CRRA's request to acquire by eminent domain CL&P's South Meadows facility for $10 MM plus CRRA's assumption of the environmental liabilities associated with the site (with CL&P carrying ½ of costs up to a maximum of $2 MM).
19	1/12/00	DPUC approves the CL&P-CRRA EPA buy-down and other transactions with respect to Mid-Connecticut project, prior to Enron's entry into the transaction.
20	5/30/00	The "closing" occurs pursuant to a license agreement on CL&P South Meadows Jets facility

CRRA next filed for approval by the DPUC pursuant to Conn. Gen. Stats. §16-43 (requiring DPUC approval for conveyance of electric company property) of its proposed taking by eminent domain of CL&P's rights in the land and facilities at the South Meadow facilities.[14] The CRRA proposed to pay CL&P $10 MM for the facilities

[13] The application was docketed as 83-07-12RE01/85-05-13RE01.

[14] CRRA has the power of eminent domain pursuant to Conn. Gen. Stats. §22a-276.

(including 79 acres of land, and the facilities located on the land (i.e., the EGF and the Jet Units). CRRA also agreed to assume environmental liabilities associated with contamination existing at the site (with CL&P assuming one half of such costs up to a maximum of $2MM). CRRA estimated the cost of environmental clean-up as $20-30MM. CL&P's net book investment in the land and facilities (reflecting their age and significant depreciation of the original investment) was $3.1MM. The DPUC approved CRRA's application by decision issued September 1, 1999 in docket 99-06-27. CL&P's obligations under the EPA presumably continued under negotiation between CRRA and CL&P.[15]

During this period, based on the information acquired through this investigation to date, the transaction documents under negotiation between CL&P and CRRA contemplated: (a) that CL&P's counter-party would be a Third Party Entity separate from CRRA; and (b) at various times that the major portion of the $290 MM lump sum would be explicitly structured as a loan from CRRA to CL&P. The rationale for the Third Party Entity may have been to permit CL&P to realize a tax benefit through a current expense deduction of the full amount of the lump-sum payment (effecting a full termination for federal tax purposes of the existing EPA) rather than amortizing the payment ratably over the remaining life of the EPA. No reference to the possibility of such a benefit (which presumably should flow through to ratepayers of CL&P), however, is indicated in the DPUC's review or approval of the transaction. The existence of the Third Party Entity in the contemplated structure of the transaction, however, raised an apparent planning concern for CRRA in that receipt by the third party of the lump sum payment could constitute taxable income subject to federal and state income tax upon receipt. Such a tax concern would presumably not arise if CRRA, as a tax exempt entity, were to receive the payment directly. Notwithstanding this early planning for the transaction and the issues it raised, the Third Party element of the transaction remained an integral part of its structure throughout the negotiation of the deal and was filled by Enron in the transaction's final form.

The DPUC issued its decision in Docket 83-07-12RE01/85-05-13RE01, dated January 12, 2000 approving the terms of the buy-out/buy-down of the CL&P-CRRA EPA, reflected in the March 31, 1999 MOU. At this time, Enron had not yet appeared as a party to the transaction. In its ruling, the DPUC found that a consistent use of discount rates to compare the agreed buy-down with the avoided future payments to CRRA did not result in net savings to ratepayers, contrary to the requirement of the Restructuring Act. The DPUC ultimately approved the transaction justifying its decision only by affording weight to the transfer to CRRA of environmental responsibilities related to the site (previously decided in docket 99-06-27) and the payment to CL&P by CRRA of an amount (the $10 MM) in excess of CL&P's net book investment in the site and facilities

---

[15] The 1985 CRRA-CL&P EPA obligation assumed that CL&P operates the EGF and assumes the cost of operation of that facility (estimated by CL&P at approximately 1.8 cents per kwh, in addition to the 8.5 cents/kwh electric equivalent cost of the steam generated by CRRA's facilities). Hence, assuming that the EPA continued in effect without a negotiated amendment, there remained the question of to whom to allocate the cost of operation of the EGF.

(also previously ruled on in docket 99-06-27).[16] In its ruling, the DPUC expressly limited its approval to the specific rulings requested of it by CL&P, namely: (a) that the buy-out payment was prudent and recoverable from ratepayers as "stranded costs" within the meaning of the Restructuring Act; (b) that the buy-out could properly be funded with revenues from the rate reduction bonds; (c) that CL&P's entry into the new EPA with CRRA was prudent; and (d) that any costs incurred under the new EPA would be recoverable by CL&P through the competitive transition assessment charge prior to assignment of the new EPA to a third party. The DPUC did not approve any arrangements between the Third-Party Entity (CSC, in the original formulation) and CRRA, because the issue was not before it.

CRRA and CL&P negotiated and executed documents in a closing in escrow held at the end of May, 2000, relative to the Jet Units (the "Jets Closing"). Pursuant to the Jets Closing, CRRA acquired the Jets in escrow, entered into a power sale agreement with Select Energy, Inc. (CL&P's unregulated power generation marketing affiliate) for the sale of electric output and capacity from the Jets. The agreement is a "tolling agreement". Select agreed to reimburse CRRA for the fuel cost, control the dispatch of the units and market the power output for its own account. CRRA would be compensated with: (a) a fixed "capacity" payment which varies seasonally and which is adjusted by the availability of each of the four units; and (b) variable payments to cover CRRA's costs for actual kilowatthours of electric generation and for start-ups/shut-downs of the plant. Due to environmental restrictions and low operating efficiencies, the jet units are limited to 168 hours run-time per year. The term of the agreement is from 6/1/00 to 5/31/12, but can be terminated with 24 months prior notice. Following 5/31/05, CRRA's initial acquisition of the Jets was conducted pursuant to a license, pending the closing of overall CL&P-CRRA restructuring transaction so that upon closing of the overall transaction title in the Jets would vest in CRRA and CRRA would be paid the net revenues earned on the Select-CRRA EPA following May 30, 2000. CRRA also entered into an agreement, again in escrow, pending the closing of the overall transaction with Northeast Generation Services (another CL&P affiliate) for the operation and maintenance of the Jet Units. CRRA estimated the net revenue from the Jet Units to equal $7.8 MM in fiscal year 2001 and somewhat less in ensuing years.[17]

[16] The specific basis for these determinations remains under investigation, as the information was filed with the DPUC under protective order and has not been available for review as of the date of this report.

[17] CRRA projected net revenue from the Jet Units as follows (rounded to nearest $100,000:

FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
$0.8MM	$7.8MM	$5.9MM	$4.1MM	$4.0MM	$3.5MM

21	1st Quarter 2000	Enron makes overtures to participate in the CL&P-CRRA buy-down/buy-out transaction.
22	2d-3d Quarter 2000	Negotiation of the CL&P-Enron-CRRA transaction.
23	11/09/00	CRRA Finance Committee meeting to consider CL&P-CRRA-Enron transaction, in preparation for 11/00 full Board Meeting
24	11/16/00	Presentation to CRRA Board of Directors regarding CL&P-CRRA Mid-Connecticut EPA restructuring; CRRA Board approval of transaction
25	11/21/00	Standard & Poor's issues rating on CRRA 2001 Series A Bonds
26	12/04/00	Moody's Investor Services issues rating on CRRA 2001 Series A Bonds
27	12/04/00	Meeting with CT State Treasurer to discuss CRRA 2001 Series A Bonds and CL&P Restructuring Agreement
28	12/11/00	CT State Treasurer's approval of the CRRA 2001 Series A Bonds.
29	12/13/00	Preliminary Official Statement, CRRA 2001 Series A Bonds
30	12/22/00	"As of" execution date in escrow of definitive agreements embodying the CRRA-Enron-CL&P restructuring transaction.
31	12/28/00	Legal opinion of Bond Counsel re CRRA 2001 Series A Bonds
32	12/28/00	Trustee (State Street Bank & Trust) concurrence re CRRA 2001 Series A Bonds
33	1/10/01	CRRA 2001 Series A Bonds Official Statement
34	1/18/01	Closing of the CRRA 2001 Series A Bonds

Sometime in the first quarter of 2000, David McQuade of the law firm of Murtha Cullina contacted Robert Wright, the President of CRRA to introduce Enron to CRRA for the purpose of entering into discussions regarding possible business ventures to be pursued jointly by the two companies. Murtha Cullina has been general counsel to CRRA since its inception and continues in that role and has represented Enron in Connecticut with respect to regulatory matters. CRRA and Enron countersigned letters from Murtha Cullina waiving their objection to potential conflicts of interest in the continued representation of CRRA by Murtha Cullina in connection with the transaction. Enron was separately represented by a different outside counsel. The law firm of Hawkins, Delafield and Wood ("HDW") represented CRRA as bond counsel with regards to the transaction.

CRRA management has not described what the basis was for the selection of Enron to undertake the transaction, other than in a conclusory fashion to respond to our inquiry that Enron was the only entity prepared to do the transaction. No formalized process for competitive selection, other than a possible continuation with CL&P, appears to have been undertaken.

In public documents filed with the DPUC, CRRA had earlier responded in a similar manner to questioning from DPUC staff as follows:

How was Enron selected?

Answer: Enron Power Marketing, Inc. was selected for the transaction based upon Enron's interest in participating in the transaction on terms satisfactory to CRRA.

Robert E. Wright in response to Interrogatory EL-10, Docket Nos. 99-06-27RE01, 83-07-12-EO2, 85-05-13RE02.

The final form of the transaction documentation was negotiated during the summer and fall of 2000 with active participation by Enron, CRRA and CL&P and was presented by CRRA management to the CRRA Finance Committee for approval in early November, 2000 and to the full CRRA Board of Directors on November 16, 2000. At its November, 2000 monthly meeting, the Board voted to approve the transaction.

The transaction effected the following changes:[18]

A. Pre-Transaction.

A.1. Facilities/Site Control. CL&P owns and operates the South Meadows Electric Generating Facility (consisting of two components, (a) the 65 MW base-load steam turbines, powered by the waste heat from the CRRA facility (the "EGF"), and (b) the 170 MW (winter rating) jet fuel fired set of four jet turbine electric generation peaking facilities (the "Jets")). CL&P owns the site ("Site") on which the EGF and the Jets are located and CRRA's waste-burn, waste handling and waste recovery facilities are located.

A.2. CRRA owns its waste mass-burn, waste handling and waste recovery facilities adjacent to the CL&P EGF and occupies the Site pursuant to a land use agreement, and certain additional easements with CL&P.

A.3. CRRA and an Ogden Energy Services Group, Inc. subsidiary are contract parties to an operation and maintenance agreement pursuant to which the Ogden affiliate operates and maintains the CRRA facilities.

A.4. CRRA and CL&P are contract parties to an energy purchase agreement ("EPA") pursuant to which CRRA supplies the steam to CL&P's EGF. The steam is the output from CRRA's waste facilities and is used to produce electricity at CL&P's EGF. The term of the EPA runs to May 31, 2012.

A.5. The electric equivalent cost of the steam supplied by CRRA to the CL&P EGF is approximately $0.08 to $0.085/kwh, paid by CL&P to CRRA.

[18] A detailed summary of each of the contracts summarized in the following discussion is contained in the Appendix *infra*.

B. Post- Transaction.

B.1. Facilities/Site Control. CRRA acquires the electric generation facility ("EGF") previously owned by CL&P. CRRA enters into an operation and maintenance agreement with Resource Recovery Systems of Connecticut (RRS) an affiliate of Ogden Energy Group, Inc. to operate the EGF. Ogden Energy Group, Inc. guarantees the performance of RRS. CRRA acquires the 79 acre South Meadows site previously owned by CL&P on which CRRA's waste handling facilities are located pursuant to a land use agreement. CRRA acquires the Jets and enters into a Management and Operations Agreement with Northeast Generation Services Company ("NGS") (CL&P's generation operations affiliate) for the operation and maintenance of the Jets. CRRA enters into an environmental clean-up "Exit Strategy" agreement with TRC and AIG for the capping of environmental liability with respect to the Site and the management of the clean-up of the Site by TRC.

B.2. Significant Contract Arrangements involving Enron.

B.2.1. CRRA-ENRON-CL&P Project Termination, Assignment and Assumption Agreement. Under this agreement, CL&P purports to effect an assignment of its obligations under the existing 1985 EPA to Enron and the now $282 MM in proceeds from the then pending rate reduction bonds (reduced by $21,667 per day in delay in closing beyond January 1, 2001) are directed to CRRA and to EPMI. EPMI receives $225 MM, assuming a closing in January '01, with the amount reduced if the closing is delayed beyond that date. CRRA is due the remaining amount ($282 MM, as adjusted by delay in the closing, less the amount paid to EPMI)..

B.2.2. EPMI-CRRA Amended and Restated Energy Purchase Agreement. CRRA delivers sufficient steam, to which it holds title at all times, sufficient to generate at least 250 MM kwh of electric energy for each fiscal year. EPMI pays CRRA $2.2MM per month without regards to whether CRRA delivers the steam.

B.2.3. EPMI-CRRA Electric Generation Agreement. EPMI redelivers the steam to CRRA which then converts steam into electricity for which Enron pays CRRA $0.30 per kwh in calendar year 2001 with escalation of $0.001 per year until 2004 when cost is $.033 per kwh with no escalation thereafter until end of term on 5/31/2012. Enron's purchase obligation is for 250 MM kwhs/per year. EPMI also agrees to pay CRRA an additional $175,000 per month during the contract term without regard to CRRA's delivery of electricity. The contract acknowledges that CRRA can utilize this monthly payment for "developing commercially viable alternatives to generating electricity from steam, developing emissions free technology to be utilized by waste recovery and power generation processes and the revitalization and redevelopment of South Meadow station." (3.2(a)(ii)).

B.2.4. CL&P-ENRON EPA. Enron sells the power purchased from CRRA to CL&P at the same prices as Enron paid to CRRA to purchase the electricity under the EPMI-CRRA EGA.

B.2.5. CRRA-CL&P EPA. CRRA has a separate direct agreement with CL&P to sell power output in excess of 250MM kwhs/yr. generated by the EGF at the same prices as under the Enron-CL&P transaction.

B.2.6. CRRA-ENRON MOU. CRRA and Enron North America Corp. ("ENA"), another Enron affiliate, enter into a preliminary joint venture agreement to pursue the development of "emissions free technologies" which indicates that, subject to a later definitive agreement, the funds comprised of the monthly payment of $175,000 may ultimately be invested in the Enron-CRRA joint venture.

B.7. CL&P-CRRA Interconnection Agreement. CL&P enters into an interconnection agreement with CRRA to permit electric connection of the CRRA electric generation facility with the CL&P transmission system.

B.8. CRRA-ENRON parent guarantee. Enron Corp. (parent) guarantees the obligations of Enron Power Marketing, Inc. (the direct counter-party to CRRA in the prior transactions).

The documents were further refined through negotiation among the parties and finally executed on December 28, 2000 and held in escrow, pending the issuance of the CL&P rate reduction bonds which would fund the proceeds to make the transaction effective.

During the same time period as the documentation of the CRRA-Enron-CL&P transaction was being finalized, CRRA arranged on behalf of the Mid-Connecticut Project for the issuance of bonds in the principal amount of $13,210,000 for the primary purpose of funding the installation of odor control equipment at the Mid-Connecticut Project. As part of the process for the issuance of these bonds (the Mid-Connecticut System Subordinated Revenue Bonds 2001 Series A), CRRA prepared a detailed Official Statement to support the marketing and sale of the bonds. The Official Statement described the Mid-Connecticut project generally and the purpose for and terms of the bonds to be issued. CRRA also included a description of the CRRA-Enron-CL&P transaction in the Official Statement (the relevant excerpt from the Official Statement is attached hereto in the Appendix).

CRRA stated in the Official Statement that it "believes that the transactions summarized above [*i.e.*, the CRRA-Enron-CL&P transaction] will be beneficial to the System (the "Mid-Connecticut Project") and would result in greater net revenues for the System at less risk".[19] As noted previously, the CRRA is only authorized under the Bond Resolution to consent to amendments to the 1985 CL&P-CRRA EPA under certain circumstances if the effect of the amendment will not increase the net operating expenses of CRRA. Bond Resolution 7.15(A).

[19] CRRA, Official Statement Relating to $13,210,000 Mid-Connecticut System Subordinated Revenue Bonds 2001 Series A (January 10, 2001), p. 16.

The CRRA Board of Directors also adopted a resolution: (a) authorizing and directing the CRRA President to execute the package of agreements comprising the restructuring transaction and the agreements required for the acquisition of the South Meadows property and facilities from CL&P; and (b) making required findings under the CRRA Mid Connecticut Project Bond Resolution, namely and (i) the revenues to be derived from the project would be sufficient to pay debt service, maintain required reserves and pay the project's other costs; (ii) the modification of the 1985 CRRA-CL&P EPA would not increase the project's "Net Operating Expense; and (iii) the new arrangements to replace the 1985 EPA would not be materially different than the prior arrangements.

HDW, CRRA's Bond Counsel, contemporaneously issued an opinion to CRRA, EPMI, and CL&P and to the Bond Trustee which stated that: (a) CRRA was authorized to enter into the agreements contemplated by the CRRA-Enron-CL&P restructuring transaction; (b) that CRRA-Mid Connecticut Project bond holder consent was not required for the transaction; and (c) that the transaction would not adversely affect the tax exempt status of the bonds.

HDW, accompanied this opinion with a memorandum, dated December 28, 2000, which summarized the required facts and findings which CRRA needed to make under the Mid-Connecticut Bond Resolution to effect the CRRA-Enron-CL&P transaction. The HDW memorandum characterizes its discussion as constituting a "review" "to assist CRRA in making findings of fact, in particular findings set forth in the Bond Resolution, and to assist CRRA in complying with the requirements of the Bond Resolution." HDW, Memorandum, p. 5. HDW specifically concluded that the annual net revenues derived from the transaction paid to CRRA by CL&P and Enron together would equal or exceed the payments previously received from CL&P under the 1985 CRRA-CL&P EPA. The following table is derived from HDW's analysis.

Mid-Connecticut Project Electric Sales Revenue			
Pre-CRRA-Enron-CL&P Transaction		Post Transaction	
Assumed Annual Production: 450 MM kwh			
CL&P		Enron Fixed Payment	$26.4MM
CL&P Energy Sale	$38.25MM	Enron Energy Sale	$7.5MM
		CL&P Energy Sale	$6.2MM
Total	$38.25MM	Total	$40.1MM

According to HDW, a similar result would obtain even under certain conservative case assumptions regarding operation of the Mid-Connecticut facilities. HDW also concluded that the credit quality of the obligor would improve (substituting Enron Corp. through the Enron parent guarantee for CL&P). Enron Corp. at the time of the preparation of the memorandum had a rating of BBB+/Baa1 (Standard & Poor's/Moody's unsecured);

CL&P had a rating of BBB-/Ba1 (Standard & Poor's unsecured/Moody's secured).[20] HDW finally concluded that the risk allocation improved as a result of the transaction. Following the closing of the transaction CRRA would have control of the site and the EGF, previously owned by CL&P. CRRA would also, assuming Enron's credit worthiness and continuing payments under the transaction arrangements, receive a minimum payment of $26.4 MM plus the variable energy payments provided it generated at least 250 MM kwh in each fiscal year.

HDW did not address the question of whether the transaction might constitute the provision of a loan or whether the CRRA had the legal authority to issue a loan to Enron. This is particularly noteworthy since HDW repeatedly pointed to the "relative certainty" of the monthly payments from Enron to CRRA, irrespective of the steam or electric production by CRRA, as reducing CRRA's risk compared to its steam contract with CL&P. The relative certainty of the monthly Enron payments to CRRA, irrespective of CRRA's energy production, should have raised the issue to HDW whether these monthly payments were part of an energy transaction or the repayment of a $220 million loan.

HDW also did not address the separate question of what the financial effect would have been if CRRA directly received the $220 MM from the rate reduction bond proceeds instead of having those proceeds transferred to Enron. Under the Bond Resolution and CRRA's own statutory authority, CRRA would be authorized to direct the investment of the $220 million in safe US government securities, with the prevailing returns available on such securities at the time of the closing of the transaction. This question was not addressed despite the fact that the payment to Enron on an unsecured basis of $220 MM by any measure constituted a huge commitment by CRRA, comprising 44% of the total assets of the Mid-Connecticut Project and 85% of the Project's equity (utilizing FY end 2001 values, thereby reflecting the effects of the CRRA-Enron-CL&P transaction). HDW apparently also was the only external consultant utilized by CRRA to conduct the required due diligence of Enron's credit position.

CRRA and the Trustee also entered into a Supplemental Resolution amending the CRRA Mid-Connecticut Bond Resolution which provided as follows:

> Notwithstanding any other provision of the General Resolution, the Authority reserves the right, without the consent of the holders of the 2001 Series A Bonds, to (i) consent to an assignment by CL&P of its rights and obligations under the Energy Purchase Agreement, (ii) acquire the land on which the Facility is located (either in its corporate capacity or as part of the System), (iii) acquire or operate the Electric Generating Facility and (iv) approve and make such changes to the Energy Purchase Agreement and other system agreements, enter into new energy purchase agreements and enter into such other agreements as are reasonable and necessary to implement any of the foregoing; provided that prior to entering into

[20] BBB+ and Baa1 are "lower medium grade" rating categories, two steps up from below investment grade. BBB- is the lowest investment grade rating and Ba1 is the highest non-investment grade rating. A chart indicating the categories of investment ratings for each of the rating agencies is included in the Appendix.

or consenting to any of the foregoing arrangements the Authority shall determine and certify to the Trustee that (a) the revenues to be derived from the Energy Purchase Agreement and related agreements will not materially be diminished and (b) the security for payments to be made under the Energy Purchase Agreement will not be materially less than they were prior to the implementation of such arrangements and, with respect to the acquisition of the land, the System will retain such rights in and to the land as are substantially equivalent to or greater than those held by the System immediately prior to such acquisition of the land.

Supplemental Resolution Authorizing the Issuance of up to $19,000,000 Mid-Connecticut System Subordinated Revenue Bonds 2001 Series A (adopted Nov. 16, 2000), §5.6

As part of the process for issuance of the 2001 Series A Bonds, CRRA received the approvals from the Bond Trustee, the State Treasurer and the Governor required for the issuance of CRRA Bonds. While the CRRA-Enron-CL&P transaction was described in the Official Statement accompanying the bonds (as indicated in the Appendix) and presumably circulated to these officials, it appears that the substance and/or details of the transaction that they received was the information provided by HDW as described above.

34	1/31/01	DPUC approves amendments to the CL&P-CRRA Restructuring Agreement (primarily for the incorporation of Enron into the project); DPUC docket 83-07-12RE02/85-05-13RE02/99-06 -27 RE01

CRRA, CL&P and Enron filed a revised application before the DPUC to reflect certain changes from the CRRA-CL&P Mid-Connecticut EPA buy-down/buy-out previously approved by the DPUC which occurred as Enron was integrated into the transaction. The DPUC approved the revised application, specifically authorizing:

(a) the final definitive transfers of land interests between CRRA and CL&P reflecting changes in certain options and easements at the South Meadows site:

(b) the negotiated adjustments in the final buy-down payment. The $292 MM was adjusted to $282 MM to reflect another year of operation under the higher rates of the 1985 CRRA-CL&P EPA and one less year of its term, thereby reducing the present value of the buy-down. In addition, the DPUC approved the daily reduction of $21,667 in the lump-sum payment with each day of delay in the closing.

(c) Modification of the power purchase commitment to eliminate the 35 MW minimum supply obligation in the March, 1999 MOU which was now restated as solely a commitment to supply energy, without any guaranteed minimum at any one time up to an aggregate of 500 MM kwh over the fiscal year (July 1 to June 30 of each full year of the remaining contract term).

(d) Substitution of the Third Party Entity (formerly CSC) by Enron. Specifically, the DPUC approved the two power supply contracts to which CL&P was a party, namely the EPMI-CL&P EPA and the CRRA-CL&P EPA.

The DPUC apparently did not approve contracts solely between CRRA and Enron entities, as its jurisdiction defined by statute only extends to transactions effected by CL&P, the regulated electric company, as a contract counter-party.

35	2/01	The First Amendment to the Project Termination, Assignment and Assumption Agreement and EGA – to extend the closing date deadline to 3/31/01 in return for payment to $750,000 to EPMI so that it can procure an interest rate "hedge" instrument to preserve its asserted anticipated margin on the project notwithstanding the delay in closing. The payment is funded from the escrow of funds paid for the Jet Units under the Select-CRRA EPA. Adjustments to the buy-down, EPMI payment and CRRA side payment are negotiated to reflect the delay in closing.
36	3/9/01	CRRA and Enron North America Corp. ("ENA") apply for DPUC approval of $124 MM funding over five years from the CT Conservation and Load Management Fund for the development and construction of a 26 MW fuel cell facility to be located on CRRA property.
37	3/30/01	Closing on the CT-CL&P $1.44 Billion rate reduction bonds. Funds are immediately wired to effect the CRRA-Enron-CL&P restructuring arrangement.
38	3/30/01	Closing on Energy Purchase Agreements of CL&P-CRRA-Enron transaction; funding of proceeds from CL&P stranded assets securitization
39	4/30/01	Closing on Real Estate Component of CL&P-CRRA-Enron transaction

The closing of the rate reduction bonds was delayed and only finally closed at the end of March, 2001. Enron required, in order for it to stay in the deal beyond the originally planned outside date for the closing, that CRRA fund a payment to allow it, so it claimed, to purchase an investment "hedge" instrument to lock all or some portion of the profit margin it asserted it would earn on the receipt of the lump-sum payment. CRRA agreed to fund this purchase in exchange for an extension of the closing deadline to the end of March, 2001. If Enron's representations are to be believed, Enron had structured the transaction with CRRA so that it planned to redeploy the funds received immediately into another investment with a fixed return. The hedge allowed it to preserve that anticipated profit for a defined period even though the planned receipt of the funds had been delayed. Enron also solicited a second payment of $1.7MM to "hedge" the transaction for a further extension to the end of April. With the successful close of the rate reduction bonds at the end of March, 2001, this second extension did not prove necessary.

The parties had agreed in the definitive documents executed at the end of December, 2000, that the lump-sum payment due would be $282,079,871 if the closing occurred on 01/01/01, with a further reduction of $21,667/day for each day of delay in the closing after that date. The closing was delayed until 3/30/01 (89 days) (meaning a deduct of $1,928,363). Thus, the closing proceeds were $280,151,508

Upon closing of the rate reduction bonds, funds relating to the CRRA-Enron-CL&P transaction were transferred as follows:

Sources		Uses	
RRB payment	$280 MM	Enron Payment	$220 MM
		CRRA to CL&P for land purchase	$10MM
		CRRA to TRC/AIG for site clean-up	$27MM
		CRRA retains	$23MM

CRRA closed the energy supply side of the transaction at the end of March, 2001, and the real estate side of the transaction at the end of the following month.

As reported to CTAG, CL&P reflected the transaction for federal income tax purposes by taking a current deduction for the $60 MM paid to CRRA during the tax year of the closing of the transaction and has been deducting on a "ratable" basis the $220 MM payment which was directed to Enron over the remaining life of the new, replacemente energy purchase agreements. If as and when, CL&P assigns the replacement energy purchase agreements to an unrelated third party, it anticipates being able to deduct any remaining unamortized amounts of the $220 MM initial expense in the year of such assignment. As reported to CTAG the tax benefits resulting from the buy-down of the 1985 CRRA-CL&P EPA are being accounted for and flowed through to CL&P ratepayers as a credit against the competitive transition adjustment ("CTA") charged to ratepayers under the Electric Restructuring Act.

The following table indicates the implied rate of return to CRRA from the upfront payment of $220 MM to Enron realized from the monthly payments to CRRA by Enron over the term of the CRRA-Enron agreements for the transaction as negotiated, and, separately, as finally closed (and assuming that Enron were to perform its obligations for their remaining term). As discussed above, the energy purchases and sales by CRRA to Enron occur at the same price as the price of sales from Enron to CL&P, so no additional return beyond the monthly fixed payments is derived from such sales.

	Closing 01/01/01	Closing 03/30/01
$2.2 MM monthly payment	5.8%	5.45%
$2.2 MM plus the monthly "side payment" for New Project Ventures	7.6%	7%

The returns to CRRA from the Enron side of the transaction decreased due to the delay in the closing from January to March because: (a) CRRA lost three months of payments at $2.2MM from Enron; and (b) the monthly "side payment", by agreement, was reduced for each day in delay in the closing from January 1, 2001. The initial value of the side payment was $217,500. The final value, reflecting pre-agreed daily reductions due to the delay in closing, fixed at closing was $175,000. The effect of the delay on the economics of the overall transaction (as opposed to just the Enron portion of it shown in the table) was more favorable to CRRA in that the split of the $282 MM in overall proceeds due from CL&P between CRRA and Enron was adjusted favorably through a pre-agreed mechanism for CRRA. This change in the split in the overall buy-down proceeds between Enron and CRRA due to the delay in the closing was emphasized by CRRA management in seeking continued Board of Director support for the extension in the transaction closing date.

Seemingly in furtherance of its undertaking with Enron under the MOU with ENA (executed at the same time as the execution at the end of December, 2000 of the other agreements related to the CRRA-Enron-CL&P transaction), CRRA applied with Enron for a five year grant of a cumulative funding of $124 MM. The requested funds were for the purpose of funding the development, construction and operation of a 26 MW fuel cell facility on CRRA property. The funds were to come from the Connecticut Conservation and Load Management Fund, established by the Connecticut Restructuring Act and created by a surcharge on electric ratepayers and dedicated to supporting initiatives in conservation and load management of electricity. Enron had earlier, in 2000, invested in and purchased stock and stock warrants in the fuel cell manufacturer, FuelCell Energy, who had been selected to supply the proposed fuel cells. The DPUC ultimately turned this application down in September, 2001.

In its audited financial statements for fiscal year 2001 (ending June 30, 2001), CRRA reflected the effects of the CRRA-Enron-CL&P restructuring transaction. In the statements, a new enterprise fund described as "New Project Ventures" appears for the first time. The following table summarizes (with rounded values) the balance sheet and income statement for the new accounting entity:

CRRA New Project Ventures (FY 2001)			
Balance Sheet		Income Statement	
Current Assets	$13.24MM	Revenues - Energy Generation and Other	$2.9MM
Cash (Restricted)	$20 MM	Expenses	$2.9M
Net Plant	$34.76MM	Settlement Income	$66.6
Total	$68MM.	Total	$66.8MM

It remains a matter under investigation, but it is believed that the majority of these assets and income were derived from the CRRA-Enron-CL&P restructuring transaction, which, in turn, was derived from the Mid-Connecticut Project.[21] While CRRA may by resolution of the Board of Directors declare funds and revenues "surplus" and not dedicated to a particular project (presumably required to establish the New Project Ventures accounting entity), we have not established that such action was taken by the Board of Directors as required by statute. Given that the Mid-Connecticut Project was the source of such funds, it would appear to be an action requiring, at a minimum, full disclosure to the Mid-Connecticut Project participants. It also would appear that some or all of these proceeds and assets should properly be available to mitigate the cost impacts on the Mid-Connecticut Project described in general terms below, resulting from the Enron bankruptcy.

40	8/14/01	Jeffrey Skilling, Enron's COO, resigns to "pursue other opportunities"; K. Lay re-assumes the COO (plus CEO) roles.
41	9/19/01	DPUC rejects the CRRA-ENA request for $124 MM funding of the fuel cell project. Decision in docket 01-01-14
42	10/16/01	Enron posts a surprise loss after announcing investment and asset-write downs ($618MM third quarter loss and $1.2 B reduction in shareholder equity).
43	10/22/01	SEC begins a probe of Enron's related party transactions.
44	10/23/01	Enron's CFO acknowledges the need to issue additional shares to cover potential shortfalls in investment vehicles.
45	10/24/01	Enron CFO (Fastow) resigns.
46	10/25/01	Enron draws down $3B, representing most of its remaining credit lines. Fitch puts Enron on review for possible downgrade; Standard & Poor's changes Enron's credit outlook to negative from stable. A non-investment grade rating would throw the company into default on obligations involving billions ($s) in borrowings.
47	10/31/01	The SEC elevates to a formal investigation its inquiry into Enron's financial dealings.
48	11/08/01	Enron restates its financial statements for 1997-2000 and the first three quarters of 2001, after concluding that three unconsolidated entities should have been consolidated in the financial statements according to GAAP.
49	11/09/01	Dynegy enters into an acquisition agreement with Enron and injects $1.5 B into Enron, receiving rights in convertible preferred stock in Northern Natural Gas Company.
50	11/10/01	Standard & Poor's downgrades Enron to BBB- from BBB
51	11/19/01	Enron files its Form 10-Q with SEC for third quarter 01 results.
52	11/20/01	Enron's stock drops $2.07 to close at $6.99 (22.6% drop in the day).
53	11/28/01	Standard & Poor's lowers Enron Corp.'s rating from BBB- to B-.
54	11/28/01	Dynegy terminates the Enron acquisition transaction
55	11/29/01	Standard & Poor's removes Enron from the S&P 500 Index due to

[21] For example, it appears that the $175,000 monthly payment made by EPMI to CRRA under the EPMI-CRRA EGA was paid directly to the New Project Ventures account. Such funds have not been turned over to the Bond Trustee's custody as would be required for the funds of the Mid-Connecticut Project.

		"lack of representation".
56	12/02/01	Enron petitions for bankruptcy in Bankruptcy Court in the Southern District of New York.

All of the Enron entities involved in the CRRA transaction filed for bankruptcy on December 2, 2001 (EPMI, ENA and Enron Corp.). In its initial bankruptcy filing, Enron represented that it was unlikely that its unsecured creditors would realize any payments.

By the time of the bankruptcy filing, the CRRA EGF had already delivered the full 250 MM kwh energy commitment required under the EPMI-CL&P EPA for the fiscal year ending June 30, 2002. Following the bankruptcy, EPMI ceased payments to CRRA of the monthly fixed payments of $2.2 MM and $175,000. Whether Enron will decide to reject the CRRA and CL&P contractual commitments in bankruptcy is unknown at this time. As a general matter, executory contracts which have market value to the bankrupt entity are assumed, continue to be performed by the bankrupt entity and are not rejected. Those without positive value are rejected, with the non-bankrupt contract party left as a creditor with an unsecured claim for damages for contract breach with a low probability of recovery. While it is not entirely settled, the Enron contracts with CRRA and CL&P regarding the Mid-Connecticut Project likely do not have prospective positive value to the bankrupt entity in that there is no profit earned on the energy sales, the lump-sum payment has already been made and the only economic attribute of the contract is a payment obligation of (or cost to) Enron. Moreover, Enron (or CRRA) is unlikely to realize any compensation from assignment of the contracts to a credit-worthy third-party because the $2.375MM aggregate monthly fixed payment obligation has negative economic value, now that the lump-sum payment to Enron has already been made.

Assuming that Enron will reject its contracts with CRRA and that CRRA can perform the EPMI-CL&P EPA, because the energy price is close to or below market, the Mid-Connecticut Project's financial situation can be summarized in approximate fashion in the following table. The data presented utilize CRRA's FY 2001 Financial Statements and reflect numerous assumptions not provided by or endorsed or agreed to by CRRA management.

	Pre-Enron Bankruptcy	Post-Enron Bankruptcy
Revenues		
MSW fees	$44.89 MM	$44.89MM
Electric		
Enron Fixed Payment	$26.4MM	
Enron Energy Payment	$7.75MM	$7.75MM
CL&P Energy Payment	$6.8MM	$6.8MM
Other Income	$4.77MM	$4.77MM
Total Revenues	$90.61MM	$64.21MM
Expenses		
Operating Expenses	$59.8 MM	$59.8MM

(excluding depreciation)		
Debt Service	$27.1MM	$27.1MM
Net Cash Flow	$3.7MM	($22.7MM)

Assumes: 2002 Energy purchase rate and 469.5 MM kwhs of annual sales. All values are rounded.

The tipping fee increase required from FY 2001's rate of $51.00 per ton to fill the indicated deficit, of approximately $23MM would be approximately $27 per ton or 33% over the current level of fees. This assumes an MSW annual volume of 840,000 tons. It also assumes no cash conservation measures, refinancing of debt or use of the surplus cash previously transferred to the New Project Ventures account. We understand that CRRA management is evaluating its options to try to mitigate an increase in the tipping fee of this magnitude as well as evaluating recourse it may have against Enron or Enron's advisors. Nevertheless the direction and magnitude of the possible increase for the Mid-Connecticut Project indicates the gravity of the circumstances facing CRRA and Connecticut due to the Enron bankruptcy.

IV. The NU-CRRA Buydown Negotiations

The seeds for the eventual deal with Enron appear to have first been sown during the negotiations between CRRA and NU over the prospective buyout of the 1985 energy contract. The 1998 Restructuring Act authorized NU to buy down the high cost contracts it had entered into during the 1980's. The public policy underlying these contracts was to help develop alternate energy sources. NU's contract with CRRA required NU to buy the steam generated by CRRA's trash to energy facility at an electric equivalent of 8.5 cents per kilowatt hour and extended to 2012. The 1998 Restructuring Act also required NU to divest itself of its generating assets, including the South Meadows plant that was used by NU to convert the CRRA steam into electricity.

With the Restructuring Act, CRRA was presented with the unique opportunity to purchase NU's South Meadows generating facility. CRRA's Mid-Connecticut project was already located on the South Meadows property, which CRRA was leasing from NU. With NU's prospective sale of the South Meadows facility, CRRA was facing the possibility of a new landlord and the purchase of generating facility by CRRA would provide it with the capability to generate its own electricity from the steam it produced.

The negotiations between NU and CRRA began in the summer of 1998. According to the interviews we conducted it appears that CRRA sought to maximize the revenue it would receive from the buydown to achieve three primary objectives -- 1. Obtain the South Meadows facility from NU. 2. Replace the revenue stream that would be lost by the contract buydown, which contract revenues CRRA was using to support tipping fees and 3. Provide CRRA with additional funds to expand its operations into new energy and solid waste treatment technologies. Northeast Utilities representatives, on the other hand, stated in their interviews that they sought to minimize the cost of the buydown to make it less costly to ratepayers than continuation of the 1985 contract, because the cost of the buydown was to be paid by rate restructuring bonds, funded by monthly charges to electric consumers. The DPUC had set March 31, 1999 as the deadline for completion of negotiations on all such buydown agreements.

According to NU officials, as an initial negotiating position, CRRA asked that the discount rate applied to the present value of the contract be 4 percent, its cost of borrowing. NU, on the other hand demanded a discount rate of 8 percent. Both discount rates would produce widely divergent buydown amounts; the lower the discount rate applied, the higher the value. According to NU officials, anything less than an 8 percent discount rate would make the buydown more costly to ratepayers than continuation of the contract. However, since CRRA was also interested in purchasing the South Meadows facility, NU officials stated in their interviews that the value of that plant, the possibility for reallocating the responsibility for remediation of the site, together with the contract buydown, gave both sides room to negotiate.

During the negotiations it was suggested that the involvement of a third party in the eventual structure of a buydown agreement could help make the deal work for both sides. According to NU officials, the concept that was discussed involved CRRA lending a substantial portion of the buydown proceeds to a third party, at an 8 percent interest rate. The repayment of the principal and interest on this loan would replace the revenue stream that CRRA was receiving from the 1985 contract. This concept presumably would allow the final agreed on price of approximately $280 million to provide CRRA with the financial wherewithal to meet all of its goals and, at the same time, benefit ratepayers by keeping the buydown price below the cost of continuing with the 1985 contract.

After the negotiations were concluded and the buydown figure was approved by the DPUC, and before Enron entered the transaction, the three party loan transaction became the primary financial structure that CRRA looked to meet its remaining financial objectives. CRRA explored the creation of a separate corporation, first the Connecticut Steam Corporation, then the Connecticut Brownfields Trust, to receive the buydown proceeds and to lend the money to a third party. NU initially considered borrowing the $220 million from CRRA and received a proposed loan agreement for $220 million at an 8 percent interest rate from CRRA's attorneys as late as the summer of 2000. The witnesses we have spoken to have stated, however, that NU had lost interest in the loan concept and was subsequently notified by CRRA in the summer of 2000 that Enron would become involved in the transaction and that NU's participation was no longer required.

V. Analysis of the Enron-CRRA-NU Transaction.

A. Introduction.

As indicated above, the documentation of the CRRA-ENRON-CL&P transaction is voluminous and relatively complex, entailing numerous separate legal agreements. Attached as Appendix A is a summary description which identifies the major agreements, incorporating Enron and several of its subsidiaries into the transaction, and distills the relevant provisions of these agreements. Acronyms and terms with specialized meanings utilized below are defined in a glossary included as Appendix C.

The economic relationships created with regards to Enron's participation under the numerous separate contractual agreements, however, are relatively simple.

The essence of the transaction was a payment by CL&P of $280 MM to fund the two legs of the transaction. $60 MM of this amount related to the purchase by CRRA of CL&P's facilities at the South Meadows site and the associated real estate and addressing the associated environmental liability (the "real estate component"). The remaining $220 MM (the "loan-energy" component) was used to effect the buy-down of the 1985 CL&P-CRRA electric purchase agreements, priced at 8.5 cents per kilowatthour, in return for a new fixed rate power purchase arrangement for output from the EGF to 2012, beginning at 3 cents/kwh and escalating to 3.3 cents/kwh in 2004 and remaining at the level for the remaining term. The $220 MM of the $280 MM, the amount remaining after addressing the "real estate component" of the transaction, went immediately to EPMI (Enron's subsidiary), which EPMI was to repay to CRRA in monthly installments in a manner equivalent to an unsecured loan at an annual rate of 7% interest over the life of the contract to 2012. EPMI nominally on paper took on certain additional obligations to buy and sell energy to or from CRRA and to deliver power to CL&P; but, in reality EPMI and Enron assumed no real performance obligations or risks for the production, sale or purchase of electric energy or steam, all of which remained with CRRA and were owed by CRRA to CL&P, which would have accounted for the $220 MM payment to Enron.

To assist the reader, a set of four diagrams is attached to this report, depicting the transaction and the flows of funds. Diagram 1 depicts the initial disposition of the $280 MM. Diagram 2 depicts the "form" of the loan-energy leg of the transaction, identifying each of the important contracts and the funds and energy flows. Diagrams 3 and 4 depict the reality of the loan-energy leg of the transaction, consisting of a loan to Enron and an energy transaction between CRRA and CL&P.

B. Discussion and Analysis of the Transaction.

As indicated above, the transaction was comprised of two legs – involving, first, real estate, and, second, a loan and energy supply.

Enron was not involved in the real estate component of the transaction. The real estate component utilized the $60 MM portion of the proceeds paid at closing. CRRA directed this payment as follows: (a) $10 MM was paid immediately back to CL&P for the purchase by CRRA of the South Meadows site and the Jet Units; (b) $27 MM was immediately paid to AIG/TRC for their agreement to address and cap the liability for clean-up of the environmental contamination existing at the South Meadows site; and (c) an additional $23 MM went directly to CRRA.

Enron was, however, an integral party to the "loan-energy" component of the transaction. This component of the transaction involved four steps.

First, CL&P and CRRA terminated the pre-existing 1985 Purchase Power Agreement and the 1985 Master Agreement. These agreements generally required the sale by CRRA to CL&P of the electric equivalent of a supply of steam generated at CRRA's MSW South Meadows, CT facility at 8.5 cents/kwh, with a term running to May 31, 2012.

Second, to terminate these agreements, CL&P was required to pay CRRA a significant amount of money. In this process, known as a "buy-down", CL&P provided for the payment of approximately $282 MM in aggregate, as originally agreed in December, 2000, subject to and following the closing and receipt of funds from the issuance of the CL&P's rate reduction bonds ("RRBs"), backed by electric ratepayer payments. The payment, in substance to CRRA, was to be made in two parts: (a) approximately $225 MM to EPMI (as originally agreed assuming a closing date of January 1, 2001); and (b) payment of approximately $57 MM to CRRA (again, as originally agreed) to fund the "real estate component" of the transaction described above. The final amounts paid upon closing of the transaction, on March 30, 2001 when the CL&P RRBs were issued, were adjusted downwards due to the delay in closing. Final payments were approximately $280 MM in aggregate, with $220 MM paid to EPMI instead of CRRA from CL&P and $60 MM paid directly to CRRA from CL&P. The direct payment from CL&P to EPMI, was completely paid from the "buy-down" proceeds of the existing 1985 CL&P –CRRA EPA and Master Agreement, an obligation owed wholly to CRRA by CL&P. The termination of the existing 1985 CRRA-CL&P EPA and Master Agreement and initial effectiveness of the numerous new, replacement agreements among CRRA, Enron affiliates and CL&P only occurred upon the issuance of the rate reduction bonds and the payment of the $280 MM amount.

Third, EPMI agreed to make two payments to CRRA at the beginning of each month for a term running to May 31, 2012, regardless of CRRA's performance under any of its agreements with EPMI, once the agreements became effective. These payments were: (a) a $2.2 MM monthly payment (or $26.4 MM annually) (nominally described as a payment for the delivery of steam by CRRA to EPMI); and (b) a monthly payment of approximately $175,000 for CRRA's use in its discretion to develop emissions free technologies or alternative power generation or to revitalize the South Meadows site (called the "Fixed Monthly Payment"). The $2.2 MM monthly payment over the assumed term, beginning April 1, 2001 and ending May 31, 2012, would result in a total payment to CRRA over the full term of the contract of $294.8MM. The "Fixed Monthly Payment" portion of the monthly payment to CRRA aggregated over the contract term results in total payment to CRRA of $23.625MM. The combination of these two streams of payments to CRRA by Enron equates to repayment to CRRA by EPMI of the original $220 MM directed by CRRA to Enron, plus interest at an annual rate of approximately 7%. The actual effect of the transaction, therefore, was an 11.16 year loan by CRRA to Enron at 7% interest.

Fourth, EPMI, CL&P and CRRA entered into an elaborate set of four agreements for the sale of steam and electricity produced by the EGF, and which incorporated the obligations to make monthly fixed payments described above. These included:

(a) an agreement by CRRA to sell steam to EPMI, which also included EPMI's obligation to make the $2.2 MM monthly payment to CRRA (the EPMI-CRRA EPA);

(b) an agreement under which EPMI then redelivered the steam to CRRA at no additional cost for the production of electricity which CRRA then sold to EPMI (the EPMI-CRRA EGA) at 3.0-3.3 cents per kilowatthour. The monthly payment of $175,000 to CRRA was inserted into this agreement;

(c) an agreement under which, in turn, EPMI sold the electricity to CL&P (the EPMI-CL&P EPA) at the same prices which it paid CRRA for receipt of the electricity; and

(d) an agreement pursuant to which CRRA sold the electricity generated by the EGF, in excess of the amount required to be sold to EPMI, directly to CL&P (the CL&P-CRRA EPA).

Implicit, however, in this package of inter-related agreements is the reality that EPMI assumed no substantive performance obligations that were not fully supported or guaranteed by CRRA for the provision of steam and/or electricity to CL&P under a new "restructured" agreement to supply power to CL&P at 3.0-3.3 cents/kilowatthour rate until 2012. There were no energy related services that Enron was providing CRRA that would have occasioned a $220 MM prepayment. The only "service" that Enron actually provided was the repayment of the $220 MM at an 7 percent annual interest rate (through the monthly payments of $2.2 MM and, separately, $175,000).

On the surface of the agreements, EPMI assumed an obligation to CL&P to sell to CL&P electricity for a term running to May 31, 2012. EPMI's obligation was to provide 250 MM kwhs to CL&P during each "contract year", measured as running from July 1 to June 30 of each full calendar year during the term. EPMI, through CRRA, would invoice CL&P and CL&P would pay EPMI for the energy deemed delivered to it by EPMI. CRRA had full rights to sell any additional output above the 250 MM kwhs from the EGF to CL&P, but all production from the EGF during any contract year was first dedicated to satisfy EPMI's obligation to CL&P, subject to certain minor exceptions, and only, thereafter would CRRA be able to sell production in excess of 250 MM kwhs directly to CL&P.

Despite these seeming obligations of Enron to CL&P, the reality was that EPMI was a purely nominal party to the production, purchase and sale of electricity or steam from CRRA to CL&P. First, the price of power purchased by EPMI from CRRA was exactly the same as the price of power which EPMI sold to CL&P. The invoicing each month for payment with respect to energy sales was initiated by CRRA billing EPMI, which in turn billed CL&P and timed to allow for EPMI's obligation to make payment to CRRA one day following EPMI's receipt of payment from CL&P.

Moreover, the obligation to produce 250 MM kwhs each year assumed by EPMI was an obligation with essentially no risk assumed by EPMI. The history of operations of the EGF indicates that the 250 MM kwh level of electricity production which EPMI was obligated to deliver to CL&P has always been significantly exceeded by a substantial margin. Below, is a table which indicates the amount of electric equivalent generation which the South Meadows EGF has produced over the last several years.[22]

South Meadows EGF Electric Equivalent Production				
Contract Year	1997	1998	1999	2000
Actual Kwhs production	455,206,000	450,381,000	444,149,000	469,505,882
Source: CRRA 006478				

If in the very improbable circumstance that the EGF were not able to produce 250 MM kwhs resulting in a breach of EPMI's obligation to CL&P, EPMI would be obligated within 30 days following the end of the contract year to make a "cover payment" to CL&P equal to the difference between the CL&P-EPMI contract price and the rolling average of the ISO-NE ECP for the prior 12 months (presumably CL&P's cost of replacing the power not delivered from the EGF) multiplied by any deficiency of actual production less than 250 MM kwhs over the year. CRRA, however, obligated itself to pay EPMI this same value 29 days following the end of the contract year, essentially guaranteeing Enron's obligation to CL&P. Moreover, EPMI could offset any cover payment due CL&P against the monthly fixed payments it owed CRRA.[23] Thus, CRRA fully guaranteed contractually any EPMI obligation for a performance breach, even to the extent of covering by paying one day in advance any cash-flow exposure which EPMI might incur between paying CL&P and receiving payment from CRRA for the "cover payment."

Despite the fact that Enron was not providing energy services to CRRA or CL&P, the parties to the transaction continued to camouflage the deal as a power contract. At various points during the discussion leading up to approval of the CRRA-ENRON-CL&P transaction and in the Official Statement accompanying the 2001 Series A Mid-Connecticut System Bonds discussing the transaction and provided to prospective investors in the bonds, the EPMI monthly payment of $2.2 MM is characterized as a

[22] Under the pre-CRRA-ENRON-CL&P transaction contractual and ownership arrangements effective during the indicated years, CRRA's obligation was to provide steam to the EGF which was owned and operated by CL&P. The kilowatthour numbers are the electric equivalent of the steam provided by CRRA to the EGF, for which CRRA was compensated by CL&P on a cents per kwh basis under the prior agreements. Following the effective date of the CRRA-ENRON-CL&P transaction, CRRA owns the EGF and delivers electricity to CL&P directly (through sale under the CL&P-CRRA EPA or through sale to EPMI, under the CRRA-EPMI EGA, which, in turn, is resold by EPMI to CL&P).

[23] Having CRRA assume such a risk of offset of the monthly payment of $2.2 MM due to non-performance of the EGF, even if improbable, appears to be an especially egregious example of over-reaching by EPMI. Not only was Enron paid the $220 MM up front by CRRA, but Enron is also permitted to reduce the agreed repayment of that amount to CRRA due to performance risk of the EGF; none of which risk EPMI assumed in the first place under any of the contract documentation.

“capacity charge” paid by EPMI to CRRA, presumably for the provision of “capacity.”[24] In describing the payment as such, the intention, presumably, was that the payment by EPMI was in return for some obligation of performance by CRRA.[25]

However, the use of the term “capacity” in this way, does not accord with the common meaning afforded the term “capacity” in the electric industry. Over the last several years in parallel with the restructuring of the electric industry, the various characteristics of the supply of electricity have been defined as separate commercially marketable products. As utilized in the electric industry, “capacity” has a specific meaning defining a particular “product” or attribute of electric supply.[26] The term has been defined by a leading electric industry standards group as follows:

> The rated continuous load-carrying ability, expressed in megawatts (MW) or megawatt-amperes of generation, transmission or other electrical load equipment.
>
> Source: North American Electric Reliability Council Task Force, Glossary of Terms (1996).

In essence, the term means the provision at a single point in time (measured in MWs or KWs), of a defined level of power output. Thus, for example, if a generating unit is obligated to provide 60 MW in capacity, it means that it can be called on to provide 60 MW at any one time or continuously. Electric capacity, as a practical matter, is delivered continuously over a discrete period of time as well as instantaneously. The continuous

[24] In the minutes of the meeting of the Board of Directors of CRRA, held on November 16, 2000, at which the CRRA-ENRON-CL&P transaction was approved, the EPMI payment of $2.2 MM per month was repeatedly referred to as a “capacity payment”. In fact, the Board expressly inquired of CRRA management regarding the issue. *See* Appendix B *infra* for the relevant excerpt. Moreover, in the Official Statement to the 2001 Series A Mid-Connecticut System Bonds, a description of the transaction is provided in which the use of the term to describe the payment is set-off by quotation marks. The description is as follows:

> 2. Amendments to the Energy Purchase Agreement between Enron and the Authority will provide for the sale by the Authority of steam to Enron in an amount sufficient to generate 250 million kilowatt hours of electricity in each year. Enron will pay the Authority a “capacity charge” [sic] equal to $2.2 million per month.
>
> Official Statement at p. 15.

No further definition of the term is provided in the Official Statement. One can only speculate regarding what was intended by the use of the quotation marks.

[25] One could also reasonably ask whether some performance was more properly due from EPMI to CRRA, given that CRRA had paid EPMI the very significant sum of $220 MM at the inception of the transaction as a condition to receiving the later monthly payments from EPMI.

[26] For example, different so-called “ancillary service” products have proliferated. *See* Definition of Ancillary Services, Appendix C, Glossary, *infra*. “Capacity” has a much earlier provenance and has been utilized by the electric industry to define a particular attribute of electric supply almost since the industry’s inception.

production of electric power is denominated in MWHs or KWHs (which is the measure of power delivered over time). Thus, 60 MWs of power "capacity" generating continuously over one hour produces 60 MWHs; over two hours it produces 120 MWHs and so forth.

Because electric loads typically fluctuate throughout the day and seasonally, electric systems typically need to procure electric power continuously (*i.e.*, KWHs) but also to have available sufficient installed capacity (measured in MWs or KWs) to meet their highest "peak" load requirements or to commence generation in the event that a "contingency" occurs on the system such as the unplanned outage of another generating unit. Given this, the provision of capacity (measured in MWs or KWs) by a generating unit has economic value in addition to that associated with the generation of continuous electric power (measured in KWHs), in that, if called on to generate, a generator, obligated to provide capacity, is promising to generate up to and continuously at the level of committed capacity over a defined time period. An obligation to provide energy (meaning kilowatthours) only over a relatively long time period, such as a year, rather than capacity is less valuable, all other things equal, in that the energy could be delivered at any time in any amount and not necessarily in response to the system requirements (*e.g.*, a peak load or a system contingency, as discussed above) while still meeting the aggregate annual energy delivery requirement.

The incorrect use of the term "capacity charge" to describe the EPMI payment to CRRA is further supported by comparison of the final CRRA-ENRON-CL&P transaction with the design of the transaction as originally contemplated in the original MOU between CRRA and CL&P dated as of March 31, 1999. In that agreement, CRRA committed, through the proposed entity named the Connecticut Steam Corporation, to supply CL&P with a minimum of 35 MW at all times and a maximum of 62 MW (MOU, Art. III(b)). Such a commitment constituted a true "capacity" commitment, because of the obligation to provide capacity (*i.e.*, megawatts) at all times. When Enron entered the transaction, this obligation was reconstituted to entail a commitment to provide a minimum level of energy (measured in kilowatthours) only over an annual period, thereby removing the "capacity" attribute of the transaction.[27] One can only speculate that this redesign of the transaction made it easier to relieve Enron of any true performance obligations under the power contracts, to which it was named as a nominal party.

CRRA's obligations to EPMI in return for which CRRA presumably received the monthly $2.2 MM payment were not in any sense the provision of electric generating capacity as that term is customarily employed in the electric industry, for which a

[27] The DPUC in its decision, issued January 31, 2001, approving this modification to the transaction from that originally approved by decision dated January 12, 2000, based on the March, 1999 MOU cited this as an enhancement to ratepayers, seemingly relying on a representation that this was the case by CRRA and CL&P in their application. The math indicates, however, that the minimum commitment in the 1999 MOU of 35 MW over the year would give CL&P significantly more energy (approx. 307 MM kwhs in 12 months) on a more valuable continuous basis than the 250 MM kwh annual minimum commitment finally agreed to. It is not clear what the basis for the DPUC's reasoning was on this point, partially supporting its approval of the transaction.

"capacity" charge would be due from EPMI. CRRA's obligation under the CRRA-EPMI EPA in which the EPMI monthly payment obligation appears was to provide the steam equivalent of 250 MM kwhs (a measure of actual electric generation and not capacity) over a 12 month period, with no contractual obligation for a minimum level of capacity to be provided at any one time. This commitment has little if any true capacity value.[28] EPMI, in turn, undertook, no corresponding obligation to CL&P for the energy that it was deemed to be selling to CL&P which was measured in the same manner. Instead, all capacity obligations related to the EGF under the various agreements were assumed by CRRA and provided directly to CL&P. Thus, CRRA did not convey to EPMI and EPMI did not sell to CL&P any other "electric products" produced by the EGF, such as "ancillary services" (*see* Glossary, Appendix C *infra*) or "rated capability". In addition, CL&P reserved the right, as against CRRA and not EPMI, to reschedule CRRA's maintenance schedule of the EGF, subject to prudent utility practices, to better accommodate the EGF plant capacity to CL&P's load requirements or to call on the EGF to generate up to its "maximum safe load" capability, if available. EPMI did not incur any of these obligations to CL&P, which would have been the presumed result if EPMI's monthly aggregate payment of $2.375 MM to CRRA was for the provision of such services to it so that EPMI could, in turn, provide those services to CL&P. Moreover, EPMI's payment obligation to CRRA for the so-called "capacity charge" contained in the EPMI-CRRA EPA, which obligates CRRA to provide steam and not electricity to EPMI, was expressly not conditioned on CRRA's performance of the steam delivery obligations under the EPMI-CRRA EPA. The so-called "capacity charge" which Enron paid CRRA on a monthly basis was in reality nothing but a monthly payment on the $220 MM loan that CRRA had made to Enron.

In addition to the initial payment arrangements and the arrangements regarding the production, sale and purchase of energy, Enron Corp., the publicly traded parent company of EPMI, provided a contractual guarantee to CRRA for the performance of the obligations of EPMI up to a maximum sum of $345 MM, reduced by any payments made by EPMI during the performance of the various agreements.

Finally, CRRA and ENA, EPMI's affiliate, entered, simultaneously with the overall CRRA-ENRON-CL&P transaction, a side agreement, entitled a MOU, for establishing a joint venture for other development activities. Under the MOU, CRRA and ENA agreed, on a non-binding basis, to negotiate further for the establishment of a joint venture for the

[28] The only value arguably in the nature of "capacity" which can be inferred from the transaction is that in order to provide 250 MM kwhs annually, the EGF had to generate on average at a certain level over the entire year. Assuming the EGF could generate at its originally installed capacity of 90 MWs or at the maximum purchase level indicated by CL&P in the various agreements of 67 MW, this would require that the EGF operate at 31.7% or 43% "capacity factors" over the year, respectively. "Capacity factor" is the actual electric production of a power plant over a given period divided by the theoretical maximum level of generation (i.e., its maximum capacity multiplied by the hours in the period) over the same period. However, even though the 250 MM kwh annual delivery obligation meant that a certain average level of generation had to be maintained by the EGF, CL&P (with respect to EPMI's obligations to it) and EPMI (with respect to CRRA's obligations to it) would have no assurance as to any level of continuous generation at any one point in time, which is the traditional import of an obligation to provide generation "capacity."

development of emissions free technologies. ENA and CRRA proposed to contribute funds to the joint venture and share in its management. The intention each expressed in the MOU was that CRRA would consider contributing its Fixed Monthly Payment (described above) paid by EPMI to CRRA under the EPMI-CRRA EPA to the joint venture and that CRRA would operate the venture through an operations agreement. CRRA's contributions to the joint venture were to be compensated with a preferred right to distributions and return of capital from the joint venture. It is not apparent whether any additional consideration was afforded either the Enron affiliates or CRRA for entering into this MOU insofar as it relates to the overall CRRA-ENRON-CL&P transaction.

A "loan" has been described as follows:

> A 'loan of money' is a contract by which one delivers a sum of money to another and the latter agrees to return at a future time a sum equivalent to that which he borrows.
>
> In order to constitute a loan there must be a contract whereby, in substance one party transfers to the other a sum of money which that other agrees to repay absolutely, together with such additional sums as may be agreed upon for its use. If such be the intent of the parties, the transaction will be considered a loan without regard to its form [citation omitted].

In re Grand Union Co., 219 F. 353, 356 (2d Cir. 1914), *cert. den. sub nom.*, *Hamilton Investment Co. v. Irving Ernst*, 238 U.S. 626 (1915).[29]

The transactions with Enron match the definition and substance of a loan, even though the multiple contracts entered into by the parties may on the surface obscure this reality. Enron was paid $220 MM up-front, in essence constituting the initial "transfer" or "delivery" of a sum of money to Enron, the borrower. Enron's obligations to repay this sum of money over the terms of the CRRA-EPMI EPA and the CRRA-EPMI EGA were absolute in the manner of a loan. As described above, under the CRRA-EPMI EPA, Enron was obligated to make payment of $2.2 MM per month to CRRA over the contract term. Under the same agreement, CRRA was obligated to provide steam to Enron, which would be reconveyed back to CRRA to generate electricity for sale to Enron. The agreement, however, expressly provides that: "Such amounts [referring to the monthly $2.2 MM to be made by EPMI] shall be payable without regard to the amount of Quality Steam [CRRA's performance obligation to deliver steam] actually delivered to EPMI to CRRA during any month." EGA, §5.1(a). Under the CRRA-EPMI EGA, EPMI is obligated to pay $175,000 per month to CRRA during the contract term. EPA §3.2(a)(ii). Such payment is similarly an absolute obligation of EPMI not conditioned on CRRA's performance.

[29] *See also*, *Rogers v. Hannon-Hatch Post No. 9929, Veterans of Foreign Wars of U.S., Inc.*, 23 Conn. Supp. 326, 327 (1962)("A loan is made when the borrower receives money over which he exercises dominion and which he expressly or impliedly promises to return."); *United States Department of Health and Human Services v. Smith*, 807 F. 2d 122, 124 (8th Cir. 1986) (citing to *In re Grand Union*).

C. Conclusion.

In sum, the overall CRRA-ENRON-CL&P transaction essentially consists of the payment to Enron affiliates of approximately $220 MM up-front for no actual services, obligations or responsibilities of Enron or its affiliates to CRRA or CL&P. Enron's only real obligation was to repay the $220 MM to CRRA plus interest in monthly increments over the remaining 11.16 years of the term of the transaction. The transaction on paper also inserted EPMI into the position of seller and buyer of energy under the various agreements, but EPMI's role in this regard was purely nominal. The reality in all cases was that CRRA continued to bear all substantive performance risks and obligations to CL&P for the provision of electricity and capacity associated with the EGF and that EPMI both bought and sold the electricity at the same price. From Enron's perspective, therefore, its purchase and sale of electricity yielded no financial benefit whatsoever. Enron's interest in the deal was essentially that of a borrower of money: it received $220 MM up-front from CRRA, agreed to pay back this amount (with 7% interest) over 11.16 years, and apparently hoped to invest the principal somewhere else to a make a return above the 7 per cent it was paying CRRA. The only security for EPMI's repayment to CRRA was a contractual parent guarantee from Enron Corp. No additional security was provided, such as a performance bond, letter of credit or mortgage or other collateral.

VI. Legal and Governance Standards Applicable to the Transaction

The substance of the Enron-CRRA transaction was an unsecured $220 million loan from CRRA, acting as lender, to Enron, acting as borrower. As a political subdivision of the State of Connecticut and, therefore, a creature of statute, CRRA needed statutory authorization to engage in the transaction. The CRRA enabling act affords no such express statutory authorization for a transaction of the type or magnitude of the CRRA-Enron transaction.

CRRA was created by its enabling act, which was enacted and subsequently amended several times by the Connecticut General Assembly. Conn. Gen. Stat. §§22a-257 to 22a-285k (Chapter 446e). CRRA's enabling act expressly categorizes CRRA as a "public instrumentality and political subdivision of the state of Connecticut," but also states that the Authority is not to be "construed to be a department, institution or agency of the state." Conn. Gen. Stat. §22a-261(a). Thus, CRRA is a political subdivision of, but not part of, the state government.

In interpreting the scope of CRRA's statutory powers, it is appropriate to look to caselaw concerning: (a) municipalities, because municipalities, like the CRRA, are political subdivisions of the State, City of Bridgeport v. Agostinelli, 163 Conn. 537, 550 (1972); and (b) public instrumentalities created by the state, because the CRRA is a public instrumentality. Conn. Gen. Stat. §22a-261(a). We will discuss the caselaw interpreting the authority of each such entity in turn.

With regard to municipalities, well settled Connecticut case law establishes that municipalities or quasi-municipal entities “have no inherent powers of [their] own.” *New Haven Commission on Equal Opportunities v. Yale University*, 183 Conn. 495, 499 (1981). Such entities “ha[ve] only those powers that have been expressly granted to [them] by the state or that are necessary for [them] to discharge [their] duties and carry out [their] purposes.” *Wright v. Woodridge Lake Sewer District*, 218 Conn. 144, 148 (1991).[30] Thus, CRRA, as a political subdivision of the state, has no inherent powers. Instead, it has only those powers that are explicitly granted to it by the legislature and set forth in its enabling act.

The CRRA enabling act contains numerous provisions that appear to grant broad powers to the Authority. First, the act sets forth the purposes of the Authority and provides that:

> These purposes shall be considered to be operating responsibilities of the authority, in accordance with the state solid waste management plan, and are to be considered in all respects public purposes. It is the intention [of the enabling act] that <u>the authority shall be granted all powers necessary to fulfill these purposes</u> and to carry out its assigned responsibilities and that the provisions of this chapter, itself, are to be construed liberally in furtherance of this intention.

Conn. Gen. Stats. §22a-262(b)(emphasis added).[31]

The act also provides that:

> This chapter [referring to the CRRA enabling act], being necessary for the welfare of the state and its inhabitants, shall be liberally construed, so as to effect its purposes.

Conn. Gen. Stats. §22a-280.

---

[30] *See also, City Council v. Hall*, 180 Conn. 243, 248 (1980); *Pepin v. Danbury*, 171 Conn. 74, 83 (1976); *New Haven Water Co. v. New Haven*, 152 Conn. 563, 566 (1965). Quasi-municipal entities are subject to the same rule of interpretation of their authorities. *Wright*, *supra*; *Stroiney v. Crescent Lake Tax District*, 205 Conn. 290, 294 (1987); *Alarm Applications Co. v. Simsbury Volunteer Fire Co.*, 179 Conn. 541, 547 (1980).

[31] Subsection (a) of Conn. Gen. Stat. § 22a-262 lists as CRRA’s purposes as: (1) planning, design, construction, financing, management, ownership, operation and maintenance of solid waste disposal and related facilities (sub-sub-section 1); (2) provision of solid waste management services (sub-sub section 2); (3) utilization of private contractors to implement the solid waste management plan and other activities (sub-sub section 3); (4) assistance and coordination of source separation (sub-sub section 4); and (5) assistance in the development of technologies and commercial enterprises within Connecticut based on solid waste management activities (sub-sub section 5).

The enabling act also includes numerous references to broad CRRA authority with regards to its management and operation of its trash-to-energy and waste management facilities. In particular, Conn. Gen. Stat. §§ 22a-262(3), 22a-265(c) and 22a-265(12) give the CRRA the power to enter into contracts or agreements that CRRA may consider "necessary, desirable or convenient" (Conn. Gen. Stat. § 22a-262 (3)) or "incidental to the performance of its duties and the execution of its powers." (Conn. Gen. Stat. § 22a-265(3). In addition, CRRA has the power to "do all things necessary for the performance of its duties, the fulfillment of its obligations and the conduct of its operations." (Conn. Gen. Stat. § 22a-265(12)). In 1998, CRRA was also given broad authority "to assist in the development of industries and commercial enterprises and the planning, design, construction, financing, management, ownership, operation and maintenance of systems, facilities and technologies within the state based upon or related to resources recovery, recycling, reuse, treatment, processing or disposal of waste." Conn. Gen. Stat. § 22a-265 (18). The 1998 amendment also permitted CRRA to enter into "any arrangement with any person to obtain rights from or in an invention or product, or the proceeds therefrom or rights to any and all forms of equity instruments… in connection with the development or operation of any system, facility or technology based on or related to resources recovery, recycling, reuse, treatment, processing or disposal of solid waste…" Conn. Gen. Stat. § 22a-267 (8).

In addition to these broad grants of authority, however, CRRA's enabling statute contains very specific provisions relating to CRRA's fiscal, investment and financial authority, including its authority to issue loans.

"It is a well-settled principle [of statutory] construction that specific terms covering the given subject matter will prevail over general language of the same or another statute which might otherwise prove controlling." *Gifford v. Freedom of Information Commission*, 227 Conn. 641, 652 (1993); *Gaynor v. Union Trust Co.*, 216 Conn. 458, 476 (1990). "If there are two provisions in a statute, one of which is general and designed to apply to cases generally, and the other is particular and relates to only one case or subject within the scope of a general provision, then the particular provision must prevail; and if both cannot apply, the particular provision will be treated as an exception to the general provision." *Gifford*, 227 Conn. at 652-53.

Applying this principle to the present situation means that in order to determine the scope of CRRA's statutory authority to make loans, it is necessary to examine the specific statutory provisions pertaining to the issuance of loans, not the more general provisions governing CRRA's management and contracting authority. To the extent that the two sets of provisions are inconsistent, the more specific provisions pertaining to CRRA's loan authority must prevail over the more general provisions concerning its management and contracting powers.

The CRRA enabling act sets forth specific circumstances under which CRRA can make loans. In particular, the relevant statutes make clear that the CRRA, as a governmental entity, has strict limitations on what it can do with its money. Conn. Gen. Stat. § 22a-

267(5) allows CRRA to make loans only to a "municipal or regional authority or to any person for the planning, design, acquisition, construction, reconstruction, improvement, equipping and furnishing of a waste management project." Such loans must be secured. Additionally, Conn. Gen. Stat. § 22a-275(f) allows CRRA to lend money to municipal or regional authorities "to establish a solid waste management project or projects, or a disposal facility, volume reduction plant or disposal area." Such loans must also be secured.

The enabling act also requires that the Board of Directors adopt written procedures for carrying out certain of its activities, including, in relevant part, written procedures governing "awarding loans, grants and other financial assistance, including eligibility criteria, the application process and the role played by the authority's staff and board of directors." Conn. Gen. Stat. § 22a-268a(6).

In addition to these provisions concerning loans, CRRA's authority to make investments is also specifically addressed in the enabling act.

CRRA's investment authority is set forth in Conn. Gen. Stat. § 22a-265(14), which states, in relevant part, that the authority shall have the power:

> (14) To invest any funds not needed for immediate use or disbursement in obligations issued or guaranteed by the United States of America or the state of Connecticut and in obligations that are legal investments for savings banks in this state;….

Permitted savings bank investments include: (a) very "safe" investments from a credit perspective such as obligations of the state or federal government or obligations guaranteed by such entities; (b) highly liquid or marketable or short term investments; or (c) investments in which the savings bank is strictly limited on diversification grounds, such that the bank cannot hold more than a certain percentage of its equity and loss reserves in a class of investments or from one company. Depending on the type of investment, the limits are typically expressed as 10-25% of the bank's equity and loss reserves. Conn. Gen. Stat. §§ 36a-262, 36a-275, 36a-276, 36a-277. See Appendix (summarizing the savings bank investment limitations).

It is a well-established rule of statutory construction that "[a]n enumeration of powers in a statute forbids things not enumerated." *Housing Authority v. Harris*, 28 Conn. App. 684, 691 (1992), *aff'd* 225 Conn. 600 (1993); *State ex. rel. Barlow v. Kaminsky*, 144 Conn. 612, 620 (1957). Thus, "[a] statute which provides that a thing shall be done in a certain way carries with it an implied prohibition against doing that thing in any other way." *State v. State Employees' Review Board*, 239 Conn. 638, 654 (1997).[32] Because

[32] This principle is commonly referred to by the maxim *expressio unius est exclusio alterius*, which means the expression of one thing implies the exclusion of another thing. The doctrine has been employed in a variety of circumstances. *See, e.g., Gifford v. Freedom of Information Commission*, 227 Conn. 641 (1993); *Gay and Lesbian Law Students Association of the University of Connecticut School of Law v. Board of*

the CRRA enabling act authorizes CRRA to make only certain types of loans and investments, and only under very specific circumstances, the statutory authorization carries with it an implied prohibition against making loans or investments in any other manner.

CRRA's loan to Enron does not meet any of these statutory requirements. The loan to Enron was not a loan to a "municipal or regional authority or to any person for the planning, design, acquisition, construction, reconstruction, improvement, equipping and furnishing of a waste management project." Conn. Gen. Stat. §22a-267(5). Nor was the loan to Enron a loan to a "municipal or regional authority … to establish a solid waste management project or projects, or a disposal facility, volume reduction plant or disposal area." Conn. Gen. Stat. §22a-275. The loan to Enron was not secured by any collateral as required by the General Statutes and we have been provided with no written procedures adopted by the CRRA which would apply to the CRRA-Enron transaction or any established procedures that CRRA followed in making the loan including "eligibility criteria, the application process and the role played by the authority's staff and board of directors." Conn. Gen. Stat. §22a-268a(6).

If the Enron transaction is deemed to be an "investment" by CRRA, the transaction also violates CRRA's statutory investment authority. The $220 million loan to Enron is not an "obligation issued or guaranteed by the United States of America or the State of Connecticut." Conn. Gen. Stat. §22a-265(14). Additionally, the loan of $220 million to Enron would not constitute a "legal investment" for a savings bank in this state. Conn. Gen. Stat. §22a-265(14). The payment to Enron is not a government bond or note, it is not a marketable security, and it exceeds the investment limits set for savings banks in Connecticut.

As noted earlier, in analyzing the scope of CRRA's statutory authority, it is also appropriate to look to caselaw involving other quasi-independent instrumentalities of the state, whose authority the courts have reviewed under the principle of "delegation." Generally, the courts afford such entities some flexibility to administer the responsibilities given them in the first instance by the legislature. But this flexibility and discretion is not without limit. In order to survive a facial challenge on "delegation" grounds, the statutes creating such entities must "declare a legislative policy, establish primary standards or lay down an intelligible principle to which the instrumentality must conform." *Wilson v. Connecticut Product Development Corp.*, 167 Conn. 111, 120 (1974); *Roan v. Connecticut Industrial Building Commission*, 150 Conn. 333, 341 (1963). Absent sufficient "primary standards" or the required "intelligible principle," the legislature will be deemed to have impermissibly delegated its authority to the instrumentality. By implication, particular actions of state instrumentalities must conform to the "primary standards" set forth in the statutes which created them. *Id.*

In *Wilson*, the Connecticut Supreme Court upheld, in the face of a challenge on delegation grounds, a statutory program conducted by the Connecticut Product Development Corporation ("CPDC"). The CPDC was an entity created by the legislature

---

Trustees, University of Connecticut, 236 Conn. 453, 476 (1996).

for the express purpose of granting financial assistance to industrial firms for product development in the state in order to expand employment and increase tax revenues. The CPDC's enabling act expressly authorized the grant of financial assistance, described its purposes, and established a process for applying for the grants and a procedure for review and approval of the grants. The court found that this statutory articulation of the program constituted sufficient "primary standards" for the conduct of the program.

Similarly, in *Roan*, the Connecticut Supreme Court upheld a program of the Connecticut Industrial Building Commission ("CIBC") for insuring mortgage payments of certain in-state industrial development projects. The challenger to the program contended that the statutes creating it excessively delegated authority to the CIBC. The CIBC's program was subject to detailed standards, including limits on the amount of each mortgage that could be insured, limits on the total indebtedness that could be insured under the program, limits on the percentage of the project cost that the mortgage could cover and a detailed loan application process including review by other agencies of each loan application.

Here, by contrast, the only express authority that can be found in the CRRA enabling act for the provision of a loan or investment are contained in Conn. Gen. Stat. § 22a-267(5) and § 22a-265(14). As stated previously, neither of these statutes authorize the $220 million payment from CRRA to Enron. Moreover, the instances where the enabling act does provide authority for the provision of a loan are not applicable to the present case. Accordingly, it must be concluded that the legislature did not delegate to CRRA the authority to make loans or investments except under the specific circumstances set forth in the statutes. Because CRRA's loan to Enron did not meet these statutory requirements, it was beyond the scope of CRRA's statutory authority.

CRRA clearly did not have the statutory authority to make this $220 million loan to Enron. Camouflaging the loan as an "energy transaction" did not bring the deal within the powers granted to it by the General Assembly. CRRA "cannot do indirectly what [it] cannot [do] directly." Pepe v. City of New Britain, 203 Conn. 281, 293 (1987).

VII. CRRA Should Have Considered Alternate Means for Utilizing the 1985 Contract Buydown Proceeds

It has been asserted that CRRA could not have accepted the $220 MM paid to Enron, invested it in permissible investment vehicles and maintained its solvency – that the 7% implicit annual return on the $220 MM paid by Enron through the $2.2 MM and $175,000 monthly fixed payments from Enron was required to sustain the enterprise.

Supporting this assertion is the contention that CRRA needed a high annual implicit return on its money because: (a) it could not redeem its existing bonded indebtedness until 2006 at the earliest with penalty and until 2008 without penalty; and (b) CRRA's returns from investment in marketable securities were limited by the federal income tax arbitrage rules to the interest rate on its outstanding bonds (approximately 5.6%). Given the level of interest expense on CRRA's outstanding bonds, it has been implied that CRRA needed a higher annual rate of return than that permitted under the tax arbitrage rules to pay annual debt service and operating expenses and still have enough cash available in 2008 to pay off its bonds.

This investigation has analyzed the alternative case of not involving Enron in the transaction under a range of reasonable assumptions and concludes other financial options were available to CRRA and should have been explored. Instead of paying the proceeds to Enron, CRRA could have: (a) invested the proceeds from the buy-down of the CRRA-CL&P 1985 EPA in permitted "safe" liquid, high investment grade government securities and developed an annual amortization of the buy-down lump-sum payment in the form of a sinking fund; and (b) had sufficient cash to maintain debt service and pay operating expenses in each year of operation until 2008, the earliest date at which it could pay off its existing outstanding bonds.[33] In addition, in 2008, CRRA would have had sufficient cash balances to be able to fully retire the outstanding debt for the Mid-Connecticut Project. Given the apparent viability of this possible alternative, it appears imprudent that CRRA, a public entity, would commit, as it did, $220 million, substantively in the structure of an unsecured loan, to Enron, a low investment grade credit, in return for a 2-3% increase in annual returns, assuming Enron were to perform its obligations.

The alternative case builds on several assumptions.

It does not include Enron as a party. Instead, the $220 million owed by NU would be paid directly to CRRA. Accordingly, CRRA would not receive the $28.5MM in annual fixed payments from Enron ($26.4 MM in the form of the so-called "capacity charge" and $2.1 MM in the form of the side payment for new technology ventures). The remaining approximately $14.5MM in revenue from the energy purchase agreements with CL&P would reasonably remain in place as the prices for the sale of power under such agreements is close to or below current market prices.

The alternative case would need to have sufficient funds to meet the resulting revenue gap and maintain sufficient funds available in 2008 to defease the outstanding 1996 Mid-Connecticut Refunding Bonds (the vast majority of CRRA's Mid-Connecticut outstanding debt).

To define the alternative case, it is necessary to establish the cash proceeds available to CRRA to fund the hypothetical "sinking fund" program.

First, the cash proceeds available for the sinking fund would include both the $220 MM paid to Enron and the $23 MM in additional proceeds which CRRA retained and transferred to its New Project Ventures Enterprise Fund (for a total amount of $243MM). In addition, CRRA would have available approximately $25MM in the special capital

[33] The buy-down proceeds ($243 MM, including both the payment made to Enron and proceeds retained by CRRA) exceeded the outstanding bond principal of $218 MM at the beginning of 2001. Because of the call limitations associated with the 1996 Mid-Connecticut Refunding Bonds, however, CRRA could not use the funds received from the CRRA-CL&P 1985 EPA buy-down to immediately pay off the bonds.

reserve fund, not for the payment of annual debt service and other expenses because restricted and not available for such purposes, but properly available for redemption of the outstanding bonds in 2008.

Second, CRRA would be able to utilize the revenue stream available from the CRRA-Select contract for the Jet Units, which CRRA transferred to the New Project Ventures Enterprise Fund. The anticipated annual net revenues from this contract are as follows:

CRRA projected net revenue from the Jet Units as follows (rounded to nearest $100,000):

FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
$0.8MM	$7.8MM	$5.9MM	$4.1MM	$4.0MM	$3.5MM

While the Select-CRRA contract can be terminated following May 31, 2005, it is anticipated that with the likely adoption of location based marginal pricing in New England by that time and anticipated increasing transmission congestion in Connecticut, the black-start capabilities of the Jet Units should make them sufficiently marketable to sustain the level of net revenues projected to be realized in 2005 into future periods.

Third, at and immediately prior to the closing of the CRRA-Enron-CL&P transaction, CRRA could have invested the sinking fund cash proceeds in safe highly rated, liquid investment securities (primarily federal and state government securities) as permitted under the Mid-Connecticut Project Bond Resolution and CRRA's statutory authority and realized a return of between 4-5% per annum.

During the period the CRRA-Enron-CL&P buy-down was being negotiated the annual yields payable on U.S. government securities of the indicated terms were the following:

Year	Month	Treasury Yields (% of an annual rate)		
		3 Month	3 Year	30 Year
2000	November	6.36	5.79	5.78
	December	5.94	5.26	5.49
2001	January	5.29	4.77	5.54
	February	5.01	4.71	5.45
	March	4.54	4.43	5.34
Source: Federal Reserve Bank of St. Louis, Monetary Trends (Jan. 16, 2002).				

Pursuant to the CRRA Bond Resolution, the Bond Trustee may invest funds at CRRA's direction in excess of the funds required to maintain the special capital reserve funds and operating and maintenance funds in permitted "investment securities". At the end of 2000, CRRA's required reserves were fully funded, such that the proceeds paid by NU to buy-down the CRRA contract could be fully invested in this manner. Among the permitted investments would be investments in the U.S. Treasury Department's STRIPS program.[34] Through the STRIPS program, CRRA could have purchased the right during any of the months indicated to invest the proceeds received at the indicated interest yield

[34] STRIPS is an acronym for the terms "Separate Trading of Registered Interest and Principal of Securities."

levels fixed for the period during which the proceeds were to be invested and amortize sufficient amounts of the "principal" of the sinking fund in each year to meet debt service and operating expense.

With these assumptions, CRRA could have easily met its operating expenses, paid its debt service and had sufficient cash available to defease the remaining bond principal in 2008. A diagram is attached which depicts the relationships of the major financial variables for this hypothetical alternative case for the period 2001 to 2010, which also assumes a $26.4 MM payment from the "sinking fund" during each annual period to defray operating expenses and annual debt service.

CRRA does face a structural problem under both the alternative case and in the circumstances where it committed to the Enron transaction. CRRA's operating expense base is a multiple (1.43) of its annual tipping fees and its electric sale revenues are essentially capped under the revised energy sale arrangements with CL&P (with or without Enron). If CRRA's operating expenses and tipping fees both escalate at the same rate, CRRA will face a deteriorating cash position because the operating expense escalation is on a larger base. CRRA, however, confronts this structural problem whether or not it did the deal with Enron. Even assuming historical rates of escalation of CRRA operating expense and tipping fee revenue, however, the alternative case presents a viable financial picture for CRRA through to 2008, the year for redemption of the $209MM original principal 1996 Refunding Bonds.

VII. Recommendations

Recommendations

1. CRRA should take all appropriate legal action against Enron, and Arthur Andersen to recover the $220 million. Additionally CRRA should determine whether action is appropriate against its advisors for failure to perform an adequate due diligence analysis of this transaction or to properly advise CRRA of the legal limits on its lending and investment authority.

2. The General Assembly should require a management and financial audit by external independent reviewers with expertise in the subject matter of CRRA's Mid-Connecticut Project operations. The audit should extend to any financial recovery plan to be proposed by CRRA with respect to mitigation measures to be taken to respond to the Enron bankruptcy.

3. CRRA’s statutory investment and loan restrictions should be strengthened to specifically prevent CRRA from making loans or investments camouflaged as energy transactions.

4. The Connecticut General Assembly should require an independent audit of all energy transactions conducted by CRRA. The audit should be paid for by CRRA, but supervised by an independent committee appointed by the General Assembly or member municipalities.

APPENDIX A
SUMMARY OF ENRON RELATED AGREEMENTS

References to sections of the affected agreements are identified in parentheses.

1. Mid-Connecticut Project Termination, Assignment and Assumption Agreement (December 22, 2000).

This Agreement provides for (a) the termination of the existing 1985 CL&P-CRRA EPA and " Master Agreement" and lease agreements and reciprocal releases as to obligations arising such agreements; (b) the assignment of CL&P's existing obligations to CRRA to EPMI and the entry into effect of the new CL&P-EPMI EPA in replacement of such prior obligations; and (c) the payment of proceeds derived from the CL&P Rate Reduction Bonds to CRRA and EPMI.

The Agreement expressly is subject to satisfying several conditions precedent, which, when satisfied, would result in a "closing" of the transaction. The most important of the conditions precedent to closing is the issuance of the RRBs, from which the funds would be derived to pay the proceeds at closing to CRRA and EPMI. EPMI is due a payment equal to: (a) $225,000,000 if closing occurs in January, '01; and (b) $222,582,582 if closing occurs in February '01. CRRA is due a payment of $282,079,871 less the amount paid EPMI which is reduced by $21,667 for each day in delay in the closing following Jan. 1, 2001. The parties may by mutual agreement extend the closing date beyond Feb. 28, 2001 (10.2).

The closing actually occurred at the end of March, 2001 upon the issuance and closing of the CL&P RRBs, The parties mutually agreed to this extension pursuant to an amendment to the Project Termination, Assignment and Assumption Agreement. [get amendment and discussion of "hedge instrument" cost paid to EPMI as consideration for the extension].

2. EPMI – CL&P Energy Purchase Agreement (December 22, 2000).

This Agreement obligates EPMI to delivery 250 million kwhs during each contract year (measured from July 1 to June 30) for a term ending on May 31, 2012 (3(a)(providing that EPMI is obligated to supply the Annual Quantity, which, in turn, is defined as 250 MM kwh)). CL&P is obligated to buy the power when and as produced, but in no event greater than 67 MWH in any one hour (3(c)). EPMI's sales obligation is explicitly equated to electricity produced by the CRRA EGF facility. EPMI has no obligation to provide capacity or any ancillary services (3(a)). Energy produced under by the CRRA EGF facility is first counted to satisfy EPMI's obligation under this agreement (the Annual Quantity) and, once the Annual Quantity is satisfied, then additional production by the EGF facility is deemed for CRRA's account under its separate EPA agreement with CL&P (3(b)). If there is a failure to delivery the Annual Quantity, as determined at the end of the Contract Year, then EPMI is obligated to make a "cover payment" equal to the resulting deficiency multiplied by the ISO-NE rolling 12 month average energy clearing price ("ECP") less the contract price (10(a)). The contract price begins at 3 cents per kwh in 2001, escalates by 0.1 cents per kwh in 2002 and 2003 and is set at 3.3 cents per kwh for the period 2004 to the end of the contract term (Schedule A). Payment is due on the 14^{th} day following receipt by CL&P of an invoice from CRRA, indicating the energy delivered (9(a)). Finally, upon the occurrence of an "event of default", resulting in termination of the Agreement, the defaulting party owes the non-defaulting party an "early termination payment" equal, if positive, to the present value of the difference between the actual "market price" and the contract price for the remaining term of the contract (13(b)). Events of default include non-payment of amounts due, breach of a material covenant, material misrepresentation and bankruptcy of a party (13(a)).

3. <u>CRRA – CL&P Energy Purchase Agreement (December 22, 2000).</u>

This Agreement obligates CRRA to sell to CL&P all energy products (including "ancillary services, rated capability) and energy in excess of the amount delivered under the EPMI – CL&P EPA up to a maximum of 500 MM kwh in any Contract Year (measured from July 1 to June 30) and up to 67 MW in any one hour (8(a)). CL&P has the right to seek changes in the scheduling of maintenance of the EGF (3(a)). It can also request CRRA to produce up to the EGF's maximum safe output in emergency circumstances (3(d)). CRRA also sells "Backstop Energy" to CL&P at the contract prices when the Jet Units are operating, there is an ISO-NE request for the Jet Units to dispatch and the Jet Units do not fully satisfy the ISO-NE dispatch request. CRRA is free to sell to any third party energy produced in excess of 500 MM kwh less the amounts delivered under the EPMI-CL&P EPA. If CL&P terminates the EPMI-CL&P EPA because of the occurrence of an EPMI default, CRRA can take an assignment of the EPMI-CL&P EPA, provided it cures any outstanding defaults. The contract price for energy sold under the CRRA-CL&P EPA is the same as under the EPMI-CL&P EPA.

4. <u>CRRA – EPMI Energy Generation Agreement (December 22, 2000).</u>

This Agreement obligates EPMI to resell to CRRA at no cost the steam which CRRA sells to EPMI per the EPA (see discussion below at ___); the steam is then used to generate electricity at the EGF in order to meet the "Annual Quantity" of electricity which EPMI is obligated to deliver to CL&P under the CL&P-EPMI EPA (3.1(a)). CRRA expressly does not sell to EPMI any electric capacity or ancillary services products associated with the EGF (3.1(a)). Any electricity generated in excess of 67 MW or 250 MM kwh during the contract year, CRRA sells for its own account, except if CL&P or ISO-NE request generation up to the maximum safe output to address an electric system emergency, generation above 67 MW will also be credited against the Annual Quantity delivery obligation. (3.1(b)). EPMI makes two streams of payments to CRRA:(a) an amount for the electricity generated up to the Annual Quantity at the same prices as CL&P pays EPMI per kwh under the CL&P-EPMI EPA, which payment is due 15 days following invoice from CRRA indicating the amount of energy delivered during the preceding month, with CRRA agreeing to provide any invoice simultaneously to CL&P and to EPMI (3.2(a)(i), 3.2(b)); and (b) on the first business day of each month an amount of approximately $175,000 (called the "Fixed Monthly Payment"), which amount was decreased from $217,418 in agreed daily increments due to delay in the closing of the CRRA-Enron-CL&P Transaction following January 1, 2001(3.2(a)(ii) and Schedule B. 3.2(b)). The contract states with respect to this second payment, in relevant part, that:

> The use or application of the Fixed Monthly Payments received by CRRA shall not be restricted as a result of this Agreement, and CRRA may use such monies for any purpose, including, if its so desires, in connection with developing commercially viable alternatives to generating electricity from steam, developing emissions-free technology to be utilized by waste recovery and power generation processes and the revitalization and redevelopment of South Meadow station (3.2(a)(ii)).

The contract also obligates CRRA to make EPMI whole for any "cover payment" due to a failure to deliver 250 MM kwh during a contract year (3.2(f)). The measure of the cover payment is the same as provided in the CL&P-EPMI EPA. The CRRA transmittal of the cover payment is due 29 days following the end of the contract year. EPMI can also offset the cover payment due from CRRA against the Fixed Monthly Payment and/or the payments due for energy delivered.

5. <u>CRRA – EPMI EPA (Amended and Restated Energy Purchase Agreement between EPMI and CRRA for the Mid-Connecticut Refuse-to-Energy Project) (December 22, 2000).</u>

This Agreement obligates CRRA to delivery to EPMI steam sufficient to generate 250 MM kwhs of electricity at the EGF (*i.e.*, to meet CRRA's obligation to generate electricity under the CRRA-EPMI EGA and EPMI's obligation to provide electricity to CL&P under the CL&P-EPMI EPA)(4). Any steam in excess of this amount is for CRRA's own account. EPMI is obligated to pay CRRA $2.2 MM per month on the first business day of the month without regard to the amount of steam delivered by CRRA (5.1). If a "cover payment" is due to EPMI from CRRA and not paid (which, in turn, would be due to CL&P from EPMI under the CL&P-EPMI EPA), EPMI can set off the amount against the monthly payment of $2.2 MM (5.2). The Agreement expressly acknowledges that the steam delivered by CRRA to EPMI is to be immediately used by CRRA to generate electricity at the EGF and custody and control in the steam remains at all times with CRRA (7.1(a)).

6. <u>Enron Corp. Guaranties (December 22, 2000).</u>

Enron Corp., the ultimate parent of EPMI and ENA, provided separate guarantees capped at $345 MM back-stopping performance of the EPMI-CRRA EPA and EPMI-CRRA EGA. The cap amount is reduced to the extent of payments made by EPMI under each of the EPA and the EGA.

7. <u>ENA-CRRA MOU (December 22, 2000).</u>

This Agreement establishes an understanding between ENA and CRRA to form a joint venture for the development, ownership and operation of certain “emissions free” technology projects. Such understanding is expressly stated as not binding and subject to being superseded by a definitive legal agreement (1). The proposed joint venture would entail the creation of a company (owned equally by each of the parties) and CRRA would be required to fund certain capital contributions, receiving in return a preferred interest in the company relating to subsequent distributions from available funds or return of capital. CRRA proposes to fund the “bulk” of its funding obligation from the payments made pursuant to section 3.2(a)(ii) of the EPMI-CRRA EGA (Exhibit A, “Transaction Overview”); provision of such funds, however, is not a CRRA obligation. Management of the joint venture company is proposed to occur through a 5 member board (2 selected by CRRA, 2 by ENA with the 5th mutually agreed). Operational responsibility is proposed to be undertaken by a contractor, affiliate of CRRA, pursuant to a contract reflecting terms set on an arm’s length basis.

APPENDIX B

Excerpts from the CRRA Board of Directors' Meeting of November 16, 2000 containing discussion of the capacity payment mechanism.

The energy contract buy-down was equally important, Mr. Wright continued. That transaction, he said, would result in CRRA receiving two types of payments. One would be a capacity payment, he said. The capacity payment would equal $2.2 million monthly which over 12 months would yield $26.4 million, he stated. In addition, CRRA would receive an energy payment each kilowatt hour of electricity produced. That payment, he said, would start at 3 cents in the year 2001 and escalate over the next four years to 3.3 cents. The immediate increase in annual revenues, he said, would go from approximately $38.5 million to approximately $39.9 million.

Director Timolat asked Mr. Wright to explain the capacity payment. Mr. Wright stated that capacity in power transactions was the ability to generate power and receive credit from the regional power pool for having the ability to produce power in places where power was needed. Most power contracts, he explained, were broken out into both capacity and energy payments.

Director Lisman asked whether there was a requirement with regard to receiving the capacity payments for CRRA to be available to generate during peak periods. Mr. Wright stated that there was no such requirement. The only requirement imposed, he said, was to sell CL&P all of the electricity that CRRA produced.

Minutes of 324th Meeting of the CRRA Board of Directors, Nov. 16, 2000, p. 4.

Term	Definition
Ancillary Services	Includes the following electric products: Interconnected Operations Services identified by the U.S. Federal Energy Regulatory Commission (Order No. 888 issued April 24, 1996) as necessary to effect a transfer of electricity between purchasing and selling entities and which a transmission provider must include in an open access transmission tariff: (a)Energy Imbalance Service: Provides energy correction for any hourly mismatch between a transmission customer's energy supply and the demand served; (b)Operating Reserve: Spinning Reserve Service: Provides additional capacity from electricity generators that are on-line, loaded to less than their maximum output, and available to serve customer demand immediately should a contingency occur, (c) Operating Reserve: Supplemental Reserve Service: Provides additional capacity from electricity generators that can be used to respond to a contingency within a short period, usually ten minutes, (d) Reactive Supply and Voltage Control From Generating Sources Service, Provides reactive supply through changes to generator reactive output to maintain transmission line voltage and facilitate electricity transfers, (e) Regulation and Frequency Response Service: Provides for following the moment-to-moment variations in the demand or supply in a Control Area and maintaining scheduled Interconnection frequency, (f)Scheduling, System Control, and Dispatch Service: Provides for i) scheduling, ii) confirming and implementing an interchange schedule with other Control Areas, including intermediary Control Areas providing transmission service, and iii) ensuring operational security during the interchange transaction. Source: NERC Task Force, Glossary of Terms The specific definition of ancillary services varies among transmission control regions (e.g., ISO-NE's control area). ISO-NE recognizes some but not all of the foregoing as defined ancillary services.
Availability	A measure of time an electric generating unit, transmission line, or other facility is capable of providing service, whether or not it actually is in service. Typically, this measure is expressed as a percent available for the period under consideration. Source: NERC Task Force, Glossary of Terms.
CL&P	Connecticut Light and Power Company
Capacity Factor	The ratio of the total energy generated by a generating unit for a specified period to the maximum possible energy it could have generated if operated at the maximum capacity rating for the same specified period, expressed as a percent. Source: NERC Task Force, Glossary of Terms.
CRRA	Connecticut Resources Recovery Authority
CTAG	The Office of the Attorney General of the State of Connecticut
CTDPUC	The Connecticut Department of Public Utility Control

ECMB	The Energy Conservation Management Board created by CGS §16-245m(d) for reviewing proposed projects utilizing the conservation and load management fund created by the Connecticut Electric Restructuring Act.
ECP	Energy clearing price. This is the price for "energy" set hourly by ISO-NE for the marginally supplied resource in New England, without regard to transmission constraints or unit operating restrictions and used to compensate generators generating energy during that hour, and not otherwise committed by contract.
EGA	Energy Generation Agreement
EGF	The "electric generation facility." This is one of the two power generation complexes located at South Meadows, Hartford, CT (the "Jet Units" defined below is the other), consisting of two nominally rated 45 MW GE Turbine/generator sets (so-called Units 5 and 6) and ancillary systems and auxiliary steam systems. The facility receives its required thermal input from the CRRA MSW processing facility. The facility was owned by CL&P prior to the CRRA-Enron-CL&P restructuring transaction and was transferred to CRRA as part of the transaction.
ENA	Enron North America Corporation, an affiliate and subsidiary of Enron Corp.
EPA	Energy Purchase Agreement
EPMI	Enron Power Marketing, Inc., an affiliate and subsidiary of Enron Corp.
FERC	The Federal Energy Regulatory Commission.
GAAP	Generally accepted accounting principles.
HDW	Hawkins, Delafield and Wood, the CRRA Bond counsel.
ISO-NE	Independent System Operator – New England, Inc. This is the entity that operates and administers the dispatch and market settlement for the electric generation sector in New England.
The Jet Units	This is a set of four operating gas turbine peaking electric generation units located at South Meadows, CT. These units run on relatively expensive jet fuel. They comprise about ___ MW (summer rating) and ___ MW (winter rating) of electric generating capacity. CL&P owned these units prior to the CRRA-Enron-CL&P transaction, which ownership was transferred to CRRA in escrow in May, 2000 and fully to CRRA upon the completion of the transaction.
KW	Kilowatt
KWH	Kilowatthour
MOU	Memorandum of Understanding
MSW	Municipal solid waste
MW	Megawatt. This equals 1000 kilowatts

MWH	Megawatthour. This equals 1000 kilowatthours.
PURPA	The federal Public Utility Regulatory Policies Act of 1978
RRB	Rate Reduction Bonds. These are bonds issued by a special purpose entity, secured by the stranded asset charge paid by CL&P ratepayers. The funds used to effect the buy-down of the CRRA-CL&P Original EPA were provided from a portion of the proceeds of the CL&P RRB issue dated March , 2001, in principal amount of $1.44 B.
SEC	Securities and Exchange Commission