

LANDEC CORP \CA\  
Form PRE 14A  
August 23, 2007

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

**SCHEDULE 14A**

**Proxy Statement Pursuant to Section 14(a) of the  
Securities Exchange Act of 1934 (Amendment No. )**

Filed by the Registrant  x  
Filed by a party other than the Registrant  o  
Check the appropriate box:

x Preliminary Proxy Statement  
 o Confidential, For Use of the Commission Only (as permitted by Rule 14a-6(e)(2))  
 o Definitive Proxy Statement  
 o Definitive Additional Materials  
 o Soliciting Material Pursuant to Rule 14a-11(c) or Rule 14a-12

**LANDEC CORPORATION**

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

x No fee required.  
 o Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transactions applies:

Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the (3) amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

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Fee paid previously with preliminary materials:

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(1)	Amount previously paid:
(2)	Form, Schedule or Registration Statement no.:
(3)	Filing Party:
(4)	Date Filed:

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## NOTICE OF ANNUAL MEETING OF SHAREHOLDERS TO BE HELD ON OCTOBER 11, 2007

To the Shareholders of Landec Corporation:

NOTICE IS HEREBY GIVEN that the Annual Meeting of Shareholders of Landec Corporation (the Company) will be held on Thursday, October 11, 2007, at 1:30 p.m., local time, at the Seaport Conference Center, 459 Seaport Blvd., Redwood City, CA 94063 for the following purposes:

- (1) To elect four directors to serve for a term expiring at the Annual Meeting of Shareholders held in the second year following the year of their election and until their successors are duly elected and qualified;
- (2) To ratify the appointment of Ernst & Young LLP as the Company's independent registered public accounting firm for the fiscal year ending May 25, 2008;
- (3) To authorize and approve a change of the Company's domicile from California to Delaware effected by the merger of the Company, a California corporation, with and into Landec Corporation, a newly formed wholly-owned subsidiary of the Company incorporated under the Delaware General Corporation Law for the purpose of effecting the change of domicile; and
- (4) To transact such other business as may properly come before the meeting or any postponement or adjournment(s) thereof.

The foregoing items of business are more fully described in the Proxy Statement accompanying this Notice.

Only shareholders of record at the close of business on August 13, 2007, are entitled to notice of and to vote at the meeting and any adjournment(s) thereof.

All shareholders are cordially invited to attend the meeting in person. However, to assure your representation at the meeting, you are urged to mark, sign, date and return the enclosed proxy card as promptly as possible in the postage-prepaid envelope enclosed for that purpose or vote your shares by telephone or via the Internet.

By Order of the Board of Directors

/s/ Geoffrey P. Leonard

Geoffrey P. Leonard  
*Secretary*

Menlo Park, California  
September [ ], 2007

## **IMPORTANT**

**WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING, PLEASE SIGN AND RETURN THE ENCLOSED PROXY CARD AS PROMPTLY AS POSSIBLE IN THE ENCLOSED POSTAGE-PREPAID ENVELOPE OR VOTE YOUR SHARES BY TELEPHONE OR VIA THE INTERNET. IF A QUORUM IS NOT REACHED, THE COMPANY WILL HAVE THE ADDED EXPENSE OF RE-ISSUING THESE PROXY MATERIALS. IF YOU ATTEND THE MEETING AND SO DESIRE, YOU MAY WITHDRAW YOUR PROXY AND VOTE IN PERSON. THANK YOU FOR ACTING PROMPTLY.**

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# **PROXY STATEMENT FOR ANNUAL MEETING OF SHAREHOLDERS TO BE HELD ON OCTOBER 11, 2007**

## **INFORMATION CONCERNING SOLICITATION AND VOTING**

### **General**

The enclosed proxy is solicited on behalf of the Board of Directors of Landec Corporation ( Landec or the Company ), a California corporation, for use at the Annual Meeting of Shareholders to be held on Thursday, October 11, 2007, at 1:30 p.m., local time, or at any postponement or adjournment(s) thereof, for the purposes set forth herein and in the accompanying Notice of Annual Meeting of Shareholders. The Annual Meeting will be held at the Seaport Conference Center, 459 Seaport Blvd., Redwood City, CA 94063. The telephone number at that location is (650) 482-3500.

The Company's principal executive offices are located at 3603 Haven Avenue, Menlo Park, California 94025. The Company's telephone number at that location is (650) 306-1650.

### **Solicitation**

These proxy solicitation materials were mailed on or about September [ ], 2007, to all shareholders entitled to vote at the meeting. The costs of soliciting these proxies will be borne by the Company. These costs will include the expenses of preparing and mailing proxy materials for the Annual Meeting and the reimbursement of brokerage firms and others for their expenses incurred in forwarding solicitation material regarding the Annual Meeting to beneficial

owners of the Company's Common Stock. The Company may conduct further solicitation personally, telephonically or by facsimile through its officers, directors and regular employees, none of whom will receive additional compensation for assisting with the solicitation.

**The Company will provide a copy of the Company's Annual Report on Form 10-K for the fiscal year ended May 27, 2007, including financial statements and financial statement schedules (but not exhibits), without charge to each shareholder upon written request to Gregory S. Skinner, Chief Financial Officer, Landec Corporation, 3603 Haven Avenue, Menlo Park, CA 94025 (telephone number: (650) 306-1650). Exhibits to the Annual Report may be obtained upon written request to Mr. Skinner and payment of the Company's reasonable expenses in furnishing such exhibits. The Company's Annual Report on Form 10-K is also available on the Securities and Exchange Commission's website, at [www.sec.gov](http://www.sec.gov).**

## **Voting Procedure**

### **You may vote by mail**

To vote by mail, please sign your proxy card and return it in the enclosed, prepaid and addressed envelope. If you mark your voting instructions on the proxy card, your shares will be voted as you instruct.

### **You may vote in person at the Annual Meeting**

We will pass out written ballots to anyone who wants to vote at the Annual Meeting. Holding shares in street name means your shares of stock are held in an account by your stockbroker, bank or other nominee, and the stock certificates and record ownership are not in your name. If your shares are held in street name and you wish to attend the Annual Meeting, you must notify your broker, bank or other nominee and obtain proper documentation to vote your shares at the Annual Meeting.

### **You may vote by telephone or electronically**

You may submit your proxy by following the Vote by Phone instructions accompanying the proxy card. If you have Internet access, you may submit your proxy from any location in the world by following the Vote by Internet instructions accompanying the proxy card.

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### **You may change your mind after you have returned your proxy card**

If you change your mind after you return your proxy card or submit your proxy by telephone or Internet, you may revoke your proxy at any time before the polls close at the Annual Meeting. You may do this by:

signing another proxy card with a later date, or  
voting in person at the Annual Meeting.

## **Voting**

Holders of Common Stock are entitled to one vote per share.

Votes cast in person or by proxy at the Annual Meeting will be tabulated by the Inspector of Elections. The Inspector

of Elections will also determine whether or not a quorum is present. A majority of the shares entitled to vote, represented either in person or by proxy, will constitute a quorum for the transaction of business.

Except with respect to the election of directors and the proposal to change the Company's domicile from California to Delaware, the affirmative vote of a majority of shares represented and voting at a duly held meeting at which a quorum is present is required for approval of proposals presented to shareholders. In addition, the shares voting affirmatively must also constitute at least a majority of the required quorum. The proposal to change the Company's domicile from California to Delaware must be approved by the affirmative vote of a majority of the outstanding shares on the record date.

The Inspector of Elections will treat abstentions as shares that are present and entitled to vote for purposes of determining the presence of a quorum and in determining the approval of any matter submitted to shareholders for a vote. Accordingly, abstentions will have the same effect as a vote against a proposal.

Any proxy which is returned using the form of proxy enclosed and which is not marked as to a particular item will be voted FOR election of the director nominees proposed by the Board of Directors, FOR the ratification of the appointment of Ernst & Young LLP to serve as the Company's independent registered public accounting firm for the fiscal year ending May 25, 2008, FOR the proposal to change the Company's domicile from California to Delaware, and as the proxy holders deem advisable on other matters that may come before the meeting or any adjournment(s) thereof, as the case may be, with respect to the item not marked. If a broker indicates on the enclosed proxy or its substitute that it does not have discretionary authority as to certain shares to vote on a particular matter ( broker non-votes ), those shares will be counted for purposes of determining the presence of a quorum, but will not be considered as voting with respect to that matter.

## **Record Date and Share Ownership**

Only shareholders of record at the close of business on August 13, 2007, are entitled to notice of and to vote at the Annual Meeting. As of August 13, 2007, 25,983,447 shares of the Company's Common Stock, par value \$0.001 per share, were issued and outstanding.

## **Deadline for Receipt of Shareholder Proposals for the Company's Annual Meeting of Shareholders in 2008**

Proposals of shareholders of the Company that are intended to be presented by such shareholders at the Company's 2008 Annual Meeting of Shareholders must be received by the Chief Financial Officer of the Company no later than May 13, 2008 in order that they may be considered for inclusion in the proxy statement and form of proxy relating to that meeting.

Also, if a shareholder does not notify the Company on or before July 27, 2008, of a proposal for the 2008 Annual Meeting of Shareholders, management intends to use its discretionary voting authority to vote on such proposal, even if the matter is not discussed in the proxy statement for the 2008 Annual Meeting of Shareholders.

# PROPOSAL NO. 1

## ELECTION OF DIRECTORS

### Nominees

The Company's Bylaws currently provide for not less than five (5) nor more than nine (9) directors, with the exact number fixed at eight (8), and the Company's Articles of Incorporation provide for the classification of the Board of Directors into two classes serving staggered terms. The Company's Board of Directors currently consists of eight persons, including four Class I directors and four Class II directors. Each Class I and Class II director is elected for a two year term, with Class I directors elected in even numbered years (*e.g.*, 2008) and the Class II directors elected in odd numbered years (*e.g.*, 2007). Accordingly, at the Annual Meeting, four Class II directors will be elected.

The Board of Directors has nominated the persons named below to serve as Class II directors until the next odd numbered year Annual Meeting during which their successors will be elected and qualified. Unless otherwise instructed, the proxy holders will vote the proxies received by them for the Company's four (4) nominees named below, all of whom are presently directors of the Company. In the event that any nominee of the Company is unable or declines to serve as a director at the time of the Annual Meeting, the proxies will be voted for any nominee who shall be designated by the present Board of Directors to fill the vacancy. In the event that additional persons are nominated for election as directors, the proxy holders intend to vote all proxies received by them in such a manner as will assure the election of as many of the nominees listed below as possible, and, in such event, the specific nominees to be voted for will be determined by the proxy holders. Assuming a quorum is present, the four (4) nominees for director receiving the greatest number of votes cast at the Annual Meeting will be elected.

### Nominees For Class II Directors

#### Class II Directors

Name of Director	Age	Principal Occupation	Director Since
Gary T. Steele	58	President, Chief Executive Officer and Chairman of the Board of Directors of the Company	1991
Nicholas Tompkins	52	President and Chief Executive Officer of Apio, Inc.	2003
Duke K. Bristow, Ph.D.	50	Economist, University of Southern California	2004
Robert Tobin	68	Retired CEO, Ahold, USA	2004

Except as set forth below, each of the Class II directors has been engaged in the principal occupation set forth next to his name above during the past five years.

Gary T. Steele has served as President, Chief Executive Officer and a director since September 1991 and as Chairman of the Board of Directors since January 1996. Mr. Steele has over 25 years of experience in the biotechnology, instrumentation and material science fields. From 1985 to 1991, Mr. Steele was President and Chief Executive Officer of Molecular Devices Corporation, a bioanalytical instrumentation company. From 1981 to 1985, Mr. Steele was Vice President, Product Development and Business Development at Genentech, Inc., a biomedical company focusing on pharmaceutical drug development. Mr. Steele has also worked with McKinsey and Co. and Shell Oil Company. Mr. Steele received a B.S. from Georgia Institute of Technology and an M.B.A. from Stanford University.

Nicholas Tompkins has been Chief Executive Officer of Apio, Inc., a subsidiary of Landec, since Apio's inception in 1979. Landec acquired Apio in December of 1999. Mr. Tompkins is a Senior Vice President of Landec and was elected to the Landec Board of Directors in 2003. Mr. Tompkins is also a current board member and past chairman of the Ag Business Advisory Council for California Polytechnic State University in San Luis Obispo. He has also been a member of the board of directors of the United Fresh Fruit and Vegetable Association for the past five years and was Chairman of that organization in 2005 and 2006. Mr. Tompkins received a B.S. in Agricultural Business from California State University of Fresno.

Duke K. Bristow, Ph.D. has served as a director since September 2004. Dr. Bristow has academic appointments with the Marshall School of Business at the University of Southern California ( USC ) and

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with the Henry Samueli School of Engineering at the University of California, Los Angeles ( UCLA ). He teaches engineering economics at UCLA where he has been an economist since 1995. In August 2006, he began teaching finance at USC. His research focuses on corporate governance, corporate finance and entrepreneurship. Dr. Bristow is director of the BizWorld Educational Foundation and is an advisor to a number of private and public organizations.

Previously, he was with Eli Lilly & Company, a leading life science firm, for ten years. He held management positions in the pharmaceutical, medical device and diagnostics divisions and in corporate finance. He holds a B.S. in Chemical Engineering from Purdue University, an MBA from Indiana University, and his Ph.D. in Financial Economics from UCLA.

Robert Tobin has served as a director since December 2004. Mr. Tobin retired from his position as CEO of Ahold USA in 2001. Mr. Tobin has 43 years of industry experience in the food retail and food service sector, having served as Chairman and CEO of Stop and Shop Supermarkets. An industry leader, Mr. Tobin serves on the Advisory Boards of the College of Agriculture and Life Sciences, and the Undergraduate Business Program at Cornell University where he received his B.S. in Agricultural Economics. Mr. Tobin is also on the board of directors of Catalina Marketing Corporation.

## Class I Directors

Directors continuing in office until the 2008 Annual Meeting of Shareholders:

Name of Nominee	Age	Principal Occupation	Director Since
Frederick Frank	75	Vice Chairman and Director of Lehman Brothers	1999
Stephen E. Halprin	69	Retired General Partner of OSCCO Ventures	1988
Richard S. Schneider, Ph.D.	66	Retired General Partner, Domain Associates	1991
Kenneth E. Jones	60	Chairman of the Board of Directors of Globe Wireless	2001

Except as set forth below, each of the Class I directors has been engaged in the principal occupation set forth next to his name above during the past five years. There is no family relationship between any director or executive officer of the Company.

Fredrick Frank has served as director since December 1999. Mr. Frank has been with Lehman Brothers for 38 years and was named to his current position of Vice Chairman in 1996. Before that, Mr. Frank was associated with Smith Barney where he was Vice President, Co-Director of Research, and a Director. During his 49 years on Wall Street, Mr. Frank has been involved in numerous financings and merger and acquisition transactions. He serves on the board of directors of several companies, including Pharmaceutical Product Development, Inc. and EPIX Pharmaceuticals.

Mr. Frank is Chairman of the National Genetics Foundation and Chairman of the Irvington Institute for Immunological Research. He is a former Director and Trustee of Salk Institute. He serves on the Advisory Boards for Yale School of Organization and Management, Johns Hopkins Bloomberg School of Public Health, the Massachusetts Institute of Technology Center of Biomedical Innovation and the Harvard School of Public Health. He is a graduate of Yale University, received an M.B.A. from Stanford University and holds a C.F.A. designation.

Stephen E. Halprin has served as a director since April 1988. From 1968 until his retirement in 2005, Mr. Halprin was a General Partner of OSCCO Ventures, a venture capital company. Mr. Halprin received a B.S. from the Massachusetts Institute of Technology and an M.B.A. from Stanford University.

Richard S. Schneider, Ph.D. has served as a director since September 1991. From October 1990 until his retirement in 1999, Dr. Schneider was a general partner of Domain Associates. Dr. Schneider has over 25 years of product development experience in the fields of medical devices and biotechnology. Prior to pursuing a career in venture capital, Dr. Schneider was Vice President of Product Development at Syva/Syntex Corporation and President of Biomedical Consulting Associates. He is a member of the board of directors of a number of privately-held life science companies. Dr. Schneider received a Ph.D. in chemistry from the University of Wisconsin, Madison.

Kenneth E. Jones has served as a director since May 2001. Mr. Jones has been with Globe Wireless since 1994 and he is currently Chairman of the Board of Directors. Globe Wireless is a leading provider of marine communications services world-wide with operations in 23 countries. Prior to Globe Wireless, Mr. Jones was

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Chief Executive Officer and Founder of Ditech Communications, a publicly traded telecommunications technology company. Mr. Jones' prior experience includes serving as President and Chief Executive Officer of a private label food business and Vice President and Chief Financial Officer of Hills Bros. Coffee, Inc. of San Francisco, CA. He is a graduate of the University of Nebraska in Chemical Engineering and received an M.B.A. from Harvard University.

## **Board of Directors Meetings and Committees**

The Board of Directors held a total of eight meetings during the fiscal year ended May 27, 2007. Each director attended at least 75% of all Board and applicable committee meetings during fiscal year 2007. The Board of Directors has an Audit Committee, a Compensation Committee and a Nominating and Corporate Governance Committee, each of which operates under a written charter approved by the Board of Directors. During 2007, the Company also formed a Technology Committee. It is our policy to encourage the members of the Board of Directors to attend the Company's annual meeting of shareholders. All eight directors attended our 2006 annual meeting of shareholders.

The Audit Committee currently consists of Mr. Halprin, Mr. Jones, and Dr. Bristow, each of whom meets the current independence requirements of the Securities and Exchange Commission (the SEC) and The Nasdaq Stock Market, Inc. (Nasdaq). The Audit Committee assists the Board of Directors in its oversight of Company affairs relating to the quality and integrity of the Company's financial statements, the independent auditor's qualifications and independence, the performance of the Company's internal audit function and independent auditors, and the Company's compliance with legal and regulatory requirements. The Audit Committee is responsible for appointing, compensating, retaining and overseeing the Company's independent auditors, and approving the services performed by the independent auditors and for reviewing and evaluating the Company's accounting principles and its system of internal accounting controls. The Sarbanes-Oxley Act of 2002 and rules adopted by the SEC require us to disclose whether the Audit Committee includes at least one member who is an audit committee financial expert within the meaning of such Act and rules. The Board of Directors has determined that there are two such financial experts on the Audit Committee and has designated Mr. Halprin and Dr. Bristow as audit committee financial experts. The Audit Committee held five



meetings during fiscal year 2007.

The Compensation Committee currently consists of Mr. Tobin, Mr. Frank and Dr. Schneider, each of whom meets the current independence requirements of the SEC and Nasdaq. The function of the Compensation Committee is to review and set the compensation of the Company's Chief Executive Officer and certain of its most highly compensated officers, including salary, bonuses and other incentive plans, stock equity and other forms of compensation, to administer the Company's stock plans and approve stock equity awards and to oversee the career development of senior management. The Compensation Committee held two meetings during fiscal year 2007.

The Nominating and Corporate Governance Committee currently consists of Messrs. Tobin and Frank, each of whom meets the current independence requirements of Nasdaq. The functions of the Nominating and Corporate Governance Committee are to recommend qualified candidates for election as officers and directors of the Company and oversee the Company's corporate governance policies. The Nominating and Corporate Governance Committee held one meeting during fiscal year 2007.

The Nominating and Corporate Governance Committee will consider director nominees proposed by current directors, officers, employees and shareholders. Any shareholder who wishes to recommend candidates for consideration by the Nominating and Corporate Governance Committee may do so by writing to the Secretary of the Company, Geoffrey P. Leonard of Ropes & Gray, LLP, One Embarcadero Center, Suite 2200, San Francisco, CA 94111, and providing the candidate's name, biographical data and qualifications. In selecting candidates for the Board of Directors, the Nominating and Corporate Governance Committee strives for a variety of experience and background that adds depth and breadth to the overall character of the Board of Directors. The Nominating and Corporate Governance Committee evaluates potential candidates using standards and qualifications such as the candidates' business experience, independence, diversity, skills and expertise to collectively establish a number of areas of core competency of the Board of Directors, including

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business judgment, management and industry knowledge. Further criteria include a candidate's integrity and values, as well as the willingness to devote sufficient time to attend meetings and participate effectively on the Board of Directors and its committees.

The Technology Committee currently consists of Mr. Halprin and Drs. Bristow and Schneider, each of whom meets the current independence requirements of the SEC and Nasdaq. The function of the Technology Committee is to provide advice and recommendations to the Board of Directors and to management with regard to technology strategies aimed at addressing current and future markets, product development and new product introductions and enhancing the Company's long-term growth. The Technology Committee held one meeting during fiscal year 2007.

## Corporate Governance

The Company provides information on the Corporate Governance page of its website about its corporate governance policies, including the Company's Code of Ethics, and charters for the committees of the Board of Directors. The website can be found at [www.landec.com](http://www.landec.com).

The Company's policies and practices reflect corporate governance initiatives that are compliant with the listing requirements of Nasdaq and the corporate governance requirements of the Sarbanes-Oxley Act of 2002, including:

A majority of the board members are independent;

All members of the Audit Committee, the Compensation Committee, the Nominating and Corporate Governance Committee and the Technology Committee are independent;

The independent members of the Board of Directors meet at least twice per year in executive sessions without the presence of management and the Board of Directors has designated a lead independent director who, among other duties, will be responsible for presiding over executive sessions of the independent directors;

The Company has an ethics hotline available to all employees, and the Audit Committee has procedures in place for the anonymous submission of employee complaints on accounting, internal controls, or auditing matters; and The Company has adopted a Code of Ethics that applies to all of its employees, including its principal executive officer and all members of its finance department, including the principal financial officer and principal accounting officer, as well as the Board of Directors. Any substantive amendments to the Code of Ethics or grant of any waiver, including any implicit waiver, from a provision of the Code of Ethics to the Company's principal executive officer, principal financial officer or principal accounting officer, will be disclosed either on the Company's website or in a report on Form 8-K.

The Board has determined that each member of the Board, other than Mr. Steele and Mr. Tompkins, is an independent director under applicable Nasdaq listing standards and SEC rules. Mr. Steele and Mr. Tompkins do not meet the independence standards because they are employees of the Company and/or its subsidiaries and, in the case of Mr. Tompkins, based on the information disclosed under Certain Relationships and Related Transactions herein.

Mr. Jones serves as the lead independent director of the Company's Board of Directors.

## Shareholder Communications

Our Board of Directors welcomes communications from our shareholders. Shareholders may send communications to the Board of Directors, or to any director in particular, c/o Gregory S. Skinner, Chief Financial Officer, Landec Corporation, 3603 Haven Avenue, Menlo Park, CA 94025. Any correspondence addressed to the Board of Directors or to any one of our directors in care of Mr. Skinner will be promptly forwarded to the addressee. The independent directors of the Board of Directors review and approve the shareholder communication process periodically to ensure effective communication with shareholders.

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## Compensation of Directors

The following table sets forth compensation information for the fiscal year ended May 27, 2007 for each member of our Board of Directors who is not also an executive officer. An executive officer who serves on our Board does not receive additional compensation for serving on the Board. See Summary Compensation Table and Grants of Plan-Based Awards for disclosures related to our Chairman of the Board, President and Chief Executive Officer, Gary T. Steele, and the Chief Executive Officer of Apio, Inc., Nicholas Tompkins.

Name	Fees Earned or Paid in Cash (\$)	Stock Awards <sup>(2)</sup> (\$)	Option Awards <sup>(2)</sup> (\$)	Total (\$)
Duke K. Bristow, Ph.D.	37,500	14,000	20,725	72,225
Frederick Frank <sup>(1)</sup>	25,000	14,000	20,725	59,725
Stephen E. Halprin	42,500	14,000	20,725	77,225
Kenneth E. Jones <sup>(1)</sup>	48,500	14,000	20,725	83,225

Richard S. Schneider, Ph.D.	31,500	14,000	20,725	66,225
Robert Tobin	26,000	14,000	20,725	60,725

(1) Pursuant to agreements with the Company, the fees earned by these directors have been deferred until they resign from the Board of Directors.

These amounts reflect the expense recognized for financial statement reporting purposes in fiscal year 2007 in accordance with Statement of Financial Accounting Standards ( SFAS ) No. 123 (revised 2004), *Share-Based Payment* ( 123R ). The assumptions used to calculate the value of option awards are set forth under Note 1 of the Notes to Consolidated Financial Statements included in Landec s Annual Report on Form 10-K for fiscal year 2007 filed with the SEC on July 27, 2007.

At May 27, 2007, the aggregate number of stock awards and option awards outstanding was: Dr. Bristow 41,667 shares; Mr. Frank 101,667 shares; Mr. Halprin 106,667 shares; Mr. Jones 6,667 shares; Dr. Schneider 86,667 shares; and Mr. Tobin 41,667 shares.

For the fiscal year ended May 27, 2007, each non-employee director earned \$20,000 per year for their service as a member of our Board of Directors. In addition, each director who served as the Chairman of the Compensation Committee received an annual retainer of \$5,000, each Director who served on the Audit Committee received an annual retainer of \$10,000, with the Chairman receiving an annual retainer of \$15,000, and each Director who served as the lead independent director received an annual retainer of \$10,000.

Additionally, for the fiscal year ended May 27, 2007, each non-employee Director received \$1,000 for each meeting of the Board attended in person (\$500 if attended by phone), \$500 for each meeting of a Committee attended in person, and \$1,000 for each shareholder meeting attended by the Director. Reasonable out-of-pocket expenses incurred by a Director to attend Board meetings, Committee meetings or shareholder meetings in his or her capacity as a Director were reimbursed.

## Required Vote

The four Class II director nominees receiving the highest number of affirmative votes of shares of the Company s Common Stock present at the Annual Meeting in person or by proxy and entitled to vote shall be elected as directors.

**THE BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE ELECTION OF EACH OF THE NOMINEES LISTED ABOVE.**

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## PROPOSAL NO. 2

### RATIFICATION OF APPOINTMENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Audit Committee has appointed the firm of Ernst & Young LLP as the Company s independent registered public accounting firm to audit the financial statements of the Company for the fiscal year ending May 25, 2008, and recommends that the shareholders vote for ratification of this appointment. In the event the shareholders do not ratify such appointment, the Audit Committee will reconsider its selection. Ernst & Young LLP has audited the Company s

financial statements since the fiscal year ending October 31, 1994. Representatives of Ernst & Young LLP are expected to be present at the Annual Meeting with the opportunity to make a statement if they desire to do so, and are expected to be available to respond to appropriate questions.

Independent Investment Banker means any of Goldman, Sachs & Co.; Merrill Lynch, Pierce, Fenner & Smith Incorporated; Morgan Stanley & Co. Incorporated and Wachovia Capital Markets, LLC and their respective successors as selected by us, or if any such firm is unwilling or unable to serve as such, an independent investment and banking institution of national standing appointed by us.

Reference Treasury Dealer means:

Goldman, Sachs & Co.; Merrill Lynch, Pierce, Fenner & Smith Incorporated; Morgan Stanley & Co. Incorporated and one other primary U.S. Government securities dealer in the United States (Primary Treasury Dealer) selected by Wachovia Capital Markets, LLC and their respective successors; provided that, if any such firm or its successors cease to be

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a Primary Treasury Dealer, we will substitute another Primary Treasury Dealer; and  
  
up to one other Primary Treasury Dealer selected by us.

Reference Treasury Dealer Quotations means, with respect to each Reference Treasury Dealer and any Redemption Date, the average, as determined by the Independent Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Independent Investment Banker at 5:00 p.m., New York City time, on the third business day preceding such Redemption Date.

We will mail a notice of redemption at least 20 days but not more than 60 days before the Redemption Date to each holder of Senior Notes to be redeemed. If we elect to partially redeem the Senior Notes, the trustee will select in a fair and appropriate manner the Senior Notes to be redeemed.

Unless we default in payment of the redemption price, on and after the Redemption Date, interest will cease to accrue on the Senior Notes or portions thereof called for redemption.

**Limitation on Liens**

While any of the Senior Notes are outstanding, we are not permitted to create liens upon any Principal Property (as defined below) or upon any shares of stock of any Material Subsidiary (as defined below), which we now own or will own in the future, to secure any of our debt, unless at the same time we provide that the Senior Notes will also be secured by that lien on an equal and ratable basis. However, we are generally permitted to create the following types of liens:

- (1) purchase money liens on future property acquired by us; liens of any kind existing on property or shares of stock at the time they are acquired by us; conditional sales agreements and other title retention agreements on future property acquired by us (as long as none of those liens cover any of our other properties);
- (2) liens on our property or any shares of stock of any Material Subsidiary that existed as of the date the Senior Notes were first issued; liens on the shares of stock of any corporation, which liens existed at the time that corporation became a Material Subsidiary; certain liens typically incurred in the ordinary course of business;
- (3) liens in favor of the United States (or any State), any foreign country or any department, agency or instrumentality or political subdivision of those jurisdictions, to secure payments pursuant to any contract or statute or to secure any debt incurred for the purpose of financing the purchase price or the cost of

constructing or improving the property subject to those liens, including, for example, liens to secure debt of the pollution control or industrial revenue bond type;

- (4) debt that we may issue in connection with a consolidation or merger of Dominion or any Material Subsidiary with or into any other company (including any of our affiliates or Material Subsidiaries) in exchange for secured debt of that company (Third Party Debt) as long as that

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debt (i) is secured by a mortgage on all or a portion of the property of that company, (ii) prohibits secured debt from being incurred by that company, unless the Third Party Debt is secured on an equal and ratable basis, or (iii) prohibits secured debt from being incurred by that company;

- (5) debt of another company that we must assume in connection with a consolidation or merger of that company, with respect to which any of our property is subjected to a lien;
- (6) liens on any property that we acquire, construct, develop or improve after the date the Senior Notes are first issued that are created before or within 18 months after the acquisition, construction, development or improvement of the property and secure the payment of the purchase price or related costs;
- (7) liens in favor of Dominion, our Material Subsidiaries or our wholly-owned subsidiaries;
- (8) the replacement, extension or renewal of any lien referred to above in clauses (1) through (7) as long as the amount secured by the liens or the property subject to the liens is not increased; and
- (9) any other lien not covered by clauses (1) through (8) above as long as immediately after the creation of the lien the aggregate principal amount of debt secured by all liens created or assumed under this clause (9) does not exceed 10% of our common shareholders' equity.

When we use the term "lien" in this section, we mean any mortgage, lien, pledge, security interest or other encumbrance of any kind; "Material Subsidiary" means each of our subsidiaries whose total assets (as determined in accordance with GAAP) represent at least 20% of our total assets on a consolidated basis; and "Principal Property" means any of our plants or facilities located in the United States that in the opinion of our Board of Directors or management is of material importance to the business conducted by us and our consolidated subsidiaries taken as whole.

### **The Trustee**

The trustee under the Senior Indenture is The Bank of New York (successor to JPMorgan Chase Bank, N.A. (formerly known as The Chase Manhattan Bank)). We and certain of our affiliates maintain deposit accounts and banking relationships with The Bank of New York. The Bank of New York also serves as trustee under other indentures under which securities of certain of our affiliates are outstanding.

### **BOOK-ENTRY PROCEDURES AND SETTLEMENT**

The Senior Notes are represented by one or more fully registered global certificates. Each global certificate is

deposited with the trustee on behalf of DTC or its custodian and is registered in the name of DTC or a nominee of DTC. DTC is thus the only registered holder of these securities.

The following is based on information furnished to us by DTC:

DTC is a limited-purpose trust company organized under the New York Banking Law, a banking organization within the meaning of the New York Banking Law, a member of the Federal Reserve System, a clearing

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corporation within the meaning of the New York Uniform Commercial Code, and a clearing agency registered pursuant to the provisions of Section 17A of the Exchange Act. DTC holds securities that its participants (Direct Participants) deposit with DTC. DTC also facilitates the settlement among Direct Participants of sales and other securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Direct Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (DTCC). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation, as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the Financial Industry Regulatory Authority, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, trust companies and clearing companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (Indirect Participants). The rules applicable to DTC and its Direct and Indirect Participants are on file with the SEC.

Purchases of securities under the DTC system must be made by or through Direct Participants, who will receive a credit for the securities on DTC's records. The ownership interest of each actual purchaser of each security (Beneficial Owner) is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in securities, except in the event that use of the book-entry system for the securities is discontinued.

To facilitate subsequent transfers, all securities deposited by Direct Participants with the trustee on behalf of DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of securities with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any

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statutory or regulatory requirements as may be in effect from time to time.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the securities. Under its usual procedures, DTC mails an omnibus proxy to the Company as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the securities are credited on the record date (identified in a listing attached to the omnibus proxy).

Principal and interest payments on the securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the Company or its agent on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in street name, and will be the responsibility of such Participant and not of DTC, the Company or the trustee, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Company or its agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Senior Notes at any time by giving reasonable notice to the Company or the trustee. Under such circumstances, if a successor securities depository is not obtained, security certificates are required to be printed and delivered.

The Company may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In that event, security certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that we believe to be reliable, but we take no responsibility for the accuracy thereof.

We have no responsibility for the performance by DTC or its Participants of their respective obligations as described in this prospectus or under the rules and procedures governing their respective operations.

**T+5 Settlement**

We expect that delivery of the Senior Notes will be made against payment on or about the delivery date specified on the cover page of this prospectus supplement, which will be the fifth business day following the date hereof (this settlement cycle being referred to as T+5 ). Under Rule 15c6-1 of the SEC under the Exchange Act, trades in the secondary market generally are required to settle in three business days, unless the parties to that trade expressly agree otherwise. Accordingly, purchasers who wish to trade Senior Notes on the date hereof will be required, by virtue of the fact that the Senior Notes initially will

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settle in T+5, to specify an alternate settlement cycle at the time of any such trade to prevent a failed settlement and should consult their own advisors.

**CERTAIN U.S. FEDERAL INCOME TAX CONSIDERATIONS FOR NON-U.S. HOLDERS**

This discussion summarizes certain U.S. federal income tax considerations relating to the Senior Notes applicable to Non-U.S. Holders (as defined below). This discussion is based on interpretations of the Internal Revenue Code of 1986, as amended (the Code), Treasury regulations issued thereunder, and rulings and decisions currently in effect (or in some cases proposed), all of which are subject to change. Any such change may be applied retroactively and may adversely affect the U.S. federal income tax consequences described herein. **This discussion does not deal with all of the U.S. federal income tax consequences that may be relevant to particular investors who are not Non-U.S. Holders or to investors subject to special treatment under U.S. federal income tax laws, nor does it deal with the tax consequences under the laws of any foreign, state or local taxing jurisdictions. Accordingly, prospective investors are urged to consult their own tax advisers with respect to the U.S. federal, state and local tax consequences of investing in the Senior Notes, as well as any consequences arising under the laws of any other taxing jurisdiction to which they may be subject.**

As used in this discussion, the term Non-U.S. Holder means a beneficial owner of Senior Notes that is, for U.S. federal income tax purposes:

a nonresident alien individual (but not a United States expatriate),

a foreign corporation other than a controlled foreign corporation or a passive foreign investment company,

an estate whose income is not subject to U.S. federal income tax on a net income basis, or

a trust if no court within the United States is able to exercise primary jurisdiction over its administration or if no United States persons have the authority to control all of its substantial decisions.

Interest payments on the Senior Notes to Non-U.S. Holders will not be subject to U.S. federal income or withholding tax if the following conditions are satisfied:

the Non-U.S. Holder does not actually or constructively own 10% or more of the total combined voting power of all classes of the Company's stock entitled to vote,

the Non-U.S. Holder is not a controlled foreign corporation for U.S. federal income tax purposes that is related to the Company through actual or constructive ownership,

the Non-U.S. Holder is not a bank whose receipt of interest on the Senior Notes is described in Section 881(c)(3)(A) of the Code, and

the payments are not effectively connected with a trade or business conducted by the Non-U.S. Holder in the United States and either (a) the Non-U.S. Holder provides a correct, complete and executed IRS Form W-8BEN, Form W-8EXP or Form W-8IMY (or successor form) with all of the attachments required by the IRS, or (b) the Non-U.S. Holder holds its Senior Notes through a qualified intermediary (generally a foreign financial institution or clearing organization or a non-U.S. branch or

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office of a U.S. financial institution or clearing organization that is a party to a withholding agreement with the IRS) which has provided an IRS Form W-8IMY stating that it is a qualified intermediary and has received documentation upon which it can rely to treat the payment as made to a foreign person.

If any of the conditions described above are not satisfied, interest on the Senior Notes will be subject to a 30% withholding tax when paid, unless an income tax treaty reduces or eliminates the tax or the interest is effectively connected with the conduct of a U.S. trade or business and the Non-U.S. Holder provides a correct, complete and executed IRS Form W-8ECI. In the latter event, Non-U.S. Holders will generally be subject to U.S. federal income tax with respect to all income from the Senior Notes in the same manner as U.S. holders. In addition, Non-U.S. Holders that are corporations could be subject to a branch profits tax on such income.

In general, gain realized on the sale, exchange or retirement of the Senior Notes by a Non-U.S. Holder will not be subject to U.S. federal income tax, unless:

the gain with respect to the Senior Notes is effectively connected with a trade or business conducted by the Non-U.S. Holder in the United States, in which case the gain will be taxed in the same manner as interest that is effectively connected to such trade or business, or

the Non-U.S. Holder is a nonresident alien individual who holds the Senior Notes as a capital asset and is present in the United States for more than 182 days in the taxable year of the sale or other disposition of the Senior Notes and certain other conditions are satisfied.

Backup withholding will not be required with respect to interest paid to Non-U.S. Holders, so long as the Company has received from the Non-U.S. Holder a correct and complete IRS Form W-8BEN, Form W-8ECI, Form W-8EXP or Form W-8IMY (or successor form) with all of the attachments required by the IRS. Interest paid to a Non-U.S. Holder will be reported on IRS Form 1042-S, which is filed with the IRS and sent to Non-U.S. Holders.

Information reporting and backup withholding may apply to the proceeds of a sale of Senior Notes by a Non-U.S. Holder made within the United States or conducted through certain U.S. related financial intermediaries, unless the Company receives one of the IRS tax forms described above.

Backup withholding is not an additional tax and may be refunded (or credited against U.S. federal income tax liability, if any), provided that the required information is furnished to the IRS. The information reporting requirements may apply regardless of whether withholding is required. For Non-U.S. Holders, copies of the information returns reporting such interest and withholding also may be made available to the tax authorities in the country in which a Non-U.S. Holder is a resident under the provisions of an applicable income tax treaty or agreement.



**Table of Contents****UNDERWRITING**

Under the terms and subject to the conditions contained in an underwriting agreement, dated the date of this prospectus supplement (Underwriting Agreement), the underwriters named below have severally agreed to purchase, and we have agreed to sell to them, the principal amount of the Senior Notes set forth opposite their names below:

<u>Name</u>	<u>Principal Amount of Senior Notes</u>
Goldman, Sachs & Co.	\$
Merrill Lynch, Pierce, Fenner & Smith Incorporated	
Morgan Stanley & Co. Incorporated	
Wachovia Capital Markets, LLC	
ABN AMRO Incorporated	
Banc of America Securities LLC	
KeyBanc Capital Markets Inc.	
HVB Capital Markets, Inc.	
PNC Capital Markets LLC	
Scotia Capital (USA) Inc.	
SunTrust Robinson Humphrey, Inc.	
The Williams Capital Group, L.P.	
	<u>\$</u>

Goldman, Sachs & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley & Co. Incorporated and Wachovia Capital Markets, LLC are acting as joint book-running managers in connection with the offering of the Senior Notes.

The Underwriting Agreement provides that the obligation of the several underwriters to purchase and pay for the Senior Notes is subject to, among other things, the approval of certain legal matters by their counsel and certain other conditions. The underwriters are obligated to take and pay for all of the Senior Notes if any are taken.

The underwriters initially propose to offer part of the Senior Notes directly to the public at the public offering prices set forth on the cover page of this prospectus supplement and part to certain dealers at a price that represents a concession not in excess of % of the principal amount of the Senior Notes. The underwriters may allow, and any such dealers may reallow, a concession to certain other dealers not to exceed % of the principal amount of the Senior Notes. After the initial offering of the Senior Notes, the offering prices and other selling terms may from time to time be varied by the underwriters.



We estimate that the total expenses of the offering, not including the underwriting discount, will be approximately \$150,000.

We have agreed to indemnify each of the underwriters against certain liabilities, including liabilities under the Securities Act of 1933, as amended.

We do not intend to apply for listing of the Senior Notes on a national securities exchange or for quotation on any automated quotation system, but have been advised by the underwriters that they intend to make a market in the Senior Notes. The underwriters are not obligated, however, to do so and may discontinue their market making at any time without notice. No assurance can be given as to the development, maintenance or liquidity of the trading market for the Senior Notes.

In order to facilitate the offering of the Senior Notes, the underwriters may engage in transactions that stabilize, maintain or otherwise affect the prices of the Senior Notes. Specifically, the underwriters may over allot in connection with the offering, creating a short position in the Senior Notes

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for the underwriters. In addition, to cover overallotments or to stabilize the prices of the Senior Notes, the underwriters may bid for, and purchase, the Senior Notes in the open market. Finally, the underwriters may reclaim selling concessions allowed to a dealer for distributing the Senior Notes in the offering, if they repurchase previously distributed Senior Notes in transactions to cover short positions, in stabilization transactions or otherwise. Any of these activities may stabilize or maintain the market price for the Senior Notes above independent market levels. The underwriters are not required to engage in these activities and may end any of these activities at any time.

The underwriters and their affiliates have, from time to time, performed, and currently perform and may in the future perform various investment or commercial banking, trust and financial advisory services for us and our affiliates in the ordinary course of business.

In relation to each member state of the European Economic Area which has implemented the Prospectus Directive (as defined below), each underwriter has represented and agreed that with effect from and including the date on which the Prospectus Directive is implemented in that member state it has not made and will not make an offer of Senior Notes to the public in that member state prior to the publication of a prospectus in relation to the Senior Notes which has been approved by the competent authority in that member state or, where appropriate, approved in another member state and notified to the competent authority in that member state, all in accordance with the Prospectus Directive, except that it may, with effect from and including such date, make an offer of Senior Notes to the public in that member state at any time:

to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

to any legal entity which has two or more of (1) an average of at least 250 employees during the last financial year; (2) a total balance sheet of more than 43,000,000 and (3) an annual net turnover of more than 50,000,000, as shown in its last annual or consolidated accounts;

to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the representatives for any such offer; or

in any other circumstances which do not require the publication by the Issuer of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of the above, the expression an offer of Senior Notes to the public in relation to any Senior Notes in any member state means the communication in any form and by any means of sufficient information on the terms of the offer and the Senior Notes to be offered so as to enable an investor to decide to acquire the Senior Notes, as the same may be varied in that member state by any measure implementing the Prospectus Directive in that member state and the expression Prospectus Directive means Directive 2003/71/EC and includes any relevant implementing measure in each member state.

Each underwriter has represented and agreed that it has only communicated or

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caused to be communicated and will only communicate or cause to be communicated an invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000) received by it in connection with the issue or sale of the Senior Notes in circumstances in which Section 21(1) of such act does not apply to us and it has complied and will comply with all applicable provisions of such act with respect to anything done by it in relation to the Senior Notes in, from or otherwise involving the United Kingdom.

The Senior Notes may not be offered or sold by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap. 32, Laws of Hong Kong); (ii) to professional investors within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder; or (iii) in other circumstances which do not result in the document being a prospectus within the meaning of the Companies Ordinance (Cap. 32, Laws of Hong Kong), and no advertisement, invitation or document relating to the Senior Notes may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to Senior Notes which are or are intended to be disposed of only to persons outside Hong Kong or only to professional investors within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder.

The Senior Notes have not been and will not be registered under the Securities and Exchange Law of Japan (the Securities and Exchange Law) and each underwriter has agreed that it will not offer or sell any Senior Notes, directly or indirectly, in Japan or to, or for the benefit of, any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Securities and Exchange Law and any other applicable laws, regulations and ministerial guidelines of Japan.

This prospectus supplement has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, this prospectus supplement and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Senior Notes may not be circulated or distributed, nor may the Senior Notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the SFA), (ii) to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the Senior Notes are subscribed or purchased under Section 275 by a

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relevant person which is: (a) a corporation (which is not an accredited investor) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary is an accredited investor, shares, debentures and units of shares and debentures of that corporation or the beneficiaries' rights and interest in that trust shall not be transferable for 6 months after that corporation or that trust has acquired the Senior Notes under Section 275 except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person, or any person pursuant to Section 275(1A), and in accordance with the conditions, specified in Section 275 of the SFA; (2) where no consideration is given for the transfer; or (3) by operation of law.

**LEGAL MATTERS**

Certain legal matters in connection with the offering of the Senior Notes will be passed upon for us by McGuireWoods LLP, and for the underwriters by Troutman Sanders LLP, which also performs certain legal services for us and our other affiliates on other matters.

**EXPERTS**

The consolidated financial statements and management's report on the effectiveness of internal control over financial reporting incorporated in this prospectus by reference from the Company's Annual Report on Form 10-K, have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports, which are incorporated herein by reference, which reports (1) express an unqualified opinion on the consolidated financial statements (and includes an explanatory paragraph as to changes in accounting principles for pension and other postretirement benefit plans, share-based payments, and purchases and sales of inventory with the same counterparty in 2006, and for conditional asset retirement obligations in 2005), (2) express an unqualified opinion on management's assessment regarding the effectiveness of internal control over financial reporting, and (3) express an unqualified opinion on the effectiveness of internal control over financial reporting, and have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

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PROSPECTUS

**DOMINION RESOURCES, INC.**

120 Tredegar Street

Richmond, Virginia 23219

(804) 819-2000

**Senior Debt Securities**

From time to time, we may offer and sell our senior debt securities. The senior debt securities we may offer may be convertible into or exercisable or exchangeable for other senior debt securities or other securities of the Company.

We will file prospectus supplements and may provide other offering materials that furnish specific terms of the securities to be offered under this prospectus. The terms of the securities will include the initial offering price, aggregate amount of the offering, listing on any securities exchange or quotation system, investment considerations and the agents, dealers or underwriters, if any, to be used in connection with the sale of the securities. You should read this prospectus and any supplement or other offering materials carefully before you invest.

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

This prospectus is dated February 13, 2006.

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**ABOUT THIS PROSPECTUS**

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (SEC) using a shelf registration process. Under this shelf process, we may, from time to time, sell any of the securities described in this prospectus in one or more offerings. This prospectus provides you with a general description of the securities we may offer. Each time we sell securities, we will provide a prospectus supplement or other offering materials that will contain specific information about the terms of that offering. Material United States federal income tax considerations applicable to the offered securities will also be discussed in the applicable prospectus supplement or other offering materials as necessary. The prospectus supplement or other offering materials may also add, update or change information contained in this prospectus. You should read this prospectus, any prospectus supplement or other offering materials together with additional information described under the heading WHERE YOU CAN FIND MORE INFORMATION. When we use the terms we, our, us, Dominion or the Company in this prospectus, we are referring to Dominion Resources, Inc. You should rely only on the information incorporated by reference or provided in this prospectus, any prospectus supplement or other offering materials. We have not authorized anyone else to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this prospectus, any prospectus supplement or other offering materials is accurate as of any date other than the date on the front of those documents.

**WHERE YOU CAN FIND MORE INFORMATION**

We file annual, quarterly and current reports, and other information with the SEC. Our file number with the SEC is 001-08489. Our SEC filings are available to the public over the Internet at the SEC's web site at <http://www.sec.gov>. You may also read and copy any document we file at the SEC's public reference room in Washington, D.C. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. You may also read and copy these documents at the offices of the New York Stock Exchange, 20 Broad Street, New York, New York 10005.

The SEC allows us to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this prospectus, and information that we file later with the SEC will automatically update and supersede this information. We incorporate by reference the documents listed below and any future filings made with the SEC under Sections 13(a), 13(c), 14, or 15(d) of the Securities Exchange Act of 1934 while we are making offerings using this prospectus:

Annual Report on Form 10-K for the year ended December 31, 2004;

Quarterly Reports on Form 10-Q for the quarters ended March 31, 2005, June 30, 2005 and September 30, 2005;  
and

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Current Reports on Form 8-K filed January 4, 2005, January 27, 2005, March 3, 2005, April 26, 2005, May 18, 2005, May 31, 2005, June 17, 2005, July 12, 2005, August 18, 2005, September 6, 2005, September 26, 2005, December 15, 2005, December 16, 2005, January 13, 2006, and January 26, 2006.



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

Corporate Secretary  
Dominion Resources, Inc.  
120 Tredegar Street  
Richmond, Virginia 23219  
(804) 819-2000

**SAFE HARBOR AND CAUTIONARY STATEMENTS**

This prospectus or other offering materials may contain or incorporate by reference forward-looking statements. Examples include discussions as to our expectations, beliefs, plans, goals, objectives and future financial or other performance. These statements, by their nature, involve estimates, projections, forecasts and uncertainties that could cause actual results or outcomes to differ substantially from those expressed in the forward-looking statements. Factors that could cause actual results to differ from those in the forward-looking statements may accompany the statements themselves; generally applicable factors that could cause actual results or outcomes to differ from those expressed in the forward-looking statements will be discussed in our reports on Forms 10-K, 10-Q and 8-K incorporated by reference herein and in prospectus supplements and other offering materials.

By making forward-looking statements, we are not intending to become obligated to publicly update or revise any forward-looking statements whether as a result of new information, future events or other changes. Readers are cautioned not to place undue reliance on any forward-looking statements, which speak only as at their dates.

**THE COMPANY**

Dominion is a fully integrated gas and electric energy holding company headquartered in Richmond, Virginia. As of September 30, 2005, we had approximately \$55.6 billion in assets.

We manage our operations through four primary business lines that integrate our electric and gas services, streamline operations, and position us for long-term growth in the competitive marketplace:

*Dominion Delivery* Dominion Delivery manages our regulated electric and gas distribution systems serving approximately 4.0 million customer accounts and our customer service operations. Our electric distribution operations serve residential, commercial, industrial and governmental customers in Virginia and northeastern North Carolina. Gas distribution operations serve residential, commercial and industrial gas sales and transportation customers in Ohio, Pennsylvania and West Virginia. Dominion Delivery also operates our nonregulated retail energy marketing business serving approximately 1.1 million customer accounts in the Northeast, Mid-Atlantic and Midwest and manages 200 billion cubic feet of natural gas storage in Ohio and Pennsylvania.

*Dominion Energy* Dominion Energy manages our 7,900 miles of gas transmission pipeline, our 6,000 miles of electric transmission lines, an approximately 760 billion cubic foot natural gas storage network and our Cove Point, Maryland liquefied natural gas facility. It oversees certain natural gas production located in the Appalachian Basin and producer services, including aggregation of gas supply,

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market-based services related to gas transportation and storage and associated gas trading.

*Dominion Exploration & Production* Dominion Exploration & Production manages our onshore and offshore oil and gas exploration and production activities. With approximately 5.9 trillion cubic feet of proved natural gas reserves and, under normal conditions, approximately 1.2 billion cubic feet equivalent of daily production, Dominion Exploration & Production is one of the nation's largest independent oil and gas operators. We operate offshore on the outer continental shelf and deepwater areas of the Gulf of Mexico and onshore in western Canada, the Appalachian Basin, the Permian Basin, the Mid-Continent Region and other selected regions in the continental United States.

*Dominion Generation* Dominion Generation manages our approximately 28,100 megawatt portfolio of electric power generation and guides our generation growth strategy and energy trading and marketing activities associated with optimization of our generation assets. The generation mix is diversified and includes coal, nuclear, gas, oil, hydro and purchased power. Our strategy for our electric generation operations focuses on serving customers in the MAIN-to-Maine region. Our generation facilities are located in Connecticut, Illinois, Indiana, Massachusetts, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia and Wisconsin.

## **Principal Subsidiaries**

Dominion's principal direct, legal subsidiaries include Virginia Electric and Power Company (Dominion Virginia Power), a regulated public utility engaged in the generation, transmission, distribution and sale of electric energy in Virginia and northeastern North Carolina, Consolidated Natural Gas Company (CNG), an oil and gas producer, and a transporter, distributor and retail marketer of natural gas serving customers in the Northeast, the Mid-Atlantic and the Midwest, Dominion Energy, Inc., which is involved in merchant electric generation, energy trading and marketing and natural gas exploration and production and Virginia Power Energy Marketing, which provides fuel and risk management services to Dominion Virginia Power and engages in price risk management activities on behalf of other Dominion Subsidiaries.

## **Other**

For additional information about us, see WHERE YOU CAN FIND MORE INFORMATION in this prospectus.

## **USE OF PROCEEDS**

Unless otherwise indicated in the applicable prospectus supplement or other offering materials, we will use the net proceeds from the sale of securities to meet a portion of the general capital requirements of the Company, including the refinancing of our outstanding debt including our commercial paper and for other general corporate purposes.

**Table of Contents****RATIO OF EARNINGS TO FIXED CHARGES**

For purposes of this ratio, earnings are determined by adding distributed income of equity investees and fixed charges (excluding interest capitalized) to income before income taxes and minority interest after eliminating the equity in earnings or losses of equity investees. These earnings are then divided by total fixed charges. Fixed charges consist of interest charges (without reduction for Allowance for Funds Used During Construction) on long-term and short-term debt, interest capitalized, the portion of rental expense that is representative of the interest factor and preferred stock dividends of consolidated subsidiaries (grossed-up by a factor of pre-tax net income divided by net income).

The ratio of earnings to fixed charges for each of the periods indicated is as follows:

9 Months Ended Septem- ber 30, 2005 <sup>1</sup>	12 Months Ended Septem- ber 30, 2005 <sup>2</sup>	Years Ended December 31,				
		2004 <sup>3</sup>	2003 <sup>4</sup>	2002	2001 <sup>5</sup>	2000 <sup>6</sup>
2.33	2.28	2.78	2.29	2.82	1.82	1.56

<sup>1</sup> Earnings for the nine months ended September 30, 2005 include \$567 million in charges related to the impacts of Hurricanes Katrina and Rita, primarily reflecting the de-designation of hedge contracts resulting from the delay of natural gas and oil production following the hurricanes, a \$77 million charge related to the termination of a power purchase contract, \$21 million in net charges connected to trading activities discontinued in 2004, including the Batesville long-term power-tolling contract divested in the second quarter of 2005, and other activities, and \$16 million in impairment charges related to Dominion Capital, Inc. assets. Excluding these items from the calculation would result in a higher ratio of earnings to fixed charges for the nine months ended September 30, 2005.

<sup>2</sup> Earnings for the twelve months ended September 30, 2005 include \$567 million in charges related to the impacts of Hurricanes Katrina and Rita, primarily reflecting the de-designation of hedge contracts resulting from the delay of natural gas and oil production following the hurricanes, \$179 million in charges resulting from the termination of certain long-term power purchase contracts, \$25 million of impairment charges related to Dominion's investment in and planned divestiture of Dominion Capital, Inc., a \$198 million charge related to Dominion's divestiture of its interest in a long-term power tolling contract, a \$10 million charge related to the sale of natural gas and oil production assets in British Columbia, and \$14 million of charges related to other items. Excluding these items from the calculation would result in a higher ratio of earnings to fixed charges for the twelve months ended September 30, 2005.

<sup>3</sup> Earnings for the twelve months ended December 31, 2004 include \$76 million of impairment charges related to Dominion's investment in and planned divestiture of Dominion Capital, Inc., a \$23 million benefit associated with the disposition of certain assets held for sale, an \$18 million benefit from the reduction of accrued expenses associated with Hurricane Isabel restoration activities, \$96 million of losses related to the discontinuance of hedge accounting for certain oil hedges and subsequent changes in the fair value of those hedges during the third quarter following Hurricane Ivan, \$71 million in charges resulting from the termination of certain long-term power purchase contracts, a \$184 million charge related to the valuation of Dominion's interest in a long-term power tolling contract, a \$10 million charge related to the sale of natural gas and oil production assets in British Columbia, and \$27 million of charges related to net legal settlements and other items. Excluding these items from the calculation would result in a higher ratio of earnings to fixed charges for the twelve months ended December 31, 2004.

<sup>4</sup> Earnings for the twelve months ended December 31, 2003 include a \$134 million impairment of Dominion Capital, Inc. assets, \$28 million for severance costs related to workforce reductions, an \$84 million impairment of certain assets held for sale, \$197 million for restoration expenses related to Hurricane Isabel, a \$105 million charge related to the termination of a power purchase contract, \$64 million in charges for the restructuring and termination of certain electric sales contracts, and a \$144 million charge related to our investment in Dominion Telecom, Inc. including impairments, the cost of refinancings, and reallocation of equity losses. Excluding these items from the calculation would result in a higher ratio of earnings to fixed charges for the twelve months ended

December 31, 2003.

- <sup>5</sup> Earnings for the twelve months ended December 31, 2001 include \$220 million related to the cost of the buyout of power purchase contracts and non-utility generating plants previously serving the company under long-term contracts, a \$40 million loss associated with the divestiture of Saxon Capital Inc., a \$281 million write-down of Dominion Capital, Inc. assets, a \$151 million charge associated with Dominion's estimated Enron-related exposure, and a \$105 million charge associated with a senior management restructuring initiative and related costs. Excluding these items from the calculation above would result in a higher ratio of earnings to fixed charges for the twelve months ended December 31, 2001.
- <sup>6</sup> Earnings for the twelve months ended December 31, 2000 include \$579 million in restructuring and other acquisition-related costs resulting from the CNG acquisition and a write-down at Dominion Capital, Inc. Excluding these items from the calculation above would result in a higher ratio of earnings to fixed charges for the twelve months ended December 31, 2000.

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**DESCRIPTION OF SENIOR DEBT SECURITIES**

We will issue the Senior Debt Securities (also referred to in this prospectus as Debt Securities) in one or more series under our Senior Indenture dated as of June 1, 2000 between us and JPMorgan Chase Bank, N.A. (formerly known as The Chase Manhattan Bank), as trustee, as supplemented from time to time. We have summarized selected provisions of the Senior Indenture below. The Senior Indenture has been filed as an exhibit to the registration statement, and you should read the Senior Indenture for provisions that may be important to you. In the summary below, we have included references to section numbers of the Senior Indenture so that you can easily locate these provisions.

Capitalized terms used in this description have the meanings specified in the Senior Indenture.

**General**

The Senior Debt Securities will be our direct, unsecured obligations and will rank equally with all of our other senior and unsubordinated debt.

Because we are a holding company that conducts all of our operations through our subsidiaries, our ability to meet our obligations under the Debt Securities is dependent on the earnings and cash flows of those subsidiaries and the ability of those subsidiaries to pay dividends or to advance or repay funds to us. Holders of Debt Securities will generally have a junior position to claims of creditors of our subsidiaries, including trade creditors, debtholders, secured creditors, taxing authorities, guarantee holders and any preferred stockholders. As of September 30, 2005, Dominion Virginia Power had approximately 2.59 million issued and outstanding shares of preferred stock. In addition to trade debt, all of our operating subsidiaries have ongoing corporate debt programs used to finance their business activities. As of September 30, 2005, our subsidiaries had approximately \$9.1 billion of outstanding long-term debt (including securities due within one year).

The Senior Indenture does not limit the amount of Debt Securities that we may issue under it. We may issue Debt Securities from time to time under the Senior Indenture in one or more series by entering into supplemental indentures or by our Board of Directors or a duly authorized committee authorizing the issuance. A form of supplemental indenture to the Senior Indenture is an exhibit to the registration statement.

The Senior Indenture does not protect the holders of Debt Securities if we engage in a highly leveraged transaction.

**Provisions of a Particular Series**

The Debt Securities of a series need not be issued at the same time, bear interest at the same rate or mature on the same date. Unless otherwise provided in the terms of a series, a series may be reopened, without notice to or consent of any holder of outstanding Debt Securities, for issuances of additional Debt Securities of that series. The prospectus supplement or other offering materials for a particular series of Debt Securities will specify the terms of that series, including, if applicable, some or all of the following:

the title and type of the Debt Securities;

the total principal amount of the Debt Securities;



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the portion of the principal payable upon acceleration of maturity, if other than the entire principal;

the date or dates on which principal is payable or the method for determining the date or dates, and any right that we have to change the date on which principal is payable;

the interest rate or rates, if any, or the method for determining the rate or rates, and the date or dates from which interest will accrue;

any interest payment dates and the regular record date for the interest payable on each interest payment date, if any;

any payments due if the maturity of the Debt Securities is accelerated;

any optional redemption terms or any other repayment terms;

any provisions that would obligate us to repurchase or otherwise redeem the Debt Securities, or any sinking fund provisions;

the currency in which payments will be made if other than U.S. dollars, and the manner of determining the equivalent of those amounts in U.S. dollars;

if payments may be made, at our election or at the holder's election, in a currency other than that in which the Debt Securities are stated to be payable, then the currency in which those payments may be made, the terms and conditions of the election and the manner of determining those amounts;

any index or formula used for determining principal, interest, or premium, if any;

the percentage of the principal amount at which the Debt Securities will be issued, if other than 100% of the principal amount;

whether the Debt Securities are to be issued in fully registered certificated form or in book-entry form represented by certificates deposited with, or on behalf of, a securities depository and registered in the name of the depository's nominee (Book-Entry Debt Securities);

denominations, if other than \$1,000 each or multiples of \$1,000;

any changes to events of defaults or covenants; and

any other terms of the Debt Securities. (*Sections 201 & 301 of the Senior Indenture.*)

The prospectus supplement or other offering materials will also indicate any special tax implications of the Debt Securities and any provisions granting special rights to holders when a specified event occurs.

### **Conversion or Redemption**

No Debt Security will be subject to conversion, amortization, or redemption, unless otherwise provided in the applicable prospectus supplement or other offering materials. Any provisions relating to the conversion or redemption of Debt Securities will be set forth in the applicable prospectus supplement or other offering materials, including whether conversion is mandatory or at our option. If no redemption date or redemption price is indicated with respect to a Debt Security, we cannot redeem the Debt Security before the Stated Maturity. Debt Securities subject to redemption by us will be subject to the following terms:

redeemable on and after the applicable redemption dates;

redemption dates and redemption prices fixed at the time of sale and set forth on the Debt Security; and

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redeemable in whole or in part (provided that any remaining principal amount of the Debt Security will be equal to an authorized denomination) at our option at the applicable redemption price, together with interest, payable to the date of redemption, on notice given not more than 60 nor less than 20 days before the date of redemption. (*Section 1104 of the Senior Indenture.*)

We will not be required to:

issue, register the transfer of, or exchange any Debt Securities of a series during the period beginning 15 days before the date the notice is mailed identifying the Debt Securities of that series that have been selected for redemption; or

register the transfer of, or exchange any Debt Security of that series selected for redemption except the unredeemed portion of a Debt Security being partially redeemed. (*Section 305 of the Senior Indenture.*)

**Repayment at the Option of the Holder; Repurchases by the Company**

We must repay the Debt Securities at the option of the Holders before the Stated Maturity Date only if specified in the applicable prospectus supplement or other offering materials. Unless otherwise provided in the prospectus supplement or other offering materials, the Debt Securities subject to repayment at the option of the Holder will be subject to repayment:

on the specified Repayment Dates; and

at a repayment price equal to 100% of the unpaid principal amount to be repaid, together with unpaid interest accrued to the Repayment Date. (*Section 1302 of the Senior Indenture.*)

For any Senior Debt Security to be repaid, the Trustee must receive, at its office maintained for that purpose in the Borough of Manhattan, New York City not more than 60 nor less than 30 calendar days before the date of repayment:

in the case of a certificated Senior Debt Security, the certificated Senior Debt Security and the form in the Senior Debt Security entitled Option of Holder to Elect Purchase duly completed; or

in the case of a book-entry Senior Debt Security, instructions to that effect from the beneficial owner to the securities depository and forwarded by the securities depository. Exercise of the repayment option by the Holder will be irrevocable. (*Section 1303 of the Senior Indenture*)

Only the securities depositary may exercise the repayment option in respect of beneficial interests in the book-entry Senior Debt Securities. Accordingly, beneficial owners that desire repayment in respect of all or any portion of their beneficial interests must instruct the participants through which they own their interests to direct the securities depositary to exercise the repayment option on their behalf. All instructions given to participants from beneficial owners relating to the option to elect repayment will be irrevocable. In addition, at the time the instructions are given, each beneficial owner will cause the participant through which it owns its interest to transfer its interest in the book-entry Senior Debt Securities or the global certificate representing the related book-entry Senior Debt Securities, on the securities depositary's records, to the Trustee. See DESCRIPTION OF SENIOR DEBT SECURITIES - Global Securities.

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**Payment and Transfer; Paying Agent**

The paying agent will pay the principal of any Debt Securities only if those Debt Securities are surrendered to it. Unless we state otherwise in the applicable prospectus supplement or other offering materials, the paying agent will pay principal, interest and premium, if any, on Debt Securities, subject to such surrender, where applicable, at its office or, at our option:

by wire transfer to an account at a banking institution in the United States that is designated in writing to the Trustee before the deadline set forth in the applicable prospectus supplement or other offering materials by the person entitled to that payment (which in the case of Book-Entry Debt Securities is the securities depository or its nominee); or

by check mailed to the address of the person entitled to that interest as that address appears in the security register for those Debt Securities. (*Sections 307 & 1001 of the Senior Indenture.*)

Neither we nor the Trustee will have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests in a Book-Entry Debt Security, or for maintaining, supervising or reviewing any records relating to the beneficial ownership interests. We expect that the securities depository, upon receipt of any payment of principal, interest or premium, if any, in a Book-Entry Debt Security, will credit immediately the accounts of the related participants with payment in amounts proportionate to their respective holdings in principal amount of beneficial interest in the Book-Entry Debt Security as shown on the records of the securities depository. We also expect that payments by participants to owners of beneficial interests in a Book-Entry Debt Security will be governed by standing customer instructions and customary practices, as is now the case with securities held for the accounts of customers in bearer form or registered in street name and will be the responsibility of the participants.

Unless we state otherwise in the applicable prospectus supplement or other offering materials, the Trustee will act as paying agent for the Debt Securities, and the principal corporate trust office of the Trustee will be the office through which the paying agent acts. We may, however, change or add paying agents or approve a change in the office through which a paying agent acts. (*Section 1002 of the Senior Indenture.*)

Any money that we have paid to a paying agent for principal or interest on any Debt Securities which remains unclaimed at the end of two years after that principal or interest has become due will be repaid to us at our request. After repayment to the Company, holders should look only to us for those payments. (*Section 1003 of the Senior Indenture.*)

Fully registered securities may be transferred or exchanged at the corporate trust office of the Trustee or at any other office or agency we maintain for those purposes, without the payment of any service charge except for any tax or

governmental charge and related expenses. (*Section 1002 of the Senior Indenture.*)

### **Global Securities**

We may issue some or all of the Debt Securities as Book-Entry Debt Securities. Book-Entry Debt Securities will be represented by one or more fully registered global certificates. Book-Entry Debt Securities of like tenor and terms up to \$500,000,000 aggregate principal amount

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may be represented by a single global certificate. Each global certificate will be registered with the securities depository or its nominee and deposited with the securities depository or its custodian. Unless it is exchanged in whole or in part for Debt Securities in definitive form, a global certificate may generally be transferred only as a whole unless it is being transferred to certain nominees of the depository. (*Section 305 of the Senior Indenture.*)

Unless otherwise stated in any prospectus supplement or other offering materials, The Depository Trust Company will act as the securities depository. Beneficial interests in global certificates will be shown on, and transfers of global certificates will be effected only through, records maintained by the securities depository and its participants. If there are any additional or differing terms of the depository arrangement with respect to the Book-Entry Debt Securities, we will describe them in the applicable prospectus supplement or other offering materials.

Holders of beneficial interests in Book-Entry Debt Securities represented by a global certificate are referred to as beneficial owners. Beneficial owners will be limited to institutions having accounts with the securities depository or its nominee, which are called participants in this discussion, and to persons that hold beneficial interests through participants. When a global certificate representing Book-Entry Debt Securities is issued, the securities depository will credit on its book-entry, registration and transfer system the principal amounts of Book-Entry Debt Securities the global certificate represents to the accounts of its participants. Ownership of beneficial interests in a global certificate will be shown only on, and the transfer of those ownership interests will be effected only through, records maintained by:

the securities depository, with respect to participants' interests; and

any participant, with respect to interests the participant holds on behalf of other persons.

As long as the securities depository or its nominee is the registered holder of a global certificate representing Book-Entry Debt Securities, that person will be considered the sole owner and holder of the global certificate and the Book-Entry Debt Securities it represents for all purposes. Except in limited circumstances, beneficial owners:

may not have the global certificate or any Book-Entry Debt Securities it represents registered in their names;

may not receive or be entitled to receive physical delivery of certificated Book-Entry Debt Securities in exchange for the global certificate; and

will not be considered the owners or holders of the global certificate or any Book-Entry Debt Securities it represents for any purposes under the Debt Securities or the Senior Indenture. (*Section 308 of the Senior Indenture.*)

We will make all payments of principal, interest and premium, if any, on a Book-Entry Debt Security to the securities depository or its nominee as the holder of the global certificate. The laws of some jurisdictions require that certain purchasers of securities take physical delivery of securities in definitive form. These laws may impair the ability to transfer beneficial interests in a global certificate.

Payments participants make to beneficial owners holding interests through



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those participants will be the responsibility of those participants. The securities depository may from time to time adopt various policies and procedures governing payments, transfers, exchanges and other matters relating to beneficial interests in a global certificate. None of the following will have any responsibility or liability for any aspect of the securities depository's or any participant's records relating to beneficial interests in a global certificate representing Book-Entry Debt Securities, for payments made on account of those beneficial interests or for maintaining, supervising or reviewing any records relating to those beneficial interests:

the Company;

the Trustee; or

any agent of any of the above.

**Covenants**

Under the Senior Indenture we will:

pay the principal, interest and premium, if any, on the Debt Securities when due;

maintain a place of payment;

deliver an officer's certificate to the Trustee at the end of each fiscal year confirming our compliance with our obligations under the Senior Indenture;

preserve and keep in full force and effect our corporate existence except as provided in the Senior Indenture; and

deposit sufficient funds with any paying agent on or before the due date for any principal, interest or premium, if any. (*Sections 1001, 1002, 1003 & 1006 of the Senior Indenture.*)

**Consolidation, Merger or Sale**

The Senior Indenture provides that we may consolidate or merge with or into, or sell all or substantially all our assets to, another Person, provided that any successor assumes our obligations under the Senior Indenture and the Debt Securities issued under the Senior Indenture. We must also deliver an opinion of counsel to the Trustee affirming our compliance with all conditions in the Senior Indenture relating to the transaction. When the conditions are satisfied,

the successor will succeed to and be substituted for us and, in the case of a sale of all or substantially all our assets, we will be relieved of our obligations under the Senior Indenture. (*Sections 801 & 802 of the Senior Indenture.*)

### **Events of Default**

Event of Default when used in the Senior Indenture, will mean any of the following with respect to Debt Securities of any series:

failure to pay the principal or any premium on any Debt Security when due;

failure to deposit any sinking fund payment for that series when due that continues for 60 days;

failure to pay any interest on any Debt Securities of that series, when due, that continues for 60 days;

failure to perform any other covenant in the Senior Indenture (other than a covenant expressly included solely for the benefit of other series) that continues for 90 days after the Trustee or the holders of at least 33% of the outstanding Debt Securities of that series give us written notice of the default;

certain events in bankruptcy, insolvency or reorganization of the Company; or

any other Event of Default included in the Senior Indenture or any

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supplemental indenture. *(Section 501 of the Senior Indenture.)*

In the case of a general covenant default described above, the Trustee may extend the grace period. In addition, if holders of a particular series have given a notice of default, then holders of at least the same percentage of Debt Securities of that series, together with the Trustee, may also extend the grace period. The grace period will be automatically extended if we have initiated and are diligently pursuing corrective action.

An Event of Default for a particular series of Debt Securities does not necessarily constitute an Event of Default for any other series of Debt Securities issued under the Senior Indenture. Additional events of default may be established for a particular series and, if established, will be described in the applicable prospectus supplement or other offering materials.

If an Event of Default for any series of Debt Securities occurs and continues, the Trustee or the holders of at least 33% in aggregate principal amount of the Debt Securities of the series may declare the entire principal of all the Debt Securities of that series to be due and payable immediately. If this happens, subject to certain conditions, the holders of a majority of the aggregate principal amount of the Debt Securities of that series can void the declaration. *(Section 502 of the Senior Indenture.)*

The Trustee may withhold notice to the holders of Debt Securities of any default (except in the payment of principal or interest) if it considers the withholding of notice to be in the best interests of the holders. Other than its duties in case of a default, a Trustee is not obligated to exercise any of its rights or powers under the Senior Indenture at the request, order or direction of any holders, unless the holders offer the Trustee reasonable indemnity. If they provide this reasonable indemnification, the holders of a majority in principal amount of any series of Debt Securities may direct the time, method and place of conducting any proceeding or any remedy available to the Trustee, or exercising any power conferred upon the Trustee, for any series of Debt Securities. However, the Trustee must give the holders of Debt Securities notice of any default to the extent provided by the Trust Indenture Act. *(Sections 512, 601, 602 & 603 of the Senior Indenture.)*

The holder of any Debt Security will have an absolute and unconditional right to receive payment of the principal, any premium and, within certain limitations, any interest on that Debt Security on its maturity date or redemption date and to enforce those payments. *(Section 508 of the Senior Indenture.)*

**Defeasance**

We will be discharged from our obligations on the Senior Debt Securities of any series at any time if we deposit with the Trustee sufficient cash or government securities to pay the principal, interest, any premium and any other sums due to the stated maturity date or a redemption date of the Senior Debt Securities of the series. If this happens, the

holders of the Senior Debt Securities of the series will not be entitled to the benefits of the Senior Indenture except for registration of transfer and exchange of Senior Debt Securities and replacement of lost, stolen or mutilated Senior Debt Securities. *(Section 402 of the Senior Indenture.)*

Under federal income tax law as of the date of this prospectus, a discharge may be treated as an exchange of the related Senior

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Debt Securities. Each holder might be required to recognize gain or loss equal to the difference between the holder's cost or other tax basis for the Senior Debt Securities and the value of the holder's interest in the defeasance trust. Holders might be required to include as income a different amount than would be includable without the discharge. We urge prospective investors to consult their own tax advisers as to the consequences of a discharge, including the applicability and effect of tax laws other than the federal income tax law.

**Satisfaction; Discharge**

We may discharge all our obligations (except those described below) to holders of the Debt Securities issued under the Senior Indenture, which Debt Securities have not already been delivered to the Trustee for cancellation and which either have become due and payable or are by their terms due and payable within one year, or are to be called for redemption within one year, by depositing with the Trustee an amount certified to be sufficient to pay when due the principal, interest and premium, if any, on all outstanding Debt Securities. However, certain of our obligations under the Senior Indenture will survive, including with respect to the following:

remaining rights to register the transfer, conversion, substitution or exchange of Debt Securities of the applicable series;

rights of holders to receive payments of principal of, and any interest on, the Debt Securities of the applicable series, and other rights, duties and obligations of the holders of Debt Securities with respect to any amounts deposited with the Trustee; and

the rights, obligations and immunities of the Trustee under the Senior Indenture. (*Section 401 of Senior Indenture.*)

**Modification of Senior Indenture; Waiver**

Under the Senior Indenture our rights and obligations and the rights of the holders may be modified with the consent of the holders of a majority in aggregate principal amount of the outstanding Debt Securities of each series affected by the modification. No modification of the principal or interest payment terms, and no modification reducing the percentage required for modifications, is effective against any holder without its consent. (*Section 902 of the Senior Indenture.*) In addition, we may supplement the Senior Indenture to create new series of Debt Securities and for certain other purposes, without the consent of any holders of Debt Securities. (*Section 901 of the Senior Indenture.*)

The holders of a majority of the outstanding Debt Securities of all series under the Senior Indenture with respect to which a default has occurred and is continuing may waive a default for all those series, except a default in the payment of principal or interest, or any premium, on any Debt Securities or a default with respect to a covenant or provision

which cannot be amended or modified without the consent of the holder of each outstanding Debt Security of the series affected. (*Section 513 of the Senior Indenture.*)

### **Concerning the Trustee**

JPMorgan Chase Bank, N.A. is the Trustee under the Senior Indenture. We and certain of our affiliates maintain deposit accounts and banking relationships with JPMorgan Chase Bank, N.A. JPMorgan Chase Bank, N.A. also serves as trustee under other indentures under which we and

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certain of our affiliates have issued securities. Affiliates of JPMorgan Chase Bank, N.A. have purchased, and are likely to purchase in the future, our securities and securities of our affiliates.

The Trustee will perform only those duties that are specifically described in the Senior Indenture unless an event of default under the Senior Indenture occurs and is continuing. The Trustee is under no obligation to exercise any of its powers under the Senior Indenture at the request of any holder of Debt Securities unless that holder offers reasonable indemnity to the Trustee against the costs, expenses and liabilities which it might incur as a result. (*Section 601 of the Senior Indenture.*)

The Trustee administers its corporate trust business at 4 New York Plaza, New York, NY 10004 (Attention: Worldwide Securities Services).

**LEGAL MATTERS**

The legality of the securities in respect of which this prospectus is being delivered will be passed on for us by McGuireWoods LLP. As of February 1, 2006, partners of McGuireWoods LLP owned less than 1% of our common stock. Underwriters, dealers or agents, if any, who we will identify in a prospectus supplement or other offering materials, may have their counsel pass upon certain legal matters in connection with the securities offered by this prospectus.

**EXPERTS**

The consolidated financial statements, the related financial statement schedule, and management's report on the effectiveness of internal control over financial reporting incorporated in this prospectus by reference from the Company's Annual Report on Form 10-K for the year ended December 31, 2004 have been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their reports, which are incorporated herein by reference (which reports (1) express an unqualified opinion on the consolidated financial statements and financial statement schedule and which report on the consolidated financial statements includes an explanatory paragraph as to changes in accounting principles in 2003 for: asset retirement obligations, contracts involved in energy trading, derivative contracts not held for trading purposes, derivative contracts with a price adjustment feature, the consolidation of variable interest entities, and guarantees, (2) express an unqualified opinion on management's assessment regarding the effectiveness of internal control over financial reporting, and (3) express an unqualified opinion on the effectiveness of internal control over financial reporting) and have been so incorporated in reliance upon the reports of such firm given upon their authority as experts in accounting and auditing.

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