

July 24, 2013

Illinois Commerce Commission
Chief Clerk's Office
527 East Capitol Avenue
Springfield, Illinois 62701

*Public Report
per Order*

**RE: XOOM Energy Illinois, LLC
Docket No. 13-0343**

Dear Sir/Madam:

Pursuant to the Order of the Illinois Commerce Commission dated July 10, 2013 ("Order"), XOOM Energy Illinois, LLC ("XOOM") was granted proprietary treatment for two years for its 2012 Part 551 Financial Report ("Report") in Docket No. 13-0343.

In connection with this Order, XOOM is hereby submitting a public version of this Report.

Please call me at 704-274-1435 with questions. Thanks in advance.

Regards,



Stephanie Kueffner
Associate Counsel
XOOM Energy, LLC, a single-member manager of XOOM Energy Illinois, LLC

Enclosures

**ILLINOIS COMMERCE
COMMISSION**
2013 JUL 26 A 10:32
CHIEF CLERK'S OFFICE

PART 551.40 FINANCIAL REPORT

XOOM Energy Illinois, LLC

Section 551.140 Financial Reporting Requirements

XOOM Energy Illinois, LLC ("XOOM Energy Illinois") is submitting this Financial Report to demonstrate that it continues to possess sufficient financial resources to serve the residential or small commercial customers for which it has received s certificate of authority.

Section 551.80(f): XOOM Energy Illinois maintains a line of credit or revolving credit agreement.

- 1) XOOM Energy, parent to Applicant, maintains a line of credit for the benefit of XOOM Energy and each of its' wholly owned subsidiaries, including Applicant (identified in the credit Facility as Retail Entities) [REDACTED]

- 2) The credit agreement exceeds the amount of five hundred thousand dollars in accordance with Section 551.80(f) (2) and has no minimum credit limitations. *[please see Credit Agreement Definitions – Maximum Approved Facility Size found on AnnexA-10]*

[REDACTED]

XOOM Energy will set aside a minimum \$500,000 of the Maximum Approved Facility Size for Applicant to meet the requirements of Section 551.80(f) (2) pursuant to the notarized officer's certificate which is being submitted as part of this application.

- 3) The credit agreement exceeds one year in accordance with Part 451.320(a) (2) (B). The credit agreement expires on December 31, 2014. *[Please see Credit Agreement Definitions – Scheduled Maturity Date found on Annex A-17]*

- 4) XOOM Energy Illinois is providing the following:

- A) The Credit Agreement – a copy of which is being provided under confidential cover as Attachment A.

B) The rating agency report that presents the long-term obligations rating of the financial institution extending the credit – [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

C) Applicant was formed on March 24, 2011 as a single-member manager limited liability company. The single-member manager of Applicant is XOOM Energy, LLC (“XOOM Energy”) which also holds 100% membership interest in XOOM Energy Illinois. XOOM Energy was formed on March 15, 2011. XOOM Energy Illinois does not have audited financials at this time, but it is submitting a balance sheet prepared by XOOM Energy Illinois’s Controller. The XOOM Energy Illinois balance sheet and the audited financials for XOOM Energy, LLC are also being submitted under confidential cover as Attachment A.

D) The credit agreement exceeds the amount of \$500,000 dollars in accordance with Part 551.80(f) (2) and has no minimum credit limitations.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

XOOM Energy has set aside a minimum \$500,000 of the Maximum Approved Facility Size for Applicant to meet the requirements of Section 551.80(f) (2) pursuant to the notarized officer’s certificate which is being submitted as part of this application.

Since XOOM Energy Illinois’s credit agreement is with its wholesale supplier which is an unaffiliated company and arises from the acquisition of natural gas that are delivered to residential or small commercial customers in the State of Illinois, for sale or lease or in exchange for other value received, XOOM Energy Illinois believes that the credit agreement it has in place also meets the requirements of Section 551.80(d), as well.

XOOM Energy Illinois has a surety bond in the amount of \$150,000 and it certifies that this bond is in full force and effect. This bond is attached hereto as Attachment B

AFFIDAVIT

STATE OF NORTH CAROLINA §
 §
COUNTY OF MECKLENBURG §

1. My name is Michelle W. Harding. I am Vice President, Secretary and General Counsel of XOOM Energy, LLC, the single-member manager of XOOM Energy Illinois, LLC ("XOOM Energy Illinois"). I submit that in accordance with the XOOM Energy Illinois's Operating Agreement, the officers of the member-manager XOOM Energy, LLC are authorized to enter into agreements and transact business on behalf of Applicant.
2. I swear or affirm that to the best of my knowledge XOOM Energy Illinois continues to meet the financial reporting requirements for the service of authority granted in its AGS certificate issued by the Illinois Commerce Commission (Case Number 11-0724) in accordance with Part 551 of the Illinois Administrative Code.

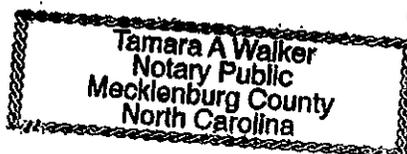
Michelle W. Harding
Signature

Michelle W. Harding
Typed or Printed Name

Vice President, Secretary, and General Counsel
Title of Signatory

SWORN TO AND SUBSCRIBED before me on the 29th day of April, 2013.

Tamara A. Walker
Notary Public In and For the State of North Carolina
Tamara A. Walker
My Commission Expires
May 30, 2017



ATTACHMENT A

CONFIDENTIAL FINANCIAL DOCUMENTS

ANNEX A

ADDITIONAL DEFINITIONS

“Accordion” shall have the meaning set forth for such term in Section 3.11 of the Transaction Requirements Annex.

“Actual Load” means the total amount of electricity required by a Retail Entity to serve such Retail Entity’s customer load (including unaccounted for electricity transmission and distribution losses).

“Advance” has the meaning set forth for such term in Section 3.10(c).

“Aggregate Retail Load” means the aggregate of each Retail Entity’s Actual Load.

“Ancillary Services” shall mean for each Applicable Market, ancillary services as defined by such Applicable Market.

“Annual Budget” shall have the meaning set forth for such term in Section 6.7(b) of the Transaction Requirements Annex.

“Annual General and Administrative Expenses Cap” means, for each calendar year, the amount set forth for such calendar year in Schedule I-AGAEC.

“Applicable Markets” means NYISO, ERCOT, PJM, MISO, CA ISO, ISO NE and as the Parties otherwise mutually agree.

“Approved Capital Expenditures”

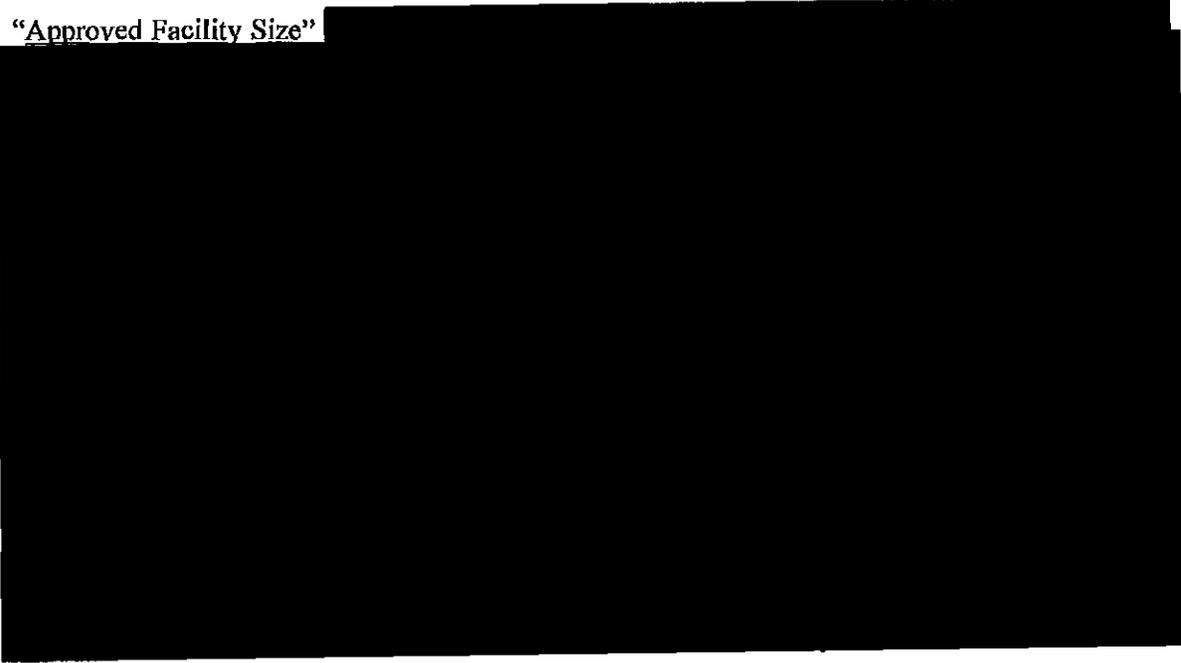


“Approved Counterparty” shall mean a Person listed on Schedule I-AC attached hereto which may be amended, modified or supplemented from time to time by Party A; provided that such Person: (i) has an International Swaps and Derivatives Association Master Agreement, an Edison Electric Institution Master Power Purchase and Sale Agreement or another master agreement in form and substance acceptable to Party A in its sole discretion, as the case may be, with Party A that is in full force and effect under which no event of default, or event, condition or circumstance exists which, with notice or the passage of time or both, would constitute an event of default thereunder, has occurred and (ii) unless otherwise specified in Schedule I-AC, has a long-term senior unsecured debt rating of at least Baa3 as determined by Moody’s and BBB- as determined by S&P.

“Approved Counterparty Transaction” shall have the meaning set forth for such term in Section 3.3(c) of the Transaction Requirements Annex.

“Approved Customer Contracts” means (i) all Customer Contracts approved by Party A and added to Exhibit B on or after the date hereof, (ii) all Customer Contracts on (a) non-price related terms and conditions substantially the same as the form agreements attached as Exhibit B, or (b) such other form agreements as may be approved in writing by Party A from time to time.

“Approved Facility Size”



“Asset Coverage Test” shall have the meaning set forth for such term in Schedule 9.4 of the Transaction Requirements Annex.

“Bi-Monthly Payment Date” means the fifth (5th) and the twentieth (20th) day of each calendar month; provided that if such date is not a Local Business Day, the Bi-Monthly Payment Date shall be the first preceding day that is a Local Business Day.

“CA ISO” means the California Independent System Operator or such other entity that succeeds to the functions now performed by the California Independent System Operator.

“Capital Lease”, as applied to any Person, means any lease of any property (whether real, personal or mixed) by that Person as lessee that, in accordance with GAAP, is accounted for as a capital lease on the balance sheet of that Person.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“Cash Equivalents” means, as of any date of determination, (i) marketable securities (a) issued or directly and unconditionally guaranteed as to interest and principal by the United States Government or (b) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one month after such date; (ii) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one month after such date and having, at the time of the acquisition thereof, the highest rating obtainable from either S&P or Moody’s; (iii) commercial paper maturing no more than one month from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody’s; (iv) certificates of deposit or bankers’ acceptances maturing within one month after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that (a) is at least “adequately capitalized” (as defined in the regulations of its primary Federal banking regulator) and (b) has Tier 1 capital (as defined in such regulations) of not less than \$100,000,000; and (v) shares of any money market mutual fund that [REDACTED]

“Change of Control” means if any Person (or related group of Persons) that is not a controlling member of Party B on the date hereof should hereafter acquire, directly or indirectly, the beneficial ownership of (a) equity securities having the power to elect a majority of the management committee of Party B or (b) any other ownership interest enabling it to exercise control of Party B.

“Collateral” means all of those assets of Party B, its unitholders or its Affiliates over which Party B, its unitholders or its Affiliates have granted or purported to grant Party A a security interest or lien to secure all or any portion of the Secured Obligations.

“Collateral Accounts” means the Party B Controlled Accounts and any Retail Entity Controlled Accounts.

“Commodity Fees” means the Credit Fee – Gas Transactions, Credit Fee – Power Transactions and the Credit Fee – REC Transactions.

“Commodity Transactions” means any swap, cap, collar, floor, future, option, spot, forward, purchase, sale or similar agreement entered into in respect of any commodity, including any confirmation, supplement, annex or schedule entered into in connection therewith.

“Confirmation” shall have the meaning set forth for such term in Section 3.2 of the Transaction Requirements Annex.

“Contractual Obligations” as applied to any Person, mean any provision of any Security issued by that Person or of any material indenture, mortgage, deed of trust, commodity purchase agreement, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

“Control Agreements” shall have the meaning set forth for such term in the Security Agreements, as amended or otherwise modified from time to time.

“Controlled Accounts” means Party B Controlled Accounts and each Retail Entity Controlled Account.

“Controlled Account Institution” means, with respect to any Controlled Account, the financial institution at which such account is maintained.

“Credit and Collection Policy” means the Credit and Collection Policy attached as Exhibit D to the Transaction Requirements Annex.

“Credit Card Processor” means any one or more credit card processors approved in writing by Party A in its commercially reasonable discretion.

“Credit Card Processor Payment Instructions” means written payment instructions in form and substance satisfactory to Party A made by each Retail Entity to any of its Credit Card Processors directing such Credit Card Processors (i) to direct all Receivables, including without limitation, advance payments, and refundable deposits paid by Customers or any other obligor of such Retail Entity by credit card to such Credit Card Processor to be deposited in a Party B Credit Card Processor FBO Account or an Retail Entity Credit Card Processor FBO Account, as the case may be, and (ii) to promptly make all payments of Receivables, including without limitation advance payments, and refundable deposits from the Party B Credit Card Processor FBO Account, Retail Entity Credit Card Processor FBO Account or any other account of such Credit Card Processor holding any Receivables, including without limitation advance payments, and refundable deposits, as the case may be, directly to an Party B Controlled Account or an Retail Entity Controlled Account, as the case may be, by wire transfer, and accepted by such Credit Card Processor in writing. Agreements to which such Retail Entity and such Credit Card Processor are parties containing payment instructions that comply with clauses (i) and (ii) of the preceding sentence will be considered by Party A as satisfactory written payment instructions.

“Credit Fee – Gas Transactions”

“Credit Fee – Post-Maturity Gas Transactions”

“Credit Fee – Post-Maturity Power Transactions”

“Credit Fee – Power Transactions”

“Credit Fee – REC Transactions” [REDACTED]

“Credit Score” means the Advanced Energy Risk Model credit score determined by Equifax Inc. (or, in the event no credit score from Equifax Inc. is available, the equivalent score thereto from Experian Group Ltd. and/or The D&B Corporation).

“Credit Support Amount” means the aggregate exposure to Party A under the credit support provided for the benefit of the Retail Entities which shall be determined by the amount of cash collateral posted, the stated amount of any letter of credit or bond and the maximum guaranteed amount of any guarantee pursuant to Section 3.4 of this Master Agreement, or otherwise pursuant to this Master Agreement.

“Credit Support Cap” [REDACTED]

“Customer” means any Person with an effective contract, undertaking, or agreement with a Retail Entity for the retail purchase of natural gas, electricity and electricity related products, capacity, RECs, Ancillary Services or other commodities or products.

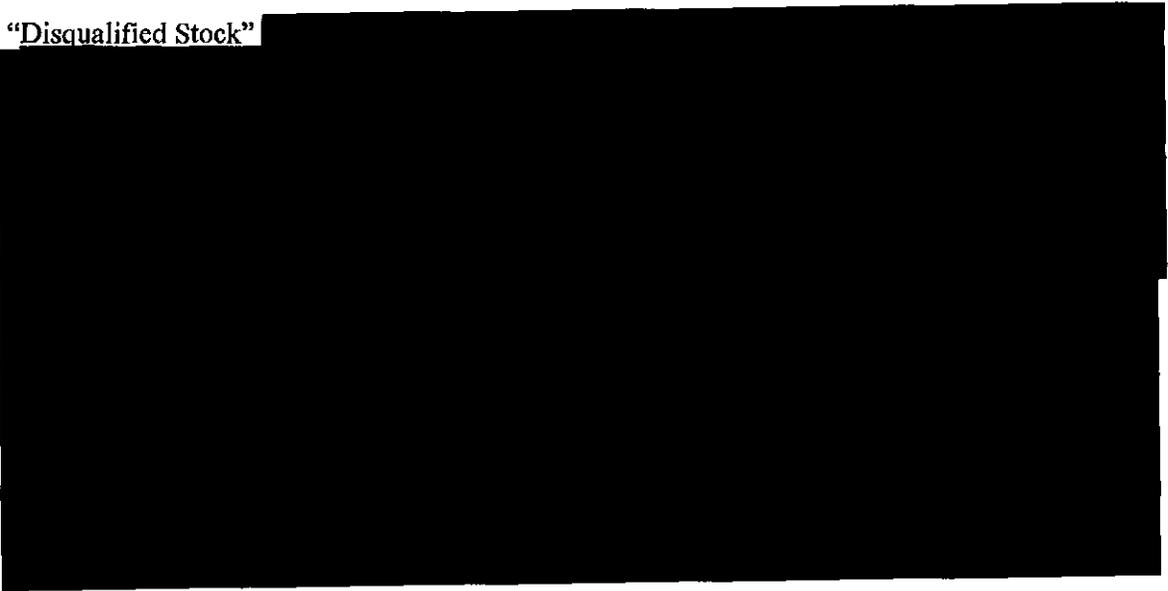
“Customer Concentration Percentage” means, with respect to any given product or commodity delivered hereunder, the ratio of (x) the sum of (i) the aggregate quantity previously delivered to, but not paid for by, a particular Customer under all Customer Contracts applicable to such Customer and (ii) the aggregate quantity to be delivered to a particular Customer under all Customer Contracts applicable to such Customer, as determined by Party B, to (y) the sum of (i) the aggregate quantity previously delivered to, but not paid for by, Customers under all Customer Contracts and (ii) the aggregate quantity to be delivered under all Customer Contracts, as reasonably determined by Party A using reasonable allocation and estimation procedures.

“Customer Contract” means each contract for the sale of natural gas, electricity, capacity, RECs, Ancillary Services or other commodities or products between a Retail Entity, as seller, and the related Customer, as buyer.

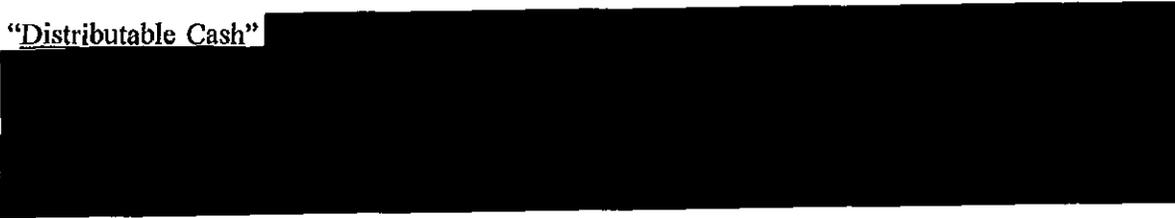
“Customer Payment Instructions” means written payment instructions in form and substance satisfactory to Party A made by each Retail Entity to its Customers or any other obligor of such Retail Entity directing such Customers or any other obligor of such Retail Entity to make all payments of Receivables, including without limitation advance payments, and refundable deposits directly to a Controlled Account, by check, ACH or wire transfer, and accepted by the Customer or any other obligor of such Retail Entity in writing or, if by credit card, to the applicable Credit Card Processor for which a Party B Credit Card Processor FBO Account or an Retail Entity Credit Card Processor FBO Account has been established and the Credit Card Processor Payment Instructions are in effect. Customer Contracts to which such Retail Entity is a party containing payment instructions will be considered by Party A as satisfactory written payment instructions.

“Deferred Supply Amount” all amounts deferred pursuant to Section 3.7(a) of the Transaction Requirements Annex.

"Disqualified Stock"



"Distributable Cash"



"Effective Date" shall mean the date first set forth above in this Master Agreement.

"Equity Interests" means (i) with respect to a corporation, any and all shares, interests, participation or other equivalents (however designated) of corporate stock, including all common stock and preferred stock, or warrants, options or other rights to acquire any of the foregoing and (ii) with respect to a partnership, limited liability company or similar Person, any and all units, interests, rights to purchase, warrants, options, or other equivalents of, or other ownership interests in, any such Person.

"ERCOT" means the Electric Reliability Council of Texas, Inc. or any successor and any successor or replacement entity or other entity, public or private, administering grid and transmission reliability and control for the power region in Texas currently administered by ERCOT.

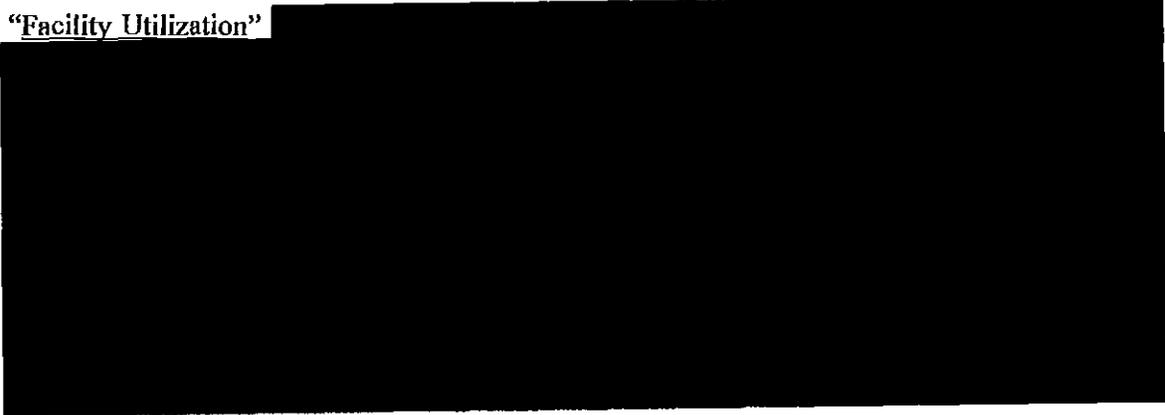
"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder.

"ERISA Affiliate" means any entity treated as under common control with Party B for purposes of Section 4001(a)(14) of ERISA.

"ERISA Event" means (a) a reportable event (within the meaning of Section 4043 of ERISA) with respect to a Pension Plan; (b) a withdrawal by Party B or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial

employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal (within the meaning of Sections 4203 or 4205 of ERISA) by Party B or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Party B or any ERISA Affiliate.

“Facility Utilization”



“FERC” means the Federal Energy Regulatory Commission or its successor.

“First Priority Lien” means a valid, perfected, first priority security interest.

“Fiscal Quarters” means the fiscal quarters of each Retail Entity ending on March 31, June 30, September 30 and December 31 of each calendar year.

“Fiscal Year” means the fiscal year of each Retail Entity ending on December 31 of each calendar year.

“Fixed Price Contract” shall mean each Customer Contract pursuant to which the sale of natural gas, electricity, capacity, RECs, Ancillary Services or other commodities or products is calculated by reference to a fixed price.

“GAAP” means generally accepted accounting principles and practices set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board, which are in effect from time to time.

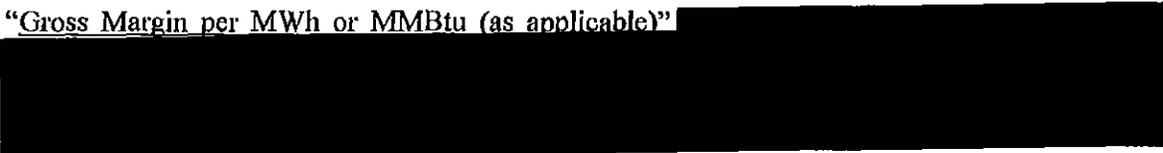
“General and Administrative Expenses” means, in respect of any Person, the amount of such Person’s scheduled compensation, residential/advertising, outside services, including but not limited to amounts due and owing by a Retail Entity to Party B pursuant to any applicable services agreement, consulting fees, interest owed and other general and administrative expenses

(excluding non-cash amortization expense related to amortization of intangible assets, stock compensation expense, and bad debt and payments to Party A under this Master Agreement) in respect of such period which shall be incurred in the ordinary course of business.

“Good Utility Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric industry in any Applicable Market, as the case may be, during the relevant time period or any of the practices, methods, and acts that in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather is intended to include acceptable practices, methods, and acts generally accepted in the region.

“Governmental Authority” means any federal, state, local or foreign government or any court of competent jurisdiction, regulatory or administrative agency or commission or other governmental authority or non-commercial instrumentality, domestic or foreign.

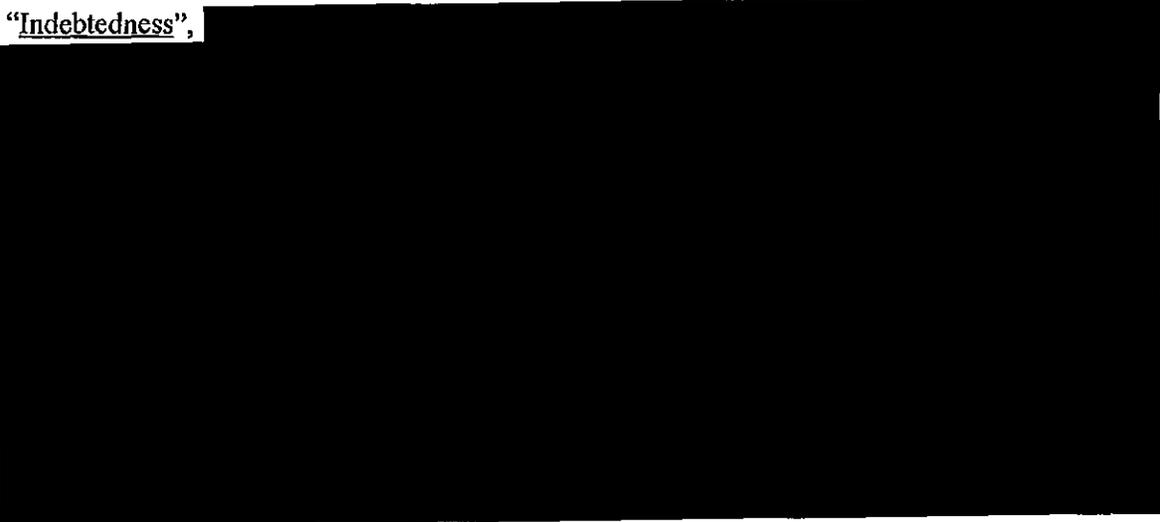
“Gross Margin per MWh or MMBtu (as applicable)”

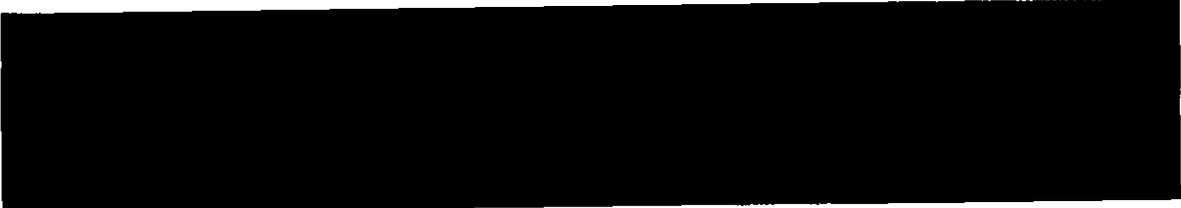


“Hedging Transaction” means, with respect to any Person (i) any forward sale (prepaid or otherwise, including without limitation, any fixed forward priced transaction) of natural gas, electricity, oil, gas, minerals or RECs by such Person that is intended primarily as a borrowing of funds, excluding volumetric production payments, and (ii) any interest rate, currency, commodity or other swap, collar, cap, option or other derivative that is intended primarily as a borrowing of funds, or any combination of any of the foregoing, with the amount of the obligations of such Person thereunder being the net obligations of such Person thereunder.

“ICE” means the IntercontinentalExchange, Inc.

“Indebtedness”,





“Information Technology Systems” means all information technology systems used in the operation of the Retail Gas Business or Retail Power Business, including hardware, software, middleware, tools, databases, technical and business information, know-how or other data or information, related documents, registrations and franchises, licenses or leases for any of the foregoing and all license rights and all additions, improvements, enhancements and accessions thereto, and books and records describing or used in connection with any of the foregoing.



“Interest Hedging Obligations” means, with respect to any specified Person, the net termination obligations, calculated as of any date of calculation as if such agreement were terminated as of such date, of such Person under:

(a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

(b) other agreements or arrangements designed to manage interest rate risk;
and

(c) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates.

“Investment” means (i) any direct or indirect purchase or other acquisition by any Retail Entity of, or of a beneficial interest in, any Securities of any other Person, (ii) any direct or indirect loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contribution by any Retail Entity to any other Person, including all Indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business, or (iii) any interest rate agreements or currency agreements.

“IP Rights” shall have the meaning set forth for such term in Section 5.14(a) of the Transaction Requirements Annex.

“ISO NE” means the Independent System Operator of New England Inc. or such entity that succeeds to the functions now performed by the Independent System Operator of New England Inc.

“Law” means, collectively, all international, foreign, federal, state and local laws, statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial

precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of any Governmental Authority.

“LDC” means the natural gas distribution company that provides distribution and delivery services for the associated natural gas Customers.

“LIBOR” means the London InterBank Offered Rate.

“Lien” means any lien, mortgage, pledge, collateral assignment, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any agreement to give any security interest) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing.

“Material Adverse Effect” means (i) a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of the Retail Entities, taken as a whole, or (ii) the impairment of the ability of (A) Party A to enforce its rights and remedies under the Secured Documents or (B) Party B and its Affiliates to perform their obligations hereunder or under the Secured Documents.

“Maximum Approved Facility Size” [REDACTED]

“Maximum Deferred Supply Amount” [REDACTED]

“Maximum General and Administrative Expenses” [REDACTED]

“Member Pledge Agreement” means each Pledge Agreement dated as of the date hereof made by the member of Party B in favor of Party A, as amended or otherwise modified from time to time.

“Minimum Accepted Score” has the meaning ascribed in the Credit and Collections Policy (Exhibit D).

“Mirror Transaction” shall have the meaning set forth for such term in Section 3.3(c) of the Transaction Requirements Annex.

“MISO” means Midwest Independent Transmission System Operator, Inc. and any successor entity.

“Monthly Compliance Report” shall have the meaning set forth for such term in Section 6.7(c) of the Transaction Requirements Annex.

“Monthly Payment Date” means the twentieth (20th) day of each calendar month; provided that if such date is not a Local Business Day, the Monthly Payment Date shall be the first following day that is a Local Business Day.

“Multiemployer Plan” means a multiemployer plan defined as such in Section 3(37) of ERISA (i) to which contributions have been made, or have been required to be made, by Party B or any ERISA Affiliate and (ii) that is covered by Title IV of ERISA.

“Net Worth” means, as of the date of any determination thereof, with respect to Party A, the aggregate of all owners’ capital in Party A.

“NYISO” means New York Independent System Operator, Inc. and any successor entity.

“Operating Agreements” means those agreements, arrangements, letter agreements, tariffs, operational orders, Permits, business practices, credit support agreements, and any other similar agreement maintained by any Retail Entity and any Applicable Market, any transmission and distribution service providers (or similar providers), gas utility, LDC, distribution or transportation entity or Governmental Entities, required for the operation of the Retail Gas Business or Retail Power Business.

“Operating Expenses” means, in respect of any period for any Person, the amount of such Person’s scheduled General and Administrative Expenses and other operating costs including payments to sales agents that are Affiliates of Party B (excluding capital expenditures) in respect of such period which shall be incurred in the ordinary course of business.

“Organizational Documents” means the certificate of incorporation, charter, by-laws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement, operating agreement, joint venture agreement, or other similar organizational instrument or document governing such entity.

“Outstanding Payable Amount” means, at the time of determination, the aggregate of all amounts accrued and unpaid with respect to natural gas, electricity, capacity, RECs, Ancillary Services and any other commodities or products delivered under this Master Agreement.

“Party A Marked to Market Exposure”

[REDACTED]

“Party B Company Account”

[REDACTED]

“Party B Controlled Accounts” means, collectively, the Party B Revenue Account, the Party B Company Account, and any other deposit or investment account or postal box of Party B over which Party A has control pursuant to a Control Agreement.

“Party B Credit Card Processor FBO Account” means a deposit account to be established by a credit card processor for the benefit of Party B.

“Party B Marked to Market Exposure” 

“Party B Pledge Agreement” means any Pledge Agreement entered into after the date hereof by Party B in favor of Party A, as amended or otherwise modified from time to time, pursuant to which the equity of Party B’s Subsidiaries, if any, will be pledged to Party A.

“Party B Purchased Load” shall have the meaning set forth for such term in Section 3.2 of the Transaction Requirements Annex.

“Party B Revenue Account” 

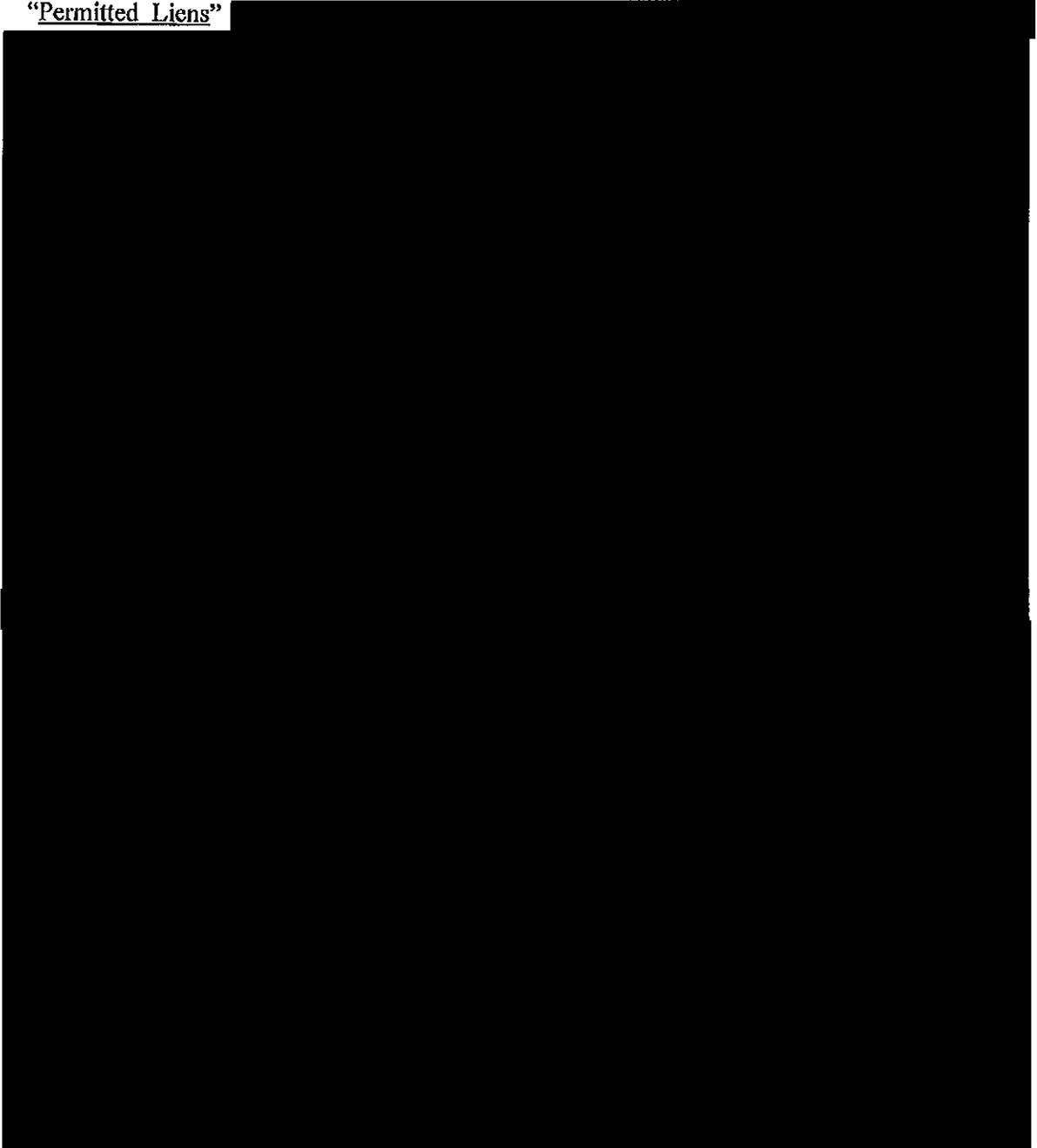
“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by Party B or any ERISA Affiliate or to which Party B or any ERISA Affiliate contributes or has an obligation to contribute or with respect to which Party B or any ERISA Affiliate has any direct or contingent liability, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

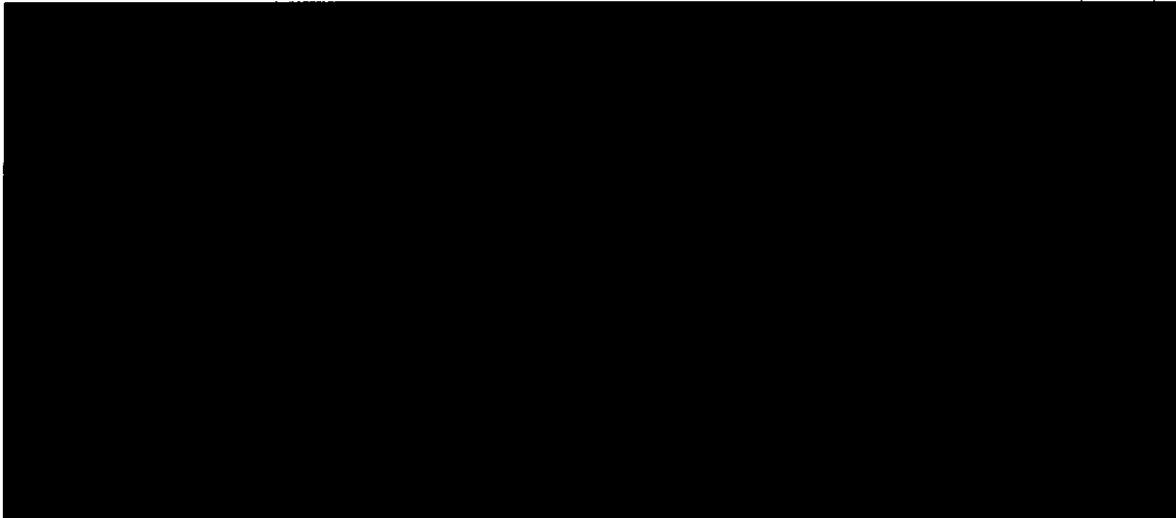
“Permits” means the licenses, permits, authorizations, approvals, orders, and consents issued by any of the Applicable Markets or any Governmental Authority that are required for Party B to operate the Retail Power Business.

“Permitted Indebtedness” 



"Permitted Liens"





“Permitted Tax Distribution Amount” means, as of each Tax Distribution Date, an amount equal to the highest combined marginal federal and state income tax rate applicable to any direct or indirect holders of the Equity Interests of Party B multiplied by (b) the aggregate net taxable income or gain attributable to Party B for the immediately preceding taxable quarter as a result of activities or assets of Party B for the immediately preceding taxable quarter reduced by the aggregate net taxable losses and expenses attributable to Party B for all prior taxable quarters and which have not been used to offset net taxable income for any prior taxable quarter; provided that, in no event shall the taxable income or taxable losses used for purposes of this clause (b) include taxable income or taxable losses and expenses accruing prior to the Effective Date.

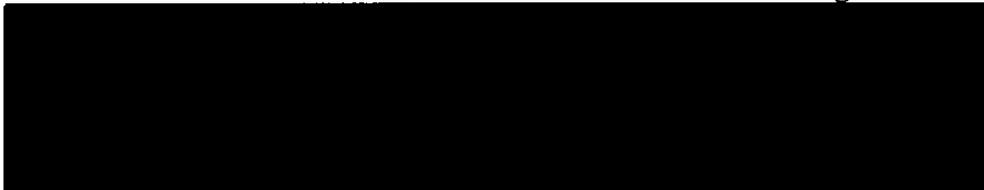
“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority, or other entity of whatever nature.

“PJM” means the PJM Interconnection, L.L.C. or such other entity that succeeds to the functions now performed by the PJM Interconnection, L.L.C.

“Pledge Agreements” means the Member Pledge Agreement and the Party B Pledge Agreement.

“POR Markets” means markets where Customer Contract receivables are pledged for utility-based billing.

“Present Value of Contracts” means the sum of (1), (2) and (3) below, as reasonably calculated by Party B and confirmed by Party A in accordance with the following:



The terms above have the following meaning:

PVF-FP Present value of future fixed price contracts

VF-FP [REDACTED]

GMFP [REDACTED]

PVF-VP-T Present value of future variable price term contracts

VF-VP-T Future variable price term volumes under contract

GMVP-T [REDACTED]

PVF-VP-MM Present value of future variable price month-to-month contracts

VF-VP-MM [REDACTED]

GMVP-MM [REDACTED]

“Proceeding” means any action, suit, proceeding (whether administrative, judicial or otherwise and including without limitation any regulatory proceeding), governmental investigation or arbitration.

“REC Transactions” means Transactions between Party A and Party B whereby Party A sells RECs to Party B.

“Receivable” means any Indebtedness and other obligations payable by any Customer to a Retail Entity under any Customer Contract or any right of a Retail Entity to payment from or on behalf

of a Customer; provided that, security deposits from Customers held by a Retail Entity shall not constitute a Receivable.

“Related Services” means products and services necessary to deliver electrical service and natural gas to the end use customers in any Applicable Market, including Ancillary Services and gas transportation services.

“Restricted Entities” has the meaning given on Schedule 5.2.

“Retail Entity” means Party B and those entities set forth on Exhibit A on the date hereof and any entity that becomes a Retail Entity in accordance with Section 3.8 of the Transaction Requirements Annex (at which time Exhibit A attached hereto will be amended to reflect such Retail Entity).

“Retail Entity Company Account” means the accounts identified as such as set forth on Exhibit A and any accounts later added pursuant to Section 3.8 of the Transaction Requirements Annex with respect to the applicable Retail Entity (at which time Exhibit A attached hereto will be amended to reflect such Retail Entity).

“Retail Entity Controlled Accounts” means, collectively, the Retail Entity Lockbox, the Retail Entity Lockbox Account, the Retail Entity Customer Credit Account, if any, the Retail Entity Company Account, the Retail Entity Customer Deposit Account, if any, and any other deposit or investment account or postal box of an Retail Entity over which Party A has control pursuant to a Control Agreement.

“Retail Entity Credit Card Processor FBO Account” means a deposit account to be established by a credit card processor for the benefit of any Retail Entity.

“Retail Entity Customer Credit Account” means the account identified as such on Exhibit A or pursuant to Section 3.8 of the Transaction Requirements Annex with respect to the applicable Retail Entity to the extent the establishment of such account is required by rule or order of the applicable regulatory agency (at which time Exhibit A attached hereto will be amended to reflect such Retail Entity).

“Retail Entity Customer Deposit Account” means the account identified as such on Exhibit A or pursuant to Section 3.8 of the Transaction Requirements Annex with respect to the applicable Retail Entity to the extent the establishment of such account is required by rule or order of the applicable regulatory agency (at which time Exhibit A attached hereto will be amended to reflect such Retail Entity).

“Retail Entity Lockbox” means the lockbox identified as such on Exhibit A or pursuant to Section 3.8 of the Transaction Requirements Annex with respect to the applicable Retail Entity (at which time Exhibit A attached hereto will be amended to reflect such Retail Entity).

“Retail Entity Lockbox Account” means the account identified as such on Exhibit A or pursuant to Section 3.8 of the Transaction Requirements Annex with respect to the applicable Retail Entity (at which time Exhibit A attached hereto will be amended to reflect such Retail Entity).

“Retail Gas Business” means (i) the business of providing retail natural gas to commercial and industrial and residential Customers, and any business incidental or related thereto, and (ii) performing under the Transaction documents and any activities incidental or related thereto to the extent not prohibited under the Transaction Documents.

“Retail Power Business” means (i) the business of providing electricity to Customers in retail electricity markets in any Applicable Market, and any businesses incidental or related thereto, and (ii) performing under the Transaction Documents and any activities incidental or related thereto to the extent not prohibited under the Transaction Documents.

“Revolving Amount” shall have the meaning set forth for such term in Section 3.10(b) of the Transaction Requirements Annex.

“Revolving Facility” shall have the meaning set forth for such term in Section 3.10(b) of the Transaction Requirements Annex.

“Revolving Note” shall have the meaning set forth for such term in Section 3.10(d) of the Transaction Requirements Annex.

“Risk Management Policy” means the Risk Management Policy attached as Exhibit E to the Transaction Requirements Annex.

“Scheduled Maturity Date” [REDACTED] *provided, however,* that the Scheduled Maturity Date will automatically renew for successive one-year periods unless either party provides the other party with written notice of termination at least 180 days prior to the Scheduled Maturity Date.

“Secured Documents” means the Security Documents, including the Master Agreement, and all other Confirmations thereunder, and any other documents made, delivered, or given from time to time between or among (or for the benefit of) Party B, any of its Affiliates, or any other Retail Entity, on the one hand, and Party A or any of its Affiliates, on the other hand, related to the foregoing named documents and agreements.

“Secured Obligations” means all obligations of Party B or any other Affiliate of Party B to Party A or any of Party A’s Affiliates, whether direct or indirect, absolute or contingent, due or to become due or now existing or hereafter incurred, arising under or owed under the terms of any and all Secured Documents (including post-petition interest or other obligations arising under the terms of any Secured Document for which Party B obtains relief under bankruptcy or other laws providing for relief from creditors) and any renewals, extensions, increases or rearrangements of foregoing.

“Securities” means any stock, shares, units, partnership interests, membership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated, certificated or uncertificated, or otherwise, or in general any instruments commonly known as “securities” or any certificates of interest, shares or

participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Security Agreements" means each Security Agreement made by Party B and each Retail Entity in favor of Party A, as amended or otherwise modified from time to time.

"Security Documents" means the Master Agreement, including all Confirmations thereunder, the Security Agreements, the Member Pledge Agreement, the Party B Pledge Agreement, each Subsidiary Guaranty, the Control Agreements, and any other agreements from time to time executed in favor of or delivered to Party A granting, supporting, evidencing or consenting to a Lien or setoff rights to secure or support the Secured Obligations or to any rights of Party A in connection therewith.

"Solvent" when used with respect to any Person, means that, as of any date of determination, (a) the amount of the "present fair saleable value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable Federal and state laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the value of its liabilities, (c) such Person will not have, as of such date, an unreasonably small amount of capital with which to conduct its business, and (d) such Person will be able to pay its debts as they mature. For purposes of this definition, (i) "debt" means liability on a "claim", and (ii) "claim" means any (x) right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured, or unsecured. The term "Solvency" shall have a correlative meaning.

"Specified Potential Event of Default" means a Potential Event of Default arising from either (i) the failure of Party B to make, when due, any payment under this Master Agreement or (ii) a proceeding instituted against Party B or any Credit Support Provider of Party B seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or similar law affecting creditors' rights).

"Subsidiary" with respect to any Person, means any corporation, partnership, trust, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the members of the board of directors or similar governing body is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof.

"Subsidiary Guaranty" means each Guaranty executed by a Retail Entity in favor of Party A.

"Subsidiary Material Adverse Effect" means (i) with respect to a Retail Entity, a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of such Retail Entity, taken as a whole, or (ii) the impairment of the ability of (A)

Party A to enforce its rights and remedies under the Secured Documents or (B) Party B and its Affiliates to perform their obligations thereunder.

“Supply Payment” means amounts then due and payable to Party A by Party B for natural gas, electricity, capacity, RECs, Ancillary Services or other commodities or products delivered pursuant to any Gas Transaction, Power Transaction or REC Transaction, as applicable, prior to any Early Termination Date with respect to such Transaction.

“Tangible Net Worth” means as of the date of any determination thereof, Party A’s (a) Net Worth at such date, minus (b) the amount of all assets reflected as goodwill and all other assets required to be classified as intangibles in accordance with GAAP, and minus (c) the amount of any write-up in the value of any asset (other than securities that are marked to market) above the cost or depreciated cost thereof, all of the following to be calculated in accordance with GAAP.

“Tax Distribution Date” means the last Local Business Day that is five (5) days immediately preceding each January 15, April 15, June 15 and September 15 of each calendar year.

“Term” shall have the meaning set forth for such term in Section 2.1 of the Transaction Requirements Annex.

“Transaction Documents” means the Secured Documents and the Organizational Documents of each Retail Entity.

“Transaction Requirements Annex” means the Transaction Requirements Annex attached to the Master Agreement as Annex B.

“Unbilled Receivables” means, as of any date, all Receivables payable by Customers to each Retail Entity under Customer Contracts for which such Customers have not yet been invoiced.

ANNEX B

TRANSACTION REQUIREMENTS ANNEX

This Transaction Requirements Annex [REDACTED]

SECTION 1. INTERPRETATION

1.1 Interpretation. In the event of any conflict between the terms and conditions of this Transaction Requirements Annex and the Master Agreement, any other schedule, annex or exhibit to the Master Agreement, the terms of this Transaction Requirements Annex shall control and govern.

1.2 References. Unless otherwise specified in this Transaction Requirements Annex, references in this Transaction Requirements Annex to sections, exhibits and schedules are to sections, exhibits and schedules of this Transaction Requirements Annex.

SECTION 2. TERM

2.1 Term. The term of this Master Agreement shall commence on the Effective Date and continue until the Scheduled Maturity Date unless earlier terminated as provided herein (the "Term"); provided, that expiration or termination of this Master Agreement shall not affect or excuse the performance by either party of obligations that by their nature survive such expiration or termination; provided further, that this Master Agreement shall continue in effect with respect to any such Transaction entered into hereunder prior to the end of the Term until the parties have fulfilled all obligations with respect to all such Transactions, including without limitation the provisions of Sections 3.2, 4, 6, 7, 8, 9, 11 and 12. On the Scheduled Maturity Date, all amounts outstanding under the Commodity Transactions, the Deferred Supply Obligation, the Credit Support Amount, the Revolving Amount, as well as any other amounts accrued and owed to Party A shall become immediately due and payable by Party B, subject to any arrangements relative to novation.

2.2 Obligation to Novate. Upon the request of Party B at the end of the Term, Party A shall novate (in a timely and efficient manner), to a third party designated by Party B, all of (a) the existing Transactions (including all Mirror Transactions), (b) the Approved Counterparty Transactions, and (c) the other transactions between Party A and any third party that were entered by Party A to hedge against exposure created under any Transaction; provided that Party A shall not be required to novate such Transactions unless contemporaneously therewith (i) all such transactions are novated simultaneously to the extent practicable as reasonably determined by Party A, and the third party designated by Party B assumes, on terms and conditions reasonably satisfactory to Party A, all of the obligations of Party A under such transactions on and after the novation date, (ii) Party B and each other counterparty to a transaction being novated provide full releases, in form and substance reasonably satisfactory to Party A, releasing Party A from all obligations and liabilities arising under such transactions on and after the novation date, and (iii) all the obligations and liabilities of Party B to Party A under this Master

Agreement, the Transactions (including the Mirror Transactions), prior to the novation date are satisfied in full as of the novation date, and the obligations of Party B under any Credit Support Amount, Deferred Supply Amount or Revolving Amount are paid in full.

2.3 Release of Liens. At such time as all Secured Obligations have been paid in full and Party B has no obligations under this Master Agreement, the Security Documents shall terminate and Party A shall provide a release of the liens created under the Security Documents in favor of Party B.

SECTION 3. TRANSACTION TERMS AND CONDITIONS

3.1 Commitment to Enter into Transactions.

(a) Subject to the terms and conditions described herein, including but not limited to the Approved Facility Size, Party A shall provide Party B with a structured financial and physical commodity supply and hedging facility (the "Facility") through which Party B shall conduct all of its Power Transactions, Gas Transactions, REC Transactions and associated financially settled Hedging Transactions.

(b) During the Term and subject to the terms and conditions of the Transaction Documents, to the extent requested by Party B in accordance with Section 3.3, Party A agrees to, from time to time, enter into:

(i) Power Transactions to supply electricity and Related Services required in connection therewith to Party B;

(ii) Gas Transactions to supply natural gas required in connection therewith to Party B;

(iii) REC Transactions to the extent desirable or required in connection with the Power Transactions requested by party B; and

(iv) other financially settled natural gas and heat rate derivatives, and FTR and other congestion management derivatives;

provided, that Party A shall not be required to enter into any Transaction under this commitment if (A) such Transaction does not comply with the Risk Management Policy; (B) a Potential Event of Default, an Event of Default or a Termination Event has occurred (or will occur as a result of Party A and Party B entering into such Transaction); or (C) the Annual Budget delivered by Party B to Party A fails to provide for the timely payment of all obligations to Party A under this Master Agreement or any other Transaction Document.

(c) The Parties acknowledge and agree that this Section 3.1 sets forth a commitment to enter into Transactions under this Master Agreement only, and that Transactions, if any, entered into under such commitment shall be set forth in applicable Confirmations.

(d) At Party B's request, Party A shall have the right, but not the obligation, to enter into transactions under this Master Agreement in addition to those into which it has committed to enter into pursuant to Section 3.1.

(e) Power Transactions delivered by Party A will be made on a "firm" basis and shall not be interrupted except in the case of force majeure, or other circumstances giving rise to excuses from delivery set forth in this Master Agreement. Unless otherwise specified in a Confirmation, Power Transactions will otherwise be provided on a "standard block", "fixed shaped product", or "hourly shape" basis as such term is construed in each jurisdiction where any Retail Entity conducts its business. Party A will schedule power on behalf of Party B both with respect to deliveries to Party B and with respect to deliveries from Party B or any Retail Entity to the Customers. The applicable entity that performs the scheduling will observe the scheduling deadlines and other scheduling protocols observed and required by any Applicable Market. Where applicable, Party A will serve as the "Qualified Scheduling Entity," "Market Participant," "Load Serving Entity," or such similar designation depending upon the Applicable Market in which any Retail Entity conducts business. In all markets where Party A serves as scheduling agent for Party B, Party A will provide scheduling services as mutually agreed by the Parties. The delivery of standard block volumes will be based on "forecast" models prepared by Party B and delivered to Party A. The forecast models will indicate the anticipated amount of power required to serve the needs of the Customers in the particular region for which an identified Power Transaction is applicable. Party B will be exclusively responsible for all "forecasting" of power requirements for any Retail Entity's Customers. Upon reasonable request of Party A, Party B shall grant Party A with "viewing" rights to any Party B account with any Applicable Market so that Party A can monitor forecasting and balancing requirements. Party A may from time to time reasonably require daily or hourly forecasts for each Customer in comparison to the anticipated wholesale power needs under each Power Transaction.

3.2 Confirmations. The Parties agree that each Transaction entered into under this Master Agreement shall be evidenced by a confirmation (each herein referred to as a "Confirmation"). The aggregate Quantity of electricity purchased by Party B under all Confirmations of Power Transactions shall be referred to herein as the "Party B Purchased Load". To the extent that the Parties execute a Confirmation in furtherance of a Transaction where the term or "delivery period" of such Transaction extends beyond the Scheduled Maturity Date (as may be extended pursuant to the terms hereof), then notwithstanding the Scheduled Maturity Date, the Credit Fee – Post-Maturity Power Transactions, Credit Fee – Post-Maturity Gas Transactions or Credit Fee – REC Transactions, as appropriate and that is associated with such Transaction shall continue to apply to such Transaction and be paid by Party B for those periods during which the Transaction remains with Party A after the Scheduled Maturity Date, which amounts shall be advanced to Party A upon novation.

3.3 Transaction Request Procedure.

(a) Party B may request that Party A enter into a Transaction under Party A's commitment under Section 3.1(a) and request pricing for such Transaction by submitting the terms of the requested Transaction to Party A. After receipt of any such request (which receipt shall be deemed to have occurred on the following Local Business Day if received by Party A at any time other than Party A's normal business hours on a Local Business Day), Party A shall use

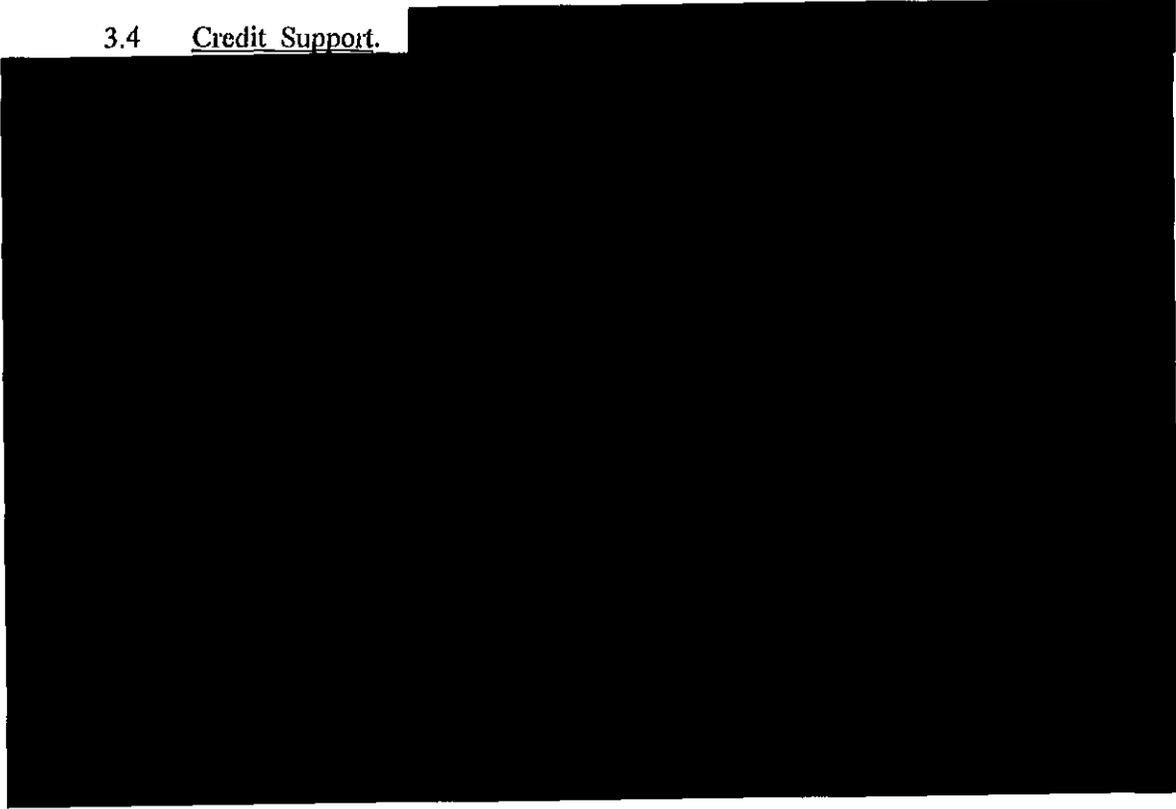
commercially reasonable efforts to process the requested Transaction and, if such Transaction satisfies the terms and conditions of Party A's commitment hereunder. [REDACTED]

(b) In furtherance of the foregoing, all Gas Transactions shall be executed on a Firm basis in accordance with the Gas Annex attached as Part 8 to this Master Agreement. Party B must make a request for monthly index-related "baseload" Gas Transactions not later than four (4) Business Days prior to the expiration of the prompt month NYMEX contract for deliveries along with the daily minimum and maximum nominations required for any upcoming delivery month of the Term. Party B's request for "daily" volumes under any Gas Transaction must be submitted to Party A not later than 8:00 a.m. CST on the Business Day preceding the requested day of delivery. Party A's [REDACTED]

(c) Party B may request that Party A enter into a transaction with an Approved Counterparty by submitting the terms of the proposed transaction to Party A. After receipt of such request (which receipt shall be deemed to have occurred on the following Local Business Day if received by Party A at any time other than Party A's normal business hours on a Local Business Day), Party A shall process the requested transaction, and, if the Mirror Transaction (as defined below) related to such transaction satisfies the terms and conditions of Party A's commitment hereunder, enter into such transaction (an "Approved Counterparty Transaction"). Upon Party A entering into any such Approved Counterparty Transaction, a corresponding Transaction automatically shall be deemed to be entered between Party A and Party B (a "Mirror Transaction") that shall have the same terms as the Approved Counterparty Transaction, except that the relationship of Party A to the Approved Counterparty shall be reversed (e.g., where the Approved Counterparty was the seller, Party A will be the seller) and the invoice from Party A for any such Transaction will include the Credit Fee – Power Transactions, Credit Fee – Gas Transactions or the Credit Fee – REC Transactions, as appropriate, in accordance with the other terms of this Master Agreement. Party A and Party B shall promptly execute a Confirmation evidencing each such Mirror Transaction. Notwithstanding anything in this Master Agreement to the contrary, Party A shall not be obligated to enter into any Approved Counterparty Transaction or corresponding Mirror Transaction if (i) such Approved Counterparty Transaction or Mirror Transaction does not

satisfy the terms and conditions of Party A's commitment hereunder, including those in Section 3.1, (ii) such Approved Counterparty Transaction or Mirror Transaction is materially different than the market rate of similar transactions as reasonably determined by Party A, (iii) entering into such Approved Counterparty Transaction would not be in compliance with Party A's then current internal credit tolerance limits with respect to such Approved Counterparty, or (iv) such Approved Counterparty Transaction or Mirror Transaction fails to satisfy the conditions contained in Schedule I-AC.

3.4 Credit Support.



3.5 Replacement Transactions. The parties acknowledge that they may enter into Transactions hereunder with respect to Products, including load profiles that are defined by Applicable Markets or another source, and that such Products may be discontinued or changed by such source during the term of such Transactions. In the event any such Transaction is entered into with respect to a Product that is discontinued or changed by the applicable source, the parties agree to work together in good faith to replace such existing Transactions with new Transactions hereunder that are based on Products then available in the market containing terms intended to place the parties in the same position as if the applicable change had not occurred.

3.6 Certain Limitations on Commitment. The parties agree that Party A's commitment under Section 3.1 is subject to Party B's compliance with the permitted hedging limitations set forth in the Risk Management Policy, which shall only be modified with the approval of Party A such approval shall not be unreasonably withheld.

3.7 Deferred Supply Amount.

(a) Notwithstanding anything to the contrary in this Master Agreement, but subject to Section 9.6, [REDACTED]

(b) [REDACTED]

(c) For purposes of applying any payment of a Deferred Supply Amount made pursuant to Section 12.1(c)(vi), such funds shall be applied to the amounts deferred under Section 3.7(a) (and any interest on such amount accruing pursuant to Section 3.7(b)) in the order in which such amounts were deferred.

3.8 Formation of Additional Retail Entities.

(a) If a Subsidiary of Party B (other than an existing Retail Entity) desires to operate in new markets during the Term or to conduct operations in a new market, it will become a "Retail Entity" within the meaning of this Agreement by doing the following:

(i) present to Party A details regarding such entrance into the new market, including, without limitation, information regarding permitting requirements, credit support requirements, market design, potential customer profile and transaction requirements (the "Proposal");

(ii) deliver a legal opinion, in form and substance satisfactory to Party A and reasonably similar to the legal opinion given to Party A on the Effective Date, with respect to such additional Subsidiary and its credit support providers covering, among other things, authorization, execution, binding nature and no conflicts of the Credit Support Documents and the security interests granted therein (from counsel and in form and substance reasonable satisfactory to Party A);

(iii) amend Exhibit A attached hereto with the relevant information regarding such new Retail Entity;

(iv) Party A and Party B shall enter into amendments to the Secured Documents, or into new Secured Documents, in form and substance satisfactory to Party A and Party B, to

(A) include such Subsidiary as a Retail Entity hereunder,

(B) cause each new Retail Entity to enter into a Subsidiary Guaranty, and

(C)

(v) Party B shall deliver a certificate, in form and substance satisfactory to Party A, confirming, as of the date such Subsidiary becomes a Retail Entity, that with respect to the new Subsidiary as a new Retail Entity:

(A) all the representations and warranties made by the Retail Entities in Section 5 hereof are true and correct;

(B) such Subsidiary is duly organized, validly existing and in good standing in the laws of its formation;

(C) such Subsidiary is in compliance with all Laws, except to the extent that a failure to do so could not reasonable be expected to have a Subsidiary Material Adverse Effect;

(D) any exception to the representations and warranties set forth in Section 5.2 that arise as a result of the formation of and Investment in such Subsidiary are described in such certificate, which shall be deemed to be incorporated into and constitute a part of Schedule 5.2;

(E) any exception to the representations and warranties set forth in Section 5.6 that arise as a result of the formation of and Investment in such Subsidiary are described in such certificate, which shall be deemed to be incorporated into and constitute a part of Schedule 5.6;

(F) upon the filing of UCC financing statements naming such Subsidiary as "debtor," naming Party A as "secured party" and describing the Collateral in the Office of the Secretary of State or analogous office of the state of formation of such Subsidiary, the security interests in the Collateral granted to Party A will constitute perfected security interests therein prior to all other Liens (other than Permitted Liens) in all such Collateral that may be perfected by the filing of a financing statement, and all filings and other actions necessary or desirable to perfect and protect such security interest shall have been duly made or taken;

(G) such Subsidiary has entered into all contracts and arrangements necessary to conduct the Retail Gas Business or Retail Power Business, except to the extent the failure to do so could not reasonably be expected to have a Subsidiary Material Adverse Effect, and all such contracts and arrangements are in force and effect and such Subsidiary is not in breach or default under any such contract or

arrangement, except for such breach or default that could not reasonably be expected to have a Subsidiary Material Adverse Effect;

(H) there are no Proceedings at law or in equity, or before or by any court or other Governmental Authority that are pending or, to the knowledge of Party B or such Subsidiary, threatened against or affecting such Subsidiary or any property of such Subsidiary that, if determined adversely to such Subsidiary, could reasonably be expected to have a Subsidiary Material Adverse Effect, and such Subsidiary is not subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or other Governmental Authority, except for those that could not reasonably be expected to result in a Subsidiary Material Adverse Effect;

(I) (A) all material tax returns and reports of such Subsidiary required to be filed by it after the date of the formation of and Investment in such Subsidiary have been timely filed or a timely extension has been filed, and all taxes shown on such tax returns to be due and payable and all material assessments, fees and other governmental charges upon such Subsidiary and upon its properties, assets, income, businesses and franchises that are due and payable after the date of the formation of and Investment in such Subsidiary have been paid when due and payable, except (x) those which are being contested by it in good faith and by appropriate proceedings; provided that such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor, or (y) those the failure to pay would not reasonably be expected to have a Subsidiary Material Adverse Effect, (B) to the knowledge of Party B or such Subsidiary, as of the date of the formation of and Investment in such Subsidiary there is no proposed material tax assessment against such Subsidiary, except (x) those which are being contested by it in good faith and by appropriate proceedings; provided that such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor, or (y) those the failure to pay would not reasonably be expected to have a Subsidiary Material Adverse Effect, and (C) such Subsidiary has no material obligations with respect to taxes that become past due after the date of the formation of and Investment in such Subsidiary, and it has not entered into any other agreement with respect to any such past due taxes;

(J) (A) such Subsidiary owns, or possesses the right to use, all of the IP Rights that are necessary for the operation of its business, without conflict with the rights of any other Person, other than to the extent the failure to own or have such rights would not individually or in the aggregate result in a Subsidiary Material Adverse Effect, (B) to the best knowledge of Party B or such Subsidiary, no slogan or other advertising device, product, process, method, substance, part or other material now contemplated to be employed after the date of the formation

of and Investment in such Subsidiary by such Subsidiary infringes upon any rights held by any other Person, except any such infringement that would not reasonably be expected to have a Subsidiary Material Adverse Effect, and (C) such Subsidiary has not received a notice from a third party asserting a claim that any such Subsidiary is infringing the Intellectual Property of such third party, except any such notice that would not reasonably be expected to have a Subsidiary Material Adverse Effect;

(K) such Subsidiary owns or has access to (through arm's length service contracts then in effect) the material Information Technology Systems necessary to operate the Retail Gas Business or Retail Power Business of such Subsidiary;

(L) the formation and Investment in such Subsidiary does not result in (I) the acquisition by or assignment or novation to such Subsidiary of, or (II) such Subsidiary becoming obligated by operation of law or otherwise under, in each case as of the date of such formation and Investment, any transactions that would otherwise contravene the provisions of Sections 4.1 or 4.2; and

(M) there is no condition or event that constitutes a Potential Event of Default, an Event of Default or a Termination Event under this Master Agreement prior to and after giving effect to the formation of and Investment in such Subsidiary;

(vi) 

(vii) Party B delivers to Party A a compliance package as of the date of the formation of and Investment in such Subsidiary that incorporates all the requirements of the Monthly Compliance Report set forth in Section 6.7 dated as of, and after giving effect to, such formation of and Investment in such Subsidiary;

(viii) Party B delivers to Party A (x) reasonably detailed summary descriptions and, (y) at Party A's request, copies of any agreements of any transaction that such Subsidiary becomes subject to as a result of (A) the acquisition by or assignment or novation to such Subsidiary of, or (B) such Subsidiary becoming obligated by operation of law or otherwise under, such transactions in connection with the formation of and Investment in such Subsidiary; and

(ix) Party B delivers to Party A (A) identifying information for each of the proposed Retail Entity Controlled Accounts of such Subsidiary and, contemporaneously with the establishment such Retail Entity Controlled

Accounts, a Control Agreement with respect to each such account, and (B) proposed revisions to Section 12.2 with respect to such Subsidiary, if any, which revisions shall be (x) in form and substance satisfactory to Party A in its reasonable discretion and, (y) subject to clause (x), deemed to be incorporated into and constitute a part of Section 12.2 solely with respect to such Subsidiary.

(b) Upon satisfaction, or waiver by Party A, of the conditions precedent set forth in this Section 3.8(b), Party A shall be obligated to promptly enter into the amendment amending Exhibit A, and the applicable Subsidiary shall become a "Retail Entity" for all purposes under this Master Agreement.

3.9 Gas Storage Transactions. During the Term, Party B shall release to Party A the capacity and associated rights set forth in Schedule 3.9. The parties will agree to Schedule 3.9, and attach such Schedule to this Agreement, within 30 days following the Effective Date.

3.10 Conditions Precedent and Revolving Facility.

(a)

A large rectangular area of text is completely redacted with a solid black fill.

(b)

A large rectangular area of text is completely redacted with a solid black fill.

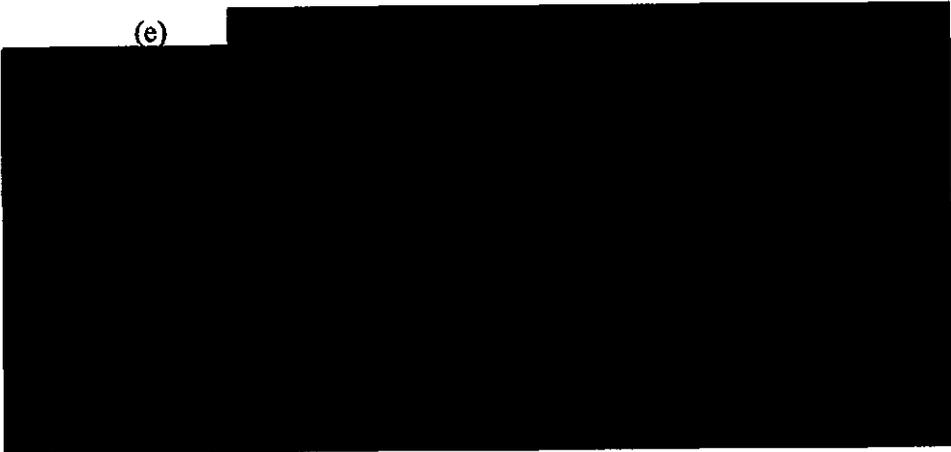
(c)

A horizontal line of text is completely redacted with a solid black fill.

the Revolving Facility, as Party A in its discretion may deem advisable, subject in all cases, to the applicable provisions of this Master Agreement. Each such outstanding revolving credit loan made hereunder (each, an "Advance"), together with accrued interest, shall be immediately due and owing to Party A on the Scheduled Maturity Date.

(d) The obligation of Party B to repay the Revolving Amount shall be evidenced by a single revolving promissory note of Party B, substantially in the form attached hereto as Exhibit L, bearing on its face an appropriate legend stating that such promissory note is subject to the provisions of this Master Agreement, which shall be referred to and incorporated herein as the "Revolving Note." The Revolving Note shall be in substantially the form attached hereto as Exhibit L, with blanks appropriately completed, payable to the order of Party A in a face amount equal to the Maximum Revolving Credit Line (or, if applicable, a lesser amount set forth on the Schedule to the Revolving Note) and bearing interest as set forth in Section 3.10(e) below. The Revolving Note shall be dated and delivered to Party A on the Effective Date of the Agreement. Party A shall, and is hereby authorized by Party B to endorse on the Schedule contained in the Revolving Note, or on a continuation of such Schedule attached thereto and made a part thereof and hereof, appropriate notations regarding the Advances evidenced by the Revolving Note as specifically provided therein, *provided, however*, that the failure to make, or error in making, any such notation shall not limit or otherwise affect the obligations of Party B hereunder or under the Revolving Note.

(e)



3.11 Accordion.





3.12 Calculation of Approved Facility Size. If Party B disputes Party A's calculation of Approved Facility Size, Party B shall notify Party A within 2 Business Days of such discrepancy. The parties will thereafter use commercially reasonable efforts to resolve the dispute. If the parties cannot mutually agree upon resolution of the dispute, whether by selecting an index or otherwise, the parties will select a third party expert to value Power Transactions, Gas Transactions and/or REC Transactions as mutually agreed upon. If such mutual agreement cannot be reached the parties will refer to the the applicable ICE or NYMEX index to settle such to dispute, if applicable.

3.13 

SECTION 4. PERMITTED TRANSACTIONS

4.1 Party B Transactions. Party B shall not enter into any Commodity Transaction with any Person other than Party A, provided that (i) Party B may enter into Commodity Transactions with any Retail Entity as described in Section 4.2(i) below, (ii) Party B may (to the extent the same does not constitute an effort to avoid the exclusive supply arrangement hereunder) purchase balancing electricity or Related Services from any Applicable Market, as the case may be, in the ordinary course of business and with any necessary authorizations to the extent the Aggregate Retail Load exceeds the Party B Purchased Load, and (iii) 



4.2 Retail Entity Transactions. No Retail Entity shall enter into any Commodity Transaction with any Person other than Party B, and (i) such Commodity Transactions between Party B and the Retail Entities, shall, taken as a whole, reflect the aggregate quantities purchased by Party B from Party A pursuant to Section 3.1(b)(i) – (iii), as applicable (but, for the avoidance of doubt, shall not reflect any Transactions pursuant to Section 3.1(b)(iv)), (ii) the Retail Entities may (to the extent the same does not constitute an effort to avoid the exclusive supply arrangement hereunder) purchase balancing electricity or Related Services from any Applicable Market, as the case may be, in the ordinary course of business and with any necessary authorizations to the extent the Aggregate Retail Load exceeds the Party B Purchased Load, and (iii) the Retail Entities may enter into and perform Customer Contracts in connection with the Retail Power Business and the Retail Gas Business.

4.3 Other Party A Transactions. Party A and Party A's Affiliates may enter into Commodity Transactions with Persons other than Party B and its Affiliates, including such transactions where Party A or an Affiliate of Party A sells power to another Person at a price higher or lower than the price made available to Party B under this Master Agreement. Party A and Party A's Affiliates may compete in the same markets as Party B and its Affiliates without restriction based upon Party A's contractual relationship with Party B and its Affiliates. Party A's contractual relationship with Party B is not intended to create any fiduciary relationship, partnership, sole supply arrangement, or other similar relationship with Party B or any of its Affiliates.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF PARTY B

Party B represents and warrants as of (i) the Effective Date, (ii) each date that Party B enters a Transaction, and (iii) each date that a permitted Subsidiary becomes a Retail Entity pursuant to Section 3.8, except to the extent that a representation and warranty expressly relates to a specified date, in which case such representation and warranty shall be true and correct as of such date or as otherwise provided in Section 3.8, as follows; provided, however, that representations and warranties with respect to a specific Retail Entity shall be made on (iii) only, with respect to such Retail Entity:

5.1 Existence, Qualification and Power; Compliance with Laws. Party B is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware. Each Retail Entity (i) has the full power and authority to own and operate its properties, to carry on its business as now conducted and proposed to be conducted and to execute and deliver this Master Agreement and the other Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder; (ii) has delivered to Party A true and complete copies of its Organizational Documents as amended and in effect; (iii) is qualified to do business and in good standing in every jurisdiction where it owns, leases or operates property and wherever necessary to carry out its business and operations, except where the failure to so qualify would not reasonably be expected to have a Material Adverse Effect; (iv) has received all material governmental and regulatory approvals, licenses and authorizations necessary for the conduct of its business and is in good standing thereunder; and (v) is in compliance with all Laws, except in the case of this clause (v), to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.

5.2 Equity Interests. Except as set forth on Schedule 5.2 (including any updates provided pursuant to Section 3.8), no Retail Entity owns, directly or indirectly, any Equity Interest in any Person.

5.3 Authorization; No Contravention. The execution, delivery and performance by each Retail Entity of the Transaction Documents to which it is a party have been and remain duly authorized by all necessary limited liability company action and do not and will not (i) contravene or violate any provision of its Organizational Documents or any order, judgment or decree of any court or Governmental Authority binding on such Retail Entity; (ii) conflict with or result in any breach or contravention of, or require any payment to be made under (x) any Contractual Obligation to which such Retail Entity is a party or affecting such Retail Entity or the properties of such Retail Entity, except to the extent such conflict or failure could not reasonably be expected to have a Material Adverse Effect, or (y) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Retail Entity or its property is subject; (iii) violate any Law; (iv) result in the creation of any Lien other than a Permitted Lien; or (v) require any approval of members or any approval or consent of any Person under any Contractual Obligation of such Retail Entity, except for such approvals or consents which will be obtained on or before the Effective Date and have been disclosed in writing to Party A.

5.4 Governmental Authorization; Other Consents. All governmental or regulatory consents, authorizations, approvals, registrations and declarations required for the due execution, delivery and performance by each Retail Entity of this Master Agreement and the other Transaction Documents to which it is a party have been obtained from or, as the case may be, filed with the relevant Governmental Authorities having jurisdiction over such Retail Entity and remain in full force and effect, and all conditions thereof have been duly complied with and no other action by, and no notice to or filing with, any Governmental Authority is required for such execution, delivery or performance of this Master Agreement or the other Transaction Documents to which it is a party.

5.5 Binding Effect. This Master Agreement and the other Transaction Documents constitute the legal, valid and binding obligations of each Retail Entity that is a party hereto or thereto, enforceable against it in accordance with their terms, except as enforcement hereof or thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally or by general equity principles, whether such enforceability is considered in a proceeding at law or in equity.

5.6 Property; Liens. No Retail Entity owns any real property. No Retail Entity is the tenant of any real property, except for the real property leased to the applicable Retail Entity under the leases set forth in Schedule 5.6 (including any updates provided pursuant to Section 3.8) or any replacement or substitute lease executed after the date hereof and providing substantially similar benefits to the Retail Entity which is the lessee under such substitute lease. Except as set forth in Schedule 5.6 (including any updates provided pursuant to Section 3.8), no Person other than the Retail Entities owns any equipment or other tangible assets or properties necessary for the operation of the Retail Power Business. Each Retail Entity (other than Party B) has (i) valid leasehold interests in (in the case of leasehold interests in realty or personal property), or (ii) good title to (in the case of all other personal property), all of its material

properties and assets reflected in the financial statements provided pursuant to Part 3 of this Master Agreement, in each case except for assets disposed of since the date of such financial statements in the ordinary course of business. Except for (x) the security interests created by the Security Agreements and (y) Permitted Liens, the Retail Entities collectively own the Collateral free and clear of any Lien. Except as expressly permitted by this Master Agreement with respect to Permitted Liens and such as may have been filed in favor of Party A relating to this Master Agreement, no effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office.

5.7 Perfection.



5.8 Contracts and Arrangements. Each Retail Entity has entered into all contracts and arrangements necessary to conduct the Retail Gas Business or Retail Power Business, as applicable, except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect. All such contracts and arrangements are in force and effect and no Retail Entity is in breach or default under any such contract or arrangement, except for such breach or default that could not reasonably be expected to have a Material Adverse Effect.

5.9 Litigation. There are no Proceedings at law or in equity, or before or by any court or other Governmental Authority that are pending or, to the knowledge of Party B, threatened against or affecting any Retail Entity, any Affiliate of any Retail Entity or any property of any Retail Entity that, if determined adversely to such Retail Entity, could reasonably be expected to have a Material Adverse Effect. No Retail Entity is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or other Governmental Authority, except for those that could not reasonably be expected to result in a Material Adverse Effect.

5.10 Taxes. All material tax returns and reports of each Retail Entity required to be filed by it on and after the Effective Date have been timely filed or a timely extension has been filed, and all material taxes shown on such tax returns to be due and payable and all material assessments, fees and other governmental charges upon such Retail Entity and upon its properties, assets, income, businesses and franchises that are due and payable after the Effective Date have been paid when due and payable, except (i) those which are being contested by it in good faith and by appropriate proceedings; provided that such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor or (ii) those the failure to pay would not reasonably be expected to have a Material Adverse Effect. To the knowledge of Party B, as of the Effective Date there is no proposed material tax assessment against any Retail Entity, except (x) those which are being

contested by it in good faith and by appropriate proceedings; provided that such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor, or (y) those the failure to pay would not reasonably be expected to have a Material Adverse Effect. No Retail Entity has any material obligations with respect to taxes that have become past due after the Effective Date, and it has not entered into any other agreement with respect to any such past due taxes.

5.11 Liens. No Liens exist on the property or assets of any Retail Entity or on any Equity Interest therein, other than Permitted Liens.

5.12 Insurance. The properties of each Retail Entity are insured with financially sound and reputable insurance companies, in such amounts, with such deductibles and covering such risks and properties as are customarily carried by companies of the same or similar size engaged in similar businesses and owning similar properties in localities where such Retail Entity operates.

5.13 ERISA Compliance.

(a) No Retail Entity has established, operated or administered any Pension Plan.

(b) No ERISA Event has occurred or is reasonably expected to occur.

5.14 Intellectual Property; Licenses, Etc.

(a) The Retail Entities own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights (collectively, "IP Rights") that are necessary for the operation of their business as currently conducted, without conflict with the rights of any other Person, other than to the extent the failure to own or have such rights would not individually or in the aggregate result in a Material Adverse Effect. To the best knowledge of Party B, no slogan or other advertising device, product, process, method, substance, part or other material employed by any Retail Entity infringes upon any rights held by any other Person, except any such infringement that would not reasonably be expected to have a Material Adverse Effect. None of the Retail Entities has received a notice from a third party after the Effective Date asserting a claim that any such Retail Entity is infringing the Intellectual Property of such third party, except any such notice that would not reasonably be expected to have a Material Adverse Effect. No IP Right is subject to any Lien, other than Permitted Liens.

(b) The Retail Entities own or have access to (through arm's length service contracts then in effect) the material Information Technology Systems necessary to operate the Retail Gas Business and Retail Power Business of each Retail Entity, including Information Technology Systems providing capabilities consistent with the arrangements in place for the Retail Gas Business and Retail Power Business as of the Effective Date.

5.15 Solvency. Each Retail Entity is, and after giving effect to the incurrence of all obligations being incurred in connection with the Transaction Documents will be, Solvent.

5.16 No Other Accounts. As of the Effective Date, no "deposit account" or "securities account" (each as defined in the UCC) or other account has been established or is maintained by any Retail Entity or in any Retail Entities' name, other than the Collateral Accounts.

SECTION 6. AFFIRMATIVE COVENANTS OF PARTY B.

In addition to the other covenants contained in this Master Agreement, Party B shall, and shall cause each Restricted Entity (or each Retail Entity, if expressly specified below), to:

6.1 Payment of Taxes. Pay all material taxes, assessments and other governmental charges imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty accrues thereon, provided that no such tax, assessment, or charge need be paid if (i) it is being contested in good faith by appropriate proceedings so long as (x) such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor or (ii) the failure to pay would not reasonably be expected to have a Material Adverse Effect.

6.2 Maintenance of Accounting and Information Systems. At all times maintain (i) a system of accounting established and administered in accordance with sound business practices to permit preparation of financial statements in conformity with GAAP and (ii) an Information Technology System.

6.3 Books and Records. (i) Maintain up-to-date and proper books of record and account, in which entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of Party B and each Retail Entity, including records concerning its customers and its accounts receivable and adequate back-up records, and (ii) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over Party B and any Retail Entity.

6.4 Maintenance of Properties. (i) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (ii) make all necessary repairs thereto and renewals and replacements thereof; and (iii) use the standard of care typical in the industry in the operation and maintenance thereof, except, in each case, where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

6.5 Maintenance of Insurance. Maintain insurance covering the properties of the Restricted Entities with financially sound and reputable insurers, in such amounts, with such deductibles and covering such risks as are customarily carried by companies of the same or similar size engaged in similar businesses and owning similar properties in localities where such Restricted Entity operates.

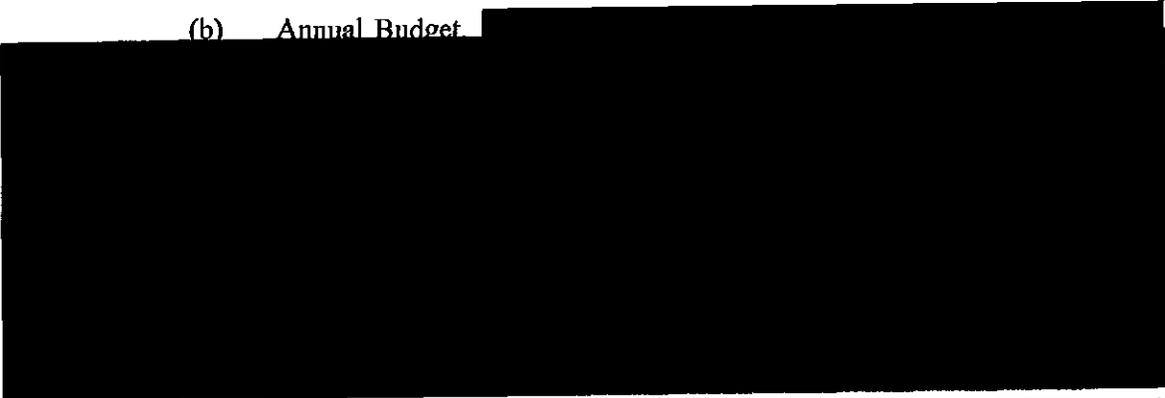
6.6 Inspection. Solely with respect to Retail Entities, permit any authorized representatives designated by Party A to visit and inspect, no more frequently than on a monthly basis, any of Party B's or its Affiliates' properties, to inspect, copy and take extracts from its

financial and accounting records, to inspect and audit its accounts receivable, and to discuss its affairs, finances and accounts with its officers and independent public accountants (provided that Party B may, if it so chooses, be present at or participate in any such discussion), all upon at least three (3) days notice and at such reasonable times during normal business hours and the reasonable out-of-pocket expense of which shall be the responsibility of Party A; provided that if an Event of Default, Early Termination Date or Termination Event in respect of Party B has occurred such authorized representatives of Party A may visit and inspect such properties more frequently than on a monthly basis and all the reasonable out-of-pocket expense of such visits and inspections shall be the responsibility of Party B. Without limiting the foregoing, Party A shall have the authority to conduct from time to time and in a reasonable manner an audit of the books and records of each Restricted Entity for the purpose of determining whether such Restricted Entity has complied with the requirements of Section 6.8 and whether the Customers are in fact complying with the instructions required to be given by such Restricted Entity pursuant thereto.

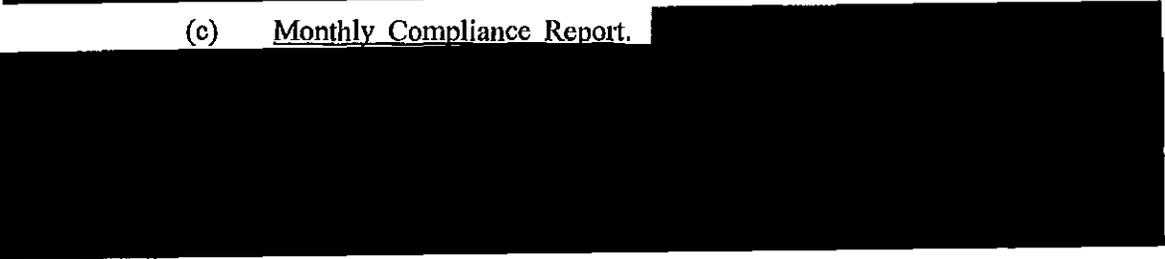
6.7 Reporting. Solely with respect to Retail Entities, deliver to Party A:

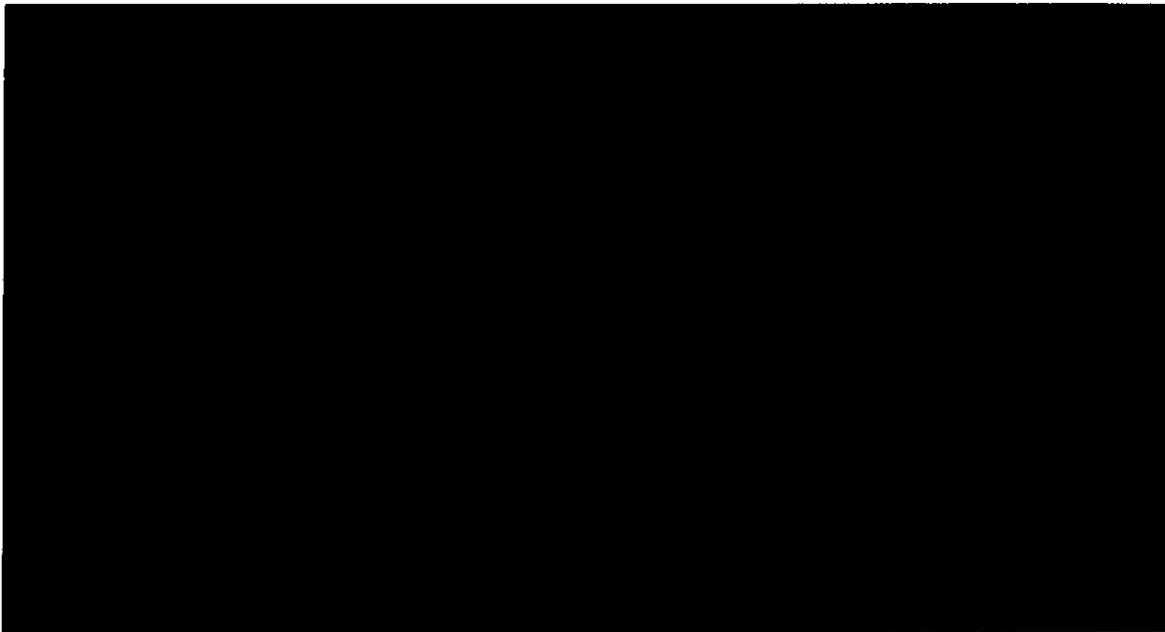
(a) Notices of Termination Events and Other Events. Promptly upon any officer of any Retail Entity obtaining knowledge (i) of any condition or event that constitutes a Potential Event of Default, an Event of Default or a Termination Event under and as defined in this Master Agreement, (ii) that any Person has given any notice to any Retail Entity or taken any other action with respect to a claimed default or event or condition that would constitute any of the events described in clause (i), (iii) the institution of, or non-frivolous threat of, any Proceeding against or affecting any Retail Entity or any property of any Retail Entity not previously disclosed in writing by Party B, or (iv) any material development in any Proceeding that, in any case if adversely determined, has a reasonable possibility of giving rise to a Material Adverse Effect, Party B shall provide Party A with a written notice of such condition, event or change.

(b) Annual Budget

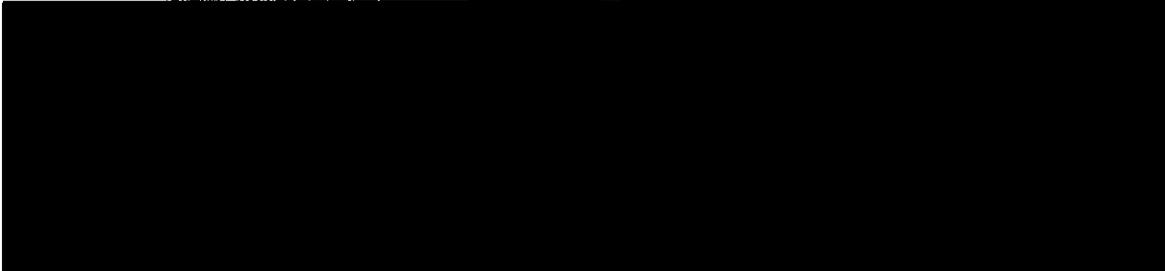


(c) Monthly Compliance Report.

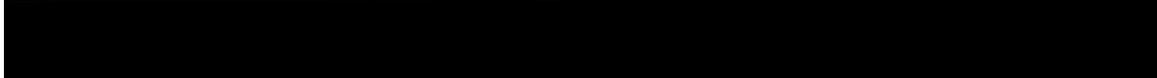




(d) Daily and Weekly Reports.



(e) Quarterly REC Report.



(f) Other Information. Any other information reasonably requested by Party A, which shall be provided in a reasonable period of time given the nature of the request, unless providing such information may materially prejudice the legal or commercial position of Party B..

6.8 Customer Payment Instructions. Solely with respect to Retail Entities:

(a)



(b) direct each Customer and each other obligor of any Retail Entity to comply with the Customer Payment Instructions applicable to such Retail Entity.

(c) undertake best efforts to collect past due bills from its, and its Retail Entities, Customers and to collect the defaulted claims from its counterparties, if any of its Customers or counterparties files for bankruptcy.

6.9 Credit Card Processor Payment Instructions. Solely with respect to Retail Entities:

(a) direct each Credit Card Processor of Party B to comply with the Credit Card Processor Payment Instructions applicable to Party B.

(b) direct each Credit Card Processor of any Retail Entity to comply with the Credit Card Processor Payment Instructions applicable to such Retail Entity.

6.10 Monies Held in Trust. Hold any checks or amounts received directly by Party B or any other Retail Entity from any Customer or other Person in trust for Party A and promptly place or deposit such checks or amounts into the Party B Revenue Account or the applicable Retail Entity Lockbox, or directly to the Retail Entity Lockbox Account, as the case may be.

6.11 Compliance with Laws. Party B shall comply with the requirements of all applicable Laws, including, without limitation, those “anti-slamming” laws relating to the online enrollment of Customers, except where the failure to so comply would not reasonably be expected to have a Material Adverse Effect.

6.12 Customer. Party B shall use commercially reasonable efforts to take any actions that Party A may reasonably request to at all times maintain (i) all Customer Contracts in full force and effect and (ii) payment arrangements and related directions between each Retail Entity and its Customers that are reasonably acceptable to Party A.

6.13 Matched Book. Party B shall maintain a matched or hedged book in accordance with the requirements set forth in Schedule 6.13.

6.14 Utility-Based Billing. Where commercially reasonable in markets where Customer Contract receivables may be pledged for utility-based billing, Party B shall elect for any applicable utility to bill such Customers that can be appropriately billed by the utility or obtain Party A’s prior written consent to “opt-out.”

6.15 Operations of the Retail Gas Business and Retail Power Business. The Retail Entities shall at all times during the Term operate the Retail Gas Business and Retail Power Business in accordance with Good Utility Practice.

6.16 Maintenance of Operating Agreements. The Retail Entities shall at all times maintain such Operating Agreements as may be necessary to operate the Retail Gas Business and Retail Power Business, as applicable, unless agreed by Party A.

6.17 TDSPs. If any Retail Entity serves or bills Customers through a transmission and distribution service provider, Party B or the applicable Retail Entity will enter into such Operating Agreement at its own expense, subject to the approval of Party A.

6.18 Lease-Related Covenants. No later than six months prior to the end of the term of such lease referenced on Schedule 5.6, Party B shall secure office space through the end of the Term of this Master Agreement on terms reasonably comparable to the office space lease on the date hereof.

6.19 Collateral Consents. Promptly after the execution date of the ISDA Master Agreement, but in no event more than ten (10) Business Days after such date, Party B shall deliver to Party A each consent to collateral assignment required under Section 3(b) of the ISDA Schedule.

6.20 Restricted Cash. [REDACTED]

6.21 Customer Contracts. Party B, on behalf of each Retail Entity, will provide Party A with its form Customer Contracts for any new Applicable Market or new state it intends to enter (for Party A's approval and inclusion in Exhibit B hereto) at least 30 days prior to entering a new market or state. The parties will use commercially reasonable efforts to revise and approve such Customer Contract forms in a reasonably expedient manner and add them to Exhibit B attached hereto.

6.22 Further Assurances. Promptly upon the reasonable request by Party A, (a) correct any material defect or error that may be discovered in any Secured Document or in the execution, acknowledgment, filing or recordation thereof, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as Party A may reasonably require from time to time in order to (i) carry out more effectively the purposes of the Secured Documents, (ii) to the fullest extent permitted by applicable Law, subject the properties, assets, rights or interests of each Retail Entity to the Liens now or hereafter intended by the parties thereto to be covered by any of the Secured Documents, (iii) perfect and maintain the validity, effectiveness and priority of any of the Secured Documents and any of the Liens intended by the parties thereto to be created thereunder and (iv) assure, convey, grant, assign, transfer, preserve, protect and confirm more effectively unto Party A the rights granted or now or hereafter intended by the parties hereto to be granted to Party A under any Secured Document or under any other instrument executed in connection with any Secured Document to which any Retail Entity is or is to be a party.

SECTION 7. NEGATIVE COVENANTS OF PARTY B.

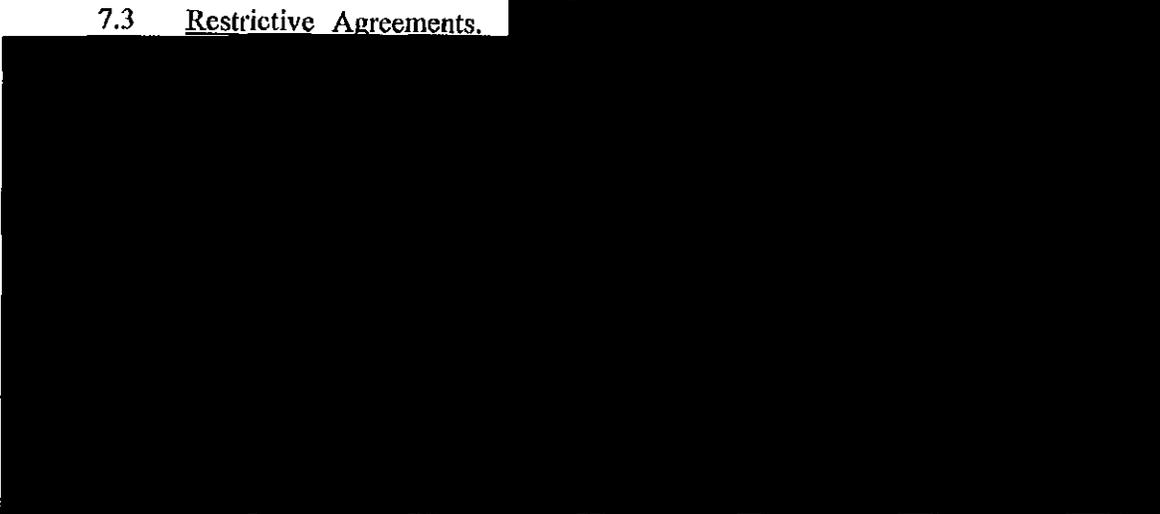
Party B shall not, and shall not permit any Restricted Entity to:

7.1 Indebtedness. Directly or indirectly, create, incur, assume, or guaranty, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness other than Permitted Indebtedness.

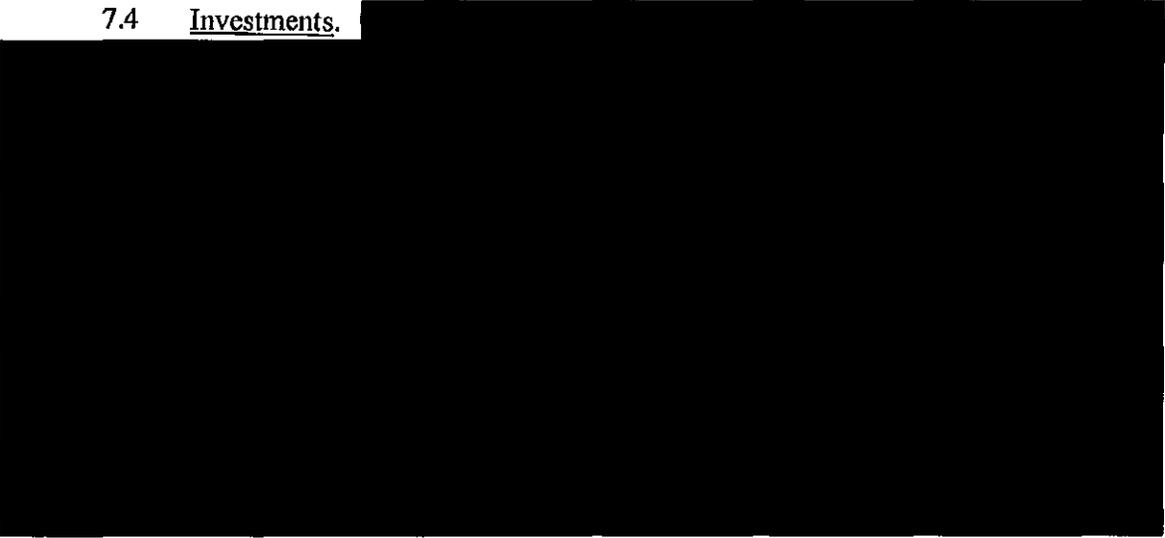
7.2 Liens. Directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in

respect of goods or accounts receivable) of any Restricted Entity, whether now owned or hereafter acquired, or any income or profits therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income or profits under the UCC or under any similar recording or notice statute, except for Permitted Liens.

7.3 Restrictive Agreements.



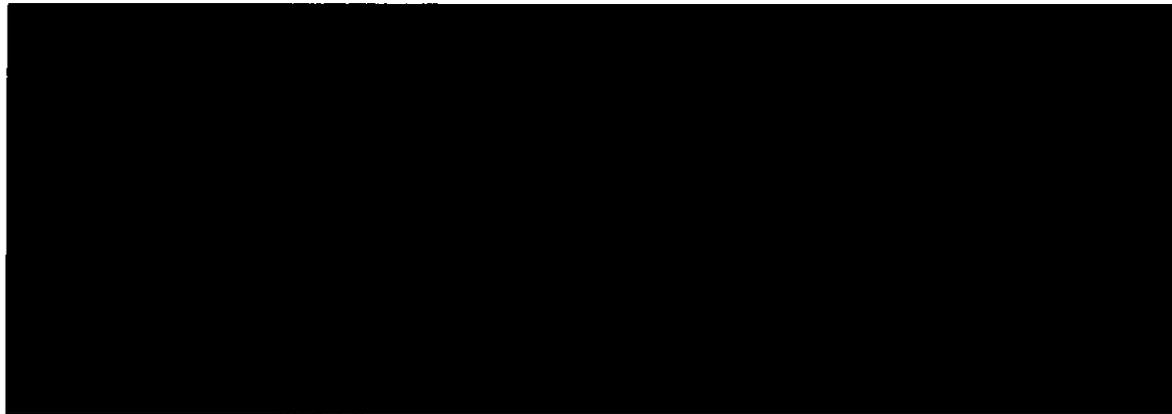
7.4 Investments.



7.5 Fundamental Changes. Alter its corporate, capital or legal structure, or enter into any transaction of merger or consolidation, or convey, sell, lease or sub-lease (as lessor or sublessor), transfer or otherwise dispose of, in one transaction or a series of transactions, all or substantially of its business, property or assets (including its notes or receivables), whether now owned or hereafter acquired.

7.6 Asset Sales.

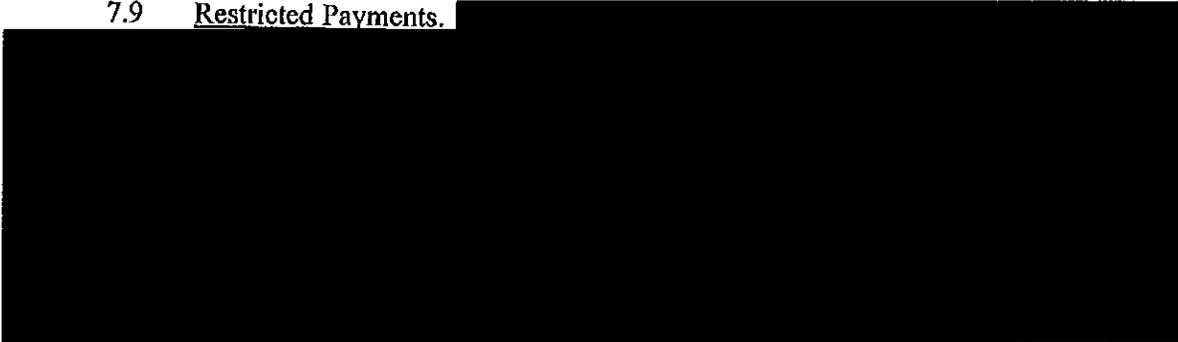




7.7 Transactions with Affiliates. Directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any holder of any class of equity Securities of any Restricted Entity (other than Party A) or with any Affiliate of any Restricted Entity or of any such holder, on terms that are less favorable to such Restricted Entity, than those that might be obtained at the time from Persons who are not such a holder or Affiliate.

7.8 Line of Business. Engage in (a) in the case of Party B, any business other than the Retail Gas Business, Retail Power Business, any other businesses reasonably related or ancillary thereto or business of owning the Equity Interest in each Restricted Entity and performing under the Transaction Documents and any activities incidental or related thereto to the extent not prohibited under the Transaction Documents and (b) in the case of any other Restricted Entity, any business other than the Retail Gas Business, Retail Power Business and other businesses reasonably related or ancillary thereto.

7.9 Restricted Payments.



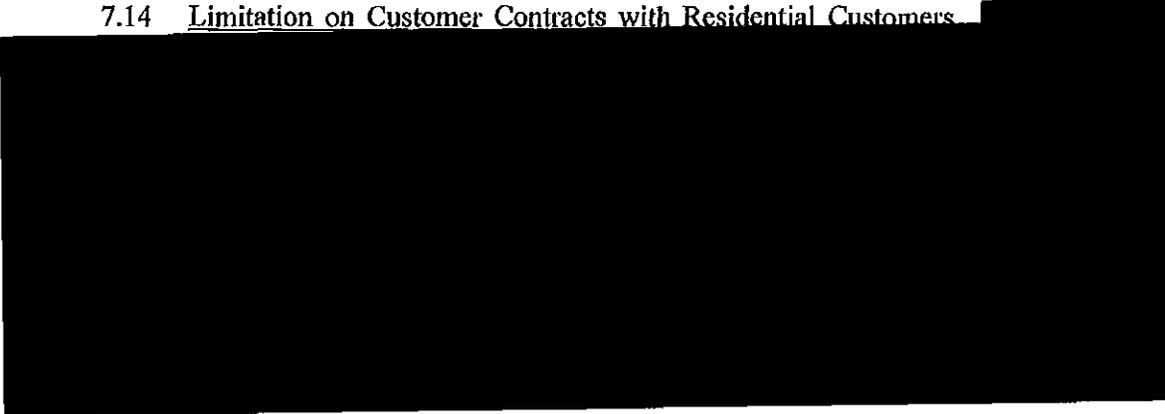
7.10 Risk Management and Credit Collection Policy. (a) Fail to comply with, or amend, restate, supplement or waive, any provision or term of the Risk Management Policy, within thirty (30) days of Effective Date, (b) amend, restate or supplement any provision or term of the Credit and Collection Policy or (c) fail to comply with, or waive compliance with, in any material respect, the Credit and Collection Policy.

7.11 Billing Software. Change or materially alter its computer software used on the date hereof to invoice Customers in the Retail Gas Business or Retail Power Business, unless approved by Party A.

7.12 No Other Accounts. Establish, maintain or permit to be maintained any "deposit account" or "securities account" (each as defined in the UCC) or other account (including, without limitation, any lockbox or associated postal box) in the name of any Restricted Entity, other than any account for which a Control Agreement is in full force and effect.

7.13 Changes in Fiscal Periods. Permit the fiscal year of any Restricted Entity to end on any day other than December 31 or change the method of determining fiscal quarters of any Restricted Entity without the prior written consent of Party A.

7.14 Limitation on Customer Contracts with Residential Customers



7.15 Customer Concentration Limit. Permit the Customer Concentration Percentage for C&I Customers and Residential Customers that are not located in POR Markets to exceed that set forth on Exhibit D, unless (in either case) approved in writing by Party A.

7.16 Permits. Abandon, terminate or permit to lapse any Permit existing on the date hereof or thereafter acquired by any Retail Entity as may be necessary to operate the Retail Gas Business and Retail Power Business, as applicable, unless agreed by Party A; *provided, however* that any such abandonment, termination or lapse shall not constitute an Event of Default under this Master Agreement if such abandonment, termination or lapse constitutes an event described in either subsection (b) or (c) of the definition of "Event of Default" in the Pledge Agreement by Party B in favor of Party A dated as of the date hereof and/or any Security Agreement made by a Retail Entity in favor of Party A.

7.17 Certain Contracts. Terminate, materially breach or otherwise cause or permit to terminate (for reason other than the end of the stated term) any Operating Agreement or other contract set forth, or required to be set forth in Schedule 5.6.

7.18 Portfolio Margin



7.19 Governmental Limitation. [REDACTED]

7.20 Term of Fixed Price Contracts. [REDACTED]

7.21 Contract Ratios. [REDACTED]

7.22 Credit Support Cap. Permit the Credit Support Amount derived from cash and letters of credit to exceed the Credit Support Cap.

7.23 Customer Contracts. Permit a Retail Entity to enter into any Customer Contract other than an Approved Customer Contract, unless approved by Party A.

7.24 Developing Subsidiaries. Permit any Developing Subsidiary to enter into any Customer Contract, engage in the Retail Gas Business, the Retail Power Business or any other type of business (other than preparations for a Retail Gas Business or Retail Power Business) or engage in any Gas Transaction, Power Transaction or REC Transaction without becoming a "Retail Entity" hereunder.

7.25 Channel Partner Agreements. Enter into any agreement with a "channel partner" or other sales agent without obtaining a consent to collateral assignment in favor of Party A in form satisfactory to Party A.

SECTION 8. CERTAIN FEES AND EXPENSES

8.1 Monthly Credit Fees. Party B shall, on each Monthly Payment Date, in addition to any other amounts due and payable by Party B on such date, pay to Party A an amount equal to the sum of the Credit Fee – Power Transactions, the Credit Fee – Gas Transactions and the Credit Fee – REC Transactions.

8.2 REC Penalty Reimbursement. Party B shall reimburse Party A for and be responsible for the cost incurred by Party A, if any, with respect to REC penalties assessed by any regional transmission organization or independent system operator related to Party B (provided such penalties do not result from Party A's failure to purchase RECs on behalf of Party B after Party A has been given reasonable advance notice by Party B that it is to purchase such RECs and such RECs are available for purchase).

8.3 Pricing Adjustments. [REDACTED]

in law or market regulation or to otherwise account for new or additional products or services required by Party B; *provided, however*, that any such increase or decrease shall be charged to Party B on a pass through basis without mark-up by Party A (unless otherwise addressed in this Master Agreement). Party A agrees to provide Party B with at least fifteen (15) days advance written notice of any such pricing adjustments (unless Party A is subject to such pricing adjustments on a shorter notice period, in which case such notice shall be as soon as reasonably practical) together with an explanation thereof. With respect to any applicable price increase or decrease attributable to an increase in any Applicable Market fees, charges, or other amounts assessed by such Applicable Market, as the case may be, if feasible, Party B may notify Party A of its election within ten (10) days (or such earlier time when such pricing adjustments become effective) of receipt of the applicable notice from Party A to, instead of paying Party B such price increase or decrease for new Transactions, be responsible for the direct payment of the same as a pass through charge.

SECTION 9. ADDITIONAL EVENTS OF DEFAULT OF PARTY B

The occurrence of any of the following shall constitute an Event of Default under the Master Agreement with respect to Party B:

9.1 Change of Control. Subject to Section 13.1(d), a Change of Control.

9.2 Judgments. Any judgment, writ or warrant of attachment or similar process involving in any individual case or in the aggregate at any time an amount in excess of \$500,000 after any insurance coverage has been applied to such amount (and provided the insurance carrier has not denied coverage) is taken against Party B, any cure period has expired, and a court has issued an order authorizing such judgment creditor to attach or levy upon any assets of Party B to enforce any such judgment.

9.3 Failure to be in Force and Effect; Credit Support Default. At any time after the execution and delivery thereof, (a) any Secured Document or any guarantee issued to Party A in connection herewith or any provision of such documents shall (i) cease to be in full force and effect (other than in accordance with its terms), (ii) be terminated (other than in accordance with its terms) or (iii) be declared to be null and void, (b) Party A shall not have a valid and perfected First Priority Lien in any material Collateral, except as permitted hereunder or under the Security Agreements, purported to be covered by the Security Agreements, or (c) any Retail Entity, Party B or any Credit Support Provider shall contest the validity or enforceability of any Secured Document or any provision thereof in writing or deny in writing that it has any further liability under any Secured Document or any provision thereof to which it is a party, unless agreed by Party A; *provided, however* that, with respect to a Retail Entity, any failure to comply with clauses (a), (b) or (c) shall not constitute an Event of Default under this Master Agreement if such failure solely constitutes an event described in either subsection (b) or (c) of the definition of "Event of Default" in the Pledge Agreement by Party B in favor of Party A dated as of the date hereof and/or any Security Agreement made by a Retail Entity in favor of Party A.

9.4 Asset Coverage Test. At any time during the Term, failure by Party B to satisfy the Asset Coverage Test and such failure is not remedied or waived within thirty (30) calendar days after written notice of such failure is given to Party B.

9.5 Breach of Facility Size. At any time, the Facility Utilization exceeds the Approved Facility Size.

9.6 Breach of Deferred Supply Amount. At any time the Deferred Supply Amount (together with any interest thereon accrued pursuant to Section 3.7(b)) shall exceed the Maximum Deferred Supply Amount and such condition is not remedied or waived within five (5) Local Business Days after written notice of such failure is given to Party B.

9.7 Credit Support Amount. At any time, the Credit Support Amount derived from cash and letters of credit exceeds the Credit Support Cap.

9.8 Suspension of License. At any time:

Party B's market based rate authority issued by FERC shall be (a) modified and such modification would result in a Material Adverse Effect, or (b) suspended or cease to be in full force and effect.

9.9 Regulatory MAC. Party B shall be subject to regulation under any Law, and such regulation could reasonably be expected to result in a Material Adverse Effect.

SECTION 10. ADDITIONAL EVENTS OF DEFAULT OF PARTY A

The following shall constitute an Event of Default under the Master Agreement with respect to Party A:

10.1 Credit Event. 

SECTION 11. REMEDIES

11.1 Remedies Generally. The rights of each party under this Master Agreement are in addition to, and not in limitation or exclusion of, any other rights such party may have (whether by agreement, operation of law or otherwise).

11.2 Hedge Strategy Compliance Transactions. Upon the occurrence of an Event of Default pursuant to Section 9.3 or the breach by Party B, or any Retail Entity of Section 7.10, Party A shall, in addition to any other rights Party A may have pursuant to this Master Agreement or otherwise, have the right, but not the obligation to, for the account of Party B and without assumption of any obligation to take any such action in the future, unilaterally execute Transactions between Party A and Party B under this Master Agreement with an objective to cause Party B to be in compliance with the Risk Management Policy or the Asset Coverage Test, as the case may be.

SECTION 12. PAYMENTS FROM ACCOUNTS

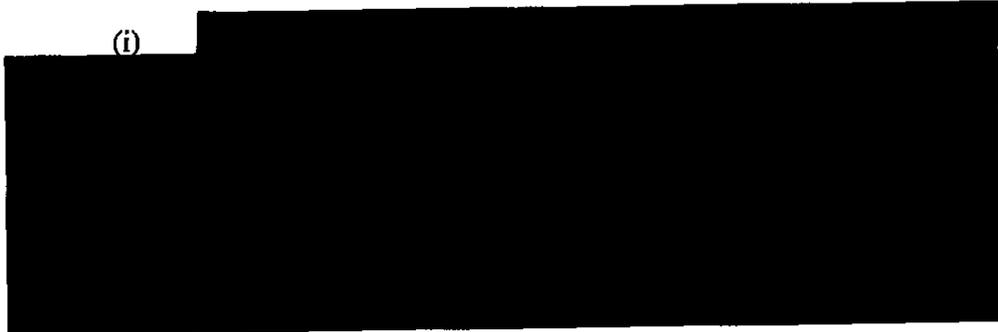
12.1 Party B Controlled Accounts.

(a) Party B does and shall hold all money and Cash Equivalents of Party B in the Party B Controlled Accounts and shall not establish or use any other deposit accounts, securities accounts, commodities accounts, or other investment accounts. As of the date of this Master Agreement, the only Party B Controlled Accounts are the Party B Revenue Account and the Party B Company Account.

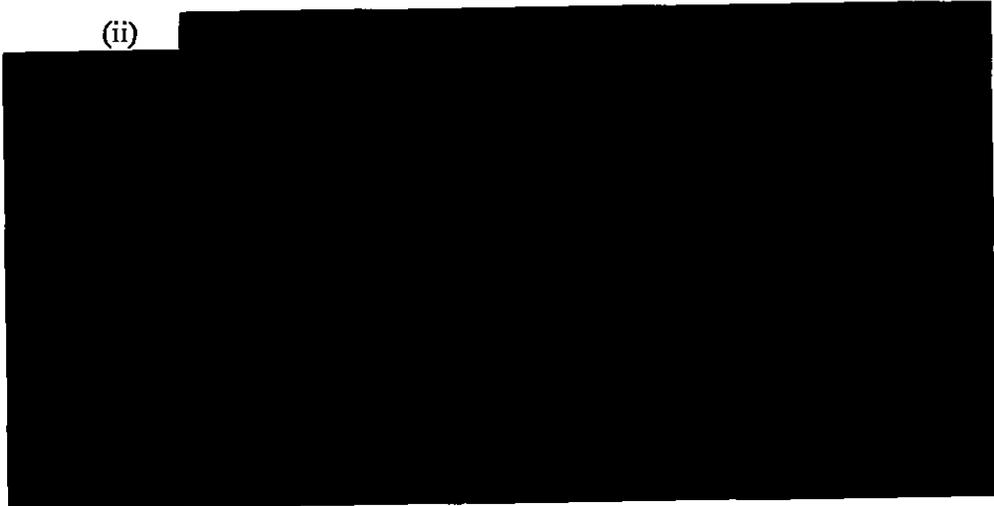
(b) Party B shall cause all payments on receivables and other proceeds of the Collateral to be deposited promptly to the Party B Revenue Account (and to no other account). Without limiting the foregoing, Party B shall in any event cause all such payments and other proceeds that are not deposited directly to the Party B Revenue Account to be transferred to and held in the Party B Revenue Account within two (2) Local Business Days of Party B's receipt of same.

(c) Party B Revenue Account. Unless otherwise directed by Party A during the existence of a Specified Potential Event of Default or an Event of Default or following the occurrence of a Termination Event or an Early Termination Date, all amounts that are available for distribution from the Party B Revenue Account shall be applied upon direction of Party B at the following times and in the following order of priority (to the extent such distributions could not reasonably be expected to result in a Specified Potential Event of Default or an Event of Default or a Termination Event or an Early Termination Date); provided, in each case, that Party B has given Party A no fewer than two Local Business Day's notice of the intended distribution amount with sufficient written supporting documentation:

(i)



(ii)



[Redacted]

(iii)

[Redacted]

(iv)

[Redacted]

(v)

[Redacted]

(vi)

[Redacted]

(vii)

[Redacted]

(viii)

[Redacted]

(ix)

[Redacted]

(x)

[Redacted]

(xi)

(d) Party B Company Account. Unless otherwise directed by Party A during the existence of a Specified Potential Event of Default or an Event of Default or following the occurrence of a Termination Event or an Early Termination Date, all amounts that are available for distribution from the Party B Company Account, shall (to the extent such distributions could not reasonably be expected to result in a Potential Event of Default, an Event of Default, a Termination Event or an Early Termination Date) be distributed by Party B to (A) pay the Operating Expenses and Approved Capital Expenditures of Party B that are then due and payable and (B) make distributions pro rata to Party B's equityholders that are not otherwise prohibited by this Master Agreement, including, without limitation, each member of Party B's Permitted Tax Distribution Amount.

(e) If the amounts on deposit in any Party B Controlled Account are not sufficient to make required payments, that condition shall not relieve Party B of its obligations to make such payments when due and payable.

(f) During the existence of a Specified Potential Event of Default or an Event of Default or following the occurrence of a Termination Event or an Early Termination Date, all amounts that are deposited or held in the Party B Controlled Accounts shall be applied as reasonably determined by Party A in its sole discretion, and Party A may issue instructions to the applicable Controlled Account Institution.

(g) Party B shall maintain in effect and perform all of Party B's obligations under each Control Agreement to which Party B is a party, without modification thereto, except as approved in writing by Party A.

(h) Without limiting the rights of the parties to equitable relief with respect to other provisions of this Master Agreement, the parties agree that in the event of any actual or threatened breach of the terms or conditions of this Section 12.1, the party who is or is to be thereby aggrieved shall have the right of specific performance and injunctive relief to give effect to such terms and conditions to the extent permitted by applicable law.

(i) If a payment received from a Customer is erroneously deposited into a Party B Controlled Account, then such deposit may be transferred to the appropriate Controlled Account, notwithstanding the other provisions hereof.

12.2 Retail Entity Controlled Accounts. Each Retail Entity shall be subject to the following provisions:

(a) Retail Entity does and shall hold all money and Cash Equivalents of Retail Entity in its Retail Entity Controlled Accounts and shall not establish or use any other deposit accounts, securities accounts, commodities accounts, or other investment accounts. As of the date of the formation of and Investment in any Retail Entity, the only Retail Entity Controlled Accounts are the applicable Retail Entity Lockbox, Retail Entity Lockbox Account and Retail Entity Customer Deposit Account (provided, however, in the case of XOOM Energy California, LLC, the Retail Entity Customer Deposit Account shall be established within fourteen (14) Business Days after the Effective Date).

(b) Each Retail Entity shall (i) maintain in effect (x) Customer Payment Instructions with respect to all Customer Contracts to which it is a party and (y) Credit Card Processor Payment Instructions with respect to all agreements with Credit Card Processors and otherwise cause all payments on Receivables and other proceeds of the Collateral whether received directly from Customers or indirectly from Credit Card Processors (other than, to the extent required by rule or order of the applicable regulatory agency, refundable Customer deposits and, to the extent required by rule or order of the applicable regulatory agency, residential or other Customer advance payments) to be deposited promptly to the Retail Entity Lockbox Account (and to no other account), (ii) to the extent required by rule or order of the applicable regulatory agency, cause refundable deposits of its Customers (whether received directly from Customers or indirectly from Credit Card Processors) to be deposited promptly to the applicable Retail Entity Customer Deposit Account (and to no other account), and (iii) to the extent required by rule or order of the applicable regulatory agency, cause residential or other Customer advance payments (whether received directly from Customers or indirectly from Credit Card Processors) to be deposited promptly to the applicable Retail Entity Customer Credit Account (and no other account). Without limiting the foregoing, each Retail Entity shall in any event cause all such payments and other proceeds that are not deposited directly to the applicable Retail Entity Lockbox Account, Retail Entity Customer Deposit Account (to the extent required by rule or order of the applicable regulatory agency) or Retail Entity Customer Credit Account (to the extent required by rule or order of the applicable regulatory agency), as applicable, to be transferred to and held in the applicable Retail Entity Lockbox Account, the applicable Retail Entity Customer Deposit Account (to the extent required by rule or order of the applicable regulatory agency) or the applicable Retail Entity Customer Credit Account (to the extent required by rule or order of the applicable regulatory agency), as applicable, within two (2) Local Business Days of any Retail Entity's receipt of same.

(c) Retail Entity Lockbox Account. Unless otherwise directed by Party A during the existence of a Specified Potential Event of Default or an Event of Default or following the occurrence of a Termination Event or an Early Termination Date, all amounts that are available for distribution from each Retail Entity Lockbox Account shall be applied upon direction of such Retail Entity at the following times and in the following order of priority (to the extent such distributions could not reasonably be expected to result in a Specified Potential Event of Default or an Event of Default or a Termination Event or an Early Termination Date); provided, in each case such Retail Entity has given Party A no fewer than two Local Business Day's notice of the intended distribution amount with sufficient written supporting documentation:

(i)

[Redacted]

(ii)

[Redacted]

(iii)

[Redacted]

(iv)

[Redacted]

(v)

[Redacted]

(vi)

(d) Retail Entity Customer Deposit Account. To the extent required by rule or order of the applicable regulatory agency and unless otherwise directed by Party A during the existence of a Specified Potential Event of Default or an Event of Default or following the occurrence of a Termination Event or an Early Termination Date, all amounts that are available for distribution from any Retail Entity Customer Deposit Account shall be applied upon direction of such Retail Entity (to the extent such distributions could not reasonably be expected to result in a Specified Event of Default or an Event of Default or a Termination Event or an Early Termination Date):

(i) to the applicable Retail Entity Lockbox Account in an amount equal to Customer credit balances permitted to be applied to the applicable Customers' payment obligations since the last such transfer under this clause; and

(ii) to the applicable Retail Entity Customer Credit Account or Customer of the applicable Retail Entity as required by rule or order of the applicable regulatory agency in an amount equal to the amount of refundable Customer deposits and, to the extent required by rule or order of the applicable regulatory agency, Customer credit balances due and owing to such Customer in accordance with the Credit and Collection Policy.

(e) Retail Entity Customer Credit Account. To the extent required by rule or order of the applicable regulatory agency and unless otherwise directed by Party A during the existence of a Specified Potential Event of Default or an Event of Default or following the occurrence of a Termination Event or an Early Termination Date, all amounts that are available for distribution from any Retail Entity Customer Credit Account shall be applied upon direction of such Retail Entity (to the extent such distributions could not reasonably be expected to result in a Specified Event of Default or an Event of Default or a Termination Event or an Early Termination Date) to any Customer of the applicable Retail Entity in an amount equal to the amount of residential or other Customer advance payments due and owing to such Customer in accordance with the Credit and Collection Policy.

(f) If the amounts on deposit in any Retail Entity Controlled Account are not sufficient to make required payments, that condition shall not relieve such Retail Entity of its obligations to make such payments when due and payable.

(g) During the existence of a Specified Potential Event of Default or an Event of Default or following the occurrence of a Termination Event or an Early Termination Date, all amounts that are deposited or held in any Retail Entity Controlled Accounts shall, subject to applicable regulatory rules and law, be applied as reasonably determined by Party A in its sole discretion, and Party A may issue instructions to the applicable Controlled Account Institution.

(h) Each Retail Entity shall maintain in effect and perform all of such Retail Entity's obligations under each Control Agreement to which such Retail Entity is a party, without modification thereto, except as approved in writing by Party A.

Without limiting the rights of the Parties to equitable relief with respect to other provisions of this Master Agreement, the Parties agree that in the event of any actual or threatened breach of the terms or conditions of this Section 12.2, the Party who is or is to be thereby aggrieved shall have the right of specific performance and injunctive relief to give effect to such terms and conditions to the extent permitted by applicable law.

12.3 Modification of Banking Institutions. After the Effective Date of this Master Agreement, Party B may establish replacement equivalent accounts for any Retail Entity Controlled Accounts, so long as contemporaneously with the establishment of each such replacement account Party B obtains a Control Agreement with respect to such account, and each such replacement equivalent account shall be deemed to constitute the applicable account it is replacing for all purposes under this Master Agreement. With respect to any Retail Entity Lockbox, after the Effective Date of this Master Agreement, Party B may obtain replacement or additional lockboxes (or associated postal boxes) so long as contemporaneously with obtaining each such replacement or additional lockbox (or associated postal box), Party B obtains a Control Agreement with respect to such lockbox (or associated postal box), and each such replacement or additional lockbox (or associated postal box) shall be deemed to constitute, collectively, the applicable lockbox for all purposes under this Master Agreement.

SECTION 13. MISCELLANEOUS

13.1 Change of Control. In the event there is a proposed change of control related to Party B, Party B shall observe the following protocols:

(a) Party B shall provide no less than 90 days prior notice to Party A of any such proposed change of control along with all related documentation and information regarding the proposed transaction and the new control entity;

(b) Within 30 days thereafter Party A shall notify Party B of whether it agrees to proposed Change of Control and any conditions to its consent;

(c) Within 10 days thereafter, Party B shall notify Party A as to whether it agrees to required conditions;

(d) If Party A consents to the proposed Change of Control with no conditions or if Party B agrees to Party A's conditions, the Change of Control may be consummated; and

(e) If Party A does not consent to the proposed Change of Control or Party B does not accept Party A's conditions, and Party B decides to effectuate the contemplated Change of Control, this Master Agreement shall be terminated at a termination date established by Party A, provided that such termination date is no longer than thirty (30) days after Party A notifies Party B that it does not consent to the Change of Control. Party B shall pay all the costs associated with such termination including those associated with the liquidation of physical and

financial forward positions, and will repay all amounts that would have otherwise been owed to Party A on the Scheduled Maturity Date, including, without limitation, any Deferred Supply Amount or Revolving Amount.

13.2 Certain Agreements Regarding Relationship.

(a) Party A and Party B agree the relationship between Party A and Party B and its Affiliates established under the Secured Documents is not a joint venture, partnership, or agency relationship, and that Party B will be solely responsible for conducting and managing the business activities of each Retail Entity, including performing under the Customer Contracts. Party A and Party B agree that nothing in the Secured Documents shall be deemed to constitute or be construed as making the contractors or agents of any Retail Entity the contractors or agents of Party A or making Party A the contractor or agent of any Retail Entity. In addition, nothing in the Secured Documents shall be construed to create a joint or co-employment relationship between the Parties.

(b) Party A and Party B agree not to misrepresent to third parties the relationship such party has with the other party, as such relationship is described in the Secured Documents. Each party shall have the right to review and approve all press releases of the other party and any of its Affiliates mentioning, making reference to, or implying that Party A is associated with Party B or any of its Affiliates.

(c) To the extent permitted by applicable law, Party A and Party B hereby waive the Texas Deceptive Trade Practices Act-Consumer Protection Law, TEX. BUS. & COM. CODE §§17.41—63.

13.3 Photocopied Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed an original but all of which together will constitute one and the same instrument. Furthermore, a facsimile or photocopied counterpart of this Master Agreement will be sufficient to bind a party hereto to the same extent as an original.

Xoom Energy Illinois, LLC
BALANCE SHEET
December 31, 2012

ASSETS:

Cash	█
Restricted Cash	█
Accounts Receivable	█
Allowance for Bad Debt	█
Gas Storage Inventory	█
Prepaid Expenses	-
Security Deposits	█
	\$
TOTAL ASSETS	<u>█</u>

LIABILITIES AND EQUITY

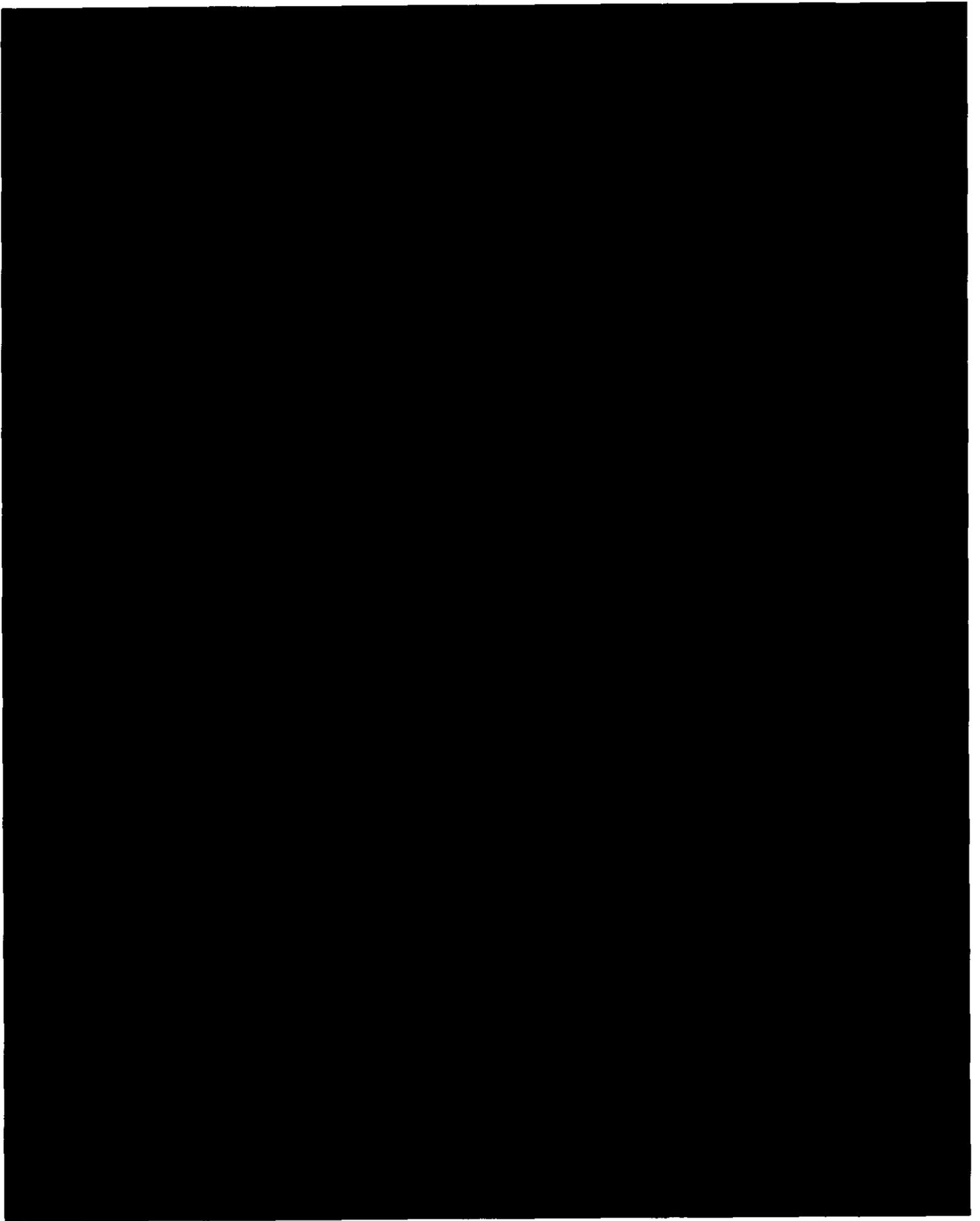
Accounts Payable	-
Intercompany Payable	█
Accrued Expenses	█
Customer Deposits Liability	█
Derivative Liabilities	█
Total Liabilities	<u>█</u>
EQUITY	
Retained Earnings	█
Total Equity	<u>█</u>
	\$
TOTAL LIABILITIES AND EQUITY	<u>█</u>

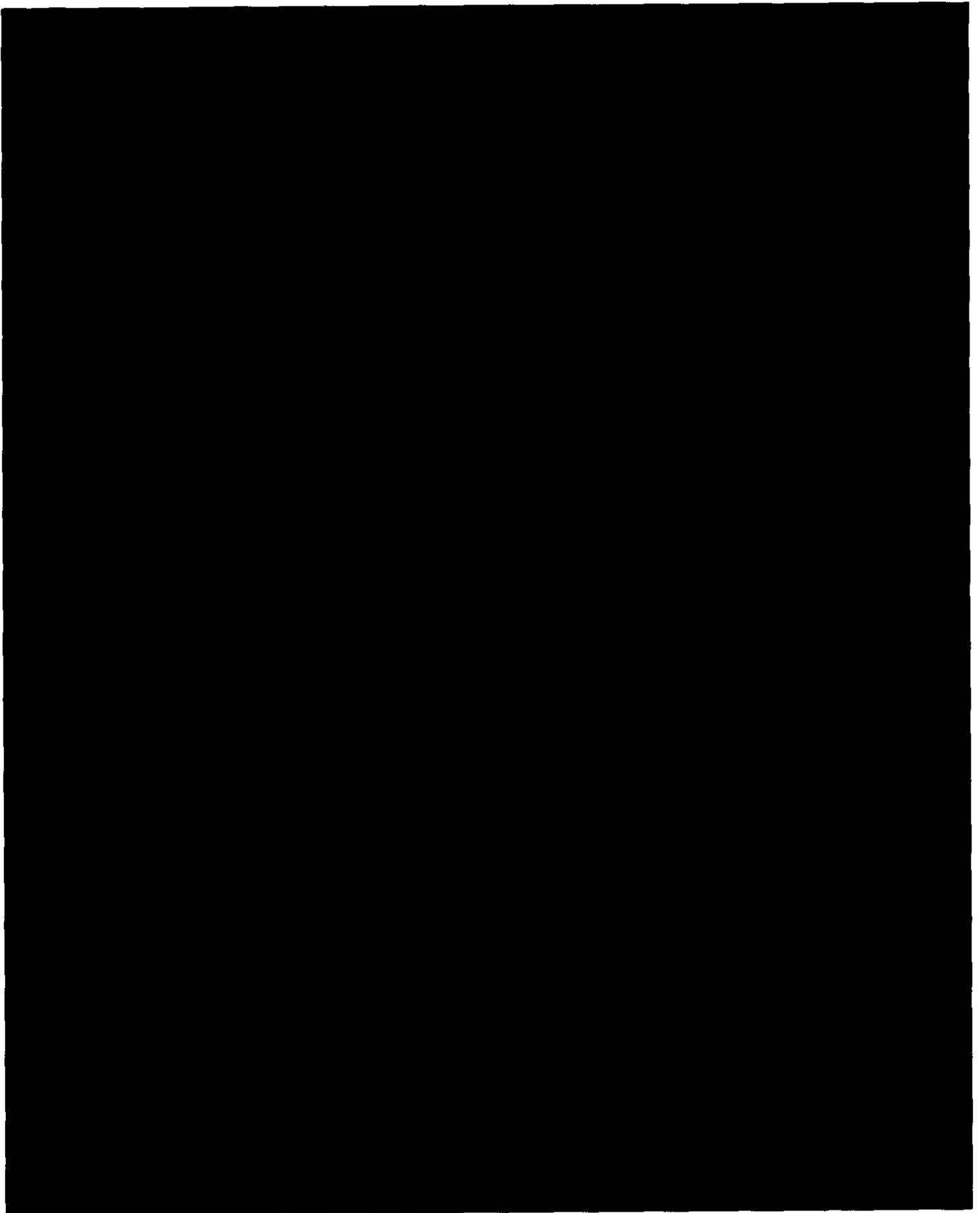
XOOM ENERGY, LLC

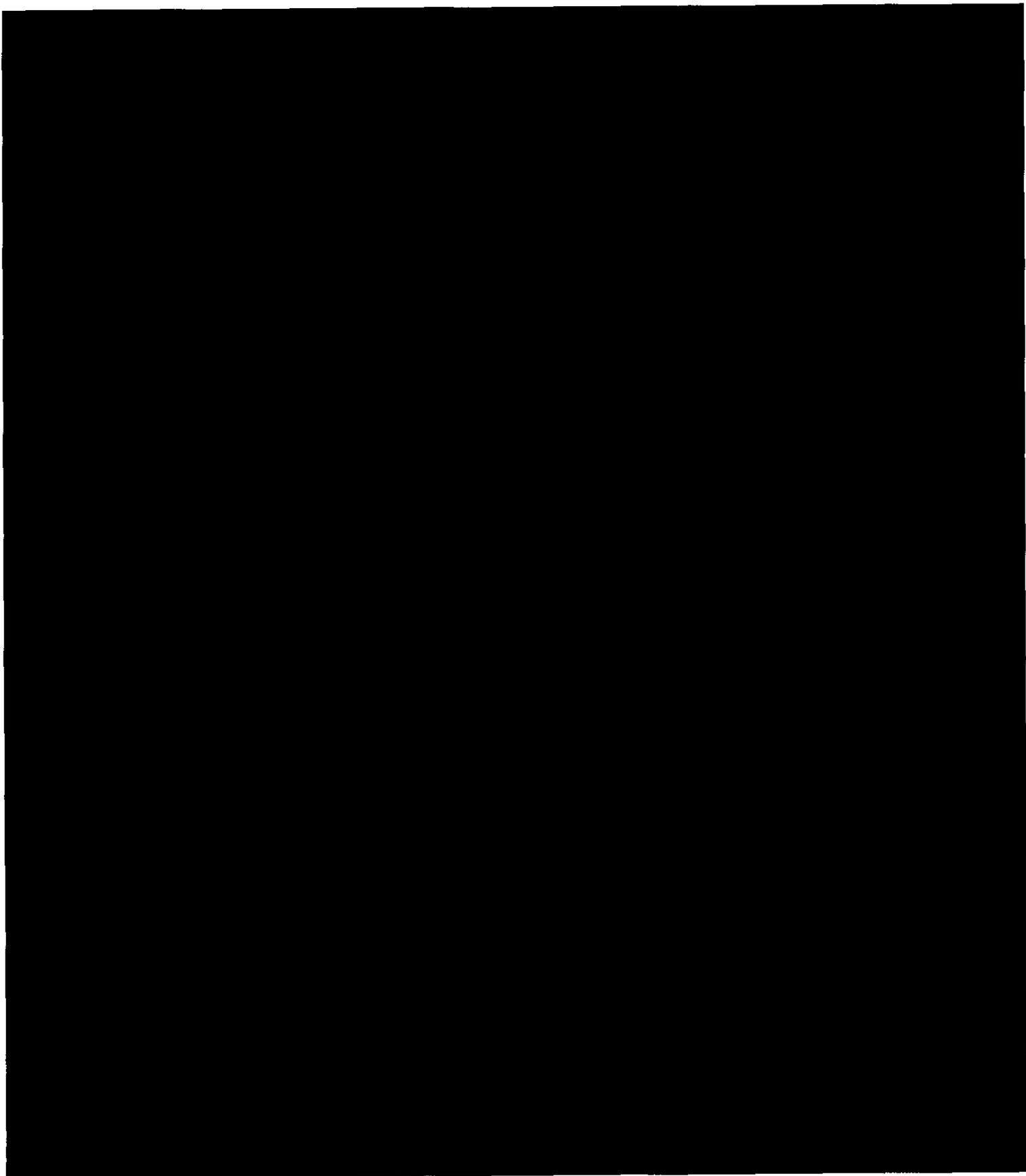
Consolidated Financial Statements as of
December 31, 2012 and 2011 and for the
Year Ended December 31, 2012 and the
Period from March 15, 2011 (Date of Formation)
to December 31, 2011 and
Independent Auditors' Report

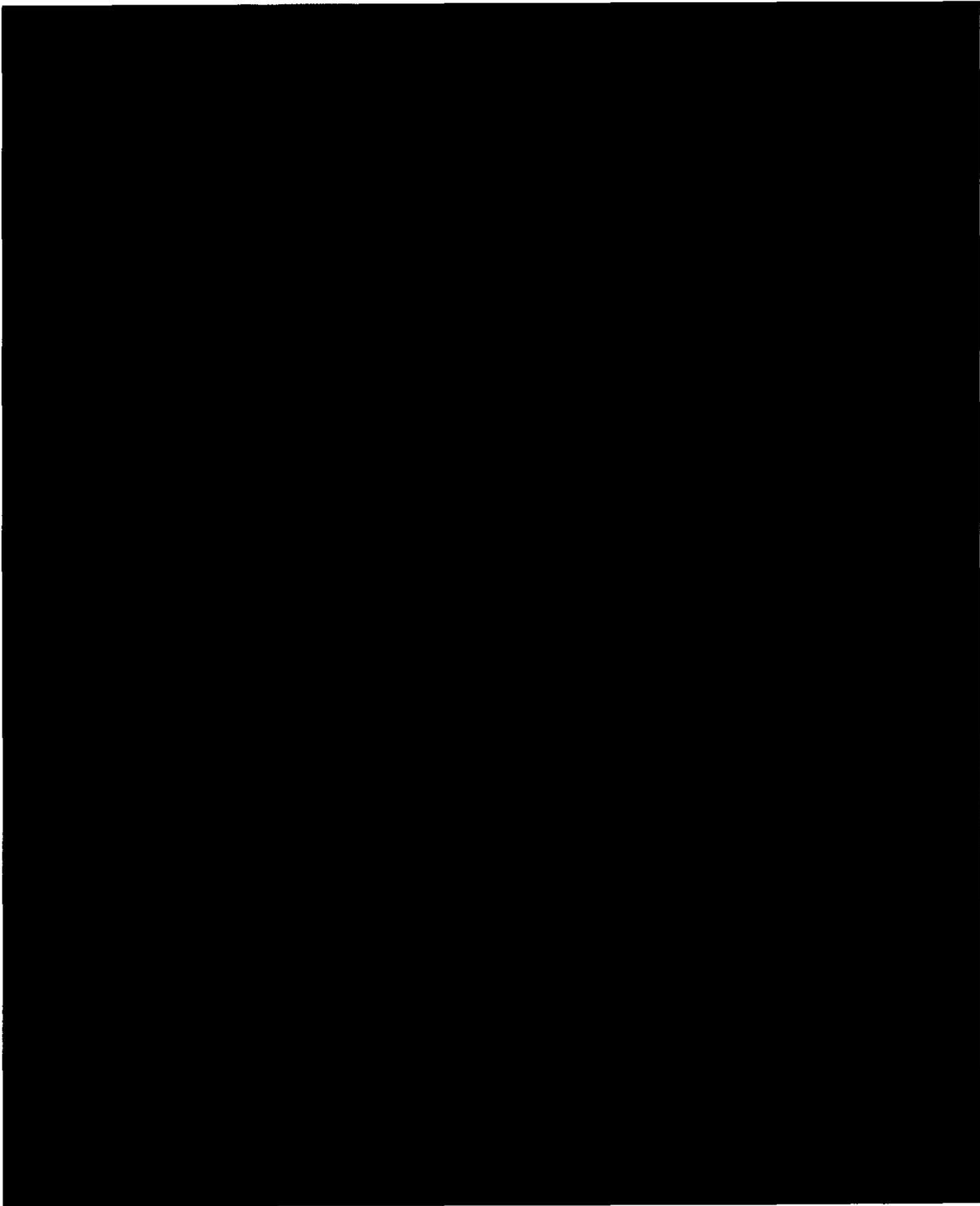


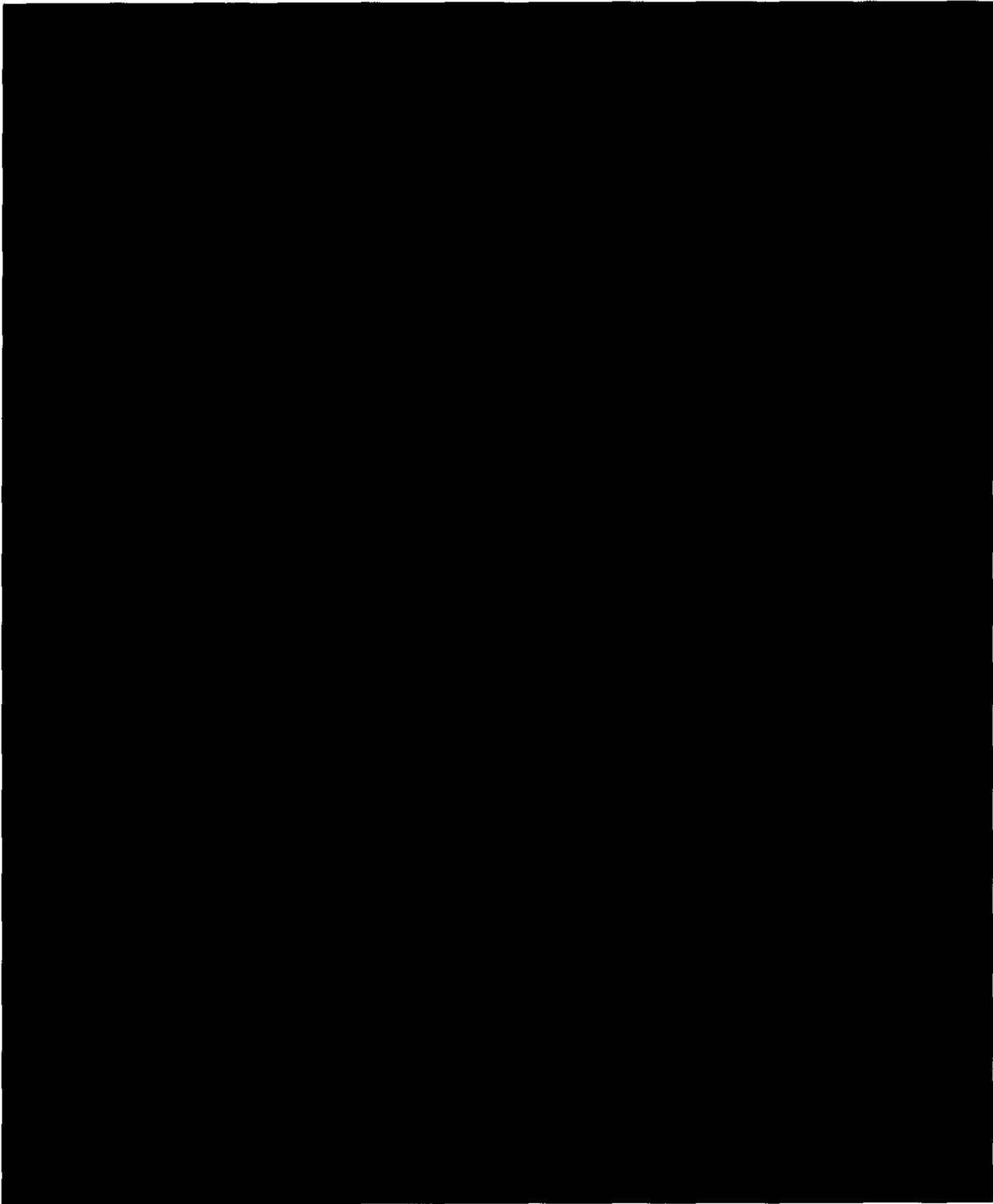
GreerWalker

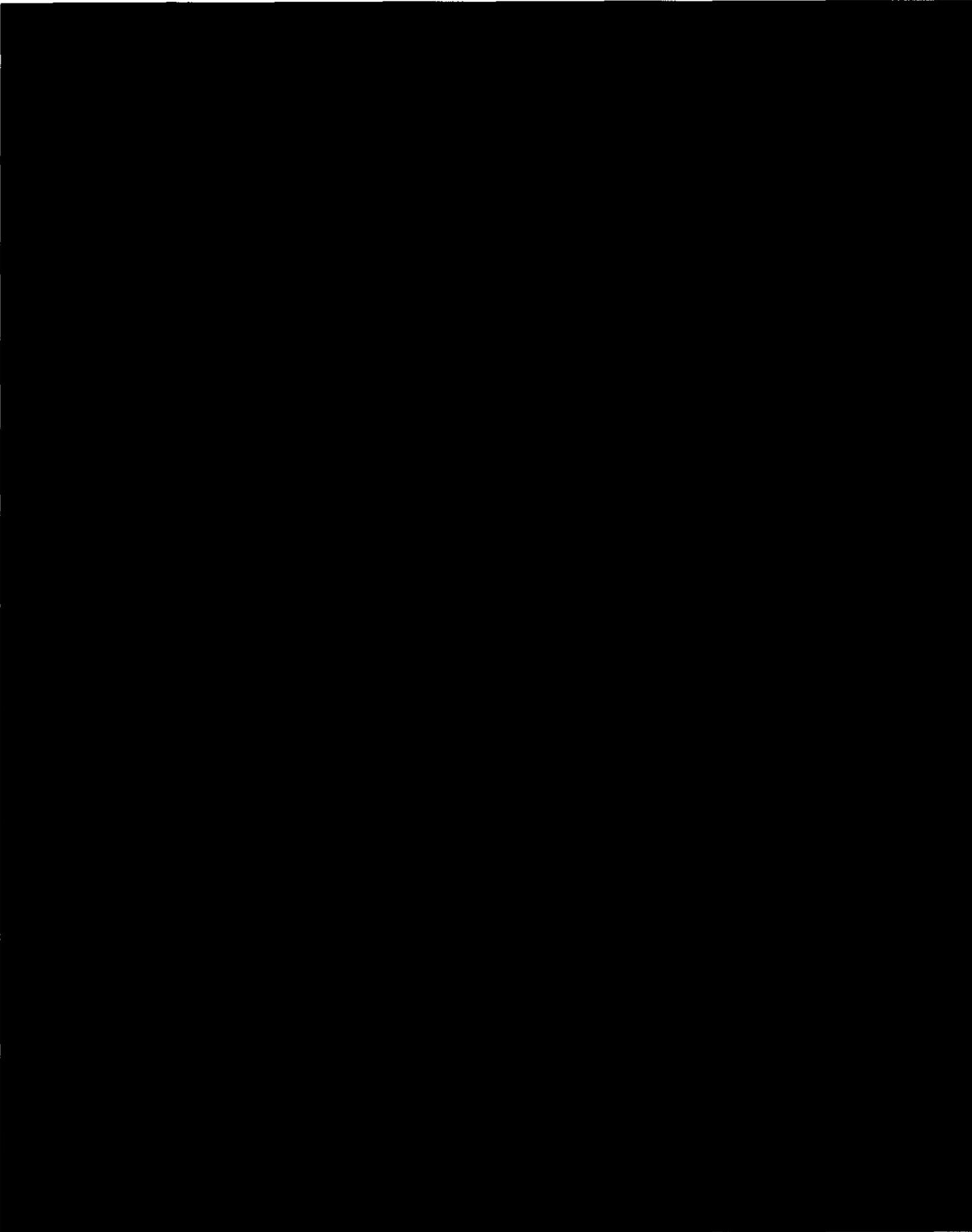


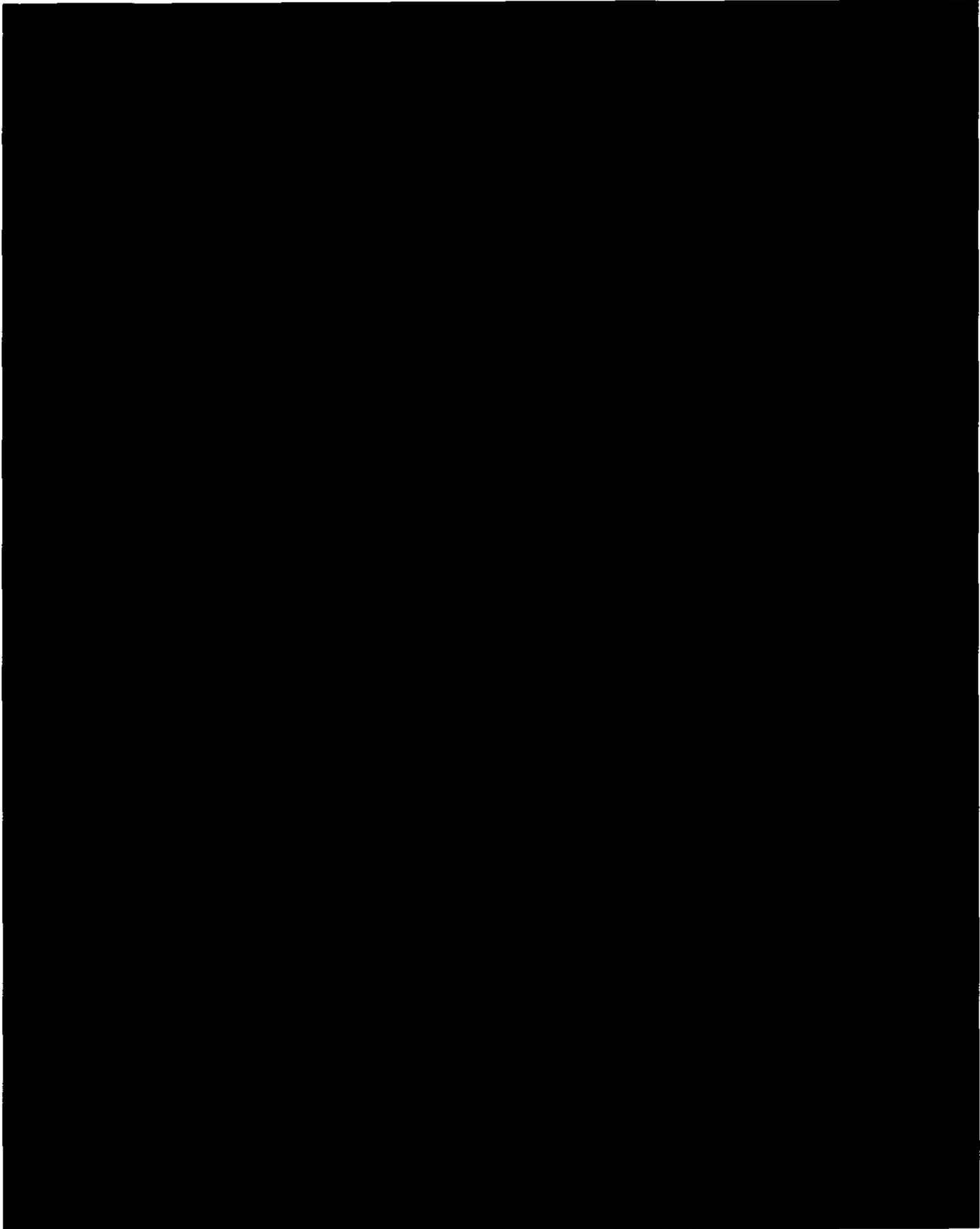


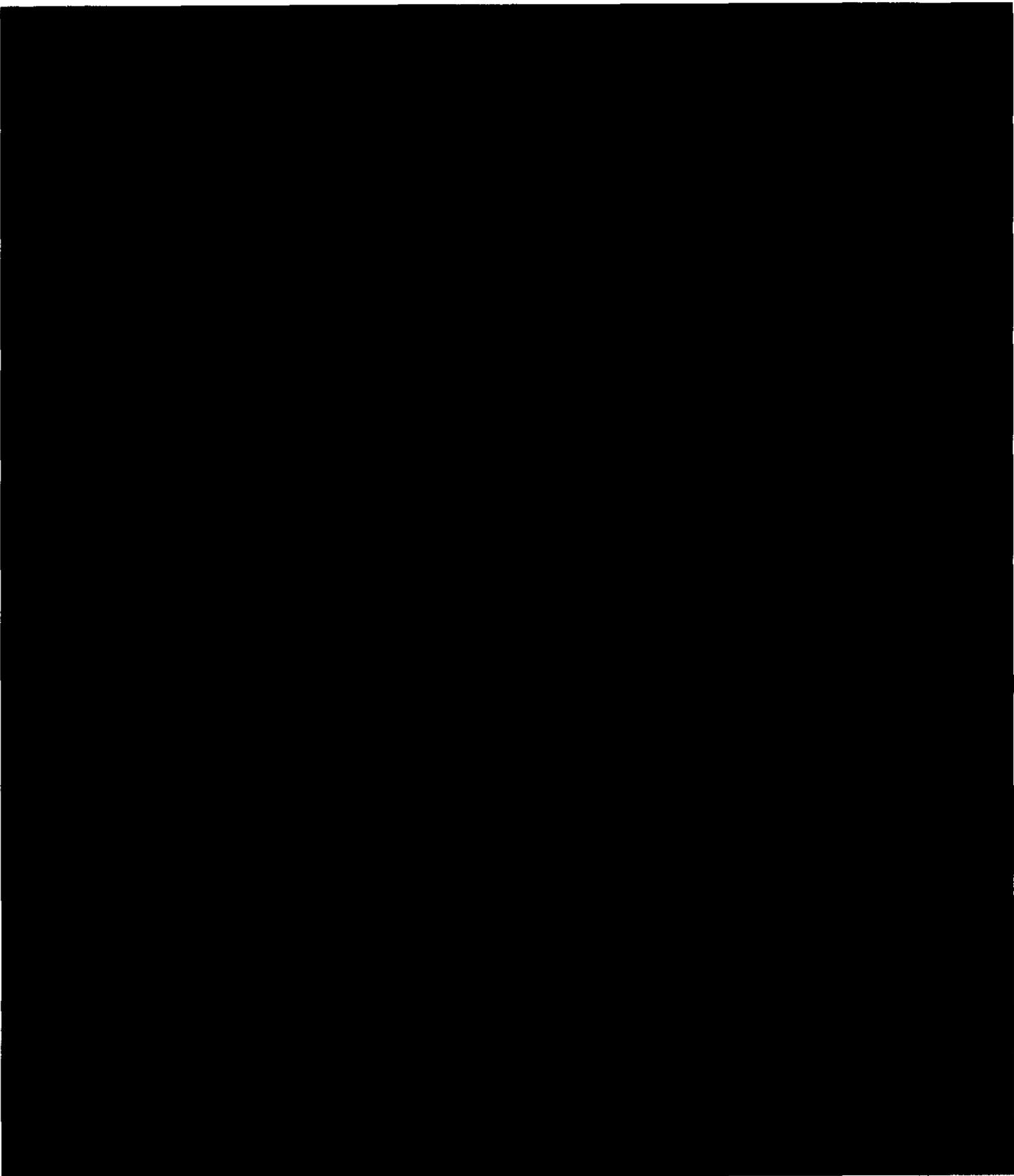


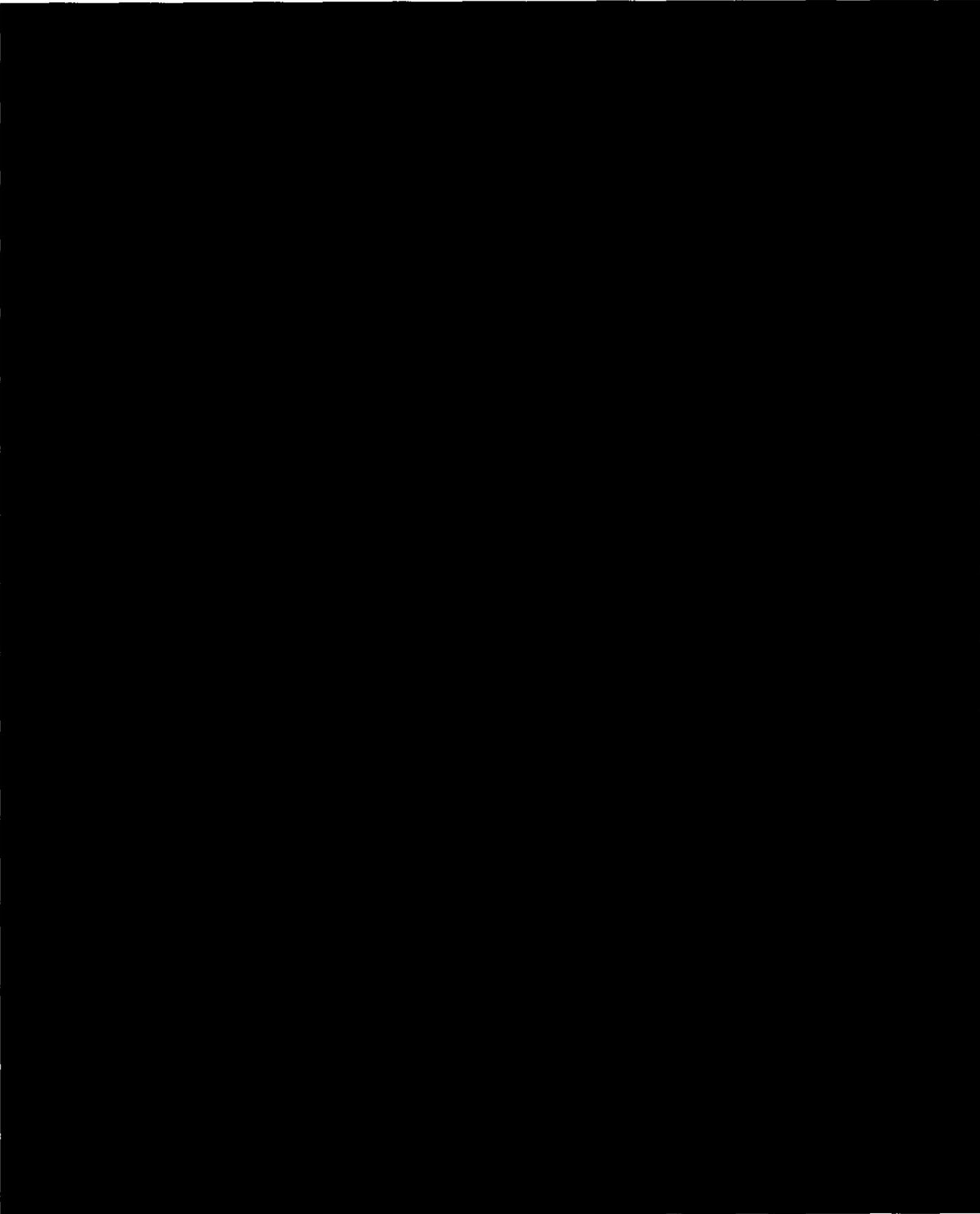


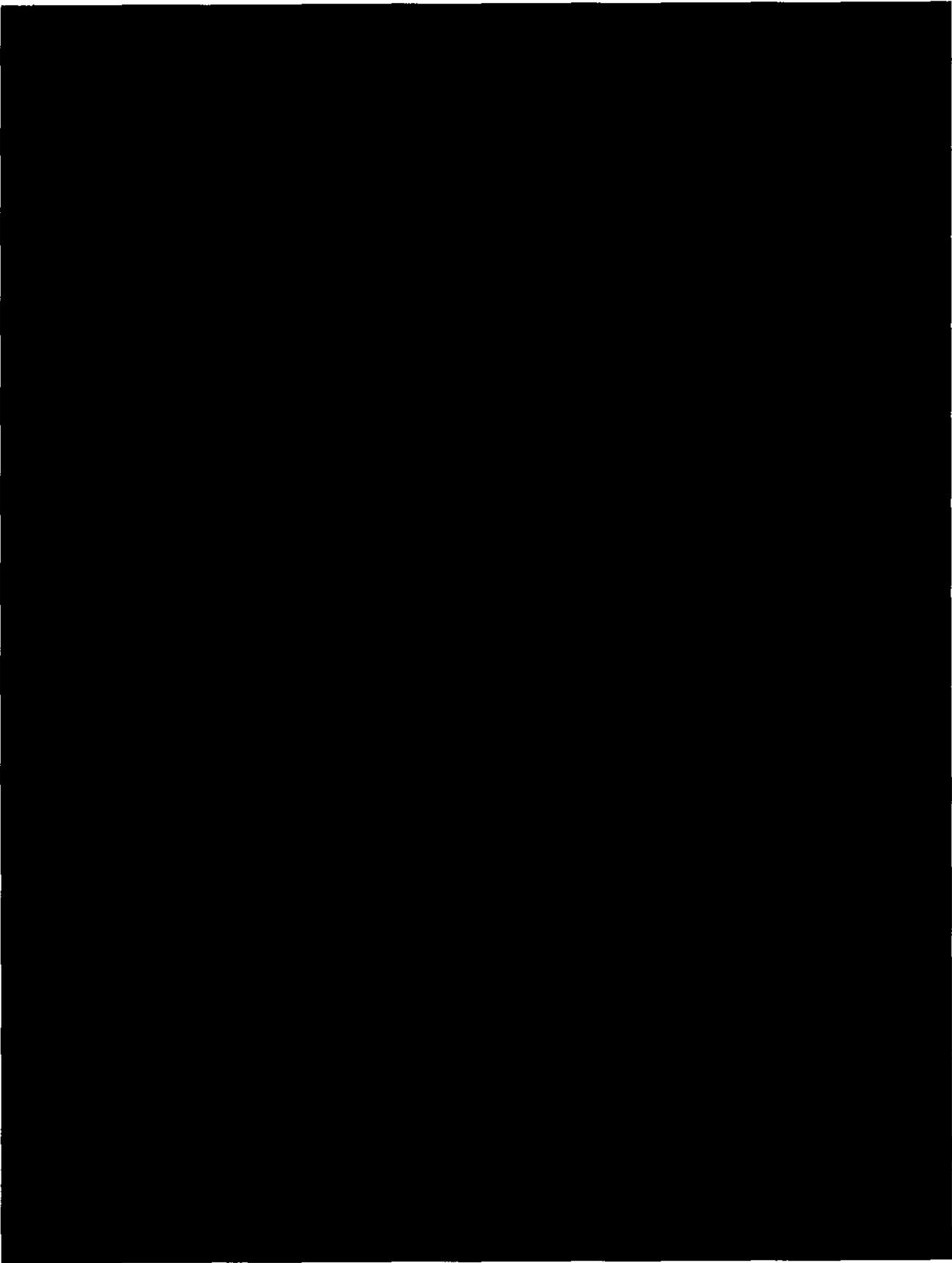


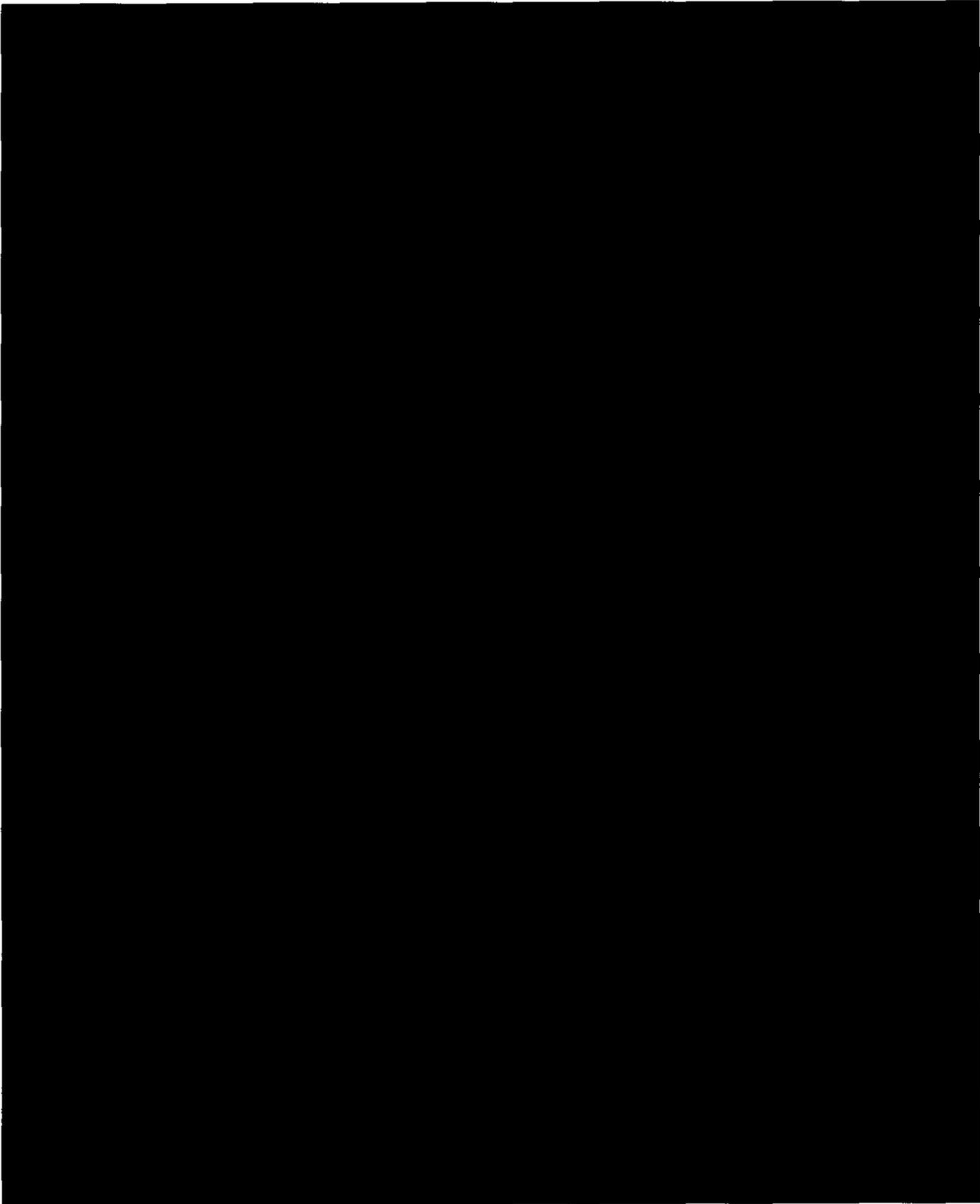


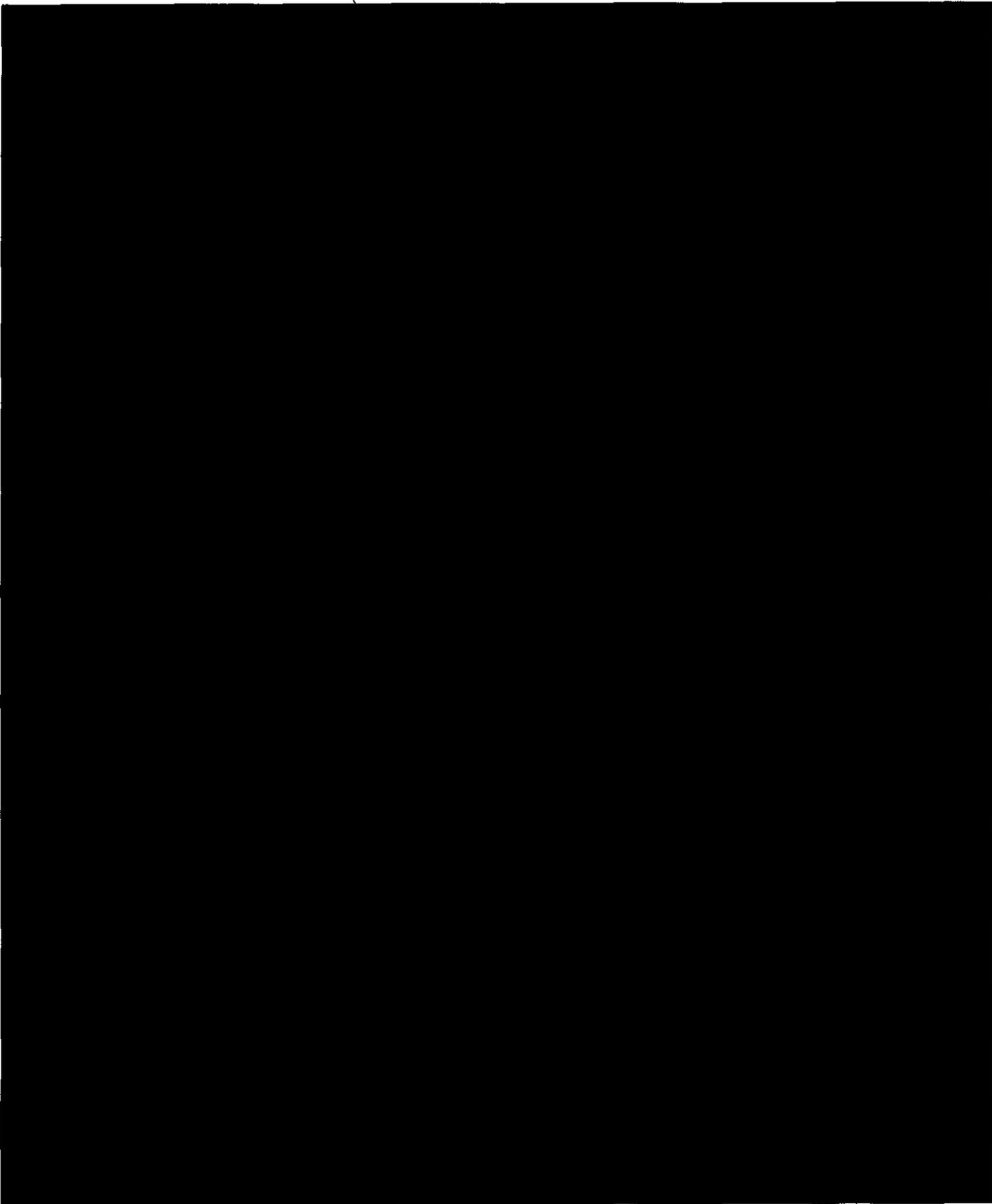


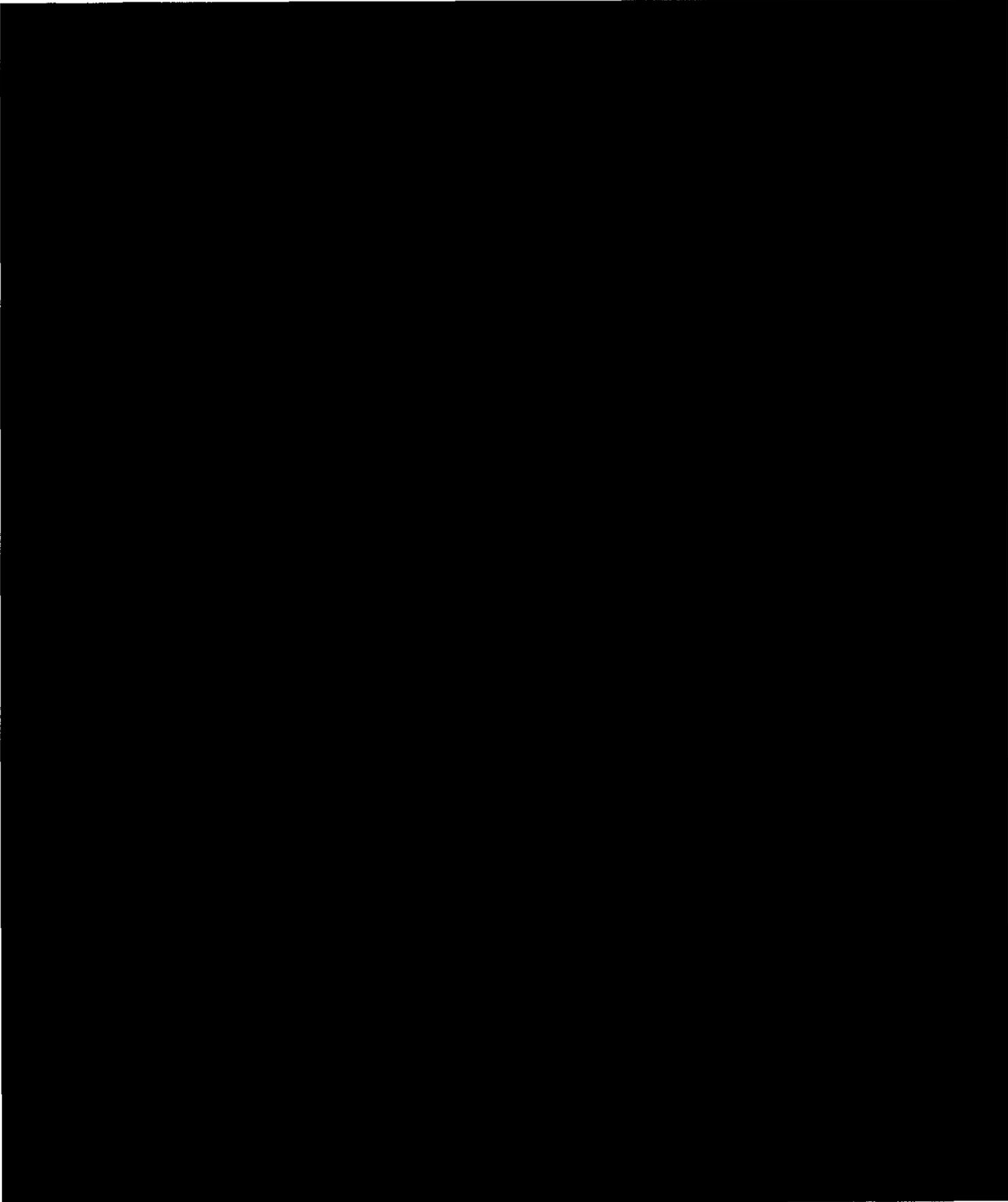


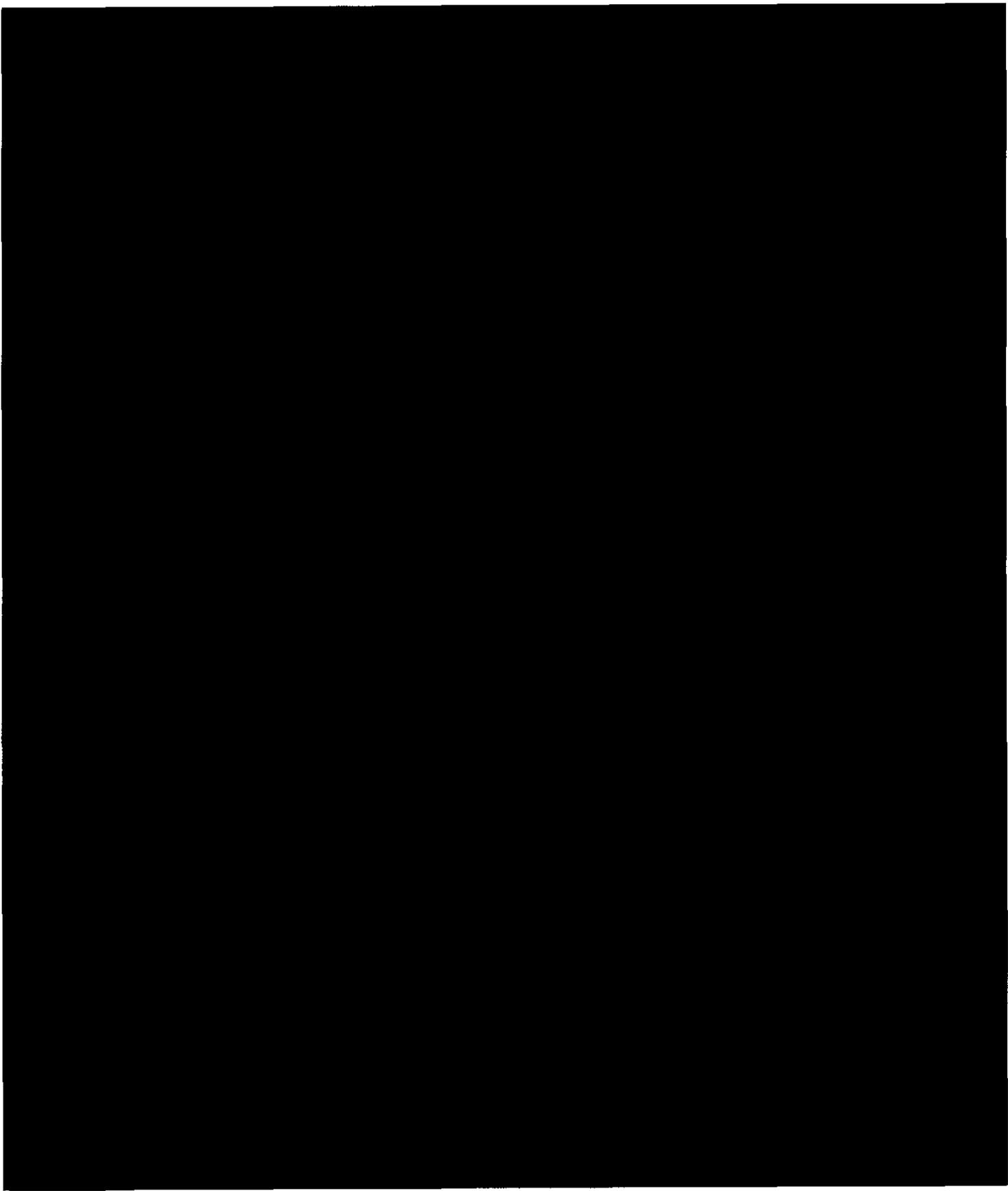


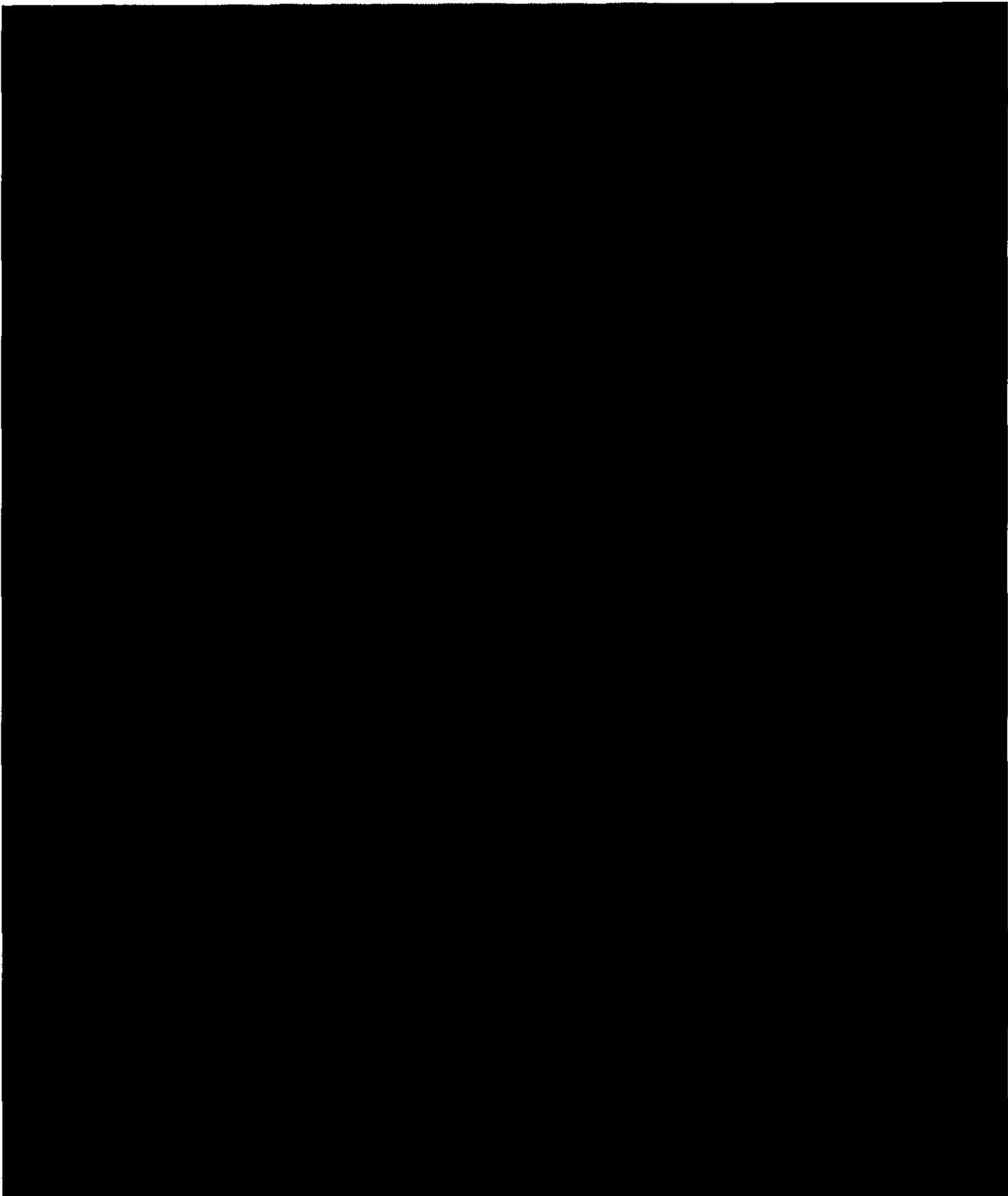


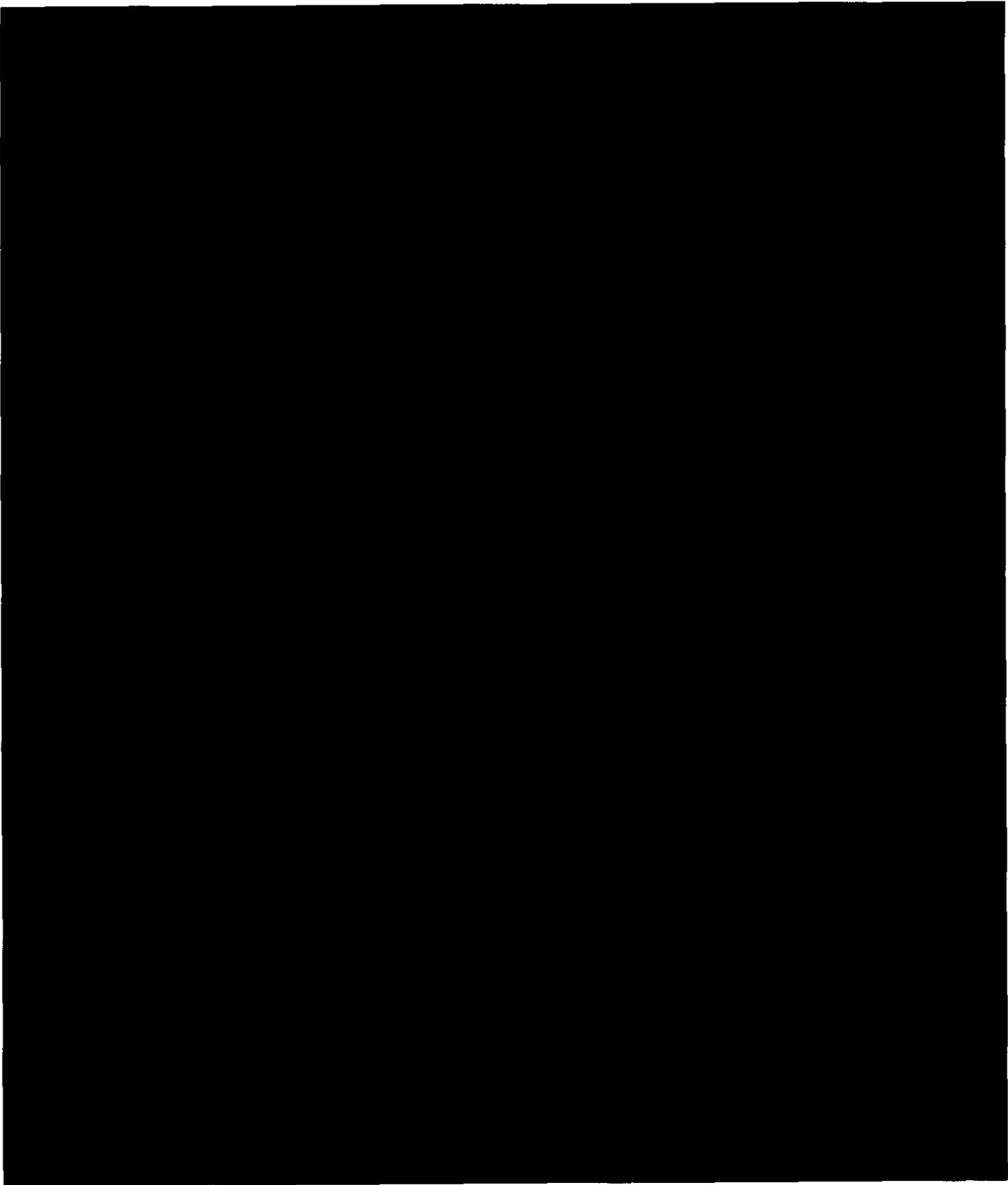


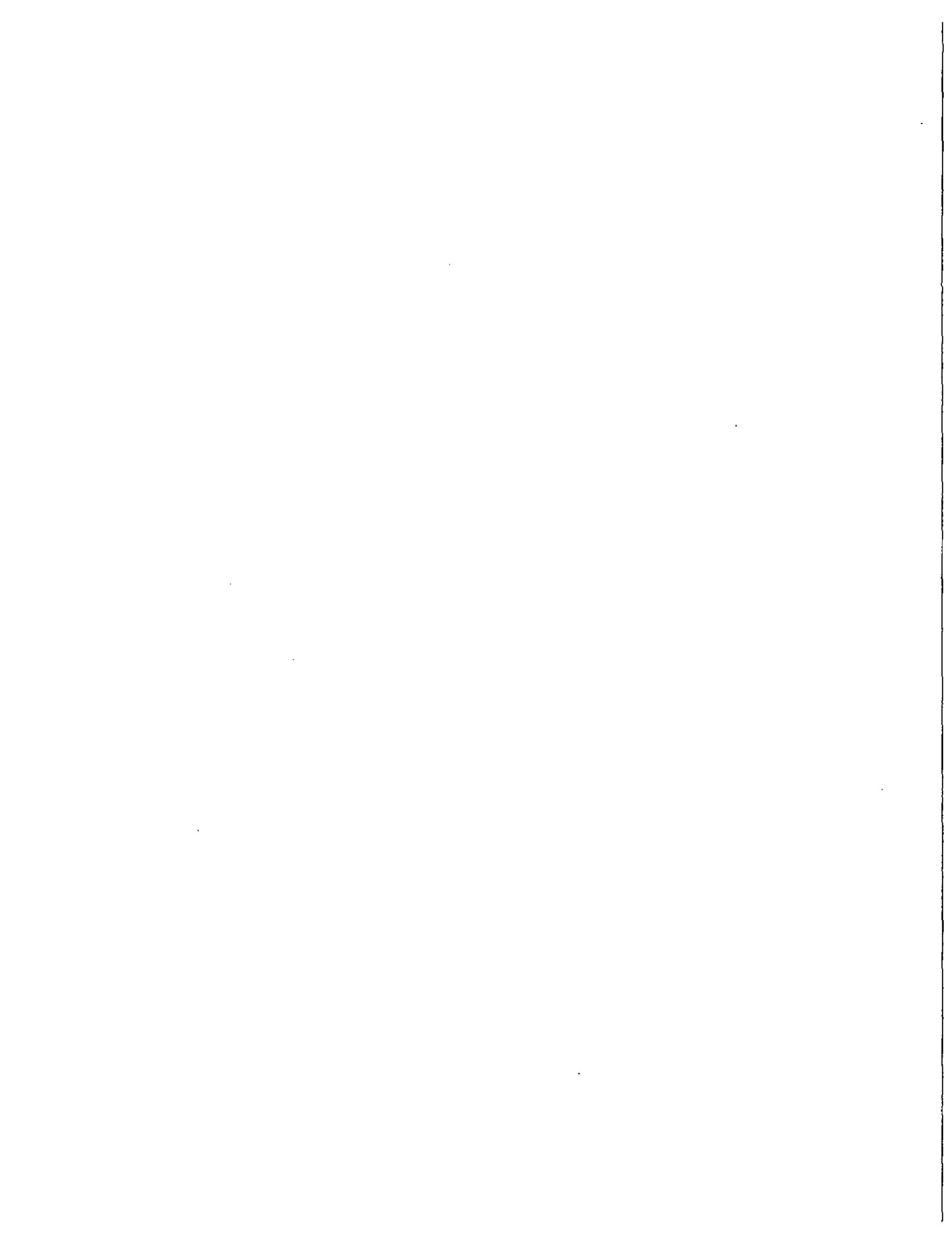












ATTACHMENT B

SURETY BOND



NORTH AMERICAN SPECIALTY INSURANCE COMPANY
1200 ARLINGTON HEIGHTS ROAD, SUITE 400, ITASCA, ILLINOIS 60143-2626
630/227-4700, FAX: 630/227-4847, 000/338-0763

CONTINUATION CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS, THAT:

In consideration of the payment of a renewal premium, **NORTH AMERICAN SPECIALTY INSURANCE COMPANY**, as **SURETY**, does hereby continue

Bond Number: SUR 2104395
Effective Date: 09/02/2011
Amount of Bond: \$150,000
Continued From: September 16, 2012 to September 16, 2013
On behalf of: Xoom Energy Illinois, LLC

In favor of: The People of the State of Illinois

Provided, however, that this Continuation Certificate does not create a new obligation and is executed upon the express condition and provision that the Surety's liability under said bond and this and all Continuation Certificates issued in connection therewith shall not be cumulative and that said Surety's aggregate liability under said bond and this and all such Continuation Certificates on account of all defaults committed during the period (regardless of the number of years) said bond has been and shall be in force, shall not in any event exceed the amount of said bond as hereinbefore set forth.

Dated this 23rd day of August, 2012.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY

By: Angela D. Ramsey
Angela D. Ramsey, ATTORNEY-IN-FACT

NAS SURETY GROUP

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Manchester, New Hampshire, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Itasca, Illinois, each does hereby make, constitute and appoint:

G. TIMOTHY WILKERSON, WILLIAM J. QUINN, JOHN F. THOMAS, JOHN D. LEAK, III,
JENNIFER C. HOBHN, DONNA K. ASHLEY, WENDY B. LAHM and ANGELA D. RAMSEY

JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

TWENTY-FIVE MILLION (\$25,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 24th of March, 2000:

"RESOLVED, that any two of the Presidents, any Managing Director, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By [Signature]
Steven P. Anderson, President & Chief Executive Officer of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company



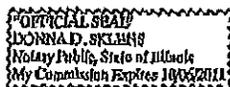
By [Signature]
David M. Layman, Senior Vice President of Washington International Insurance Company
& Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 30th day of September, 2008.

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois ss:
County of Du Page

On this 30th day of September, 2008, before me, a Notary Public personally appeared Steven P. Anderson, President and CEO of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and David M. Layman, Senior Vice President of Washington International Insurance Company and Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



[Signature]
Donna D. Sklens, Notary Public

I, James A. Carpenter, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 23rd day of August, 2012.

[Signature]

James A. Carpenter, Vice President & Assistant Secretary of Washington International Insurance Company & North American Specialty Insurance Company