

BRITISH ENERGY PLC

Form 6-K

November 30, 2004

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# SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

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## FORM 6-K

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REPORT OF FOREIGN ISSUER  
PURSUANT TO RULE 13a-16 OR 15d-16 OF  
THE SECURITIES EXCHANGE ACT OF 1934

November 30, 2004

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## BRITISH ENERGY PLC

(Registrant's name)

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3 REDWOOD CRESCENT, PEEL PARK, EAST KILBRIDE G74 5PR

SCOTLAND

(Address of principal executive offices)

Indicate by check mark whether the registrant files or will file annual reports under cover Form 20-F or Form 40-F.

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Form 20-F  Form 40-F

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes  No

If Yes is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b):

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## EXHIBIT INDEX

The following documents (bearing the exhibit numbers listed below) have been posted to shareholders of British Energy plc in connection with its proposed Restructuring and are furnished herewith pursuant to the General Instructions for Form 6-K:

<u>Exhibit</u>	<u>Description</u>
No. 20.1	Members Scheme Circular of British Energy plc dated November 29, 2004
No. 20.2	Prospectus of British Energy Group plc and British Energy Holdings plc dated November 29, 2004

Contact:

Andrew Dowler	020 7831 3113	(Media Enquiries)
John Searles	01355 26 2202	(Investor Relations)

## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: November 30, 2004

BRITISH ENERGY PLC

By: /s/ Robert Armour

Name: Robert Armour  
Title: General Counsel and Company Secretary

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**EXHIBIT 20.1**

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION. If you are in any doubt as to the action you should take, you should immediately consult your stockbroker, bank manager, solicitor, accountant or other independent financial adviser authorised pursuant to the Financial Services and Markets Act 2000 if you are in the United Kingdom or, if not, seek advice from another appropriately authorised independent financial adviser.**

If you have sold or otherwise transferred all of your existing British Energy Shares, please forward this document, together with the accompanying Prospectus, Form(s) of Proxy, Form(s) of Election and reply paid envelope, as soon as possible to the purchaser or transferee, or to the stockbroker, bank or other agent through whom the sale or transfer was effected, for onward transmission to the purchaser or transferee. However, such documents should not be forwarded to or transmitted in or into any jurisdiction in which such an act would constitute a violation of the relevant laws in such jurisdiction.

A document comprising: (i) listing particulars in relation to the issue of the New Shares and Warrants pursuant to the Schemes and other arrangements with certain of the Creditors; (ii) a prospectus in relation to the issue of Warrants pursuant to the Disposal; and (iii) listing particulars in relation to the issue of New Bonds (together, the Prospectus ) prepared in accordance with the Listing Rules made under section 74 of the Financial Services and Markets Act 2000, has been delivered for registration to the Registrar of Companies in Scotland for registration pursuant to section 83 of the Financial Services and Markets Act 2000.

This document should be read in conjunction with the Prospectus. All information contained in the Explanatory Statement of this document should be read in conjunction with the risk factors outlined in Part III of this document and Part II of the Prospectus: Risk factors .

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## **BRITISH ENERGY PLC**

*(Registered in Scotland with number 162273)*

### **Restructuring proposals**

**involving a members scheme of arrangement**

*(pursuant to section 425 of the Companies Act 1985)*

**or**

**the disposal of the business and assets of British Energy plc**

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Citigroup Global Markets Limited is advising British Energy plc, British Energy Group plc and British Energy Holdings plc and no one else in connection with Admission and the Restructuring described in this document and will not be responsible to anyone other than British Energy plc,

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British Energy Group plc and British Energy Holdings plc for providing protections afforded to their clients nor for providing any advice in relation to Admission or the Restructuring.

HSBC Bank plc is advising British Energy plc, British Energy Group plc and British Energy Holdings plc and no one else in connection with Admission and the Restructuring described in this document and will not be responsible to anyone other than British Energy plc, British Energy Group plc and British Energy Holdings plc for providing protections afforded to their clients nor for providing any advice in relation to Admission or the Restructuring.

**A letter from the chairman of the Company recommending that you vote in favour of the proposals appears on pages 19 to 34 of this document. The action you are recommended to take is set out on pages 32 and 33.**

Application has been made to: (i) the UK Listing Authority (the UKLA) for the New Shares, the New Bonds and the Warrants to be admitted to the Official List; and (ii) to the London Stock Exchange for the New Shares, the New Bonds and the Warrants to be admitted to trading on the London Stock Exchange's market for listed securities. It is expected that admission of the New Shares, the New Bonds and the Warrants to the Official List will become effective and dealings for normal settlement will commence on the London Stock Exchange at 8.00 a.m. on the dealing day immediately following the Restructuring Effective Date.

Following an application by the Company for the UKLA to cancel the listings of the British Energy Shares from the Official List, the UKLA cancelled the British Energy Share listings with effect from 8.00 a.m. on 21 October 2004 and the last day of dealings in British Energy Shares on the London Stock Exchange was 20 October 2004.

Notices of meetings of Ordinary Shareholders and A Shareholders of the Company convened by order of the Court and of an Extraordinary General Meeting of the Company to be held at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ on 22 December 2004 commencing respectively at 10.30 a.m., 11.30 a.m. and 12 noon (or, in the case of the A Share Court Meeting, as soon as the Ordinary Share Court Meeting concludes or is adjourned and in the case of the Extraordinary General Meeting as soon as the A Share Court Meeting concludes or is adjourned) are set out on pages 92 to 96 of this document. **Whether or not you intend to be present at the meetings, please complete and sign (all) the Form(s) of Proxy accompanying this document (green for the Ordinary Share Court Meeting, blue for the A Share Court Meeting and white for the Extraordinary General Meeting) and return it/them to the Registrars, Lloyds TSB Registrars, SEA 9441, The Causeway, Worthing BN99 6ED as soon as possible, and in any event by 20 December 2004 and not later than 48 hours before the relevant meeting. Forms of Proxy for the Ordinary Share Court Meeting and the A Share Court Meeting may, alternatively, be delivered in person to the chairman of the relevant meeting. The return of a completed Form of Proxy will not prevent you from attending the Ordinary Share Court Meeting and/or the A Share Court Meeting and/or the Extraordinary General Meeting and voting in person if you wish.**

**If you have any questions relating to the proposals described in this document or the completion and return of the Form(s) of Proxy or Form(s) of Election, please contact our helpline on freephone 0800-035-0844 (or if calling from outside the UK +44 (0) 1295-225-285 (calls charged at applicable rates)), Monday to Friday 9.00 a.m. to 5.00 p.m. (UK time). The helpline cannot provide advice on the merits or otherwise of the matters described in this document, nor give any financial advice.**

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A circular in relation to the Creditors' Scheme has been issued to relevant Creditors in connection with the Restructuring.

## **IMPORTANT INFORMATION FOR OVERSEAS SHAREHOLDERS**

The attention of overseas shareholders is drawn to paragraph 13 of the Explanatory Statement in Part II of this document. This document does not constitute an offer to sell or issue, or the solicitation of an offer to buy or subscribe for, securities in any jurisdiction in which such offer or solicitation is unlawful.

### **Shareholders in the US**

The New Shares and Warrants to be issued to Shareholders under the Members' Scheme have not been and will not be registered under the US Securities Act of 1933, as amended (the **Securities Act**) or any state securities laws and will be distributed pursuant to exemptions from, or in transactions not subject to, the registration requirements of the Securities Act, including the exemption provided by Section 3(a)(10) thereof. The Warrants to be issued to Shareholders if the Members' Scheme does not become Effective and the Disposal Resolution is passed have not been and will not be registered under the Securities Act and will only be issued pursuant to exemptions from, or in transactions not subject to the registration requirements under the Securities Act, including pursuant to the exemption provided by Section 4(2) of the Securities Act, and outside the US in reliance on Regulation S under the Securities Act. Further information relating to US securities regulations may be found in paragraph 13 of the Explanatory Statement.

Neither the US Securities and Exchange Commission (the **SEC**) nor any state securities commission in the US or any other US regulatory authority has approved or disapproved these securities or determined if this document is truthful or complete. Any representation to the contrary is a criminal offence.

### **Shareholders in Australia, Canada or Germany**

No steps have been taken, nor will any be taken, to enable the New Shares or Warrants to be offered in compliance with the applicable securities laws of Australia, Canada or Germany and any offer or invitation in relation to the New Shares and Warrants is not available, directly or indirectly, to persons in, or with registered addresses in, Australia, Canada or Germany. This document is being sent to Shareholders with registered addresses in Australia, Canada or Germany solely in connection with the Court Meetings and the Extraordinary General Meeting. Shareholders in, or with registered addresses in, Australia, Canada or Germany will not receive any New Shares and/or Warrants under or in connection with the Restructuring and instead may only receive cash if the Members' Scheme or the Disposal is approved by Ordinary Shareholders (as outlined in paragraph 13 of the Explanatory Statement).

### **Shareholders in Ireland**

This document shall be first published or issued in the UK. Neither this document nor the information contained herein constitutes an offer to the public of the New Shares or Warrants and accordingly, this document is not a prospectus within the meaning of the Irish Companies Act, 1963 (as amended) or the Irish European Communities (Transferable Securities and Stock Exchange) Regulations, 1992.



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**INDICATIVE TIMETABLE OF PRINCIPAL EVENTS<sup>1</sup>**

Latest time and date for receipt of green Form of Proxy for the Ordinary Share Court Meeting <sup>2</sup>	10.30 a.m. on 20 December 2004
Latest time and date for receipt of blue Form of Proxy for the A Share Court Meeting <sup>3</sup>	11.30 a.m. on 20 December 2004
Latest time and date for receipt of white Form of Proxy for the Extraordinary General Meeting	12 noon on 20 December 2004
Voting Record Time <sup>4,5,6</sup>	6.00 p.m. on 20 December 2004
Ordinary Share Court Meeting	10.30 a.m. on 22 December 2004
A Share Court Meeting <sup>7</sup>	11.30 a.m. on 22 December 2004
Extraordinary General Meeting <sup>7</sup>	12 noon on 22 December 2004
Creditors Scheme Meeting	12.30 p.m. on 22 December 2004
Election Return Time <sup>8</sup>	6.00 p.m. on 13 January 2005
Scheme Record Time <sup>9</sup>	6.00 p.m. on 13 January 2005
Disposal Record Time <sup>10</sup>	6.00 p.m. on 13 January 2005
Date of Court hearing of Petition to sanction the Members Scheme Restructuring Effective Date <sup>11</sup>	14 January 2005
New Shares and Warrants admitted to the Official List and dealings commence	8.00 a.m. on the dealing day immediately following the Restructuring Effective Date
Listing of New ADRs on the New York Stock Exchange, if possible <sup>12</sup>	9.30 a.m. (New York time) on the trading day immediately following the Restructuring Effective Date
Crediting of New Shares and/or Warrants to CREST accounts where a valid Form of Election has been received <sup>13</sup>	the dealing day immediately following the Restructuring Effective Date
Date of Court hearing to sanction the New British Energy Reduction <sup>14</sup>	18 January 2005
Date on which the New British Energy Reduction becomes Effective <sup>14</sup>	18 January 2005
Despatch of New Share certificates and/or Warrant certificates where a valid Form of Election has been received	within 14 days of the Restructuring Effective Date
Despatch of cheques and crediting of CREST accounts in respect of proceeds of sale of New Shares and/or Warrants where no valid Form of Election has been received	within 14 days of the sale of the New Shares and/or Warrants





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- 1 These times and dates (including the Restructuring Effective Date and the date of Admission) are indicative only, are based on the Company's current best case expectation and will depend, amongst other things, on the timetable fixed by the Court, whether either of the Court Meetings or the Extraordinary General Meeting are adjourned, the date upon which the Court allocates a hearing for the sanction of the Members' Scheme, whether objections are lodged in respect of the Members' Scheme or Creditors' Scheme, and the date on which steps are taken to make the Members' Scheme Effective. If any of these times and/or dates change, the revised times and/or dates will be notified to Shareholders by announcement on a Regulatory Information Service and on the Company's website at [www.british-energy.com](http://www.british-energy.com). All times stated in this document are London times.
- 2 Forms of Proxy for the Ordinary Share Court Meeting not returned by this time may be handed to the chairman at the Ordinary Share Court Meeting.
- 3 Forms of Proxy for the A Share Court Meeting not returned by this time may be handed to the chairman at the A Share Court Meeting.
- 4 Only those Ordinary Shareholders who are entered on the relevant register of members of the Company as holders of Ordinary Shares at the Voting Record Time will be entitled to vote at the Ordinary Share Court Meeting.
- 5 Only those A Shareholders who are entered on the relevant register of members of the Company as holders of A Shares at the Voting Record Time will be entitled to vote at the A Share Court Meeting.
- 6 In accordance with Regulation 41 of the Uncertificated Securities Regulations 2001 and the articles of association of the Company, only those Ordinary Shareholders entered on the relevant register of members of the Company as at the Voting Record Time shall be entitled to attend or vote at the Extraordinary General Meeting in respect of the number of shares registered in their name at that time. Changes to entries on the relevant register of members after the Voting Record Time shall be disregarded in determining the rights of any person to attend or vote at the Extraordinary General Meeting.
- 7 To commence at the time fixed or, if later, immediately following the conclusion or adjournment of the preceding Court Meeting.
- 8 New Shares and/or Warrants will only be issued to Shareholders who return valid Forms of Election before this time.
- 9 Only Scheme Shareholders entered on the relevant register of members of the Company at the Scheme Record Time as holders of Ordinary Shares or A Shares will be entitled to New Shares and Warrants if the Members' Scheme becomes Effective.
- 10 Only Shareholders entered on the relevant register of members of the Company at the Disposal Record Time as holders of Ordinary Shares or A Shares will be entitled to Warrants if the Members' Scheme does not become Effective but the Disposal Resolution is passed.
- 11 This date is indicative only and is based upon the Company's current best case expectation and may change as a result of, amongst other things, any of the factors outlined in note 1 above.
- 12 On 28 September 2004, the NYSE suspended trading in British Energy ADRs and commenced proceedings to permanently delist British Energy ADRs from the NYSE. British Energy has appealed the NYSE's decision. If the Members' Scheme does not become Effective or if neither British Energy nor New British Energy are able to meet the NYSE's relevant listing criteria on or prior to Admission, New ADRs will not be issued or listed on the NYSE on Admission of the New Shares. In that event, New British Energy has agreed to take all reasonable steps to apply for a listing of New ADRs on the NYSE at such time following Admission as New British Energy satisfies the NYSE listing criteria. In such circumstances, however, New British Energy will be required to satisfy the NYSE's listing criteria for new securities, including minimum public float and minimum shareholder eligibility requirements that New British Energy may not be able to satisfy immediately after Admission.
- 13 New Shares and/or Warrants will only be credited to CREST accounts on this date if the relevant Shareholder has made a valid Shareholder Election. Warrants in respect of Shareholders who have made a Deemed Election will be credited to CREST accounts within 14 days of the

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Restructuring Effective Date.

- 14 The New British Energy Reduction, which is more fully described in paragraph 10 of the Explanatory Statement in Part II of this document, requires the sanction of the Court and the Court order confirming the New British Energy Reduction to be filed with the Companies Registrar and registered by him. It is anticipated that these steps will take place on the dates indicated although the dates may change depending on, amongst other things, the timetable fixed by the Court.

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**DEFINITIONS**

The following definitions shall apply throughout this document, unless the context otherwise requires:

<b>A Share Court Meeting</b>	the meeting of holders of A Shares convened by order of the Court pursuant to section 425 of the Act to consider and, if thought fit, approve the Members Scheme, and any adjournment thereof
<b>A Shareholders</b>	the holders of A Shares
<b>A Shares</b>	the A Shares of 60p each in the capital of the Company
<b>Act</b>	the Companies Act 1985 (as amended)
<b>Admission</b>	admission of the New Shares, Warrants and New Bonds to the Official List of the UKLA and their admission to trading on the London Stock Exchange plc's market for listed securities
<b>ADR Depository</b>	JPMorgan Chase Bank
<b>AGR</b>	advanced gas-cooled reactor
<b>Amended Credit Agreement</b>	the credit agreement originally dated 13 July 2000 as amended and/or restated on 8 September 2000, 24 October 2000, 12 December 2000, 5 February 2001 and on or about the Restructuring Effective Date between, amongst others, EPL, Barclays Bank PLC as agent and security trustee and certain financial institutions
<b>AmerGen</b>	AmerGen Energy Company, LLC
<b>Barclays</b>	Barclays Bank plc
<b>BEG</b>	British Energy Generation Limited
<b>BEG UK</b>	British Energy Generation (UK) Limited
<b>BEPET</b>	British Energy Power and Energy Trading Limited
<b>BNFL</b>	British Nuclear Fuels plc
<b>Board</b>	the board of directors of the Company or a duly appointed committee thereof
<b>Bondholder</b>	the holder of the ultimate beneficial interest in a Bond
<b>Bondholder Meetings</b>	the separate meetings of the holders of each series of Bonds at which the Bondholder Resolutions will be proposed
<b>Bondholder Resolutions</b>	the resolutions which will be proposed to Bondholders to, amongst other things, authorise the Bond Trustees to vote in respect of the Creditors Scheme
<b>Bondholder Restructuring Agreement</b>	the agreement entered into on 14 February 2003 between the Company, BEG and BEG UK and certain Bondholders as amended and/or extended from time to time



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<b>Bonds</b>	all or any of the outstanding £109,861,000 5.949 per cent. guaranteed bonds of the Company due 2003 (the <b>2003 Bonds</b> ); the £163,444,000 6.077 per cent. guaranteed bonds of the Company due 2006 (the <b>2006 Bonds</b> ); and the £134,586,000 6.202 per cent. guaranteed bonds of the Company due 2016 (the <b>2016 Bonds</b> )
<b>Bond Trustees</b>	in relation to the 2003 Bonds, the Law Debenture Trust Corporation p.l.c., in relation to the 2006 Bonds, the Law Debenture Intermediary Corporation plc and in relation to the 2016 Bonds, Law Debenture Trustees Limited
<b>Brandes</b>	Brandes Investment Partners, LLC
<b>British Energy ADRs</b>	American depositary receipts evidencing American depositary shares issued by the ADR Depositary pursuant to the terms of the British Energy ADR Deposit Agreement. Each such American depositary share represents a beneficial interest in 75 British Energy Shares
<b>British Energy ADR Deposit Agreement</b>	the agreement by and among British Energy, the ADR Depositary and the holders from time to time of British Energy ADRs issued thereunder dated as of 18 March 2003
<b>British Energy Group</b>	prior to the Restructuring Effective Date, British Energy and its subsidiaries from time to time
<b>British Energy Group plc Share Plans</b>	the British Energy Group plc Executive Plan, the British Energy Group plc Employee Plan, the British Energy Group plc Share Incentive Plan and an associated trust, the British Energy Group plc Sharesave Scheme, the LT Plan and the Interim Bonus Plan
<b>British Energy Option Schemes</b>	the British Energy No. 1 Share Option Scheme (an Inland Revenue approved discretionary executive share option scheme), the British Energy No. 2 Share Option Scheme (an unapproved discretionary executive share option scheme), the British Energy No. 3 Share Option Scheme (an Inland Revenue approved discretionary executive share option scheme) and the British Energy Sharesave Scheme (an all employee savings-related option scheme for British Energy employees)
<b>British Energy or Company</b>	British Energy plc incorporated in Scotland with registered number 162273
<b>British Energy Shares</b>	the Ordinary Shares and the A Shares
<b>Bruce Power</b>	Bruce Power Limited Partnership
<b>Business</b>	the entire business of the Company, including all of its assets (except for the non-voting shares held by it in each of New British Energy and Holdings plc) and shares in its subsidiaries
<b>Business Day</b>	a day on which banks are open for general business (other than a Saturday or Sunday) in London and Edinburgh
<b>Business Transfer Agreement</b>	the agreement dated 8 October 2004 between the Company and Holdings plc to effect the Disposal

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<b>Commission</b>	the European Commission
<b>common market</b>	the common market established through the Economic Community Treaty which came into force in 1958, as amended from time to time
<b>Companies Registrar</b>	the registrar or other officer performing under the Act the duty of registration of companies in Scotland and including a deputy registrar
<b>Consenting Bondholder</b>	each Bondholder who is either a party to the Creditor Restructuring Agreement or agrees to be bound by the terms of the Creditor Restructuring Agreement as if he were a party thereto and <b>Consenting Bondholders</b> means all of them
<b>Continuing Group</b>	following completion of the Disposal, British Energy
<b>Convertible Shares</b>	the convertible ordinary shares of 10p each in the capital of New British Energy which will be issued to the NLF pursuant to the exercise of the NLF Conversion Right
<b>Court</b>	the Court of Session, Parliament House, Parliament Square, Edinburgh EH1 1RF
<b>Court Meetings</b>	the Ordinary Share Court Meeting and the A Share Court Meeting
<b>Creditor Restructuring Agreement</b>	the agreement dated as of 30 September 2003 entered into by, amongst others, the Company, BEG, BEG UK and the Creditors (as amended or extended from time to time)
<b>Creditors</b>	the Significant Creditors, RBS, Bondholders, the Eggborough Banks and BNFL
<b>Creditors Order</b>	the order of the Court sanctioning the Creditors Scheme
<b>Creditors Scheme</b>	the scheme of arrangement under section 425 of the Act pursuant to which the Scheme Creditors will compromise their claims (including the claims of Bondholders) against the Company in return for, amongst other things, the issue of New Shares and New Bonds
<b>Creditors Scheme Circular</b>	the circular to Scheme Creditors containing an explanatory statement in relation to the Creditors Scheme in compliance with section 426 of the Act
<b>Creditors Scheme Meeting</b>	the meeting of Scheme Creditors convened by order of the Court pursuant to section 425 of the Act to consider and, if thought fit, approve the Creditors Scheme, and any meeting reconvened following an adjournment thereof
<b>CREST</b>	the relevant system (as defined in the CREST Regulations) in respect of which CRESTCo is the operator (as defined in the CREST Regulations)
<b>CRESTCo</b>	CRESTCo Limited
<b>CREST Regulations</b>	the Uncertificated Securities Regulations 2001 (S.I. 2001/3755) including any modifications thereof or any regulations in substitution therefor

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<b>CTA Bonds</b>	the £150 million 7 per cent. bond issued by Holdings plc pursuant to the Restructuring and to be held by EPL
<b>Decommissioning Default Payment</b>	the payment which may become immediately due and payable if, in any financial period, BEG, BEG UK, New British Energy, Holdings plc, any of the guarantors under the Guarantee and Indemnity or any of the guarantors of the New Bonds is subject to an event of default under the Contribution Agreement
<b>Deemed Election</b>	(a) if the Members Scheme becomes Effective, the deemed election by a Scheme Shareholder to have the Warrants to which such Scheme Shareholder will be entitled registered in his or her name if the Company or New British Energy is advised that the Share Price is less than the Subscription Price; or  (b) if the Members Scheme does not become Effective but the Disposal Resolution is passed, the deemed election by a Shareholder to have the Warrants to which such Shareholder will be entitled registered in his or her name if the Company or New British Energy is advised that the average price which could reasonably be expected to be obtained for the sale of the New Shares arising from the exercise of the Warrants to be sold is less than the Subscription Price
<b>Directors</b>	the directors of the Company, whose names appear on page 71 of this document
<b>Disposal</b>	the sale by British Energy of its Business to Holdings plc
<b>Disposal Record Time</b>	6.00 p.m. on the Business Day immediately prior to the Restructuring Effective Date
<b>Disposal Resolution</b>	the ordinary resolution to approve the Disposal which holders of Ordinary Shares are being invited to pass at the Extraordinary General Meeting
<b>Disposed Group</b>	the subsidiaries of the Company to be sold to Holdings plc pursuant to the Disposal
<b>ECTEF</b>	Enron Capital & Trade Europe Finance LLC
<b>Effective</b>	the making of the Creditors Scheme or the Members Scheme (as the case may be) effective by delivering the Creditors Order to the Companies Registrar or by the delivery to, and the registration by, the Companies Registrar of the Members Order
<b>Eggborough Banks</b>	the lenders and swap providers in the syndicate of banks under the Amended Credit Agreement
<b>Eggborough Station</b>	the coal-fired power station in North Yorkshire, England owned by EPL



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<b>Election Return Time</b>	the latest time by which (a) Form(s) of Election need(s) to be returned to the Registrars, being 6.00 p.m. on the Business Day immediately prior to the Restructuring Effective Date (or such later date as the Company may agree)
<b>Employee Options</b>	the options or other entitlements to New Shares under the British Energy Group plc Share Plans
<b>EPHL</b>	Eggborough Power (Holdings) Limited
<b>EPL</b>	Eggborough Power Limited
<b>Euratom Treaty</b>	the treaty of 1955 establishing the European Atomic Energy Community, as amended
<b>Exelon</b>	Exelon Generation Company, LLC
<b>Explanatory Statement</b>	the explanatory statement in relation to the Members Scheme in compliance with section 426 of the Act and which can be found in Part II of this document
<b>Extraordinary General Meeting or EGM</b>	the extraordinary general meeting of the Company to be held at 12 noon on 22 December 2004 and any adjournment thereof
<b>Filing Conditions</b>	the conditions which need to be satisfied before the necessary steps may be taken to make the Creditors Scheme Effective and, if the Members Scheme is approved by Shareholders, before the necessary steps may be taken to make the Members Scheme Effective, as set out in Part IV of this document
<b>Form(s) of Proxy</b>	the form(s) of proxy in relation to each of the Court Meetings and the EGM accompanying this document
<b>Form(s) of Election</b>	the form(s) of election in relation to the Shareholder Election accompanying this document
<b>Government</b>	Her Majesty's Government of the UK
<b>Government Facility</b>	the credit facility which was granted to the Group on 9 September 2002 in order to provide working capital and to support trading operations (as amended and restated from time to time)
<b>Government Restructuring Agreement</b>	the agreement entered into between, amongst others, British Energy, the Secretary of State, NDF (to be renamed the NLF) and the trustees of the Nuclear Trust on 1 October 2003, setting out the circumstances in which the Secretary of State will support the Restructuring (as amended or extended from time to time)
<b>Group</b>	as the context requires, prior to the Restructuring Effective Date, the British Energy Group and from the Restructuring Effective Date, the New British Energy Group
<b>Holdings plc</b>	British Energy Holdings plc incorporated in Scotland with registered number 270186
<b>Initial Conditions</b>	the conditions which had to be satisfied before the Schemes could be proposed to Scheme Creditors and Scheme Shareholders respectively



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<b>Initial Shareholder</b>	Robert Armour (Company Secretary of the Company and New British Energy) and his nominee
<b>Interim Bonus Plan</b>	the British Energy Group plc 2005 Interim Deferred Bonus Plan
<b>Lapses or Lapsed</b>	in relation to the Members Scheme the failure to:  (a) obtain approval of the requisite majority of Scheme Shareholders; or  (b) obtain the sanction of the Court; or  (c) make the Members Scheme Effective,  in circumstances where the Company, acting reasonably, decides that as a result the Members Scheme is not capable of becoming Effective in accordance with its terms before the Restructuring Long Stop Date
<b>Listing Rules</b>	the rules and regulations made by the UKLA under Part VI of the Financial Services and Markets Act 2000, as amended from time to time
<b>London Stock Exchange</b>	London Stock Exchange plc, a company registered in England and Wales with registered number 2075721
<b>LT Plan</b>	the British Energy Group plc Long Term Deferred Bonus Plan
<b>Material Adverse Change</b>	(a) a material adverse change in the current or future business or operations, the financial or trading position, profits or prospects of:  (i) the Group as a whole; or  (ii) EPL; or  (b) a change in the current or future business or operations, the financial or trading position, profits or prospects relating to the Group as a whole which is likely to have a material adverse effect on the value of the New Bonds, CTA Bonds, New Shares or the New EPL Arrangements
<b>Material Company</b>	BritishEnergy, BEG, BEG UK, BEPET or EPL
<b>Members Order</b>	the order of the Court sanctioning the Members Scheme

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**Members Scheme**

the scheme of arrangement under section 425 of the Act in the form set out at the end of this document or with or subject to any modification, addition, term or condition approved or imposed by the Court

**Members Scheme Resolution**

the special resolution approving, amongst other things, the Members Scheme and disapplying shareholders' statutory pre-emption rights under section 89 of the Act for the purposes of giving effect to the Members Scheme, which the Ordinary Shareholders are being asked to pass

**NDF**

Nuclear Generation Decommissioning Fund Limited incorporated in Scotland with registered number 164685 (to be enlarged and renamed NLF)

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<b>New ADR Deposit Agreement</b>	the agreement by and among New British Energy, the ADR Depository and the holders from time to time of New ADRs issued thereunder
<b>New ADRs</b>	American depository receipts representing a beneficial interest in American depository shares issued by the ADR Depository pursuant to the terms of the New ADR Deposit Agreement, and each American depository share represents a beneficial interest in four New Shares
<b>New Bonds</b>	up to £550 million 7 per cent. guaranteed bonds due 2005 to 2022 issued by Holdings plc
<b>New British Energy</b>	British Energy Group plc incorporated in Scotland with registered number 270184
<b>New British Energy Group</b>	from the Restructuring Effective Date, New British Energy and its subsidiaries from time to time
<b>New British Energy Reduction</b>	the reduction of the share premium account of New British Energy which is to follow the Restructuring Effective Date and is intended to eliminate the deficit (if any) in the distributable reserves of New British Energy which is expected to arise as a result of the Restructuring and to provide some distributable reserves for New British Energy
<b>New EPL Arrangements</b>	the agreements pursuant to which the secured claims of the Eggborough Banks will be compromised, which are summarised in Part VI of the Prospectus: Further information relating to the Restructuring
<b>New Shares</b>	the ordinary shares of 10p each in the capital of New British Energy
<b>New Standstill Agreement</b>	the agreement entered into on 13 February 2004 in place of the previous standstill agreement in which RBS, Barclays Bank PLC, the Eggborough Banks, the Significant Creditors and BNFL agreed, amongst other things, that they would not take any steps to initiate insolvency proceedings or demand or accelerate any amounts due and payable by British Energy parties
<b>NLF</b>	Nuclear Liabilities Fund Limited (presently NDF)
<b>NLF Cash Sweep Payment</b>	the annual payment to be made to the NLF pursuant to the Contribution Agreement being, initially, 65 per cent. of the Group's adjusted net cash flow
<b>NLF Conversion Right</b>	the right of the NLF from time to time to convert all or part of the NLF Cash Sweep Payment into Convertible Shares
<b>Non-voting Deferred Shares</b>	the non-voting deferred shares of 60p in the capital of the Company
<b>Notified Filing Date</b>	the day, notified by the Company to the Creditors, on which the Company expects to file a copy of the Creditors' Order with the Companies Registrar

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<b>Nuclear Decommissioning Agreement</b>	the nuclear decommissioning agreement dated 29 March 1996 between Nuclear Electric (now BEG), Scottish Nuclear (now BEG UK) and the NDF
<b>Nuclear Deed of Trust</b>	the deed of trust dated 27 March 1996 between British Energy and the Secretary of State constituting the Nuclear Trust
<b>NII (HM Nuclear Installations Inspectorate)</b>	a part of the Nuclear Safety Division Directorate of the Health and Safety Executive, which administers a nuclear site licence
<b>Nuclear Liabilities Agreements</b>	<p>(a) the historic liabilities funding agreement to be dated on the Restructuring Effective Date and made between the Secretary of State, BEG, BEG UK, New British Energy and Holdings plc (the <b>HLFA</b>);</p> <p>(b) the nuclear liabilities funding agreement to be dated on the Restructuring Effective Date and made between NLF, BEG, BEG UK, the Secretary of State, the Company, New British Energy and Holdings plc (the <b>NLFA</b>);</p> <p>(c) the contribution agreement to be dated on the Restructuring Effective Date and made between the Secretary of State, NLF, BEG, BEG UK, New British Energy and Holdings plc (the <b>Contribution Agreement</b>);</p> <p>(d) the option agreement to be dated on the Restructuring Effective Date and made between the Secretary of State, BEG, BEG UK, New British Energy and Holdings plc;</p> <p>(e) the Nirex option agreement to be dated on the Restructuring Effective Date and made between the Secretary of State, BEG, BEG UK and New British Energy;</p> <p>(f) the guarantee and indemnity to be dated on the Restructuring Effective Date and made between the Guarantors (as defined therein), NLF and the Secretary of State (the <b>Guarantee and Indemnity</b>);</p> <p>(g) the standard security over Hunterston B power station to be dated on the Restructuring Effective Date and made between BEG UK and the NLF;</p> <p>(h) the standard security over Torness power station to be dated on the Restructuring Effective Date and made between BEG UK and the NLF;</p> <p>(i) the debenture in relation to the Decommissioning Default Payment to be dated on the Restructuring Effective Date and made between the Secretary of State, the NLF and the Obligor (as defined therein);</p> <p>(j) the deed of amendment to the Nuclear Deed of Trust to be dated on the Restructuring Effective Date made between the trustees of the Nuclear Trust, the Secretary of State and the Company;</p>

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	(k) the deed of termination in relation to the Nuclear Decommissioning Agreement to be dated on the Restructuring Effective Date and made between, amongst others, BEG, BEG UK, the Company and the NDF; and
	(l) the amended memorandum and articles of association of NDF to be adopted on the Restructuring Effective Date and the written resolution effecting the relevant changes
<b>NYSE</b>	the New York Stock Exchange
<b>Official List</b>	the Official List of the UKLA
<b>Ordinary Share Court Meeting</b>	the meeting of holders of Ordinary Shares convened by order of the Court pursuant to section 425 of the Act to consider and, if thought fit, approve the Members Scheme, and any adjournment thereof
<b>Ordinary Shareholders</b>	the holders of Ordinary Shares
<b>Ordinary Shares</b>	the ordinary shares of 44 <sup>28</sup> /43p each in the capital of the Company
<b>Petition</b>	the formal document lodged with the Court to apply for sanction of the Members Scheme
<b>PFIC</b>	a passive foreign investment company, as determined in accordance with US federal income tax laws
<b>Polygon</b>	Polygon Investment Partners LLP
<b>Polygon and Brandes</b>	Polygon, Brandes and their respective associates
<b>Prospectus</b>	a document comprising: (i) listing particulars in relation to the issue of the New Shares and Warrants pursuant to the Schemes and other arrangements with certain of the Creditors; (ii) a prospectus in relation to the issue of Warrants pursuant to the Disposal; and (iii) listing particulars in relation to the issue of New Bonds
<b>RBS</b>	The Royal Bank of Scotland plc
<b>RBS Letter of Credit</b>	the letter of credit issued on 1 December 2000 by RBS in favour of Barclays Bank PLC (as facility agent) relating to the debt service reserve obligations of EPL under the Amended Credit Agreement (as amended or restated from time to time)
<b>Registrars</b>	the registrars of the Company, being Lloyds TSB Registrars
<b>Reporter</b>	a solicitor appointed by the Court to report on the facts and circumstances of the Petition
<b>Requisitioned EGM</b>	the extraordinary general meeting requisitioned by Polygon and Brandes which was held on 22 October 2004

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**Restricted Overseas Person**

(a) a person (including an individual, partnership, unincorporated syndicate, limited liability company, unincorporated organisation, trust, trustee, executor, administrator or other legal representative) in, or resident in or any person New British Energy reasonably believes to be in, or resident in:

(i) Australia, Canada or Germany; or

(ii) any other jurisdiction (other than the UK and New Zealand) in respect of which New British Energy is advised that the allotment or issue of New Shares and/or Warrants would or might infringe the laws of that jurisdiction or would or might require compliance with any governmental or other consent or any registration, filing or other formality, which the Company or New British Energy is unable to comply with or regards as unduly onerous; or

(b) with respect only to the Warrants to be issued if the Members Scheme does not become Effective but the Disposal Resolution is passed, a US person (as defined in Regulation S under the Securities Act), unless an exemption from the registration requirements of the Securities Act, including an exemption pursuant to Section 4(2) of the Securities Act, is available

**Restructuring**

the restructuring of the British Energy Group pursuant to the Creditor Restructuring Agreement and the Government Restructuring Agreement

**Restructuring Condition**

(a) the registration by the Companies Registrar of a copy of the Members Order and the delivery of a copy of the Creditors Order to the Companies Registrar for registration; or

(b) the Members Scheme having Lapsed, the delivery of a copy of the Creditors Order to the Companies Registrar for registration and the passing of the Disposal Resolution or confirmation from the UKLA that no such resolution is required; or

(c) the Members Scheme having Lapsed, the delivery of a copy of the Creditors Order to the Companies Registrar for registration where the foregoing condition has not been satisfied

**Restructuring Effective Date**

the date on which the Restructuring Condition is satisfied

**Restructuring Long Stop Date**

12 noon on 31 January 2005 (or such later date and subject to such intermediate milestones as are agreed in writing, in the case of the first such later date, by the Company, BNFL, the requisite majorities of Creditors and the Secretary of State and, in the case of any second or subsequent later date, all the parties to the Creditor Restructuring Agreement and the Secretary of State)

**RPI**

the Retail Price Index, used to measure the retail price inflation in the UK





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<b>Scheme A Shareholder</b>	each person who appears as a holder of one or more Scheme A Shares in the relevant register of members of the Company at the Scheme Record Time
<b>Scheme A Shares</b>	all of the A Shares:  (a) in issue at the date of the Members Scheme;  (b) (if any) issued thereafter and prior to the Voting Record Time; and  (c) (if any) issued at or after the Voting Record Time and before the making of the order by the Court for the reduction of capital which forms part of the Members Scheme in respect of which the original or any subsequent holder shall be bound by the Members Scheme or shall have agreed in writing to be bound by the Members Scheme
<b>Scheme Creditors</b>	RBS and each Bond Trustee, or any of them (as the case may be)
<b>Scheme Ordinary Shareholder</b>	each person who appears as a holder of one or more Scheme Ordinary Shares in the relevant register of members of the Company at the Scheme Record Time
<b>Scheme Ordinary Shares</b>	all of the Ordinary Shares:  (a) in issue at the date of the Members Scheme;  (b) (if any) issued thereafter and prior to the Voting Record Time; and  (c) (if any) issued at or after the Voting Record Time and before the making of the order by the Court for the reduction of capital which forms part of the Members Scheme in respect of which the original or any subsequent holder shall be bound by the Members Scheme or shall have agreed in writing to be bound by the Members Scheme
<b>Scheme Record Time</b>	6.00 p.m. on the Business Day immediately prior to the Restructuring Effective Date
<b>Scheme Shareholder</b>	a Scheme A Shareholder or a Scheme Ordinary Shareholder
<b>Schemes</b>	the Members Scheme and the Creditors Scheme
<b>Scheme Shares</b>	the Scheme A Shares and the Scheme Ordinary Shares
<b>SDRT</b>	stamp duty reserve tax

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**Secretary of State**

Her Majesty's Secretary of State for Trade and Industry

**Securities Act**

the United States Securities Act of 1933, as amended

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<b>Shareholder Election</b>	the election which a Shareholder will be required to make by completing a Form of Election in order to have New Shares and/or Warrants (as applicable) issued to him or her or his or her nominee if the Members' Scheme becomes Effective or if the Disposal Resolution is passed
<b>Shareholders</b>	the holders for the time being of British Energy Shares
<b>Share Price</b>	the average price reasonably expected by the person determined by New British Energy pursuant to the Members' Scheme to be obtained for the New Shares to be sold pursuant to the terms of the Members' Scheme
<b>Significant Creditors</b>	ECTEF, TPL and Total, and their respective successors in title
<b>Special Share</b>	as the context requires, the special rights redeemable preference share of £1 held:  (a) jointly by the Secretary of State and the Secretary of State for Scotland in each of New British Energy, Holdings plc and British Energy;  (b) by the Secretary of State in BEG; or  (c) by the Secretary of State for Scotland in BEG UK
<b>State Aid</b>	the classification of assistance granted by the Government pursuant to the Restructuring, whereby the Government undertakes to pay for:  (a) certain of British Energy's liabilities under the historic spent fuel contracts with BNFL; and  (b) certain decommissioning and uncontracted nuclear liabilities in so far as the NLF is unable to meet these liabilities,  as being of a type which requires authorisation from the Commission before it can be granted
<b>State Aid Approval</b>	the decision of the Commission of 22 September 2004 as notified to the Government on 24 September 2004 that in so far as the Restructuring involves the grant of State Aid by the Government to the Group such aid is compatible with the common market and the objectives of the Euratom Treaty subject to certain conditions and compensatory measures which are set out in Part VI of the Prospectus: Further information relating to the Restructuring
<b>Subscription Price</b>	the amount payable in respect of a New Share for which a holder of a Warrant is entitled upon exercise of a Warrant to require subscription, such amount being 98p or such

other amount as may from time to time be applicable in accordance with the conditions of the Warrants set out in Part VIII of the Prospectus: Conditions of the Warrants

**Takeover Code**

The City Code on Takeovers and Mergers

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<b>Target Amount</b>	the target amount for the cash reserves which is required to be funded out of New British Energy Group's adjusted net cash flow in order to support the Group's collateral and liquidity requirements post-Restructuring. The initial Target Amount for the cash reserves is £490 million plus the amount by which cash employed as collateral exceeds £200 million
<b>Total</b>	TotalFinaElf Gas and Power Limited (now Total Gas & Power Limited)
<b>TPL</b>	Teesside Power Limited
<b>UKLA or UK Listing Authority</b>	the Financial Services Authority acting in its capacity as the competent authority for the purposes of Part VI of the Financial Services and Markets Act 2000 as amended or any successor act
<b>United Kingdom or UK</b>	the United Kingdom of Great Britain and Northern Ireland
<b>United States or US</b>	the United States of America, its territories and possessions, any State of the United States and the District of Columbia
<b>VAT</b>	value added tax
<b>Voting Record Time</b>	6.00 p.m. on the second day before the date of the Court Meetings or, if either the Ordinary Share Court Meeting or the A Share Court Meeting are adjourned, 48 hours before the time appointed for the relevant adjourned meeting
<b>Warrant Instrument</b>	the instrument by way of deed poll constituting the Warrants
<b>Warrants</b>	the warrants to be issued by New British Energy pursuant to the Restructuring entitling the holder to subscribe for New Shares

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**PART I**

**LETTER FROM THE CHAIRMAN OF BRITISH ENERGY**

**BRITISH ENERGY PLC**

*(Registered in Scotland No. 162273)*

*Registered Office:*

3 Redwood Crescent

Peel Park

East Kilbride

G74 5PR

*Directors:*

Adrian Montague CBE

Mike Alexander

Roy Anderson

Stephen Billingham

William Coley

Pascal Colombani

John Delucca

Ian Harley

David Pryde

Clare Spottiswoode CBE

Sir Robert Walmsley

29 November 2004

*To shareholders of British Energy plc*

Dear Shareholder,

## **Proposed Restructuring of British Energy plc**

### **1. Introduction**

On 1 October 2003, we announced that we had entered into two conditional agreements with certain of our key creditors and the Secretary of State setting out the terms of the Restructuring of the British Energy Group. These agreements are the Creditor Restructuring Agreement and the Government Restructuring Agreement.

Pursuant to the Restructuring, certain creditors of the British Energy Group have agreed to extinguish their claims against companies within the British Energy Group in exchange for the issue to them of New Shares and New Bonds. In order to implement the Restructuring, it is proposed that we become a wholly-owned subsidiary of New British Energy by means of the Members Scheme which will require the approval of our Ordinary and A Shareholders, and sanction by the Court. If the Members Scheme is not approved, then we are required to implement the Restructuring by disposing of all of our Business to Holdings plc (a subsidiary of New British Energy) in exchange for Holdings plc agreeing to assume all of our liabilities. In view of its size, the Disposal would, if we were listed at the time of such Disposal, constitute a Class 1 transaction for the purposes of the Listing Rules requiring the approval of our Ordinary Shareholders. Even though we are no longer listed we are seeking this approval at the Extraordinary General Meeting.

On 3 September 2004, two groups of shareholders together holding 10.22 per cent. of our Ordinary Shares, requisitioned an extraordinary general meeting of the Company. The resolutions proposed by Polygon and Brandes sought to stop us from taking certain actions which may be necessary to implement the Restructuring. In response, certain of



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our Bondholders commenced proceedings in London against Polygon and Brandes for, amongst other things, the tort of procuring or inducing a breach of the Creditor Restructuring Agreement or otherwise interfering with its due performance. We too commenced proceedings against Polygon and its associates in New York in relation to an SEC filing required to be made by Polygon in relation to its interests in British Energy.

On 23 September 2004, we sent you a circular notifying you of our intention to apply for the UKLA to cancel the listings of the British Energy Shares and on the following day we sent a further circular to you containing the notice of the Requisitioned EGM. Having considered our recent circulars, on 30 September 2004 Polygon stated that it now believed that there was no commercial logic for it supporting the resolutions to be considered at the Requisitioned EGM and consequently confirmed that it would vote against the resolutions to be put to the Requisitioned EGM and that it would not further oppose the Restructuring. On that day, we announced that we would be withdrawing our action against Polygon in New York and that the Bondholders had agreed terms to stop the proceedings in London insofar as they related to Polygon.

Brandes subsequently announced on 6 October 2004 that it was not going to pursue the matter further for the time being but that it would continue to monitor events so that it may take appropriate steps to promote the legitimate interests of its clients.

Following our application for the UKLA to cancel the listings of the British Energy Shares from the Official List, the UKLA cancelled those listings with effect from 8.00 a.m. on 21 October 2004 and 20 October 2004 was the last day of dealings in British Energy Shares on the main market of the London Stock Exchange. Although we are, therefore, exempt from the continuing obligation provisions of the Listing Rules which apply to issuers of equity securities, we are intending to comply with these obligations (other than the requirement to seek shareholder approval for significant transactions such as the Disposal) as if the listings had not been cancelled. As the listings of the Bonds have not been cancelled, we do remain subject to the continuing obligation provisions of the Listing Rules which apply to issuers of specialist debt securities.

The Requisitioned EGM was held on 22 October 2004 following which we announced that none of the resolutions that had been proposed at the Requisitioned EGM had been passed.

On 12 October 2004, we announced that the Initial Conditions had been satisfied, including the receipt by the Secretary of State of State Aid Approval. However, even though the Initial Conditions have been satisfied the Restructuring does remain subject to a number of significant uncertainties and the satisfaction of a number of other important conditions which are set out in Part IV of this document.

The purpose of this letter is to explain the reasons for the Restructuring, how it will be implemented, how it will affect you and what action you need to take. This document comprises an Explanatory Statement in relation to the Members' Scheme. It contains details of the Restructuring, the Members' Scheme and the Disposal and together with the Prospectus is designed to provide you with sufficient information to make an informed decision on whether or not to approve the Members' Scheme and the Disposal.

References to we, us, our or the Company in this letter are to British Energy.

**This document should be read in conjunction with the accompanying Prospectus which contains information about the New British Energy Group.**

**2. Background to and reasons for the Restructuring**

We are the UK's largest generator of electricity, producing over one fifth of the UK's electricity and employing approximately 5,100 staff in the UK. The Group owns and operates eight nuclear power stations in the UK, with a combined capacity of 9,600 MW,

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and the Eggborough Station, a coal-fired power station in North Yorkshire, England, with a capacity of 1,960 MW. For a more detailed description of our business see Part I of the Prospectus: Description of the New British Energy Group .

On 5 September 2002, we announced that we had initiated discussions with the Government with a view to seeking immediate financial support and to implement a longer-term financial restructuring in the face of:

- the failure of our negotiations with BNFL which had been initiated by us to link prices paid under our fuel contracts with BNFL to wholesale electricity prices, with the aim of reducing the proportion of our costs which were fixed; and
- the Board's review of the longer term prospects of the Group.

The discussions with the Government in September 2002 resulted in the Government providing the British Energy Group with the Government Facility, intended to provide working capital for the British Energy Group's immediate requirements and to allow the British Energy Group to stabilise its trading position. (The Government Facility ceased to be available for drawing by the Group on 22 September 2004 following the issue of State Aid Approval).

On 28 November 2002, we announced that we had agreed certain restructuring principles with the Government, intended to achieve the longer-term financial viability of the Group. At that time we highlighted some of the commercial and structural factors which had caused or compounded our financial difficulties some of which the Restructuring seeks to address. These are set out in detail in paragraph 3 of the Explanatory Statement in Part II of this document.

The principles agreed in November 2002 formed the basis for the Restructuring and included a timetable agreed by the Board and the Government, requiring us: (i) to reach agreement in principle with Creditors on the restructuring of their claims against the Group by 14 February 2003; and (ii) to enter into a binding agreement in this regard by 30 September 2003. These principles also required us, amongst other things, to dispose of our North American assets namely, Bruce Power and AmerGen.

In accordance with the agreed timetable, on 14 February 2003 we announced that we had entered into standstill agreements and reached agreement in principle with certain Creditors for the compromise and restructuring of their claims. On that date we also announced that we had completed the disposal of our interest in Bruce Power.

Following further discussions, on 1 October 2003 we announced that we had entered into the binding Creditor Restructuring Agreement with the Creditors and the Government Restructuring Agreement with the Secretary of State, setting out the terms of the Restructuring of the British Energy Group and the circumstances in which the Secretary of State would support the Restructuring (in the event the Secretary of State allowed a one day extension to the agreed timetable to allow the agreement reached on 30 September to be documented). By 31 October 2003, the Creditor Restructuring Agreement had been acceded to by all the Eggborough Banks and Bondholders representing in aggregate with RBS 88.8 per cent. of the combined amount owing to the Bondholders and RBS.

On 23 December 2003, we announced that we had completed the disposal of our interest in AmerGen.

The Board believes that, had we not met the Government requirements for the Restructuring in accordance with the agreed timetable, we would have had to commence insolvency proceedings. The Board took the view that, had we commenced insolvency proceedings, it would have been unlikely that Shareholders would have received any return and distributions to unsecured creditors may have represented only a small fraction of their unsecured liabilities.

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The Restructuring remains subject to a number of significant uncertainties and important conditions. In particular, the Restructuring is subject to conditions and termination events, the application or occurrence of which could prevent the implementation of the Restructuring. Admission is also conditional upon the Restructuring being implemented. A summary of the remaining conditions to the implementation of the Restructuring and termination events (including the long stop dates for completion) is set out below in Part IV. We are seeking an extension of the long stop dates for completion of the Restructuring and more information about this is given in paragraph 4 below.

### **3. Summary of the Restructuring**

#### *Creditors*

The key features of the Restructuring are as follows:

- Creditors (other than BNFL) have agreed to extinguish their unsecured claims against the Group in exchange for £275 million of New Bonds to be issued by Holdings plc and at least 97.5 per cent. of the New Shares to be issued by New British Energy;
- NLF will fund the New British Energy Group's qualifying uncontracted nuclear liabilities and qualifying costs of decommissioning the Group's nuclear power stations. The Secretary of State will fund qualifying decommissioning costs and qualifying uncontracted liabilities to the extent they exceed the assets of the NLF, as well as qualifying contracted liabilities for historic spent fuel;
- in consideration for the assumption of the nuclear liabilities and decommissioning costs referred to above, Holdings plc will issue £275 million of New Bonds to the NLF and will also make further annual periodic payments to the NLF, including the NLF Cash Sweep Payment;
- the Eggborough Banks as lenders and swap providers with security over the Eggborough Station and the shares of EPL, have agreed to replace their existing secured claims with the right to receive payments under the Amended Credit Agreement equivalent to those payable to holders of £150 million of New Bonds (including interest and capital). In addition, they will have an option to acquire the shares in, or assets of, EPL on 31 March 2010 or, prior to 31 August 2009, on or after the occurrence of an event of default that is continuing under the Amended Credit Agreement. The Eggborough Banks will also be repaid £37.5 million pursuant to the RBS Letter of Credit; and
- the BNFL contracts for front-end and back-end related fuel services to the Group's AGR stations have been amended, amongst other things, in order to link certain elements of payments under those contracts to wholesale electricity prices.

#### *Shareholder allocation*

In addition, if the Restructuring is completed, New British Energy will issue a mix of New Shares and Warrants to Shareholders on the following basis:

- if the Members' Scheme is approved by Shareholders and it becomes Effective, Shareholders will receive New Shares representing 2.5 per cent. of the issued share capital of New British Energy immediately following implementation of the Restructuring and Warrants entitling them to subscribe for New Shares equal to 5 per cent. of New British Energy's thereby diluted share capital immediately following completion of the Restructuring (excluding the impact of the Employee Options and conversion of the NLF Cash Sweep Payment);
- if the Members' Scheme is not approved by Shareholders (or it otherwise Lapses) but Ordinary Shareholders approve the Disposal, then Shareholders will not receive any New Shares but will receive Warrants entitling them to subscribe for New Shares equal to 5 per cent. of New British Energy's thereby diluted share capital immediately following completion of the Restructuring (excluding the impact of the Employee Options and conversion of the NLF Cash Sweep Payment); and

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- if Shareholders do not vote in favour of the Members Scheme (or it otherwise Lapses) and Ordinary Shareholder approval in respect of the Disposal is not obtained, Shareholders will receive no New Shares or Warrants.

A further summary of the Restructuring is contained in paragraph 3 of the Explanatory Statement in Part II of this document and a more detailed description of the Restructuring is contained in Part VI of the Prospectus: Further information relating to the Restructuring .

## 4. Implementation of the Restructuring

The Restructuring entails, amongst other things, a debt for equity and debt swap involving the creation of two new holding companies, New British Energy and its subsidiary, Holdings plc. British Energy, New British Energy and Holdings plc will have the same directors. New British Energy will issue New Shares and Warrants, and Holdings plc will issue New Bonds as set out in paragraph 3 above.

### *Members Scheme*

In order to implement the Restructuring, it is proposed that we will become a wholly-owned subsidiary of New British Energy by means of the Members Scheme. The Members Scheme requires the approval of the Ordinary Shareholders and A Shareholders and must thereafter be sanctioned by the Court. A summary of the principal terms of the Members Scheme and the requirements for its approval are set out in paragraphs 5 and 6 of the Explanatory Statement in Part II of this document.

### *Disposal*

If the Members Scheme is not approved, then we intend to implement the Restructuring by means of the Disposal. The Disposal involves the sale of our Business to Holdings plc in accordance with the terms of the Business Transfer Agreement. In return, Holdings plc will perform all of our obligations and will discharge all of our liabilities. Our balance sheet liabilities, in accordance with our unaudited results for the three months ended 30 June 2004, are set out in paragraph 8 below.

The Disposal would, if the British Energy Shares were listed at the time of the Disposal, constitute a Class 1 transaction for the purposes of the Listing Rules requiring the approval of Ordinary Shareholders. As mentioned above, following our application for the UKLA to cancel the listings of the British Energy Shares from the Official List, the UKLA cancelled these listings with effect from 8.00 a.m. on 21 October 2004 and, therefore, shareholder approval of the Disposal under the Listing Rules is no longer required. Cancellation of the listings itself, however, does not affect the terms of the Restructuring and we are, nonetheless, seeking approval of the Disposal at the Extraordinary General Meeting. Paragraph 4 of the Explanatory Statement in Part II of this document contains further details relating to the cancellation of our listings. If the Disposal Resolution is passed in circumstances where the Members Scheme does not become Effective, Shareholders will be entitled to receive the Warrants as set out above.

**The Restructuring is not conditional on Shareholder approval. Therefore, if the Members Scheme or the Disposal is not approved, we are required, under the Creditor Restructuring Agreement, to proceed with the Disposal without the approval of Ordinary Shareholders. In this case, however, Shareholders will not receive any New Shares or Warrants.**

A summary of the principal terms of the Disposal is set out in paragraph 7 of the Explanatory Statement in Part II of this document.

*Differences between Members Scheme and Disposal*

Implementation of the Restructuring through the Members Scheme may provide certain tax benefits to the Group, avoids the need to transfer our Business to Holdings plc and



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avoids the need to maintain the Company as a shell company after the Disposal and pending dissolution. For this reason, if Shareholders approve the Members' Scheme and it becomes Effective they will receive both New Shares and Warrants as described above. If the Members' Scheme is not approved by Shareholders and we have to implement the Restructuring through the Disposal, the risk of disruption which may result from the need to transfer all of our Business to Holdings plc, the loss of potential tax benefits and the costs involved in administering the Company after the Disposal has been effected make this option less attractive. Accordingly, if Shareholders do not approve the Members' Scheme but pass the Disposal Resolution at the Extraordinary General Meeting and the Restructuring is completed, they will receive only the Warrants as described in paragraph 3 above.

If we proceed with the Disposal, Shareholders will remain holders of British Energy Shares but we will cease to beneficially own any assets (including shares in subsidiary companies) as these will have been transferred to Holdings plc. The British Energy Shares will, therefore, be unlisted shares in an empty shell company with no value. In due course British Energy would be wound up or struck off the register of companies on a solvent basis and there will be no further return to Shareholders.

### *Conditions and termination*

Completion of the Restructuring is subject to a number of important conditions, including the Initial Conditions (which, as mentioned above, have been satisfied), the Filing Conditions and the Restructuring Condition. Admission is also conditional upon the Restructuring being implemented. In addition to these conditions, the Restructuring will not be implemented if either of the Creditor Restructuring Agreement or the Government Restructuring Agreement is terminated in accordance with its terms. Both the Creditor Restructuring Agreement and the Government Restructuring Agreement will terminate if, amongst other things, British Energy receives a valid notice from the relevant parties terminating the agreement on the basis that there is a continuing Material Adverse Change. In such circumstances the standstill arrangements, which restrict the Creditors from taking any steps to initiate insolvency proceedings or demand or accelerate any amounts due and payable to them by any member of the British Energy Group, would also terminate.

Moreover, unless otherwise agreed by the Creditors, the Secretary of State and British Energy, the Creditor Restructuring Agreement and the Government Restructuring Agreement will automatically terminate, and consequently the Restructuring will not be implemented if the Creditors' Scheme has not become Effective by 31 January 2005 (or such later date as the requisite parties may agree).

Our indicative timetable for the Restructuring anticipates the Creditors' Scheme becoming Effective and Admission occurring in mid-January. However, the indicative timetable is our best case expectation and subject to change and delay (see note 1 to the Indicative Timetable of Principal Events on page 5 and the risk factors in Part III of this document). We have, therefore, decided that it is prudent to seek an extension to the present long stop dates of 31 January 2005 and have proposed terms for an extension to at least 31 March 2005 to Creditors and the Secretary of State.

The Group owes some £1.5 billion to the Bondholders, the Eggborough Banks, RBS, the Significant Creditors (currently Deutsche Bank AG) and BNFL which is stood still pending implementation of the Restructuring but which would become due and payable if the Restructuring is not completed by the long stop date of (at present) 31 January 2005. An alternative restructuring would require the agreement of these creditors and the Secretary of State and we have no assurance that such agreement would be reached. Furthermore the Board believes that any fundraising for the purpose of achieving an alternative restructuring would carry significant risks. If for any reason the Restructuring cannot be



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completed before the present or any extended long stop date and a replacement standstill cannot be agreed with creditors shortly thereafter, we would be unable to meet our financial obligations as they fall due, in which case we may have to commence insolvency proceedings. In the circumstances, the Board continues to believe that there is no reliable alternative to the Restructuring available to us.

The proposed extension of the Restructuring Long Stop Date under the Creditor Restructuring Agreement requires the agreement of holders of a majority of the claims of Bondholders and RBS, a majority of the Significant Creditors, BNFL and the holders of two-thirds of the Eggborough Banks' debt and swap claims (including Barclays). In addition, the provision of an extended RBS Letter of Credit is a condition of the proposed extension. The extension of the Creditor Restructuring Agreement also requires written resolutions of Bondholders to extend the standstill period under the terms of the Bonds to be signed by a simple majority of the holders of each series of the Bonds.

The Secretary of State is not a party to the Creditor Restructuring Agreement but, for technical reasons, her consent is required to enable that agreement to be extended in the manner contemplated. The Secretary of State's agreement is also required and is being sought to extend the long stop date for completion of the Government Restructuring Agreement.

The proposed extension will (if it becomes effective) also preserve the possibility of extension of the Restructuring Long Stop Date under the Creditor Restructuring Agreement beyond 31 March 2005 and up to 31 October 2005. However, each of those parties and majorities who are required to agree the proposed extension would have absolute discretion as to whether to object to or confirm the continuation of the extension period beyond 31 March 2005 and may require amendments to the standstill and restructuring arrangements in connection with the Restructuring being completed after 31 March 2005. The requisite parties may object to the continuation of the extension or may not give such confirmations or agree the terms (if any) upon which they or others would be willing for the Restructuring to be completed after 31 March 2005. Furthermore the agreement of the Secretary of State would be required to extend the Government Restructuring Agreement. In any event, if it were to become reasonably apparent that the Restructuring would not be completed by 31 March 2005 we are required to renegotiate the payments payable to BNFL with effect from completion of the Restructuring after 31 March 2005 under the BNFL agreements for historic spent fuel services which have been agreed on the assumption that the Restructuring would complete and these payments would commence before 31 March 2005. Subject to certain limitations, these payments are expected to be funded by the Government under the HLFA and consequently any new schedule would require agreement between us, BNFL and the Government. Consequently even if the proposed extension becomes effective there can be no assurance that any extension beyond 31 March 2005 will be available on the present terms of the Restructuring or any other terms.

If such an extension is obtained and/or if it becomes apparent that the Restructuring Effective Date will be delayed beyond 31 January 2005, we will inform Shareholders by making an appropriate announcement to a Regulatory Information Service and the press. For the avoidance of doubt, in such circumstances Admission may not occur prior to 31 January 2005 and will remain conditional on the Restructuring being implemented. However, there is no assurance that the proposed extension of the long stop dates for the Restructuring will be agreed. If for any reason we are unable to implement the Restructuring prior to the present or any extended long stop dates and a replacement standstill cannot be agreed with Creditors shortly thereafter, we would be unable to meet our financial obligations as they fall due, in which case we may have to take appropriate insolvency proceedings. If we were to commence insolvency proceedings, distributions, if any, to unsecured creditors may represent only a small fraction of their unsecured liabilities and it is highly unlikely there would be any return to Shareholders.

Admission is conditional upon the Restructuring being implemented. The Filing Conditions, the Restructuring Condition and the termination events are described in more detail in the Explanatory Statement in Part II of this document and in Part IV of this document.



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**5. What shareholders will receive**

*Members Scheme*

If the Members Scheme is approved by the requisite majorities of Shareholders and becomes Effective, subject to certain restrictions relating to overseas Shareholders and as further described in the Explanatory Statement in Part II of this document, Shareholders will be entitled to receive:

**for every 50 Ordinary Shares**

**1.0 New Share and**

**2.1 Warrants**

**for every 50 A Shares**

**1.0 New Share and**

**2.1 Warrants**

in respect of British Energy Shares held at the Scheme Record Time.

A summary of the principal terms of the Members Scheme and the requirements for its approval are set out in paragraphs 5 and 6 of the Explanatory Statement in Part II of this document.

**Each Shareholder will receive New Shares and Warrants under the Members Scheme only if he or she elects to do so by completing the relevant Form(s) of Election or, in the case of the Warrants only, such Shareholder is deemed to have elected to receive such Warrants. If a Shareholder does not make a valid Shareholder Election or Deemed Election, the relevant New Shares and Warrants will be sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) will be remitted to the relevant Shareholder.** In considering whether to make a Shareholder Election, Shareholders should bear in mind the expense involved in transactions in small numbers of securities. It is generally the case that stockbrokers' minimum commissions are around £10 to £25.

The New Shares are ordinary shares in New British Energy having the rights attaching to them which are set out in the summary of the articles of association of New British Energy in Part X of the Prospectus: Additional information . The terms and conditions of the Warrants are set out in Part VIII of the Prospectus: Conditions of the Warrants .

*Disposal with Ordinary Shareholder approval*

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If the Members' Scheme is not approved by the requisite majorities of Shareholders, is not sanctioned by the Court or otherwise Lapses, but the Disposal Resolution is approved at the EGM then following completion of the Restructuring, Shareholders will, subject to certain restrictions relating to overseas Shareholders, be entitled to receive:

**for every 50 Ordinary Shares**

**2.1 Warrants**

**for every 50 A Shares**

**2.1 Warrants**

in respect of British Energy Shares held at the Disposal Record Time.

**Each Shareholder will receive Warrants under the Disposal only if he or she elects to do so by completing the relevant Form(s) of Election or such Shareholder is deemed to have elected to receive such Warrants. In the event that a Shareholder does not make a valid Shareholder Election or Deemed Election, the relevant Warrants will be sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) will be remitted to the relevant Shareholder.** In considering whether to make a Shareholder Election, Shareholders should bear in mind the expense involved in transactions in small numbers of securities. It is generally the case that stockbrokers' minimum commissions are around £10 to £25.

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The terms and conditions of the Warrants are set out in Part VIII of the Prospectus: *Conditions of the Warrants* .

### *Disposal without Ordinary Shareholder approval*

If the Members' Scheme is not approved by the requisite majorities of Shareholders, is not sanctioned by the Court or otherwise lapses and the Disposal is not approved at the EGM, then Shareholders will not receive any New Shares or Warrants.

## **6. Overseas Shareholders**

If you are a citizen, resident or national of, or located in, a jurisdiction outside the UK, please see paragraph 13 of the Explanatory Statement in Part II of this document.

## **7. Tax**

Information concerning the taxation consequences of the Members' Scheme and the Disposal is contained in paragraph 7 of Part V of this document and information concerning the taxation consequences of holding the New Shares and/or the Warrants is set out in paragraph 12 of Part X of the Prospectus: *Additional information* . Shareholders who may be liable to taxation in jurisdictions other than the UK or the US or who are in any doubt as to the taxation consequences of the Members' Scheme or the Disposal should seek advice from their own independent professional advisers.

## **8. Financial effects of the Disposal**

Under the terms of the Disposal, Holdings plc will acquire all of our Business in exchange for agreeing to assume all of our liabilities. As at 30 August 2004, Holdings plc had net assets of £50,000. Holdings plc did not trade prior to that date and therefore has no previous earnings. As at 30 June 2004, we had total assets of £2,559 million and total liabilities of £5,840 million. In the 3 month period ended 30 June 2004, we had a loss after tax and exceptional items of £115 million. Following the Disposal we would have no assets and our liabilities will be covered by the indemnity from Holdings plc described in paragraph 7 of the Explanatory Statement in Part II of this document.

Shareholders should not rely on this summary information and should read this entire document and the accompanying Prospectus. The net asset information for Holdings plc has been extracted without adjustment from the Accountants' Report set out in Section 4 of Part IV of the Prospectus: *Financial information* , and the figures relating to our total assets, total liabilities, and loss after tax and exceptional items have been extracted without material adjustment from our results for the three months ended 30 June 2004 which are set out in Section 2 of Part IV of the Prospectus: *Financial information* .

## **9. Current trading and prospects**

*Trading at the time of the announcement of the Restructuring*

At the time of the announcement of the outline terms of our Restructuring on 28 November 2002, the wholesale market price for electricity had been £17.0 per MWh for delivery in 2003/04 whilst average unit operating costs (including those relating to the Eggborough Station) for the six months ending 30 September 2002 were approximately £19.9 per MWh. In short, as a result of our high fixed cost base (particularly the costs associated with our fuel) on a per MWh basis, our costs of producing electricity were exceeding our achieved selling price. We entered into the agreements with Creditors and the Secretary of State in October 2003 in order to avoid administration in circumstances where no other viable option was available to the Group. The agreements provide the best that we could negotiate for Shareholders at the time. We believe the only alternative would have been for us to take appropriate insolvency proceedings under which any distribution to Shareholders would have been highly unlikely.



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At the time of the announcement of the formal terms of the Restructuring on 1 October 2003 we had contracted to sell our electricity for the remainder of that financial year at what we also estimated at that time would be an average price of £17.1 per MWh. At that time, we had entered into fixed price contracts for summer 2004 and winter 2004/2005 in relation to approximately 50 per cent. of our output for 2004/05 at an average price of £18.3 per MWh and altogether had contracts to sell approximately 90 per cent. of our output for that period. Taken together with the partial hedge provided by the new BNFL contracts (assuming the market price could fall below £21.0 per MWh), this meant we would only be 8 per cent. exposed to fluctuations in the wholesale electricity price. The prevailing market price at the time had been £21.6 per MWh for 2004/05.

The wholesale market price for electricity has increased significantly compared to the price at the time that the Restructuring was announced. This increase in the wholesale price for electricity, together with key elements of the Restructuring, details of which are set out in summary in the bullet points on the second half of page 9 and on page 10 of the Prospectus (and which are dealt with more fully in Part VI of the Prospectus: Further information relating to the Restructuring ) mean that the outlook for the Group has improved since the announcement made on 28 November 2002, although this has been offset by declines in output.

### *Current, financial and trading prospects of the Group*

Nuclear output was 15 TWh (a 67 per cent. load factor) for the three-month period ended 30 June 2004, 28.7 TWh (a 68 per cent. load factor) for the six-month period ended 30 September 2004 and 33.1 TWh (a 67 per cent. load factor) for the seven-month period ended 31 October 2004. The UK nuclear output for the equivalent periods in 2003 was 17.0 TWh (an 82 per cent. load factor), 33.3 TWh (a 79 per cent. load factor) and 37.9 TWh (a 77 per cent. load factor). The reduction on the previous year, and in the second quarter of this year compared to the first quarter, has been primarily due to unplanned outages.

During the three-month period ended 30 June 2004 and the six-month period ended 30 September 2004, investment expenditure on plant projects, major repairs and strategic spares across the whole Group, including incremental costs associated with PIP, totalled £32m and £64m respectively of which we estimate that £17m and £32m respectively may have been capitalised, with the main projects in the period including replacement of cast iron pipework, fuel route improvements and the implementation of the work management programme. As a result of the FRS 11 impairment review in the financial year ended 31 March 2003, all expenditure of a capital nature has been expensed and will continue to be expensed until such time as it is possible to demonstrate that it results in an enhancement to the carrying value of fixed assets.

As indicated above, we had already contracted to sell much of our planned nuclear output for the current year during the previous financial year and have had to buy back power. Therefore we have not seen the full benefit of the recent rises in electricity prices. These factors, as well as increased pension costs and an increased depreciation charge related to the impairment reversal made in March 2004, have had a significant adverse impact on our profitability and cash flow. In view of the recent unplanned outages and the delayed return to service of our Hartlepool and Heysham 1 power stations, the Directors consider that the outlook for the Company's financial and trading prospects for the remainder of the financial year will be challenging.

The principal factors affecting the financial and trading prospects of the Group for the current financial year are: output, nuclear unit cash costs, sales, PIP (see below), and cash and liquidity.

Following the unplanned outage at Heysham 1 in early 2004, as a result of cast iron pipework failure, we reviewed the implications for further cast iron pipework replacement at our other nuclear power stations and, accordingly, on 19 March 2004 we announced

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our indicative target for nuclear output for 2004/2005 was reduced from 67 TWh to 64.5 TWh. We have suffered a number of unplanned outages since that date and following the evaluation of structural inspections carried out during a statutory outage at Hartlepool, we decided that further work was required to demonstrate the integrity of certain boilers. On 30 July 2004, we announced that we had revised our target nuclear output for 2004/2005 to around 61.5 TWh. However, following discussions with the NII concerning our programme of works at Hartlepool and Heysham 1, we currently expect that Hartlepool and Heysham 1 will not return to service until later this calendar year and consequently we expect nuclear output of 59.5 TWh in the financial year ending 31 March 2005 (as we announced on 18 November 2004). Based on New British Energy's business plans, we further expect the average annual nuclear output over the next 3 financial years (including this financial year) to be approximately 61.8 TWh.

Subject always to its continuing obligations as a listed company, New British Energy proposes to publish information regarding the Group's output on a quarterly basis at the same time as it publishes the results for that quarter (rather than on a monthly basis) and it does not propose to make further forward-looking statements regarding the Group's proposed annual output during a financial year.

Based on an average annual nuclear output over the next 3 financial years of approximately 61.8 TWh, our average nuclear unit cash costs are projected to be £19.1 per MWh at current price levels. These costs have increased since the October 2003 announcement as a result of the reduction in output, the higher level of projected investment and the costs of PIP referred to below, the increase in electricity prices and inflation. The rise in electricity prices impacts our nuclear unit cash costs because under the new arrangements for back-end fuel services we are now making additional payments to BNFL. This will continue for so long as electricity prices remain above £16.0 per MWh (in 2002/2003 monetary values and indexed to RPI).

As of 22 November 2004 contracts were in place covering virtually all of the planned output for the financial year ending 31 March 2005, of which nearly all are at fixed prices. The average price for these fixed price contracts is £21.0 per MWh. For 2005/2006, contracts are in place for approximately two-thirds of planned generation, with approximately half of these being at fixed prices at an average price of approximately £25 per MWh. The market price for forward baseload contracts has continued to rise and the wholesale price for annual contracts with delivery in 2005/2006 has risen from around £24.5 per MWh at the end of March 2004 to over £30.0 per MWh by 22 November 2004, an increase of some 20 per cent. Whilst there is no guarantee that these prices will continue to prevail they are comfortably above our estimates of average nuclear unit cash costs.

In August 2003 we brought together a team within British Energy and engaged a consortium of experienced external consultants, to design and implement a far-reaching performance improvement programme (PIP). By putting in place and implementing this programme, which in essence involves investing in our people, processes and plant, we are aiming to increase the degree of reliability of our nuclear generating assets. However, because of the programme's wide ranging nature and the time and costs involved in implementing it, we do not expect to see the benefits of the hoped for improvement in operational reliability in the current or next financial year.

However, AGR power stations are unique to the UK and were built in the 1970s and 1980s by different design consortia to different design specifications. Accordingly, there can be no assurance that the improvement in reliability achieved in other nuclear power station improvement programmes, upon which PIP is based and which have been undertaken on newer fleets of nuclear power stations based on non-AGR technology, will be capable of being achieved in respect of our AGR power stations.

Based on our current expectations of future electricity prices and output, and therefore our financial resources, we believe that the annual investment in plant projects, major repairs



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and strategic spares across the whole New British Energy Group, which includes incremental annual PIP expenditure of £70m to £120m, will be in the range of £200m to £250m in each of the two years ending 31 March 2006 and 2007. This compares with the range of capital expenditure of £85m to £90m announced in October 2003 which did not include any PIP expenditure, nor the costs of major repairs and strategic spares. This financial year, based on the financial resources we expect to have available to us, this investment will be in the range of £140m to £170m including incremental PIP expenditure of approximately £20m. If our financial resources are otherwise required due to unforeseen outages or changes to electricity prices and collateral requirements, we may be required to adjust our investment plans accordingly.

On 30 June 2004, net debt was £382m with gross debt standing at £883m. We had cash and liquid resources of £501m of which £321m was deposited as collateral in support of our trading activities. At 31 October 2004, the amounts were £450m and £332m respectively. We also entered into a receivables facility agreement on 25 August 2004 to provide additional liquidity and we have agreed to defer amounts due to certain suppliers in order to better match the profile of monthly expenditure with the receipt of income from the sale of electricity.

A more detailed description of the Group's current trading and prospects is set out in Part III of the Prospectus: Operating and financial review and prospects. Financial information relating to the Group and a pro forma net asset statement for the New British Energy Group are set out in Part IV of the Prospectus: Financial information and Part V: Unaudited pro forma financial information respectively. Shareholders should not rely on this summary information and should read the entire document and accompanying Prospectus. Our cash and sales figures have been extracted without material adjustment from our underlying accounting and sales records used in the preparation of the financial information in Part IV of the Prospectus: Financial information and the information relating to PIP has been extracted from our own internal records regarding how we allocate our expenditure.

### *Prospects of the Continuing Group*

If we proceed with the Disposal, the Continuing Group will cease to beneficially own any assets (including shares in subsidiary companies) as these will have been transferred to Holdings plc and we will be an empty shell company with no value. Under the terms of the Business Transfer Agreement we are required to make all reasonable efforts to novate all relevant contracts to which the Continuing Group is a party and until such novation can be effected Holdings plc will indemnify the Continuing Group against any liability in connection with the liabilities assumed by Holdings plc or arising from the ownership or operation of the Business. In due course the Continuing Group would be wound up or struck off the register of companies on a solvent basis and there will be no further return to Shareholders.

### 10. **Dividend policy**

The board of New British Energy intends to distribute to shareholders as much of New British Energy's available cash flow as prudently possible, but not until operational requirements of the business permit. In addition, under the terms of the Restructuring, there are certain restrictions on, or factors affecting, the board's ability to pay dividends including:

- New British Energy is required to fund cash reserves out of its net cash flow in order to support the New British Energy Group's collateral and liquidity requirements post-Restructuring. The initial target amount for the cash reserves is £490 million plus the amount by which cash employed as collateral exceeds £200 million. Prior to paying any dividends, New British Energy's cash needs to equal or exceed the Target Amount and certain other amounts specified in the

Contribution Agreement;

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- the terms of the Contribution Agreement also require that once the cash reserve is funded to the Target Amount, New British Energy must make the NLF Cash Sweep Payment. Initially this is 65 per cent. of the New British Energy Group's adjusted net cash flow (calculated on the basis set out in the summary of the Contribution Agreement in paragraph 17.2(e) of Part X of the Prospectus: Additional information ). This percentage may be adjusted for certain corporate actions but may never exceed 65 per cent. The requirement to make the NLF Cash Sweep Payment will greatly reduce the amount of cash that would otherwise be available for distribution to Shareholders. In addition, New British Energy may not pay any dividends without making an additional payment to the NLF if the result of paying such dividend would be that the aggregate amount of dividends paid to shareholders in the period following the Restructuring would exceed the aggregate of New British Energy's annual adjusted net cash flow in such period less the aggregate NLF Cash Sweep Payments payable in such period;
- the terms of the New Bonds contain certain covenants (which are described in detail in Part VII of the Prospectus: Terms and conditions of the New Bonds ), including a restriction that allows New British Energy to pay a dividend only if the Target Amount is met and no event of default has occurred; and
- New British Energy must have distributable reserves.

As a result of these restrictions and after making a prudent allowance for collateral requirements the directors of New British Energy consider that the earliest period for which a dividend may be declared is the financial year ending 2007. A further description of New British Energy's dividend policy is set out in Part III of the Prospectus: Operating and financial review and prospects .

**11. New British Energy reduction of capital**

Shortly after the Restructuring Effective Date, New British Energy will seek to reduce its share premium account with the sanction of the Court. The New British Energy Reduction is intended to eliminate the deficit (if any) in the distributable reserves for New British Energy which may arise as a result of the Restructuring and to provide some distributable reserves for New British Energy to pay dividends to shareholders in the future. Further details relating to the New British Energy Reduction are set out in paragraph 10 of the Explanatory Statement in Part II of this document.

**12. Directors interests**

All of the Directors have been appointed directors of New British Energy and Holdings plc. If the Members Scheme becomes Effective, New British Energy and Holdings plc will be the ultimate and immediate parent company respectively of British Energy. Information on the Directors and the interests of the Directors in British Energy Shares and prospectively in New Shares and Warrants is set out in Part V of this document.

I have a letter of appointment with British Energy dated 20 January 2003 to serve as a non-executive director for 3 years from 1 December 2002 which may be renewed for a further 3-year period at the discretion of the Board. I also have a further letter of appointment with New British Energy and Holdings plc dated 23 September 2004. The terms of my letters of appointment provide for the payment to me of an additional fee of £100,000 contingent upon a restructuring of the British Energy Group becoming effective and binding on all interested parties. It is intended that following Admission, my letters of appointment will be amended to provide for 30 per cent. of my post-Admission base fee of £150,000 per annum to be settled in shares under arrangements which remain to be agreed in detail.

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With effect from 1 September 2004, we modified our fee structure for all non-executive Directors except myself. In addition to the fees set out in paragraph 7 of Part X of the



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Prospectus: Additional information , each non-executive Director will receive £13,000 per annum payable in New Shares, such shares to be allocated quarterly in arrears. A non-executive Director may only sell his or her New Shares in equal tranches over the 3 years following grant subject to having been on the board of New British Energy for at least 12 months following the date of grant. Current non-executive Directors will each receive a single payment of £10,000 of New Shares as soon as possible after Admission. Any new non-executive Directors joining the board of New British Energy after this time will also receive a similar payment.

Once the Restructuring is implemented, the current executive Directors who are also executive directors of New British Energy may, subject to the satisfaction of certain performance targets, be entitled to a deferred bonus under the Interim Bonus Plan and thereafter under the LT Plan. Details of the Interim Bonus Plan and the LT Plan are set out in paragraph 6 of Part V and in paragraph 8 of Part X of the Prospectus: Additional information .

In the event that the Restructuring does not go ahead as planned, Roy Anderson s service agreement entitles him to participate in a broadly comparable bonus plan to the Interim Bonus Plan and LT Plan.

Stephen Billingham s service agreement entitles him, subject to certain conditions, to a single payment of £200,000 in June 2005 provided that he has not voluntarily left the employment of British Energy before 30 June 2005 or has received notice of termination before that date. In the event that shares in New British Energy are not admitted to the Official List by 31 March 2006, Stephen Billingham will receive a further payment of £400,000 during April 2006. This payment will be offset against any awards due to Stephen Billingham under any bonus/incentive plan in operation for the financial years 2006/2007 and 2007/2008.

Save as set out above there are no other awards or bonuses that will become payable to the Directors if the Restructuring becomes effective.

Paragraph 15 of the Explanatory Statement in Part II of this document contains further details of all of the Directors interests (whether as directors or as members or as creditors of the Company or otherwise) and the effect on those interests of the Members Scheme, in so far as they may be different from the effect on the like interests of other persons.

### **13. Meetings**

Paragraph 19 of the Explanatory Statement in Part II of this document provides details of the Ordinary Share Court Meeting, the A Share Court Meeting and the Extraordinary General Meeting, which are required to approve the Members Scheme and, in the case of the Extraordinary General Meeting, the Disposal. Notices of each of these meetings are set out at the end of this document.

### **14. Action to be taken**

A detailed explanation of the action to be taken by Shareholders is set out in paragraph 20 of the Explanatory Statement in Part II of this document.

**You are urged to complete and return the GREEN Form of Proxy for the Ordinary Share Court Meeting, the BLUE Form of Proxy for the A Share Court Meeting and the WHITE Form of Proxy for the Extraordinary General Meeting. For the reasons discussed in paragraph 7 of the Explanatory Statement in Part II of this document, only Ordinary Shareholders will be entitled to vote at the Extraordinary General Meeting. Completed Forms of Proxy should be returned to the Registrars, Lloyds TSB Registrars as soon as possible but in any event, so as**

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**to arrive by 10.30 a.m., 11.30 a.m. and 12 noon respectively on 20 December 2004.** Forms of Proxy for the Ordinary Share Court Meeting and the A Share Court Meeting may also be handed to the chairman of the Ordinary Share Court Meeting and the A Share Court Meeting respectively. However, in the case of the Extraordinary General Meeting, unless the white Form of Proxy is lodged so as to be received at least 48 hours before the meeting, it will be invalid. The lodging of a Form of Proxy will not prevent you from attending the Ordinary Share Court Meeting, the A Share Court Meeting or the Extraordinary General Meeting and voting in person should you wish to do so.

**Scheme Shareholders who wish to make a Shareholder Election to have New Shares and/or Warrants issued to them or their nominee, must complete the enclosed Form(s) of Election and return it/them to the Registrars, Lloyds TSB Registrars at the address shown on the Form(s) of Election by no later than the Election Return Time.** In considering whether to make a Shareholder Election, Scheme Shareholders should bear in mind the expense involved in transactions in small numbers of securities. It is generally the case that stockbrokers' minimum commissions are around £10 to £25.

**There are a number of risks related to ownership of the New Shares and Warrants. Part II of the Prospectus: Risk factors contains further detail in relation to such risks.**

**If you have any questions relating to the proposals described in this document or the completion and return of the Form(s) of Proxy or Form(s) of Election, please contact our helpline on freephone 0800-035-0844 (or if calling from outside the UK +44 (0) 1295-225-285 (calls charged at applicable rates)), Monday to Friday 9.00 a.m. to 5.00 p.m. (UK time). The helpline cannot provide advice on the merits or otherwise of the matters described in this document, nor give any financial advice.**

**15. Recommendation**

We entered into the agreements with Creditors and the Secretary of State in October 2003 in order to avoid administration in circumstances where no other viable option was available to the Group and the agreements provide the best that we could negotiate for Shareholders at the time. We believe the only alternative would have been for us to take appropriate insolvency proceedings under which any distributions to Shareholders would have been highly unlikely. We continue to believe there is no reliable alternative option to the Restructuring available to us.

The effectiveness of the Members' Scheme and, failing that, the implementation of the Disposal, is required for the Restructuring to be implemented. Therefore, if the Members' Scheme is not approved or the Disposal Resolution is not passed, we are required to implement the Disposal without Shareholder approval. If the Disposal is implemented, Shareholders will remain holders of British Energy Shares, but we will have disposed of all of our assets and the British Energy Shares will be unlisted securities and will not have any value.

We have decided it is prudent to seek an extension to the present Restructuring Long Stop Date of 31 January 2005 but there can be no assurance that all the requisite parties will agree the proposed extension. If for any reason the Restructuring cannot be completed before the Restructuring Long Stop Date and our current standstill arrangements are terminated and a replacement standstill cannot be agreed with Creditors shortly thereafter, we would be unable to meet our financial obligations as they fall due and consequently we may have to take appropriate insolvency proceedings. If we were to commence insolvency proceedings, the distributions to unsecured creditors may represent only a small fraction of their unsecured liabilities and there is highly unlikely to be any return to Shareholders.



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The Restructuring remains subject to a number of important conditions (which are outlined in detail in Part IV below) and will result in a very significant dilution of the interests of Shareholders. Notwithstanding the above, the Directors consider that the Restructuring (implemented, if necessary, by the Disposal) and the resolutions to be proposed at the EGM are in the best interests of the Group and the Shareholders as a whole.

Even if Shareholders approve the Members Scheme it may still not become Effective for other reasons and therefore Ordinary Shareholders are encouraged to vote in favour of the Disposal as well as the Members Scheme.

In light of the difficult circumstances faced by the Group, the Directors, who have received financial advice from Citigroup Global Markets Limited, consider the Restructuring to be in the interests of the Company. In providing advice to the Directors, Citigroup Global Markets Limited has placed reliance upon the commercial assessments of the Directors.

**Accordingly, the Directors unanimously support the Restructuring and recommend that Shareholders vote in favour of the Members Scheme to be approved at the Court Meetings and both the resolutions to be proposed at the Extraordinary General Meeting, that is, the Members Scheme Resolution and the Disposal Resolution. The Directors intend to vote in favour in respect of their own beneficial holdings, amounting to 4,188 Ordinary Shares.**

Yours sincerely

**Adrian Montague**

**Chairman**

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**PART II**

**EXPLANATORY STATEMENT**

*(in compliance with section 426 of the Companies Act 1985)*

**BRITISH ENERGY PLC**

*(Registered in Scotland No. 162273)*

29 November 2004

*To shareholders of British Energy plc*

Dear Shareholder,

**Proposed Restructuring of British Energy plc**

**1. Introduction**

On 1 October 2003, the Company announced that it had entered into the Creditor Restructuring Agreement and the Government Restructuring Agreement setting out the terms of the proposed Restructuring of the Group with certain key creditors and the Secretary of State.

In response to the requisition from Polygon and Brandes in early September 2003, on 23 September 2003 the Company announced that it would be convening the Requisitioned EGM and on the same day sent you a circular notifying you of its intention to apply for the UKLA to cancel the listings of the British Energy Shares. The listings of the British Energy Shares on the Official List were cancelled by the UKLA with effect from 8.00 a.m. on 21 October 2004 and the last day of dealings in British Energy Shares on the London Stock Exchange was 20 October 2004. On 22 October 2004, the Company announced that none of the resolutions had been passed at the Requisitioned EGM.

Following the receipt on 24 September 2004 by the Secretary of State of State Aid Approval, on 12 October 2004 the Company announced that all the remaining Initial Conditions to the implementation of the Restructuring had been satisfied. Notwithstanding the satisfaction of the Initial Conditions, the Restructuring remains subject to the satisfaction of a number of other conditions which are set out in Part IV of this document. Admission is also conditional upon the Restructuring being implemented.

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Your attention is drawn to the letter from the Chairman of the Company set out in Part I of this document, which forms part of this Explanatory Statement and summarises the Restructuring and recommends to Shareholders that they vote in favour of the Members' Scheme and to Ordinary Shareholders that they vote in favour of the resolutions to be proposed at the Extraordinary General Meeting, including the Members' Scheme Resolution and the Disposal Resolution.

### 2. **Background to the Restructuring**

As outlined in the Chairman's letter in Part I of this document, on 5 September 2002, the Company announced that it had initiated discussions with the Government with a view to seeking immediate financial support to enable a longer-term financial restructuring to take place. The Company decided to initiate these discussions based on several factors including various unplanned outages at the Group's nuclear power stations, the failure of negotiations with BNFL and a review of the longer-term prospects of the Group.

The discussions with the Government in September 2002 resulted in the Government providing the Group with the Government Facility, intended to provide working capital for the Group's immediate requirements and to allow the Group to stabilise its trading

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position (the Government Facility ceased to be available for drawing by the Group on 22 September 2004 following the issue of State Aid Approval).

On 28 November 2002, when the Company announced the outline terms of the proposed restructuring, it highlighted some of the commercial and structural factors which had caused or compounded its financial difficulties, some of which the Restructuring seeks to address. These are set out below:

the Group's nuclear fleet in the UK had high fixed costs of production when compared with other generators of electricity (including the costs of supplies and services under its contracts with BNFL); as a merchant generator with no retail supply business the Group was (and will remain following Admission) heavily exposed to declines in wholesale electricity prices. Significant contracts for direct sales to industrial and commercial customers were closely linked to the wholesale electricity price which meant the business was unable to withstand the significant reduction in wholesale electricity prices which fell by over 35 per cent. over the two years to September 2002. Currently, subject to and following Admission, the exposure to declines in electricity prices is partially hedged, within certain parameters, by the new BNFL contracts described in paragraph 3 below (although at current wholesale electricity price levels the Group is now making additional payments to BNFL as provided for in the new BNFL contracts);

the Group's wholesale electricity price exposure at the time was exacerbated by a power purchase agreement and two contracts for differences which magnified its exposure to baseload electricity prices. The claims of the counterparties to these arrangements are being compromised pursuant to the Restructuring in exchange for New Shares to be issued by New British Energy and New Bonds to be issued by Holdings plc;

the Group has an obligation, under its nuclear site licences, to decommission its nuclear power stations at the end of their useful lives. These liabilities were estimated to have a net present value of £1.1 billion as at 31 March 2004. Certain of the decommissioning liabilities were covered by the NDF to which the Group contributed. However, there was no certainty that this fund, at the level of contributions the Group was making, would be sufficient to cover all of the liabilities to which it related. This uncertainty will, on Admission, be substantially mitigated by the new arrangements with the Secretary of State relating to the Nuclear Liabilities Fund described in paragraph 3 below;

the Group's operations generate liabilities in respect of nuclear fuel and waste estimated at £3.5 billion for discounted contracted liabilities and £1.1 billion for discounted uncontracted liabilities (in each case as at 31 March 2004). Some of these liabilities are currently covered by long term contracts with BNFL, with the balance remaining uncontracted. These uncontracted liabilities are long term in nature and therefore subject to uncertainty. There is no guarantee that the Group's business would generate sufficient funds to cover these contracted and uncontracted liabilities. This uncertainty will be substantially mitigated on Admission by the new BNFL contracts and the new arrangements with the NLF and the Secretary of State described in paragraph 3 below;

the Eggborough Station, which was acquired out of group funds, also suffered from the reduction in wholesale electricity prices through 2001 and 2002 and the narrowing differential between winter and summer prices. The acquisition was refinanced with a project finance loan on 13 July 2000 and it was difficult for the Group to fund the repayments required. The debt owed to the providers of the project finance loan will be compromised under the terms of the Restructuring as described in paragraph 3 below;

the Group had investments in the USA and Canada but these had not generated dividends and, in the case of Canada, required significant investment. As a result,



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they had stretched the Group's financial resources. These assets have now been disposed of; and

as at 30 September 2002, the Group had indebtedness of £1,050 million (including £490 million in connection with the Eggborough Station and approximately £408 million of unsecured existing Bonds) with significant debt repayment obligations to be made in cash and as a result of the loss of the Company's investment grade rating in September 2002 the Group's cash requirements increased significantly to meet the collateral requirements of trading counterparties.

The restructuring principles agreed with the Government in November 2002 formed the basis for the Restructuring and required, amongst other things, that the Company enter into a binding agreement with its Creditors by 30 September 2003 whereby their existing claims against the Group would be extinguished in exchange for a combination of new debt and new equity in the restructured Group.

Accordingly, in October 2003 the Company announced that it had entered into binding agreements with its Creditors and with the Secretary of State setting out the terms of the Restructuring of the Group and the circumstances in which the Secretary of State would support the Restructuring.

Further details on the background to the Restructuring are set out in the Chairman's letter in Part I of this document and in the Prospectus.

### **3. Summary of the Restructuring**

The principal elements of the Restructuring are set out below.

#### *New Bonds and New Shares*

The Creditors who signed up to the Creditor Restructuring Agreement (other than BNFL) have agreed, under the terms of that agreement, to extinguish their existing unsecured claims against the Group in exchange for £275 million of New Bonds of Holdings plc and at least 97.5 per cent. of the New Shares of New British Energy. If the Members' Scheme does not become Effective, Creditors (other than BNFL) will receive 100 per cent. of the New Shares in New British Energy immediately following implementation of the Restructuring.

The claims of Creditors will be extinguished in two ways. Firstly, the Company is proposing the Creditors' Scheme to Bondholders and RBS under which Bondholders and RBS will agree to extinguish their claims against the Group (under the Bonds and the RBS Letter of Credit) in exchange for the issue to them of New Shares and New Bonds. To become Effective, the Creditors' Scheme must be approved by a majority in number of the Bond Trustees and RBS representing three-fourths in value of their claims against the Group. Following approval of the Creditors' Scheme by the requisite majority, the Creditors' Scheme will also need to be sanctioned by the Court and the Creditors' Order filed with the Companies Registrar. The Creditors' Scheme Circular was made available to Bondholders and RBS on the same date as this document and is available for inspection at the registered office of the Company.

Secondly, the Significant Creditors and the Eggborough Banks (in respect of their unsecured claims only) have agreed to extinguish their claims against the Group in exchange for New Bonds and New Shares pursuant to the operation of the Creditor Restructuring Agreement itself.

*Eggborough Arrangements*

The Eggborough Banks as lenders with the benefit of the RBS Letter of Credit and security over, amongst other things, the shares in, and assets of, EPL (the Company's subsidiary

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that owns the Eggborough Station), will be re-paid approximately £37.5 million pursuant to the RBS Letter of Credit and have agreed to replace the balance of their existing secured claims with a right to receive payments under the Amended Credit Agreement on substantially the same payment terms as £150 million of New Bonds.

In addition, the Eggborough Banks will be granted: (i) options exercisable at any time prior to 31 August 2009 under which they may acquire the shares in, or assets of, EPL on 31 March 2010 in consideration for, amongst other things, £104 million (subject to certain adjustments depending on the condition of the Eggborough Station on 31 March 2010) and the cancellation of the outstanding payments under the Amended Credit Agreement at such time; and (ii) options under which they may acquire the shares in, or assets of, EPL at any time prior to 31 August 2009 on or after the occurrence of an event of default under the Amended Credit Agreement that is continuing in consideration for a fee (which varies depending on the type of event of default) and the cancellation of the outstanding payments under the Amended Credit Agreement at such time. The Eggborough Banks will be entitled to assign and/or transfer all (but not part only) of their rights under the options to a third party, subject to a pre-emption right in favour of the New British Energy Group under which a member of the New British Energy Group may purchase such rights at 105 per cent. of the price offered to the relevant third party.

The Eggborough Banks will continue to benefit from their existing security and certain new security which will secure, amongst other things, the Eggborough Banks' rights under the Amended Credit Agreement and the options. As a result, on and at any time after the occurrence of an event of default under the Amended Credit Agreement that is continuing, the Eggborough Banks will have the right to:

- (a) prior to 31 August 2009, exercise the option or enforce their security referred to above; or
- (b) on or post 31 August 2009, enforce their security.

EPL's payments under the Amended Credit Agreement will be funded by the New British Energy Group and consequently the recovery of the Eggborough Banks on enforcement of their security should effectively equal the outstandings under the Amended Credit Agreement at the relevant time even in circumstances where the shares in, or assets of, EPL are worth less than such outstandings.

### *The Nuclear Liabilities Fund*

Under new arrangements with the Secretary of State, the existing NDF will be enlarged into and renamed the NLF which will fund certain of the Group's qualifying uncontracted nuclear liabilities and decommissioning costs.

The Secretary of State has agreed to fund: (i) qualifying decommissioning costs and qualifying uncontracted liabilities to the extent they exceed the assets of the NLF; and (ii) subject to certain exceptions, contracted liabilities for historic spent fuel. As at 31 March 2004, the market value of the NDF was £440 million. To the extent that there is any surplus in the NLF, this amount will be paid to the Secretary of State. The New British Energy Group will be responsible for funding certain excluded or disqualified liabilities and will, in certain circumstances, be required to compensate or indemnify the NLF and the Government in relation to such liabilities. These include, amongst other things, employment and redundancy costs, certain environmental expenses and liabilities arising from any breach by BEG or BEG UK of the Nuclear Installations Act 1965 in relation to occurrences involving nuclear material or ionising radiation. Disqualified liabilities include the increases in the net present value of costs of discharging liabilities of £100,000

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(in March 2003 monetary values and indexed to RPI) or more arising out of: (i) failure by BEG and BEG UK as licensees to behave in accordance with a defined minimum performance standard; or (ii) the implementation of certain operational changes (broadly speaking where not required or anticipated to be required by law or accepted standards); and (iii)

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any such increases arising out of key operational changes where the required Nuclear Decommissioning Authority consent has not been obtained.

In consideration for the assumption of these liabilities by the Secretary of State and the NLF, Holdings plc will issue £275 million in New Bonds to the NLF and the New British Energy Group will make the following ongoing payments:

- (a) fixed decommissioning contributions equal to £20 million per annum (in March 2003 monetary values and indexed to RPI) but tapering off as the AGR nuclear power stations are currently scheduled to close;
- (b) £150,000 (stated in March 2003 monetary values and indexed to the Retail Price Index) per tonne of uranium in fuel loaded into the Sizewell B reactor after the Restructuring Effective Date; and
- (c) the NLF Cash Sweep Payment, which will be an annual contribution of, initially, 65 per cent. (subject to adjustment) of the Group's adjusted net cash flow (calculated on the basis set out in the summary of the Contribution Agreement in paragraph 17.2(e) of Part X of the Prospectus: *Additional information* ). The NLF's entitlement to the NLF Cash Sweep Payment is convertible into an equity shareholding of New British Energy.

On a full conversion of the NLF Cash Sweep Payment, the NLF would hold up to 65 per cent. of the thereby enlarged equity share capital of New British Energy. However, the terms of the Convertible Shares into which such entitlement will convert, will limit the general voting rights attaching to such shares to the maximum amount of shares as can be held without triggering a mandatory offer under the Takeover Code, being currently 29.9 per cent. of the voting rights of New British Energy (and, for this purpose, taking into account the voting rights attributable to any other New Shares held or acquired by any person acting in concert with the NLF). Paragraph 11 below contains further details on the Convertible Shares and the NLF Conversion Right.

In addition, the Secretary of State will have an option to acquire for £1 each of the Group's nuclear power stations and related station assets (subject to certain exclusions) for the purpose of decommissioning or continuing the operation of those nuclear power stations beyond the date of closure of those stations assumed by the Group (which date will include any changes to such dates in New British Energy's financial statements following the extension of current station lifetimes). An option to continue to operate a nuclear power station may (unless the New British Energy Group has given notice that it will close the station early) only be exercised at any time up to and including the date which is two years before the scheduled closure date of the station but transfer of the station pursuant to the exercise of the option cannot complete until the scheduled closure date of the station, at the earliest. The Secretary of State also has an option to acquire the Group's interest in United Kingdom Nirex Limited.

### *New BNFL contracts*

On 31 March 2003 and 16 May 2003 respectively, the Company exchanged contracts with BNFL covering front-end AGR fuel supply (that is, fuel preparation before it enters the reactor) and back-end AGR fuel services (i.e. handling, storage and ultimate disposal of spent fuel) required to give effect to the Restructuring. The amendments to the Company's existing front-end contracts became effective on 1 April 2003 but, with the exception of the new arrangements for the supply of uranium to BEG, may be terminated if the Restructuring is not completed. The new post 2006 front-end fuel contracts, the amendments to the back-end fuel contracts and the new back-end fuel contracts are also conditional upon completion of the Restructuring.

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The pricing provisions in the new BNFL contracts are intended to enable the Group to reduce a proportion of its fuel costs by providing for a discount when the market baseload

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price of electricity is below a specified amount and a surcharge when above this amount. As electricity prices have risen substantially since October 2003, the Group is now making additional payments to BNFL under the new arrangements for spent fuel management in the form of the surcharge. This will continue for so long as electricity prices remain above £16.0 per MWh (in 2002/2003 monetary values and indexed to RPI).

### *Shareholder allocation*

If the Restructuring is completed, New British Energy will issue a mix of New Shares and Warrants to Shareholders on the following basis:

- if the Members Scheme is approved by Shareholders and it becomes Effective, Shareholders will receive New Shares representing 2.5 per cent. of the issued share capital of New British Energy immediately following implementation of the Restructuring and Warrants entitling them to subscribe for New Shares equal to 5 per cent. of New British Energy's thereby diluted share capital immediately following completion of the Restructuring (excluding the impact of the Employee Options and conversion of the NLF Cash Sweep Payment);
- if the Members Scheme is not approved by Shareholders (or it otherwise Lapses) but Ordinary Shareholders approve the Disposal, then Shareholders will not receive any New Shares but will receive Warrants entitling them to subscribe for New Shares equal to 5 per cent. of New British Energy's thereby diluted share capital immediately following completion of the Restructuring (excluding the impact of the Employee Options and conversion of the NLF Cash Sweep Payment); and
- if Shareholders do not vote in favour of the Members Scheme (or it otherwise Lapses) and Ordinary Shareholder approval in respect of the Disposal is not obtained, Shareholders will receive no New Shares or Warrants.

A more detailed description of the terms of the Restructuring is contained in Part VI of the Prospectus: Further information relating to the Restructuring .

#### **4. Cancellation of listings**

On 3 September 2004, Polygon and Brandes requisitioned an extraordinary general meeting of the Company. In accordance with the Company's obligations under the Act, the Company sent a circular to you on 24 September 2004 containing notice of the Requisitioned EGM which was held on 22 October 2004. The resolutions proposed by Polygon and Brandes at the Requisitioned EGM sought to stop the Company from taking certain actions which may be necessary to implement the Restructuring.

One of the resolutions proposed at the Requisitioned EGM would have had the effect, if passed, of requiring British Energy to seek Shareholder approval prior to applying for the cancellation of its listings. If British Energy were required to take steps to cancel the London listing of its shares in circumstances where Shareholders do not approve the Members Scheme or the Disposal, but could not do so as a result of a failure to achieve such Shareholder approval, British Energy believed, having taken legal advice, that it would be likely to be in breach of the Creditor Restructuring Agreement.

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British Energy was informed by certain creditors to whom the Group owe significant amounts that if that happens and they could not compel the Company to perform its obligations under the Creditor Restructuring Agreement, they would take steps to terminate the Creditor Restructuring Agreement and the related standstill arrangements. Further they said that they would then take steps to recover amounts owing to them including taking steps to force British Energy into administration. If that had happened British Energy believed that the other creditors who are also a party to the Creditor Restructuring Agreement would also demand payment. Therefore the Group would be



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required to pay approximately £1.5 billion to Creditors. The Group did not and does not have the resources to pay that amount. As a result of such breach of the Creditor Restructuring Agreement British Energy may have been exposed to significant claims for damages for breach of contract. Moreover, because the creditors said that they would demand immediate repayment of monies which British Energy judged, for the reasons set out above, it would be unable to pay, British Energy considered that its directors would have no choice but to place British Energy into administration.

For this reason, on 23 September 2004, the Company sent you a circular, notifying you, in accordance with the Company's obligations under the Listing Rules, that the Company intended to seek cancellation and apply for the UKLA to cancel the listing of the British Energy Shares from the Official List of the UKLA at the end of the 20 Business Day notice period, such cancellation to take immediate effect. Under the Listing Rules, the Company could apply to cancel the listings of the British Energy Shares from the Official List without shareholder approval.

On 30 September 2003, Polygon announced that, having considered the Company's recent circulars, it had agreed, amongst other things, to vote against the resolutions proposed at the Requisitioned EGM and not to further oppose the Restructuring. In addition, on 30 September 2004 the Company announced that it would be withdrawing its action against Polygon in the United States and that the Bondholders had agreed terms to stop the proceedings in London insofar as they related to Polygon. Brandes subsequently announced on 6 October 2004, that it was not going to pursue the matter further for the time being but that it would continue to monitor events so that it may take appropriate steps to promote the legitimate interests of its clients.

Following the Company's application for the UKLA to cancel the listings of the British Energy Shares from the Official List, the UKLA cancelled the listings of the British Energy Shares with effect from 8.00 a.m. on 21 October 2004 and the last day of dealings in British Energy Shares on the London Stock Exchange was 20 October 2004. The Company is not intending to apply for the UKLA to cancel the London listing of its Bonds prior to the Restructuring Effective Date.

Although the British Energy Shares are no longer listed on the Official List, the London listings of the Bonds have not been cancelled and the Company, therefore, remains subject to the continuing obligations applying to issuers of specialist debt securities under the Listing Rules. The Company is exempt from the other continuing obligation provisions of the Listing Rules which apply to issuers of equity securities but intends to comply with these obligations as if the listings of the British Energy Shares had not been cancelled. It will not, however, regard itself as being subject to the requirements of the Listing Rules to seek shareholder approval for significant transactions such as the Disposal or related party transactions. Therefore, although Ordinary Shareholders are being asked to approve the Disposal at the EGM, if the Disposal Resolution is not passed in circumstances where the Members Scheme has not become Effective, the Company will proceed with the Disposal without such approval.

Following the Company's notice to Shareholders of its intention to cancel the listings of the British Energy Shares, on 28 September 2004, the NYSE suspended trading in the British Energy ADRs and instituted proceedings to permanently delist the British Energy ADRs from the NYSE. British Energy has appealed the NYSE's decision. However, there can be no assurance that the appeal will be successful.

## **5. The Members Scheme**

In order to implement the Restructuring, it is proposed that the Company will become a wholly-owned subsidiary of New British Energy by means of the Members Scheme. The Members Scheme is a court-approved scheme of arrangement under section 425 of the Act involving a reduction of capital of the Company by the cancellation of the British



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Energy Shares. At the same time the Company will also apply to the Court to reduce the Company's capital further by cancelling the valueless Non-voting Deferred Shares which were issued in connection with the return of value by the Company in 1999. In order to reduce the deficit in its profit and loss account brought about by a permanent loss of capital, the Company proposes to apply the reserve arising in its books as a result of the cancellation of the British Energy Shares and Non-voting Deferred Shares (save for 44<sup>28</sup>/43p) to its profit and loss account. The 44<sup>28</sup>/43p of the reserve not so applied will be used in paying up in full, at par, one new Ordinary Share which will be issued to New British Energy or its nominee and which will comprise the entire issued ordinary share capital of the Company. A single new Ordinary Share will be issued to New British Energy at par because that is all that is required to make the Company a subsidiary of New British Energy and maximises the amount of the balance of the reserve arising from the cancellation of the Company's existing Ordinary Shares which will be credited to the profit and loss account of the Company to reduce the present deficit. New British Energy has agreed to transfer the new share in the Company acquired pursuant to the Members' Scheme to Holdings plc following which the Company will be a subsidiary of Holdings plc.

The Members' Scheme requires the approval of the Ordinary Shareholders at the Ordinary Share Court Meeting and Extraordinary General Meeting and of the A Shareholders at the A Share Court Meeting, and must thereafter be sanctioned by the Court. If the requisite majority of Shareholders vote in favour of the Members' Scheme and the Members' Scheme becomes Effective, it will bind the Company and all its Shareholders whether or not they voted for the Members' Scheme.

The Non-voting Deferred Shares will not form part of the Members' Scheme and will be cancelled as part of the further reduction of capital of the Company referred to above.

The Special Share in the Company will not be cancelled and will continue to be held jointly by the Secretary of State and the Secretary of State for Scotland. However, the provisions in the Company's articles of association relating to the Special Share will be amended to, amongst other things, reflect the fact that the holder will, following the amendments, only be able to withhold consent to certain matters if, in the holder's opinion, the matter in question would be contrary to the interests of national security.

Paragraph 8 below sets out what Scheme Shareholders will be entitled to receive if Shareholders vote in favour of the Members' Scheme and the Members' Scheme becomes Effective, the manner in which fractional entitlements to New Shares and Warrants will be dealt with as well as the Shareholder Election which Scheme Shareholders will need to make if they wish to have New Shares and Warrants issued to them or their nominees.

The full text of the Members' Scheme is set out at the end of this document.

## **6. Approval of the Members' Scheme**

Subject to the implementation of the Restructuring, the Members' Scheme will become Effective if:

- (a) the Members' Scheme is approved by: (i) a majority in number of holders of Ordinary Shares who vote, representing three-fourths in value of the votes cast at the Ordinary Share Court Meeting (either in person or by proxy); and (ii) a majority in number of holders of A Shares who vote, representing three-fourths in value of the votes cast at the A Share Court Meeting (either in person or by proxy);

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- (b) the resolution to approve the matters necessary to effect the Members Scheme set out in the notice of Extraordinary General Meeting at the end of this document is duly passed as a special resolution;
- (c) the Members Scheme is sanctioned by the Court with or without modification and the reduction of share capital of the Company which forms part of the Members Scheme is confirmed by the Court; and

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- (d) a copy of the order of the Court sanctioning the Members Scheme and confirming the reduction of share capital is delivered to, and in relation to the reduction of share capital registered by, the Companies Registrar.

The Ordinary Share Court Meeting has been convened for 10.30 a.m. on 22 December 2004 at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ. The A Share Court Meeting has been convened for 11.30 a.m. on 22 December 2004 at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ (or as soon as possible following the conclusion or adjournment of the Ordinary Share Court Meeting).

The Court hearing of the Petition to sanction the Members Scheme is expected to be held at the earliest on 14 January 2005 at the Court although the exact date will depend on, amongst other things, the timetable fixed by the Court. The existence of the Petition will be advertised in the Scotsman, the Edinburgh Gazette, the Financial Times (the UK and international editions) and the New York Times at least 14 days before the date of the Court hearing. Any interested party (including a Scheme Shareholder) who wishes to object to the sanctioning of the Members Scheme can lodge answers to the Petition within 14 days of the date of advertisement and thereafter appear or be represented at the Court hearing to oppose the sanctioning of the Members Scheme. The Court will remit to a Reporter to enquire into the facts and circumstances of the Petition and to provide a report to the Court for its consideration.

If the Members Scheme is sanctioned by the Court, the conditions to the implementation of the Restructuring have been satisfied or waived and the Members Scheme becomes Effective, it is expected that dealings in the New Shares and Warrants will commence on the dealing day immediately following the Restructuring Effective Date. If the Members Scheme has not become Effective by the Restructuring Long Stop Date it will Lapse.

## **7. The Disposal**

If the Members Scheme is not approved by Ordinary Shareholders at the Ordinary Share Court Meeting and the Extraordinary General Meeting, and by A Shareholders at the A Share Court Meeting or, if the Members Scheme is not sanctioned by the Court or for some other reason Lapses, the Restructuring will be effected through the Disposal.

Under the Business Transfer Agreement, the Company will sell the entire business of the Company, including all of its assets (except for the non-voting shares held by it in each of New British Energy and Holdings plc) and shares in its subsidiaries, to Holdings plc as a going concern. In consideration for such sale Holdings plc will perform the outstanding obligations under all of the Company's contracts and will satisfy or discharge all its liabilities. The Company's balance sheet liabilities, in accordance with the Company's unaudited results for the three months ended 30 June 2004, are set out in paragraph 8 of the Chairman's letter in Part I of this document. If the benefit of any of the contracts can be assigned by the Company without any person's consent, then the Business Transfer Agreement will constitute an assignment by the Company of the relevant contracts but if a contract cannot so be assigned, until the consent is obtained or a novation is achieved, the Company will hold the relevant contract and all benefits thereunder as trustee for Holdings plc and will upon receipt of any monies, goods, services or benefits account for and pay or deliver the same to the Buyer. Holdings plc will indemnify the Company against each loss, liability, cost and expense which the Company may suffer in connection with the liabilities assumed by Holdings plc or arising from the ownership or operation of the Business.

The Business Transfer Agreement will become effective only if the Members Scheme is not approved by the relevant Shareholders or otherwise Lapses. Completion of the sale of the Business under the Business Transfer Agreement will take place immediately after the Creditors Scheme has become Effective. If the Business Transfer Agreement has not been completed by the Restructuring Long Stop Date, then it will automatically terminate. The Business Transfer Agreement is summarised in

paragraph 8 of Part V of this document.

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The Disposal would, if the British Energy Shares were listed at the time of such Disposal, constitute a Class 1 transaction for the purposes of the Listing Rules requiring shareholder approval. The British Energy Shares are no longer listed on the Official List but the Company is, nonetheless, seeking the approval of Ordinary Shareholders at the Extraordinary General Meeting which has been convened for 12 noon on 22 December 2004 at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ. However, if this approval is not obtained the Creditor Restructuring Agreement requires the Company to proceed with the Disposal without shareholder approval.

A Shareholders are entitled to attend and vote at general meetings of the Company only if their preferential dividend has remained unpaid for six months or more from the date on which such payment is due. No A Share preferential dividend was due in August 2003 or August 2004 because the Company had no profits available for distribution. Consequently, A Shareholders are not entitled to attend and vote on either of the resolutions proposed at the Extraordinary General Meeting, including the Disposal Resolution.

If the Members Scheme is not approved and the Company proceeds with the Disposal (either with or without Ordinary Shareholder approval), Shareholders will remain holders of British Energy Shares which will be unlisted securities. Following the Disposal, the Company will cease to beneficially own any assets (including shares in subsidiary companies) as these will have been transferred to Holdings plc and the British Energy Shares will, therefore, be unlisted shares in an empty shell company with no value. In due course the Company will be wound up or struck off the register on a solvent basis and there will be no further return to Shareholders.

### **8. What Shareholders will receive**

The issued share capital of the Company includes Ordinary Shares and A Shares. The A Shares, in certain circumstances, have preferential rights on a liquidation over the Ordinary Shares. Since Shareholders would be highly unlikely to receive any return in a liquidation, the Company believes (and has agreed in the Creditor Restructuring Agreement), that the theoretical preferential rights of the A Shareholders on a liquidation should be disregarded for the purposes of allocating consideration between the A Shareholders and the Ordinary Shareholders. Accordingly, since each class of Shareholder will be required to vote to approve the Members Scheme, if the Members Scheme becomes Effective, any New Shares and/or Warrants offered to Scheme Shareholders will be allocated between A Shareholders and Ordinary Shareholders pro rata to shares outstanding. Similarly, if the Members Scheme does not become Effective but the Disposal Resolution is passed, the Warrants to which Shareholders would be entitled will be allocated between Ordinary Shareholders and A Shareholders on the same basis. The A Shareholders who hold approximately 81 million A shares will, therefore, receive approximately 11.5 per cent. of the total allocation to Shareholders and the Ordinary Shareholders who hold approximately 621 million Ordinary Shares will receive approximately 88.5 per cent. of the total allocation to Shareholders.

#### *Members Scheme*

If the Members Scheme becomes Effective, in consideration of the cancellation of the Scheme Shares and the compromise, full and final discharge, satisfaction and cancellation of part of the liabilities owed by New British Energy to the Significant Creditors and the Eggborough Banks, and the Bondholders and RBS under the Creditor Restructuring Agreement and the Creditors Scheme respectively, Scheme Shareholders will, subject to certain restrictions relating to overseas Shareholders, be entitled to receive:

<b>for every 50 Scheme Ordinary Shares</b>	<b>1.0 New Share and 2.1 Warrants</b>
<b>for every 50 Scheme A Shares</b>	<b>1.0 New Share and 2.1 Warrants</b>

in respect of Scheme Shares held at the Scheme Record Time.



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If the resulting number of New Shares and Warrants allocated to a Scheme Shareholder is not a whole number, the number of New Shares and Warrants receivable by a Scheme Shareholder will be rounded down to the nearest whole number. Fractional entitlements for New Shares and Warrants will not be issued to Scheme Shareholders or on their behalf. Instead, fractional entitlements for New Shares will be aggregated and sold in the market and the net proceeds will be distributed pro rata to the Scheme Shareholders entitled thereto. Consequently, any Scheme Shareholder entitled to less than one New Share under the Members Scheme will only be entitled to the net proceeds of his or her fractional entitlements. Fractional entitlements to Warrants will not be sold in the market and consequently Scheme Shareholders will not receive any net proceeds of sale of their fractional entitlements.

**Each Scheme Shareholder will receive New Shares and Warrants under the Members Scheme only if he or she elects to do so by completing a Form of Election. In addition, every Scheme Shareholder shall be deemed to have elected to have the Warrants allotted to him or her pursuant to the Members Scheme, if the Company is advised that the Share Price is less than the Subscription Price. If a Scheme Shareholder does not make a valid Shareholder Election or Deemed Election, the relevant New Shares and Warrants will be sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) will be remitted to the relevant Scheme Shareholder.** In considering whether to make a Shareholder Election, Scheme Shareholders should bear in mind the expense involved in transactions in small numbers of securities. It is generally the case that stockbrokers' minimum commissions are around £10 to £25.

A Shareholder Election or a Deemed Election will not be valid and a Scheme Shareholder will not be entitled to receive New Shares and Warrants if he or she is a Restricted Overseas Person. In such event, the relevant New Shares will be sold in the market at the best price obtainable with the net proceeds remitted to the relevant holder. The relevant Warrants will either: (i) be sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) remitted to the relevant holder; or (ii) exercised and the resulting New Share sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) remitted to the relevant holder.

The New Shares to which the Scheme Shareholders will be entitled under the Members Scheme will, in aggregate, represent 2.5 per cent. of the issued share capital of New British Energy immediately following the implementation of the Restructuring. The New Shares are ordinary shares in New British Energy having the rights attaching to them which are set out in the summary of the articles of association of New British Energy in Part X of the Prospectus: Additional information .

Each Warrant will entitle the holder to subscribe 98p for one New Share. The Warrants will, in aggregate, entitle the Shareholders to subscribe for New Shares equal to 5 per cent. of New British Energy's thereby diluted issued ordinary capital immediately following implementation of the Restructuring (excluding the impact of the Employee Options and conversion of the NLF Cash Sweep Payment referred to in paragraph 3 above) for a total subscription price of £28.95 million. The terms and conditions of the Warrants are set out in Part VIII of the Prospectus: Conditions of the Warrants .

*Disposal with Ordinary Shareholder approval*

If the Members Scheme is not approved by the requisite majorities of Shareholders, is not sanctioned by the Court or otherwise Lapses but Ordinary Shareholders approve the Disposal Resolution at the EGM, then following completion of the Restructuring,

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Shareholders will, subject to certain restrictions relating to overseas Shareholders, be entitled to receive:

<b>for every 50 Ordinary Shares</b>	<b>2.1 Warrants</b>
<b>for every 50 A Shares</b>	<b>2.1 Warrants</b>

in respect of British Energy Shares held at the Disposal Record Time.

If the resulting number of Warrants allocated to a Shareholder is not a whole number, the number of Warrants receivable by a Shareholder will be rounded down to the nearest whole number. Fractional entitlements for Warrants will not be issued to Shareholders and will not be sold in the market. Consequently, Shareholders will not receive any net proceeds of sale of their fractional entitlements.

**Each Shareholder will receive Warrants under the Disposal only if he or she elects to do so by completing a Form of Election. In addition, every Shareholder shall be deemed to have elected to have the Warrants allotted to him or her if the Company or New British Energy is advised that the average price which could reasonably be expected to be obtained for the sale of the New Share arising on the exercise of the Warrant to be sold is less than the Subscription Price. If a Shareholder does not make a valid Shareholder Election or Deemed Election, the relevant Warrants (or New Shares arising on the exercise of such Warrants) will be sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) will be remitted to the relevant Shareholder.** In considering whether to make a Shareholder Election, Shareholders should bear in mind the expense involved in transactions in small numbers of securities. It is generally the case that stockbrokers' minimum commissions are around £10 to £25.

A Shareholder Election or a Deemed Election will not be valid and a Shareholder will not be entitled to receive Warrants if he or she is a Restricted Overseas Person. In such event, the relevant Warrants will either: (i) be sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) remitted to the relevant holder; or (ii) exercised and the resulting New Share sold in the market at the best price reasonably obtainable in the market and the net proceeds (if any) remitted to the relevant holder.

Each Warrant will entitle the holder to subscribe 98p for one New Share. The Warrants will, in aggregate, entitle the Shareholders to subscribe for New Shares equal to 5 per cent. of New British Energy's thereby diluted issued ordinary capital immediately following implementation of the Restructuring (excluding the impact of the Warrants, Employee Options and conversion of the NLF Cash Sweep Payment referred to in paragraph 3 above) for a total subscription price of £28.95 million. The terms and conditions of the Warrants are set out in Part VIII of the Prospectus: *Conditions of the Warrants* .

*Disposal without Ordinary Shareholder approval*

If: (i) the Members' Scheme is not approved by the requisite majorities of Shareholders, is not sanctioned by the Court or otherwise Lapses; and (ii) the Ordinary Shareholders do not approve the Disposal Resolution at the EGM, then Shareholders will not receive any New Shares or Warrants.

**9. Conditions to completion of the Restructuring**

The implementation of the Restructuring is subject to three stages of conditionality, namely:

- (a) conditions which had to be satisfied prior to the proposal of the Creditors' Scheme to the Bond Trustees and RBS and the proposal of the Members' Scheme to Shareholders (the Initial Conditions);

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- (b) subsequent to the satisfaction of the Initial Conditions, conditions which need to be satisfied before the necessary steps may be taken to make the Creditors Scheme Effective and, if the Members Scheme is approved by Shareholders and sanctioned by the Court, before the necessary steps may be taken to make the Members Scheme Effective (the Filing Conditions); and
- (c) the Creditors Scheme becoming Effective and, unless the Members Scheme has Lapsed, the Members Scheme becoming Effective.

As mentioned above, the Initial Conditions have been satisfied. The Filing Conditions include, amongst other things, the Secretary of State not having determined and notified British Energy in writing that, in her opinion, the New British Energy Group will not be viable in all reasonable foreseeable conditions without access to additional financing (other than financing which the Secretary of State is satisfied has been committed and will continue to be available when required).

In addition to the above conditions, the Restructuring will not be implemented if either of the Creditor Restructuring Agreement or the Government Restructuring Agreement is terminated in accordance with its terms. In such circumstances the standstill arrangements, which restrict the Creditors from taking any steps to initiate insolvency proceedings or demand or accelerate any amounts due and payable to them by any member of the British Energy Group, would also terminate. Both the Creditor Restructuring Agreement and the Government Restructuring Agreement will automatically terminate if British Energy receives a valid notice from the relevant parties, prior to the Creditors Scheme (and if relevant, the Members Scheme) being made Effective, terminating such agreement on the basis that there is a continuing Material Adverse Change.

Also, unless otherwise agreed by the Creditors, the Secretary of State and British Energy, the Creditor Restructuring Agreement, the Government Restructuring Agreement and the standstill under the amended terms and conditions of the existing Bonds will automatically terminate (and consequently the Restructuring will not be implemented) if the Creditors Scheme has not become Effective by the Restructuring Long Stop Date, that is, 31 January 2005, which date may be extended subject to the agreement of British Energy, BNFL, the Secretary of State and certain majorities of relevant Creditors and, in relation to the standstill of the existing Bonds, a written resolution of holders of each of the series of existing Bonds. The Company has decided it is prudent to seek an extension to the present Restructuring Long Stop Date of 31 January 2005 but there can be no assurance that the requisite parties will agree an extension (see paragraph 4 of the Chairman's Letter in Part I of this document).

Admission is conditional upon the Restructuring being implemented. The Filing Conditions, the Restructuring Condition and the termination events are described in more detail below in Part IV.

**10. New British Energy reduction of capital**

The New British Energy Reduction is intended to eliminate the deficit (if any) in the distributable reserves of New British Energy which may arise as a result of the Restructuring and to provide some distributable reserves for New British Energy to pay dividends to shareholders in the future, subject to the dividend policy of New British Energy outlined in paragraph 10 of the Chairman's letter in Part I of this document.

Under the New British Energy Reduction, following the Restructuring Effective Date the share premium account of New British Energy will be eliminated and the resulting reserve will, subject to confirmation by the Court, be transferred to New British Energy's profit and loss account. The amount (if any) by which the reserve arising on the New British Energy Reduction exceeds the deficit

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in the distributable reserves of New British Energy will be available for distribution by New British Energy once all New British Energy's creditors at the time of the New British Energy Reduction have been discharged or have consented to

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the New British Energy Reduction. The Directors expect that there will be no material creditors of New British Energy at the time of the New British Energy Reduction.

The New British Energy Reduction will be carried out under section 135 of the Act and is subject, amongst other things, to confirmation by the Court and a copy of the Court order being filed with and registered by the Companies Registrar. The New British Energy Reduction process will be commenced before the Restructuring Effective Date. Although the New British Energy Reduction will require certain resolutions to be passed at an extraordinary general meeting of New British Energy, such resolutions will be voted on by the Initial Shareholder of New British Energy prior to the Restructuring Effective Date. Accordingly, the Initial Shareholder will be the only shareholder entitled to vote on such resolutions. The Court hearing to confirm the New British Energy Reduction will, however, be held after the Restructuring Effective Date.

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**11. The New British Energy Group**

*Group structure*

The diagrams below show a simplified structure of the Group immediately before and immediately after implementation of the Restructuring. Diagrams (ii), (iii) and (iv) show the different shareholdings in the New British Energy Group following implementation of the Restructuring depending on whether the Restructuring is effected through the Members' Scheme, the Disposal with Ordinary Shareholder approval or the Disposal without such approval.

Notes:

1. Following Admission, the Secretary of State and the Secretary of State for Scotland will jointly hold a Special Share in New British Energy and in Holdings plc and they will continue to jointly hold a Special Share in the Company. The Secretary of State will continue to hold a Special Share in BEG and the Secretary of State for Scotland will continue to hold a Special Share in BEG UK. In addition, if the NLF converts its entitlement to the NLF Cash Sweep Payment it will hold Convertible Shares in New British Energy.
2. After the Disposal the British Energy Shares will be unlisted and have no value.
3. The operating companies include, amongst others, BEG, BEG UK, EPL, EPHL and BEPET.

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As explained above, if the Members Scheme is not approved or otherwise Lapses, the Restructuring will be effected through the Disposal (diagrams (iii) or (iv) above) and accordingly, British Energy will be an empty shell company. In this case, the British Energy Shares which will continue to be held by Shareholders will be valueless.

### *Shareholdings following implementation of the Restructuring*

Immediately following Admission, New British Energy's authorised share capital will be divided into 2,800,000,000 New Shares (which are ordinary shares of 10p each), 2,000,000,000 Convertible Shares, 50,000 non-voting ordinary shares of £1 each and one Special Share of which approximately 561,016,553 New Shares, the Special Share and 50,000 non-voting ordinary shares will be in issue and fully paid. The interests in New Shares of the Directors and persons (not being Directors) which, directly or indirectly, amount to 3 per cent. or more of New British Energy's issued share capital as expected immediately following Admission are set out in paragraph 5 of Part V of this document.

Of the unissued share capital, 2,029,527,187 New Shares will be reserved for issue on exercise of the Warrants (if the Restructuring is effected through the Members Scheme or the Disposal with Ordinary Shareholder approval) and conversion of the Convertible Shares.

### *Limitations on shareholdings*

The articles of association of New British Energy contain provisions in relation to limitations on shareholdings which require the New British Energy board of directors to give notice to the holder of New British Energy's Special Share if, to the knowledge of the board, any person (not being a specifically permitted person) has, or appears to the board to have, an interest in New British Energy's shares which carry 15 per cent. or more of the total votes attaching to its relevant share capital (referred to as a Relevant Person). If the holder of the Special Share gives notice to the board that ownership or control of such relevant shares by the Relevant Person would be contrary to the interests of national security, the board must notify the Relevant Person and call for a disposal of such number of relevant shares as will cause the Relevant Person to cease to be a Relevant Person to be made within 21 days (referred to as a Required Disposal).

After the giving of such a notice no transfer of any of the relevant shares held by the Relevant Person (other than a Required Disposal) may be made or registered until either the notice is withdrawn or a Required Disposal has been made to the satisfaction of the board of directors of New British Energy and registered. If that notice is not complied with to the satisfaction of the board and has not been withdrawn, the board must, so far as it is able, effect a Required Disposal on such terms as it decides, based upon advice obtained by it for the purpose and being reasonably practicable having regard to all the circumstances.

A registered holder on whom a valid notice referred to above has been served is not entitled in respect of all the relevant shares, until that notice has been complied with to the satisfaction of the board or withdrawn, to attend or vote at any general meeting of New British Energy or meeting of the holders of a class of shares and those rights will vest in the chairman of the meeting who may act entirely at his discretion.



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These provisions will remain in force until the date of redemption of the Special Share. Further details of the provisions on the limitations on shareholdings are set out in the summary of the articles of association of New British Energy in paragraph 3 of Part X of the Prospectus: Additional information .

### *Special Share*

Following Admission, the Secretary of State and the Secretary of State for Scotland will jointly hold a Special Share in New British Energy and in Holdings plc and they will

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continue to jointly hold a Special Share in the Company. The Secretary of State will continue to hold a Special Share in BEG and the Secretary of State for Scotland will continue to hold a Special Share in BEG UK. Each such Special Share may only be held by a Minister of the Crown or other person acting on behalf of the Government, and does not carry any rights to vote at general meetings, but entitles the holder to attend and speak at such meetings. Each Special Share is redeemable at the option of the holder after consultation with the relevant company at any time after 30 September 2006.

The provisions relating to the Special Share in the articles of association of New British Energy, Holdings plc, British Energy, BEG UK and BEG and the provisions relating to limitations on shareholdings in the articles of association of New British Energy may not be amended or removed without the consent of the holder of the relevant Special Share.

In addition, consent of the holder of the relevant Special Share will be required (and may only be withheld in these cases if, in the holder's opinion, the matter in question would be contrary to the interests of national security) in relation to:

- (a) certain amendments to the articles of association of Holdings plc, British Energy, BEG UK or BEG which would enable the board of directors of Holdings plc, British Energy, BEG UK or BEG to issue any shares (other than to certain Group companies) without the consent in writing of the relevant holder of the Special Share (such consent only to be withheld if in the relevant holder's opinion such issue would be contrary to the interests of national security); or
- (b) the giving by New British Energy, Holdings plc, British Energy or BEG UK (as appropriate) of any consent or agreement to any issue of shares in Holdings plc, British Energy, BEG UK or BEG (other than to certain other Group companies); or
- (c) a disposal by New British Energy, Holdings plc, British Energy and BEG UK of the shares held (directly or indirectly) by the relevant company in Holdings plc, British Energy, BEG UK or BEG; or
- (d) a disposal by BEG or BEG UK of any of their respective nuclear power stations.

Further details of the rights attaching to the Special Share in New British Energy are set out in the summary of the articles of association of New British Energy in paragraph 3 of Part X of the Prospectus: [Additional information](#) .

### *Convertible Shares*

The entitlement of the NLF to the NLF Cash Sweep Payment is convertible into Convertible Shares equal to the NLF Cash Sweep Payment percentage prevailing at the time of conversion. On a full conversion the NLF would, therefore, hold up to 65 per cent. of the thereby enlarged equity share capital of New British Energy. The terms of the Convertible Shares will limit the general voting rights attaching to such shares to the maximum amount of shares as can be held without triggering a mandatory offer under the Takover Code, being currently 29.9 per cent. of the voting rights in New British Energy (and, for this purpose, taking into account the voting rights attributable to any other New Shares held or acquired by any person acting in concert with the NLF).

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The Convertible Shares will convert into New Shares automatically on their transfer to a third party by the NLF but are not convertible at the election of the NLF prior to such transfer. Apart from the limitations on voting rights and their convertibility into New Shares, the Convertible Shares shall have the same rights, be subject to the same restrictions and rank *pari passu* with the New Shares in all respects. Further details of the rights attaching to the Convertible Shares are set out in paragraph 4 of Part X of the Prospectus: Additional information .

The NLF will, subject to the restrictions on the disposal of Convertible Shares issued pursuant to the exercise of the NLF Conversion Right set out in the Contribution

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Agreement, comply with any directions given to it by the Secretary of State in relation to the exercise of the NLF Conversion Right and the retention or disposal of any shares in New British Energy resulting from such conversion. The NLF will not take any action to exercise the NLF Conversion Right or dispose of any shares in the Company before receiving such directions.

During the six month period immediately following the implementation of the Restructuring, the Secretary of State will not direct the NLF to exercise the NLF Conversion Right or to dispose of any shares in New British Energy, unless: (i) a person (or persons acting jointly by agreement, understanding or arrangement, whether or not legally binding) has acquired or proposed the acquisition of 14.9 per cent. or more of the voting rights or equity share capital of New British Energy; (ii) New British Energy or any other New British Energy Group company commits a material breach or persistent breaches of any of the covenants or any other material provision set out in the Nuclear Liabilities Agreements or any of the covenants set out in the Trust Deed constituting the New Bonds; (iii) a Default Event (as defined in the NLFA) has occurred; (iv) an Event of Default occurs under the terms of the New Bonds; (v) actions taken or proposed by any person in respect of a member of the New British Energy Group (and not expressly contemplated by any of the Nuclear Liabilities Agreements) will or may, in the opinion of the Secretary of State, have an adverse effect on the interests of the Secretary of State or the NLF; or (vi) the exercise or disposal is required by law or by the rules of any regulatory body.

The Secretary of State has no current intention to direct the NLF to exercise the NLF Conversion Right following the expiry of the six month period referred to above but reserves the right to do so. The Secretary of State intends to ensure that, prior to the giving of any direction to the NLF to exercise the NLF Conversion Right or to dispose of the shares issued pursuant to such exercise, she (and/or the NLF at her direction) would take financial advice and would take such advice into account as to the market impact of the conversion or disposal (including the desirability of avoiding multiple sales of small amounts of shares). The Secretary of State has confirmed to New British Energy that she does not currently intend to change the investment policy as regards the matters described above.

## **12. Business Strategy**

A detailed description of the business strategy of the Group post-restructuring is provided in Part III of the Prospectus: Operating and financial review and prospects .

## **13. Overseas Shareholders**

*Overseas Shareholders generally Members Scheme and Disposal*

The provisions of the Members Scheme, and the issue and allotment of Warrants to Shareholders if the Members Scheme does not become Effective but the Disposal Resolution is passed are subject to any prohibition or condition imposed by law. Each Scheme Shareholder will only receive New Shares and Warrants if the Members Scheme becomes Effective and each Shareholder will only receive Warrants if the Members Scheme does not become Effective but the Disposal Resolution is passed, if he or she makes a valid Shareholder Election or Deemed Election.

A Shareholder Election or a Deemed Election will not be valid if such electing Scheme Shareholder or Shareholder (as appropriate) is a Restricted Overseas Person. In this case, the relevant New Shares to which such Scheme Shareholder would be entitled will be allotted to a person determined by New British Energy on terms that such person shall sell such New Shares in the market as

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soon as possible after the Restructuring Effective Date at the best price which can reasonably be obtained in the market at the time of sale. The net proceeds of such sale (if any), after the deduction of all expenses and commission, including any value added tax payable thereon, will be remitted by sending a cheque to

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such Scheme Shareholder or as he or she may direct by post within 14 days following completion of such sale. The relevant Warrants will be issued to a person determined by New British Energy on terms that such person shall either:

- (a) sell the Warrants in the market at the best price which can reasonably be obtained in the market at the time of sale; or
- (b) exercise the Warrants and shall sell the resulting New Shares in the market at the best price which can reasonably be obtained in the market at the time of sale.

The net proceeds of such sale (if any), after the deduction of all expenses and commission, including any value added tax payable thereon (and, if any Warrants are exercised, after deduction of the aggregate Subscription Price for such Warrants), will be remitted by sending a cheque to such Scheme Shareholder or Shareholder (as appropriate) or as he or she may direct by post within 14 days following completion of such sale. In the absence of bad faith or wilful default, neither New British Energy, its directors and officers nor the person selling the New Shares and/or Warrants shall have any liability for any loss or damage arising as a result of the timing or terms of such sale or exercise.

Overseas Shareholders should consult their own legal and tax advisers with respect to legal and tax consequences of the Members Scheme and the Disposal in their particular circumstances. This document has been prepared for the purposes of complying with English and Scottish law and the rules of the UKLA and information disclosed may not be the same as that which would have been disclosed if this document had been prepared in accordance with the laws of any jurisdiction outside the UK.

### *US Securities laws Members Scheme*

The New Shares and Warrants to be issued to Scheme Shareholders under the Members Scheme have not been and will not be registered under the Securities Act or the securities laws of any state of the US and will be distributed pursuant to exemptions from, or in transactions not subject to, the registration requirements of the Securities Act, including the exemption provided by Section 3(a)(10) thereof.

In order to qualify for the exemption from the registration requirements of the Securities Act provided by section 3(a)(10) in relation to the issue of the New Shares and Warrants, there must be a hearing on the fairness of the Members Scheme to the relevant Shareholders, which all Shareholders are entitled to attend in person or by proxy to oppose the sanctioning of the Members Scheme, and with respect to which notification will be given to all Shareholders. New British Energy and Holdings plc intend to rely on the Court hearings to sanction the Members Scheme for this purpose and will advise the Court that this is their intention in advance of or at the sanction hearing. Any Shareholder wishing to attend or be represented at the Court hearing will require to have lodged answers in advance thereof as detailed in paragraph 6 above.

### *US Securities laws Disposal*

Warrants to be issued to Shareholders if the Disposal Resolution is passed at the Extraordinary General Meeting have not been and will not be registered under the Securities Act and will only be issued pursuant to an exemption from or in a transaction not subject to the registration requirements of the Securities Act, including the exemptions provided by Section 4 (2) of the Securities

Act and by Regulation S thereunder.

*US Securities laws Exercise of Warrants*

New Shares to be issued upon exercise of Warrants have not been and will not be registered under the Securities Act. Accordingly, Shareholders will be issued New Shares upon the exercise of such Warrants only if they certify, to the satisfaction of the Company, that they are either: (a) accredited investors as such term is defined in Rule 501 (a) of the Securities Act; or (b) not a US person (as defined in Regulation S under the Securities Act).

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Any New Shares to be issued upon the exercise of Warrants allotted to any Shareholder who cannot make the foregoing certifications to the satisfaction of the Company will be sold in the market at the best price reasonably obtainable with the net proceeds remitted to the relevant Shareholder as set out above.

### *Australia, Canada and Germany Members Scheme and Disposal*

No steps have been taken, nor will any be taken, to enable the New Shares or Warrants to be offered in compliance with the applicable securities laws of Australia, Canada or Germany and any offer or invitation in relation to the New Shares and Warrants is not available, directly or indirectly, to persons in, or with registered addresses in, Australia, Canada or Germany. This document is being sent to Shareholders with registered addresses in Australia, Canada or Germany solely in connection with the Court Meetings and the Extraordinary General Meeting. Shareholders in, or with registered addresses in, Australia, Canada or Germany will not receive any New Shares and/or Warrants under or in connection with the Restructuring.

The New Shares and Warrants which Scheme Shareholders with registered addresses in Australia, Canada or Germany would be entitled to if the Members Scheme becomes effective or the Warrants which Shareholders with registered addresses in Australia, Canada or Germany would be entitled to if the Members Scheme does not become Effective but the Disposal Resolution is duly passed, will be sold in the market at the best price which can reasonably be obtained in the market at the time of sale and the net proceeds of such sale (if any) remitted to the relevant Shareholder as described above.

## **14. Shareholder Election**

As outlined above, unless a Shareholder makes a valid Shareholder Election or Deemed Election, he or she will not be allotted and issued with any New Shares and/or Warrants if the Members Scheme becomes Effective or Warrants if the Members Scheme is not approved but the Disposal Resolution is passed. In the event that a Shareholder does not make a valid Shareholder Election or Deemed Election, the relevant New Shares and/or Warrants will be allotted and/or issued (as appropriate) to a person determined by New British Energy. Such person shall sell such New Shares and/or Warrants (or exercise such Warrants and sell the resulting New Shares) as soon as possible after the Restructuring Effective Date at the best price which can reasonably be obtained in the market at the time of sale, and account for the net proceeds of such sale (if any), after the deduction of all expenses and commission, including any value added tax payable thereon (and, if any Warrants are exercised, after deduction of the aggregate Subscription Price for such Warrants), by sending a cheque to such Shareholder or as he or she may direct by post within 14 days following completion of such sale. In the absence of bad faith or wilful default, neither New British Energy, its directors and officers nor the person selling the New Shares and/or Warrants shall have any liability for any loss or damage arising as a result of the timing or terms of such sale or exercise.

In order to ensure compliance with any applicable money laundering legislation, Shareholders may, in certain circumstances, be asked to verify their identity before the net proceeds of the sale of their New Shares or Warrants are remitted to them.

In considering whether to make a Shareholder Election, Shareholders should bear in mind the expense involved in transactions in small numbers of securities. It is generally the case that stockbrokers' minimum commissions are around £10 to £25.



**Shareholders who wish to receive New Shares and/or Warrants instead of the net proceeds of the sale of their entitlement must complete (a) Form(s) of Election and return it/them to the Registrars, Lloyds TSB Registrars at the address shown on the Form(s) of Election by the Election Return Time.** Shareholders with registered addresses in Australia, Canada or Germany have not been sent (a) Form(s) of Election.

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### 15. **Directors' interests**

All of the Directors have been appointed directors of New British Energy and Holdings plc. If the Members' Scheme becomes Effective, New British Energy and Holdings plc will be the ultimate and immediate parent company respectively of British Energy. Information on the Directors and the interests of the Directors in British Energy Shares and prospectively in New Shares and Warrants is set out in Part V of this document.

As explained in the Chairman's letter in Part I of this document, the terms of Adrian Montague's letters of appointment provide for the payment to him of an additional fee of £100,000 contingent upon a restructuring of the British Energy Group becoming effective and binding on all interested parties. If the Members' Scheme becomes Effective and the Restructuring is implemented this amount will become payable to him. It is intended that following Admission, Adrian Montague's letters of appointment will be amended to provide for 30 per cent. of his post-Admission base fee of £150,000 per annum to be settled in shares under arrangements which remain to be agreed in detail.

With effect from 1 September 2004, British Energy modified its fee structure for all non-executive Directors except Adrian Montague. In addition to the fees set out in paragraph 7 of Part X of the Prospectus: Additional information, each non-executive Director will receive £13,000 per annum payable in New Shares, such shares to be allocated quarterly in arrears. A non-executive Director may only sell his or her New Shares in equal tranches over the 3 years following grant subject to having been on the board of New British Energy for at least 12 months following the date of grant. Current non-executive Directors will each receive a single payment of £10,000 of New Shares as soon as possible after Admission. Any new non-executive Directors joining the board of New British Energy after this time will also receive a similar payment.

The current executive Directors who are also executive directors of New British Energy will be entitled to participate in the LT Plan and the Interim Bonus Plan once the Restructuring is implemented. Subject to the satisfaction of certain performance targets, participants in the Interim Bonus Plan may be granted a deferred bonus in respect of the financial year ending 31 March 2005 and participants in the LT Plan may be granted a deferred bonus in each financial year thereafter. Details of the LT Plan and the Interim Bonus Plan are set out in paragraph 6 of Part V of this document and in paragraph 8 of Part X of the Prospectus: Additional information.

Stephen Billingham's service agreement entitles him, subject to certain conditions, to a single payment of £200,000 in June 2005 provided that he has not voluntarily left the employment of British Energy before 30 June 2005 or has received notice of termination before that date. In the event that shares in New British Energy are not admitted to the Official List by 31 March 2006, Stephen Billingham will receive a further payment of £400,000 during April 2006. This payment will be offset against any awards due to Stephen Billingham under any bonus/incentive plan in operation for the financial years 2006/2007 and 2007/2008.

In the event that the Restructuring does not go ahead as planned, Roy Anderson's service agreement entitles him to participate in a broadly comparable bonus plan to the Interim Bonus Plan and LT Plan.

Paragraph 7 of Part X of the Prospectus: Additional information contains further details of all the Directors' service agreements and letters of appointment.

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Adrian Montague is also a director of Network Rail Infrastructure Ltd which has entered into two electricity supply agreements with BEG. If the Restructuring is implemented through the Members Scheme there may be an event of default under these agreements which could entitle Network Rail Infrastructure Ltd to terminate.

Save as set out or referred to above, the effect of the Members Scheme on the interests of the Directors does not differ from its effect on the like interests of other persons.

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### **16. Tax**

Information concerning the taxation consequences of the Members Scheme and the Disposal is contained in paragraph 7 of Part V of this document and information concerning the taxation consequences of holding the New Shares and/or the Warrants is set out in paragraph 12 of Part X of the Prospectus: Additional information . Shareholders who may be liable to taxation in jurisdictions other than the UK or the US or who are in any doubt as to the taxation consequences of the Members Scheme or the Disposal should seek advice from their own independent professional advisers.

### **17. Risk factors**

There are a number of risks related to the implementation of the Restructuring or a delay in implementing the Restructuring as well as operating risks related to the business of the Group and risks related to ownership of the New Shares and Warrants. Part III of this document and Part II of the Prospectus: Risk factors contain further detail in relation to such risks. All information contained in this document should be read in conjunction with the risk factors outlined.

### **18. Settlement, listing of New Shares and Warrants and cancellation of listings of British Energy Shares**

#### *Cancellation of listings*

On 23 September 2004, the Company sent Shareholders a letter notifying them, in accordance with the Company's obligations under the Listing Rules, that the Company intended to seek cancellation and apply for the UKLA to cancel the listing of the British Energy Shares from the Official List of the UKLA at the end of the 20 Business Day notice period, such cancellation to take immediate effect. The listings of the British Energy Shares on the Official List were cancelled by the UKLA with effect from 8.00 a.m. on 21 October 2004 and the last day of dealings in British Energy Shares on the London Stock Exchange was 20 October 2004.

#### *Members Scheme*

Application has been made to the UKLA for the New Shares and Warrants to be admitted to the Official List and to trading on the London Stock Exchange. It is expected that Admission of the New Shares and Warrants to the Official List will become effective and that dealings in the New Shares and Warrants will commence on the dealing day immediately following the Restructuring Effective Date.

If confirmation is not given by the UKLA that upon the allotment and issue of the New Shares, Warrants and New Bonds, Admission to the Official List will become effective or such Admission is refused, New British Energy will, in order to implement the Restructuring, be required to seek admission of the New Shares and Warrants to trading on the Alternative Investment Market of the London Stock Exchange and, in respect of the New Bonds, Holdings plc will be required to seek admission to listing on the Luxembourg Stock Exchange. In such case, the relevant documentation for such admission would be despatched to Shareholders and Creditors as required.

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Once the Members Scheme becomes Effective, share certificates for the British Energy Shares will cease to be valid and CREST will be instructed to cancel the entitlements of the relevant Scheme Shareholders with respect to the British Energy Shares held in uncertificated form. The last date for registration of transfers of British Energy Shares is expected to be on the day immediately prior to the Restructuring Effective Date. For Shareholders who make valid Shareholder Elections and hold their shares through CREST, New Shares and Warrants are expected to be credited to CREST accounts on the dealing day immediately following the Restructuring Effective Date. Warrants in respect of Shareholders who have made a valid Deemed Election will be credited to CREST accounts within 14 days of the Restructuring Effective Date.

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For those holding shares in certificated form, definitive certificates for New Shares and Warrants are expected to be despatched within 14 days of the Restructuring Effective Date. Pending despatch of such certificates, transfers of New Shares and Warrants will be certificated by the Registrars against the relevant register. No temporary documents of title have been or will be issued in respect of the New Shares and Warrants. Notwithstanding the above, New British Energy reserves the right to issue New Shares and Warrants in certificated form to all Scheme Shareholders who make valid Shareholder Elections or Deemed Elections (regardless of whether they hold their British Energy Shares in certificated or uncertificated form) if for any reason, it wishes to do so.

All mandates in force at the Scheme Record Time (6.00 p.m. on the Business Day immediately prior to the Restructuring Effective Date) relating to payment of dividends on British Energy Shares and all instructions given relating to notices and communications will, unless and until varied or revoked, be deemed to be effective mandates or instructions to New British Energy in relation to the corresponding holding of New Shares and Warrants.

In the case of joint holders, certificates will be despatched to the joint holder whose name appears first in the register of members of the Company or in accordance with any special instruction which such joint holders may have given. All documents, certificates, or other communications sent by or to Shareholders, or as such persons shall direct, will be sent at their own risk and will be sent by post.

### *ADRs*

On 28 September 2004, the NYSE suspended trading in the British Energy ADRs and commenced proceedings to permanently delist British Energy ADRs from the NYSE. The NYSE announced it had taken this action in response to the Company's announcement on 23 September 2004 of its intention to delist the Ordinary Shares and A Shares from the London Stock Exchange. The Company has appealed the NYSE's decision to delist the ADRs. However, there can be no assurance that the Company's appeal will be successful or that British Energy or New British Energy will meet the relevant listing criteria of the NYSE for the New ADRs.

If the Members' Scheme becomes Effective and the Company or New British Energy satisfies the relevant listing criteria for the NYSE on or prior to Admission all British Energy ADRs will be cancelled and Shareholders who have made valid Shareholder Elections or Deemed Elections and who hold British Energy ADRs will be issued New ADRs by the ADR Depositary at a ratio of 3 New ADRs to 8 British Energy ADRs. No fractional New ADRs will be issued. If the Members' Scheme becomes Effective but British Energy and New British Energy are unable to satisfy the listing criteria of the NYSE on or prior to Admission, holders of British Energy ADRs who have made valid Shareholder Elections or Deemed Elections will receive the New Shares and Warrants to which they would be entitled.

If the Members' Scheme does not become Effective and the Disposal Resolution is passed, holders of British Energy ADRs who have made valid Shareholder Elections or Deemed Elections will receive the Warrants to which they are entitled. In addition, New British Energy has agreed to take all reasonable steps to the New ADRs on the NYSE at such time following Admission as it is able to satisfy the NYSE listing criteria. In such circumstances, however, New British Energy will be required to satisfy the NYSE's listing criteria for new securities, including minimum public float and minimum shareholder eligibility requirements and may not be able to satisfy these requirements immediately after Admission.

*Disposal*

If the Members' Scheme is not approved by Shareholders, or otherwise Lapses, and the Disposal Resolution is passed, New British Energy will issue Warrants to eligible Shareholders who have made valid Shareholder Elections or Deemed Elections in respect

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of the British Energy Shares held by them at the Disposal Record Time. Application has been made to the UKLA for the Warrants to be admitted to the Official List and to trading on the London Stock Exchange.

For Shareholders who have made valid Shareholder Elections or Deemed Elections and who hold their British Energy Shares through CREST, Warrants are expected to be credited to CREST accounts on the dealing day immediately following the Restructuring Effective Date. For those holding British Energy Shares in certificated form, definitive certificates for Warrants are expected to be despatched within 14 days of the Restructuring Effective Date. Pending despatch of such certificates, transfers of Warrants will be certified by the Registrars against the warrant register. No temporary documents of title have been or will be issued in respect of the Warrants. Notwithstanding the above, New British Energy reserves the right to issue Warrants in certificated form to all Shareholders who have made valid Shareholder Elections or Deemed Elections (regardless of whether they hold their British Energy Shares in certificated or uncertificated form) if for any reason, it wishes to do so.

In the case of joint holders, certificates will be despatched to the joint holder whose name appears first in the register or in accordance with any special instruction which such joint holders may have given.

## 19. Meetings and resolutions

You will find set out at the end of this document, notices of the meetings which are being convened to enable Shareholders to consider and, if thought fit, to approve, the Members Scheme and for Ordinary Shareholders to approve the associated reduction of share capital and the Disposal. The Ordinary Share Court Meeting and the A Share Court Meeting are being convened by order of the Court to seek the approval of the holders of the Ordinary Shares and holders of the A Shares for the Members Scheme. The Extraordinary General Meeting of Ordinary Shareholders is being convened to enable the Directors to implement the Members Scheme or, if the Members Scheme is not approved or lapses, to effect the Disposal.

### *Court Meetings*

The Ordinary Share Court Meeting has been convened for 10.30 a.m. on 22 December 2004 at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ to enable the holders of Ordinary Shares to consider and, if thought fit, approve the Members Scheme. At the Ordinary Share Court Meeting, voting will be by poll and each holder of an Ordinary Share present in person or by proxy will be entitled to one vote for each Ordinary Share held. The statutory majority required to approve the Members Scheme at the Ordinary Share Court Meeting is a majority in number of those present and voting representing three-fourths in value of Ordinary Shares held by those present and voting. **In order that the Court can be satisfied that the votes cast constitute a fair representation of the views of the holders of Ordinary Shares it is important that as many votes as possible are cast at the Ordinary Share Court Meeting. Holders of Ordinary Shares are therefore urged to take the action referred to in paragraph 20 below.**

The A Share Court Meeting has been convened for 11.30 a.m. on 22 December 2004 at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ to enable the holders of A Shares to consider and, if thought fit, approve the Members Scheme. At the A Share Court Meeting, voting will be by poll and each holder of an A Share present in person or by proxy will be entitled to one vote for each A Share held. The statutory majority required to approve the Members Scheme at the A Share Court Meeting is a majority in number of those present and voting representing three-fourths in value of A Shares held by those present and voting. **In order that the Court can be satisfied that the votes cast constitute a fair representation of the views of the holders of A Shares it is important that as many votes as possible are cast at the A Share Court Meeting. Holders of A Shares are**



therefore urged to take the action referred to in paragraph 20 below.

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*Extraordinary General Meeting*

The Extraordinary General Meeting has been convened for 12 noon on 22 December 2004 at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ, following the Ordinary Share Court Meeting and the A Share Court Meeting, for Ordinary Shareholders to consider and, if thought fit, pass the resolutions contained in the notice convening the meeting set out at the end of this document. For the reasons outlined in paragraph 7 above, in accordance with the Company's articles of association, the A Shareholders will not be entitled to attend and vote on either the Members' Scheme Resolution or the Disposal Resolution at the Extraordinary General Meeting.

The Members' Scheme Resolution provides for:

- (a) the approval of the Members' Scheme;
- (b) the approval of the reduction of share capital of the Company by cancelling and extinguishing the Scheme Shares and the Non-voting Deferred Shares;
- (c) subject to the approval referred to in paragraph (b) being given, increasing the authorised share capital of the Company by 44<sup>28</sup>/43p by the creation of one new Ordinary Share of 44<sup>28</sup>/43p in the Company;
- (d) authorising the Directors to allot the new share referred to in paragraph (c) above pursuant to sections 80 and 95 of the Act for the purposes of giving effect to the Members' Scheme; and
- (e) capitalising and applying 44<sup>28</sup>/43p of the reserve arising in the Company, as a result of the cancellation of the British Energy Shares, to pay up in full at par the new Ordinary Share created pursuant to paragraph (c) above and the allotment and issue of the same credited as fully paid up at par to New British Energy or its nominee and crediting the balance of the reserve arising in the Company, as a result of the cancellation of the British Energy Shares and Non-voting Deferred Shares to the profit and loss account of the Company; and
- (f) amendments to the articles of association to compulsorily transfer British Energy Shares issued to any person after the Members' Scheme has become Effective to Holdings plc in consideration of and conditionally on the allotment and issue by Holdings plc of shares in the capital of Holdings plc to such person. (Under the articles of association of Holdings plc such shares in the capital of Holdings plc will be exchanged for such number of New Shares and Warrants as such person would have been entitled to receive under the Members' Scheme in respect of such British Energy Shares.)

The Disposal Resolution provides for the approval of the Disposal.

The majority required for the passing of the Members' Scheme Resolution is three-fourths of the votes cast. The majority required for the passing of the Disposal Resolution is a simple majority of the votes cast. On a show of hands every Ordinary Shareholder present in person will have one vote and on a poll each Ordinary Shareholder present in person or by proxy will have one vote for each share held.

**Approval of the Members Scheme will not constitute approval of the Disposal. The Disposal is an alternative to the Members Scheme and will only be implemented in the event that the Members Scheme does not become Effective. The Disposal Resolution is separate from the Members Scheme Resolution. Consequently, Ordinary Shareholders are encouraged to vote on the Disposal Resolution irrespective of how they vote on the Members Scheme at the Ordinary Share Court Meeting or on the Members Scheme Resolution at the Extraordinary General Meeting.**

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**20. Action to be taken**

*Holders of Ordinary Shares only*

If you are an Ordinary Shareholder you will have received together with this document:

- (a) a GREEN Form of Proxy for the Ordinary Share Court Meeting (or an ORANGE form of direction if you have transferred your Ordinary Shares under the CREST Nominee Service);
- (b) a WHITE Form of Proxy for the Extraordinary General Meeting (or a PINK form of direction if you have transferred your Ordinary Shares under the CREST Nominee Service); and
- (c) a GREEN Form of Election (or a PINK Form of Election if you have transferred your Ordinary Shares under the CREST Nominee Service).

Ordinary Shareholders may vote in person at the Ordinary Share Court Meeting and at the Extraordinary General Meeting or they may appoint another person, whether a member of the Company or not, as their proxy to attend and vote in their stead. Whether or not you intend to be present at the meetings you are requested to complete and sign the Forms of Proxy and return them to the Registrars, Lloyds TSB Registrars, The Causeway, Worthing BN99 6ED, as soon as possible and in any event so as to be received no later than 48 hours before the relevant meeting.

The GREEN Form of Proxy in respect of the Ordinary Share Court Meeting may also be handed to the chairman of the Ordinary Share Court Meeting. However, in the case of the Extraordinary General Meeting, unless the WHITE Form of Proxy is lodged so as to be received at least 48 hours before the meeting, it will be invalid. The lodging of a Form of Proxy will not prevent you from attending the Ordinary Share Court Meeting or the Extraordinary General Meeting and voting in person should you wish to do so.

**Ordinary Shareholders who wish to make a Shareholder Election and have New Shares and/or Warrants issued to them or their nominee, must complete the enclosed GREEN Form of Election and return it to the Registrars, Lloyds TSB Registrars at the address shown on the Form of Election by no later than the Election Return Time.**

*Holders of A Shares only*

If you are an A Shareholder you will have received together with this document:

- (a) a BLUE Form of Proxy for the A Share Court Meeting (or a GREY form of direction if you have transferred your A Shares under the CREST Nominee Service); and

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- (b) a BLUE Form of Election (or a WHITE Form of Election if you have transferred your A Shares under the CREST Nominee Service).

A Shareholders may vote in person at the A Share Court Meeting or they may appoint another person, whether a member of the Company or not, as their proxy to attend and vote in their stead. Whether or not you intend to be present at the meeting you are requested to complete and sign the BLUE Form of Proxy and return it to the Registrars, Lloyds TSB Registrars, SEA 9441, The Causeway, Worthing BN99 6ED, as soon as possible and in any event so as to be received no later than 48 hours before the meeting.

The BLUE Form of Proxy in respect of the A Share Court Meeting may also be handed to the chairman of the A Share Court Meeting. The lodging of a Form of Proxy will not prevent you from attending the A Share Court Meeting and voting in person should you wish to do so.

**A Shareholders who wish to make a Shareholder Election and have New Shares and/or Warrants issued to them or their nominee, must complete the enclosed BLUE Form of Election and return it to the Registrars, Lloyds TSB Registrars at the address shown on the Form of Election by no later than the Election Return Time.**

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*Holders of both Ordinary Shares and A Shares*

If you are an Ordinary Shareholder as well as an A Shareholder you will have received together with this document:

- (a) a GREEN Form of Proxy for the Ordinary Share Court Meeting (or an ORANGE form of direction if you have transferred your Ordinary Shares under the CREST Nominee Service);
- (b) a BLUE Form of Proxy for the A Share Court Meeting (or a GREY form of direction if you have transferred your A Shares under the CREST Nominee Service);
- (c) a WHITE Form of Proxy for the Extraordinary General Meeting (or a PINK form of direction if you have transferred your Ordinary Shares under the CREST Nominee Service);
- (d) a GREEN Form of Election (or a PINK Form of Election if you have transferred your Ordinary Shares under the CREST Nominee Service); and
- (e) a BLUE Form of Election (or a WHITE Form of Election if you have transferred your A Shares under the CREST Nominee Service).

You should take the action described in relation to the holders of Ordinary Shares above and the action described in relation to the holders of A Shares above.

*Shareholders generally*

In the case of joint holders, the vote of the senior holder who tenders a vote, whether in person or by proxy, will be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority will be determined by the order in which the names stand in the register of members of the Company in respect of the joint holding.

Only those Shareholders registered on the relevant register of members as at the Voting Record Time shall be entitled to attend or vote at the Court Meetings and the Extraordinary General Meeting in respect of the number of shares registered in their name as at that time. Changes to entries in the relevant register after the Voting Record Time shall be disregarded in determining the rights of any person to attend or vote at the Court Meetings and the Extraordinary General Meeting.

In considering whether to make a Shareholder Election, Shareholders should bear in mind the expense involved in transactions in small numbers of shares. It is generally the case that stockbrokers' minimum commissions are around £10 to £25.

If you have any questions relating to the proposals described in this document or the completion and return of the Form of Proxy or Forms of Election, please contact the Company's helpline on freephone 0800-035-0844 (or if calling from outside the UK +44 (0) 1295-225-285 (calls charged at applicable rates)), Monday to Friday 9.00 a.m. to 5.00 p.m. (UK time). The helpline cannot provide advice on the merits or otherwise of the matters described in this document, nor give any financial advice.

**21. Further information**

Your attention is drawn to the Members' Scheme which forms part of this document, the Chairman's letter in Part I of this document, and to the information regarding the Restructuring set out in Part III and IV of this document. This document should be read in conjunction with the accompanying Prospectus.

Yours sincerely

**Robert Armour**

**Company Secretary**

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**PART III**

**RISK FACTORS**

*This Part sets out the principal risk factors affecting the implementation of the Restructuring, and should be read in conjunction with the detailed risk factors relating to, inter alia, operating, industry, environmental and regulatory risks and risks related to the ownership of New Shares and Warrants set out in Part II of the Prospectus: Risk factors and all other information relating to the Company, New British Energy and Holdings plc contained in this document and the Prospectus. Additional risks and uncertainties not presently known to the Company, New British Energy or Holdings plc or that the Company, New British Energy or Holdings plc deem immaterial may also have a material adverse effect on the ability of the Company to implement the Restructuring in a timely manner, or at all.*

**(A) *Implementation of the Creditors Scheme***

If the Company is unable to implement the Creditors Scheme, the Restructuring may not be completed within the timescales envisaged, or at all, and the Company may be unable to meet its financial obligations as they fall due and consequently, it may have to take appropriate insolvency proceedings. If insolvency proceedings are commenced, the distributions to unsecured creditors may represent only a small fraction of their unsecured liabilities and it is highly unlikely that there will be any return to the Company's Shareholders.

**(B) *Effectiveness of the Creditors Scheme requires the approval of Bondholders***

In order to authorise the Bond Trustee of a series of Bonds to vote in respect of the Creditors Scheme at the Creditors Scheme Meeting, it is necessary for the Bondholders holding Bonds of such series to vote in favour of the relevant Bondholder Resolutions at the Bondholder Meetings. If, notwithstanding the fact that Consenting Bondholders have given undertakings (subject to no Material Adverse Change having occurred) to vote in favour of the Bondholder Resolutions, neither of the Bondholder Resolutions in respect of any series of Bonds are approved by Bondholders, then such Bond Trustee may not vote at the Creditors Scheme Meeting. If a Bond Trustee of a series of Bonds does not vote, votes against the Creditors Scheme or splits its vote in accordance with the second resolution at the Creditors Scheme Meeting, the Creditors Scheme may not be approved at the Creditors Scheme meeting by the requisite majorities in number or value notwithstanding the fact that Bond Trustees of other series of Bonds have voted in favour of the Creditors Scheme. If the Creditors Scheme is not approved at the Creditors Scheme Meeting, the Restructuring will fail.

**(C) *Effectiveness of the Creditors Scheme requires the approval of Scheme Creditors***

In order for the Creditors Scheme to become Effective, it must be approved by the Scheme Creditors as described in the Creditors Scheme Circular. If, notwithstanding the fact that RBS has given an undertaking (subject to no Material Adverse Change having occurred) to vote in favour of the Creditors Scheme at the Creditors Scheme Meeting, RBS does not vote in favour of the Creditors Scheme (whether due to a Material Adverse Change having occurred or otherwise) then this may have the effect (in conjunction with the circumstances described in paragraph (B) above) that the Creditors Scheme may not be approved at the Creditors Scheme Meeting, in which case the Creditors Scheme will be withdrawn and the Restructuring will not be implemented.



- (D) ***Even if the Scheme Creditors approve the Creditors Scheme, the Restructuring may be objected to and may not be completed***

If the Creditors Scheme is approved at the Creditors Scheme Meeting, it is possible for a person with an interest in the Creditors Scheme (whether a Scheme Creditor, a

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Bondholder or another person) to lodge objections to the Creditors Scheme with the Court and to attend or be represented at the hearing of the Court to sanction the Creditors Scheme in order to make representations that the Creditors Scheme should not be approved and to appeal against the granting of the Creditors Order. Notwithstanding the fact that RBS and Consenting Bondholders have given undertakings (subject to certain conditions, including a Material Adverse Change as described above) not to attend the Court hearing other than in support of the Creditors Scheme there can be no assurance that such objections will not delay or possibly prevent the Restructuring.

### **(E) *Effectiveness of the Creditors Scheme requires the sanction of the Court***

In order for the Creditors Scheme to become Effective, it must receive the sanction of the Court. The Court will not sanction the Creditors Scheme unless it is satisfied that the correct procedures have been followed, that the proposed arrangements are reasonable and that there are no other reasons why the Creditors Scheme should not be approved. The Court will appoint a Reporter to review and report on the Creditors Scheme. There can be no assurance that the Court will determine that the Creditors Scheme is reasonable or that the Court will not conclude that there are other reasons why the Creditors Scheme should not be approved. If the Court does not approve the Creditors Scheme, or approves it subject to conditions or amendments which: (i) the Company deems unacceptable; or (ii) would have (directly or indirectly) a material adverse effect on the interests of any Scheme Creditor or Bondholder and such conditions or amendments are not approved by the Scheme Creditors, the Creditors Scheme will not become Effective and the Restructuring will fail.

### **(F) *Effectiveness of the Members Scheme requires the approval of Scheme Shareholders and the Members Scheme may be objected to***

In order for the Members Scheme to become Effective, it must be approved by the Scheme Shareholders as described in the Explanatory Statement. Even if the Scheme Shareholders approve the Members Scheme it is possible for a person with an interest in the Members Scheme (whether a Scheme Shareholder or another person) to lodge objections to the Members Scheme with the Court and to attend or be represented at the hearing of the Court to sanction the Members Scheme to make representations that the Members Scheme should not be approved and to appeal against the granting of the Members Order. There can be no assurance that such objections will not delay or possibly prevent the Members Scheme becoming Effective.

### **(G) *Effectiveness of the Members Scheme requires the sanction of the Court***

In order for the Members Scheme to become Effective, it must receive the sanction of the Court. The Court will not sanction the Members Scheme unless it is satisfied that the correct procedures have been followed, that the proposed arrangements are reasonable and that there are no other reasons why the Members Scheme should not be approved. The Court will appoint a Reporter to review and report on the Members Scheme. There can be no assurance that the Court will determine that the Members Scheme is reasonable or that the Court will not conclude that there are other reasons why the Members Scheme should not be approved. If the Court does not approve the Members Scheme, Shareholders will not receive any New Shares and will only receive Warrants if the Disposal Resolution is passed at the EGM and the Creditors Scheme becomes Effective.

### **(H) *If certain timing deadlines are not satisfied, the Restructuring may not be implemented***

In order for the Creditors Scheme to be Effective, it must receive the sanction of the Court. The timing of the Court process is at the discretion of the Court and accordingly there can be no assurance that the Court process to sanction the Creditors Scheme and to



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determine any appeal will be completed by the Restructuring Long Stop Date. In the event that the Creditors Scheme is not sanctioned or is appealed and cannot be made Effective by the Restructuring Long Stop Date (subject to any extensions as may be agreed), the Creditor Restructuring Agreement will automatically terminate, undertakings given by certain Creditors pursuant to the Creditor Restructuring Agreement will terminate and the standstill period under the standstill arrangements will expire.

(I) ***If certain timing deadlines are not satisfied, the Members Scheme may not become Effective in which case Shareholders will not receive any New Shares***

In order for the Members Scheme to become Effective, it must receive the sanction of the Court. The timing of the Court process is at the discretion of the Court and accordingly there can be no assurance that the Court process to sanction the Members Scheme and to determine any appeal will be completed by the Restructuring Long Stop Date. In the event that the Members Scheme is not sanctioned or is sanctioned but appealed and the Company, acting reasonably, decides that the Members Scheme is not capable of becoming Effective in accordance with its terms before the Restructuring Long Stop Date (subject to any extensions as may be agreed) the Members Scheme will Lapse and will not be made Effective. In this case, even if the Members Scheme had been approved by Shareholders, Shareholders will not receive any New Shares and will only receive Warrants if the Disposal Resolution is passed at the EGM and the Creditors Scheme becomes Effective.

(J) ***Completion of the Restructuring is subject to a number of important conditions and termination events***

Completion of the Restructuring is subject to a number of important conditions, including the Filing Conditions and the Restructuring Condition over which the Company, New British Energy or Holdings plc have only limited control. If the Filing Conditions are not satisfied, British Energy will not be entitled to make the Creditors Scheme Effective by delivering the Creditors Order to the Companies Registrar even if the Creditors Scheme has been approved by Scheme Creditors and sanctioned by the Court. If the Creditors Scheme cannot be delivered to the Companies Registrar or the Creditors Scheme does not become Effective for some other reason, the Restructuring Condition will not be satisfied and the Restructuring will not be implemented.

In addition, the Restructuring will not be implemented if the Creditor Restructuring Agreement, the Government Restructuring Agreement, the Bondholder Restructuring Agreement, the New Standstill Agreement or the standstill arrangements for the existing Bonds terminate on the occurrence of any of the relevant termination events set out in Part IV of this document. If these agreements or arrangements terminate, the standstill arrangements, which restrict the Creditors from taking any steps to initiate insolvency proceedings or demand or accelerate any amounts due and payable to them by any member of the British Energy Group, would also terminate.

If the current standstill arrangements are terminated and a replacement standstill cannot be agreed with Creditors shortly thereafter, the Company would be unable to meet its financial obligations as they fall due and consequently it may have to take appropriate insolvency proceedings. If the Company does commence insolvency proceedings, the distributions to unsecured creditors may represent only a small fraction of their unsecured liabilities and there is highly unlikely to be any return to Shareholders.

For additional information on the conditions to completion of the Restructuring and the termination events see Part IV of this document.



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**PART IV**

**CONDITIONS AND TERMINATION**

**1. Overview**

The implementation of the Restructuring is subject to three stages of conditionality, namely:

- conditions which need to be satisfied before the Creditors Scheme and the Members Scheme can be proposed to the Bond Trustees and RBS, and Shareholders, respectively (the Initial Conditions);
- subsequent to the satisfaction of the Initial Conditions, conditions, which need to be satisfied before the Creditors Order and, if the Members Scheme is approved and sanctioned by the Court, the Members Order, is filed with the Companies Registrar for registration (the Filing Conditions); and
- the Creditors Scheme becoming Effective and, unless the Members Scheme has Lapsed, the Members Scheme becoming Effective (the Restructuring Condition).

In addition to the above conditions, the Restructuring arrangements may be terminated on the occurrence of certain termination events. Also, unless otherwise agreed by the Creditors, the Secretary of State and the Company, the Creditor Restructuring Agreement and the Government Restructuring Agreement will automatically terminate (and consequently, the Restructuring will not be implemented) if the Creditors Scheme has not become Effective by the Restructuring Long Stop Date. The Filing Conditions, the Restructuring Condition and the Termination Events are described in greater detail below.

As mentioned above, the Initial Conditions have been satisfied. If the Filing Conditions or the Restructuring Condition are not satisfied by the Restructuring Long Stop Date and/or the right to terminate the Restructuring arrangements on the occurrence of a Termination Event are exercised, the Restructuring will not be implemented and the Company may need to commence insolvency proceedings. The Company has decided it is prudent to seek an extension to the present Restructuring Long Stop Date of 31 January 2005, but there can be no assurance that the requisite parties will agree an extension (see paragraph 4 of the Chairman's letter in Part I of this document).

**2. Filing Conditions**

The Company has undertaken, under the terms of the Creditor Restructuring Agreement and the Government Restructuring Agreement to: (i) notify the Creditors of the date on which it intends to file the Creditors Order with the Companies Registrar; and (ii) not to deliver the Creditors Order to the Companies Registrar for registration in certain prescribed circumstances. These circumstances include:

- (a) if the Company receives a notice from the requisite majority of Creditors (excluding BNFL) or the Secretary of State terminating the Creditor Restructuring Agreement on the basis that there is a continuing Material Adverse Change prevailing as at the Notified Filing Date;

- (b) if before the Notified Filing Date, the requisite majority of Creditors (excluding BNFL) or the Secretary of State has validly notified the Company that there has been a material breach of the undertakings, covenants and warranties given by any Group Company in the Creditor Restructuring Agreement or if there would be a material breach of such undertakings, covenants and warranties if they were repeated on the Notified Filing Date;
  
- (c) if confirmation has not been given by the UKLA that upon allotment and issue of the New Shares and New Bonds Admission to the Official List will become effective or, in the alternative where such Admission is refused or is impractical, confirmation has not been given of the admission of the New Shares to the

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Alternative Investment Market of the London Stock Exchange and the listing of the New Bonds to the Luxembourg Stock Exchange;

- (d) if any valuation of shares issued for non-cash consideration as a result of the Restructuring has not been obtained by the relevant issuer in accordance with section 103 of the Companies Act;
- (e) if pursuant to the Government Restructuring Agreement, the Nuclear Liabilities Agreements have not been entered into or will not become effective in accordance with their terms immediately after the delivery of the Creditors' Order to the Companies Registrar for registration (see below for a summary of the further conditions to the Nuclear Liabilities Agreements);
- (f) unless, in circumstances where the Members' Scheme has not Lapsed, the Members' Order is delivered to the Companies Registrar for registration at the same time as the Creditors' Order is delivered;
- (g) if the New EPL Arrangements remain subject to any outstanding conditions precedent where the parties have not agreed to treat the New EPL Arrangements as wholly unconditional (other than in respect of the Restructuring Condition);
- (h) unless the security interests created under certain intra-group funding arrangements have been discharged;
- (i) unless, save as otherwise agreed by the Secretary of State and the Creditors (excluding BNFL), the Government Facility has been cancelled and the security interests created under it have been discharged or will be cancelled and discharged on the delivery of the Creditors' Order to the Companies Registrar for registration;
- (j) unless, in circumstances where the Members' Scheme is not approved or has Lapsed and the Disposal Resolution has not been passed, the British Energy Shares have been delisted or will be delisted when the Creditors' Order is delivered to the Companies Registrar for registration; and
- (k) if EPL is in breach of any representation or warranty in the Amended Credit Agreement amounting to an event of default (as defined) and which has not been waived and is not capable of being cured in accordance with that agreement.

**3. Restructuring Condition**

Under the terms of the Creditor Restructuring Agreement the implementation of the Restructuring is conditional upon either:

- (a) the registration by the Companies Registrar of the Members' Order and the delivery of a copy of the Creditors' Order to the Companies Registrar for registration; or
- (b) the Members' Scheme having Lapsed, the delivery of a copy of the Creditors' Order to the Companies Registrar for registration and the passing of the Disposal Resolution or confirmation from the UKLA that no such resolution is required; or



- (c) the Members Scheme having Lapsed, the delivery of a copy of the Creditors Order to the Companies Registrar for registration where the foregoing condition has not been satisfied.

**4. Government Restructuring Agreement Conditions and termination events**

Under the terms of the Government Restructuring Agreement, the obligations of the relevant parties (including the Secretary of State), amongst other things, to enter into certain of the Nuclear Liabilities Agreements is conditional upon:

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- (a) the Secretary of State not having notified the Company in writing before the Notified Filing Date that, in her opinion, the Group (including for this purpose New British Energy and Holdings plc) will not be viable in all reasonably foreseeable conditions without access to additional financing (other than financing which the Secretary of State is satisfied has been committed and will continue to be available when required);
- (b) the Secretary of State having received a copies of letters from the auditors and financial advisers of New British Energy addressed to New British Energy giving the confirmations as to working capital and existence of the relevant financing facilities referred to in Rule 2.18 of the Listing Rules of the UKLA without qualification (whether or not New British Energy is to be listed on the Official List);
- (c) the Secretary of State being satisfied that adequate and valid security interests and security documentation have been granted and entered into by each Group Company which is a party to the Government Restructuring Agreement to secure the Decommissioning Default Payment;
- (d) New British Energy's board of directors and shareholders having passed the necessary resolutions to authorise the allotment and issue of such number of shares on a non-pre-emptive basis as is necessary to satisfy the NLF Conversion Right;
- (e) the Company having confirmed not more than 5 Business Days prior to the Notified Filing Date by way of certificate addressed to the Secretary of State signed by a director of the Company that:
  - (i) the information set out note 22 (*Nuclear Liabilities*) to the audited consolidated balance sheet of the Group in the annual report and accounts as at 31 March 2003 was prepared by the Company in good faith and was believed by the Board (having consulted appropriate officers and employees of the Group) to present fairly the provision for nuclear liabilities of the Group as at such date;
  - (ii) since 31 March 2003 nothing has come to the attention of the Board that would require a material increase in the provision for nuclear liabilities of the Group set out in the audited consolidated balance sheet of the Group as at 31 March 2003 if it were prepared again as at the date of the certificate; and
  - (iii) the Company: (a) has disclosed to the Secretary of State all material information available to its Board that it considers that the Secretary of State reasonably requires in order to assess the financial position of the Group and its viability upon completion of the Restructuring; and (b) (to the best of the Board's knowledge) none of the information disclosed was untrue or materially inaccurate except as corrected by further disclosures made to the Secretary of State;
- (f) the Creditor Restructuring Agreement not having been terminated or amended in a manner which the Secretary of State considers to be material and there having been no waiver of the conditions in the Creditor Restructuring Agreement to which the Secretary of State has not consented in writing;
- (g) the representations and warranties given in the Government Restructuring Agreement by the relevant Group companies who are parties thereto (including New British Energy and Holdings plc) being true at the date when given and at the date when the Nuclear Liabilities Agreements are entered into;
- (h) there having been no breach of any undertaking given in the Government Restructuring Agreement by the relevant Group companies who are parties thereto (including New British Energy or Holdings plc) which, in the reasonable opinion of the Secretary of State, is, or is likely to be, material in the context of the Restructuring;



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- (i) the representations and warranties given in the Nuclear Liabilities Agreements by the relevant Group companies (including New British Energy and Holdings plc) being true and there being no material breach of the undertakings in the Nuclear Liabilities Agreements given by such Group companies at the date on which all the other conditions to the Government Restructuring Agreement are satisfied;
- (j) there being no continuing event of default under the Government Facility;
- (k) the Creditors Order having been issued by the Court and, if the Members Scheme is approved, the Members Order having been issued by the Court; and
- (l) it not becoming unlawful for any party to the Government Restructuring Agreement to perform its material obligations.

The Secretary of State is entitled to waive any of the above conditions save for the conditions set out in paragraphs (a), (k) or (l) above.

The Government Restructuring Agreement will terminate if any of the conditions outlined above are not fulfilled or, in relation to those which may be waived, waived by the Secretary of State on or before the date specified therein, or, if no such date is specified, on or before 12 noon on 31 January 2005 or, if earlier, the date falling 120 days after the date on which the last of the Initial Conditions is satisfied (or such later date as the Secretary of State may agree). The Company is seeking an extension, but no assurance can be given that the Secretary of State will agree to extend the long stop date of 31 January 2005 (see paragraph 4 of the Chairman's letter in Part I of this document).

The Secretary of State may give written notice to the Company to terminate the Government Restructuring Agreement if at any time before the Notified Filing Date there is a Material Adverse Change.

**5. Creditor Restructuring Agreement Termination events**

Unless otherwise agreed by the Creditors, the Secretary of State and the Company, the Creditor Restructuring Agreement will automatically terminate (and consequently the Restructuring will not be implemented) if:

- (a) the circular relating to the Creditors Scheme has not been posted by 3 December 2004 or the Creditors Scheme has not been approved by Scheme Creditors by 14 January 2005 or in each case such later date as is agreed in writing by the Company, the requisite majorities of Creditors (other than BNFL) and the Secretary of State;
- (b) the Restructuring has not occurred by the Restructuring Long Stop Date;
- (c) the Restructuring Condition has ceased to be capable of satisfaction;

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- (d) the Company receives a valid notice of termination by reason of a Material Adverse Change;
- (e) the Government Restructuring Agreement is validly terminated in accordance with its terms;
- (f) the Company receives a valid termination notice under the New Standstill Agreement from any party thereto;
- (g) the Bondholder Restructuring Agreement is validly terminated in accordance with clause 4 thereof; or
- (h) the State Aid Approval is successfully overturned on appeal prior to the Restructuring Long Stop Date and the Company receives a written notice from the requisite majority of the Creditors (excluding BNFL) that they wish to terminate the Creditor Restructuring Agreement.

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**6. Bondholder Restructuring Agreement and New Standstill Agreement Termination events**

The Bondholder Restructuring Agreement and the New Standstill Agreement will terminate upon the occurrence of any of the following:

- (a) any petition having been presented or other step having been taken for the purpose of winding up any Material Company (not being a petition which is frivolous, vexatious or an abuse of the process of the court and not being a petition withdrawn or struck out within 20 Business Days) or an order having been made or resolution passed for the winding up of any Material Company;
- (b) any petition having been presented or other step having been taken for the purpose of the appointment of an administrator or interim manager in respect of any Material Company (not being a petition which is frivolous, vexatious or an abuse of the process of the court and not being a petition withdrawn or struck out within 20 Business Days) or an administration order having been made in relation to any Material Company or any Material Company otherwise entering into administration;
- (c) any administrative or other receiver being appointed in respect of any Material Company or any part of their respective assets and/or undertakings or any other steps being taken to enforce any security interest over all or any material part of the assets of any Material Company;
- (d) there occurring in relation to any Material Company, in any country or territory in which any of them carries on business or to the jurisdiction of whose courts any part of their respective assets is subject, any event which in that country or territory corresponds with, or has an effect equivalent or similar to, any of those mentioned;
- (e) either the Company or any of its subsidiaries which is a party to the Government Facility failing to satisfy any valid written demand for repayment in full by the Secretary of State pursuant to the Government Facility, or any counter-indemnity provided by the Company (or any of its subsidiaries) to the Secretary of State in respect of any guarantee or other form of credit support granted by the Secretary of State for the purposes of securing any facility granted by commercial banks to the Company (or any of its subsidiaries) in order to replace the Government Facility;
- (f) the Company or the guarantors under the Bonds failing to comply with its/their covenants under the Bondholder Restructuring Agreement;
- (g) documentation being dispatched by the Company (without the consent of the creditors) for the purposes of implementing a scheme, compromise or arrangement in relation to the Bonds or Standstill Obligations (as defined in the New Standstill Agreement) which provides for distributions to the holders of the bonds or creditors (as the case may be) different to that set out in the heads of terms dated 14 February 2003;
- (h) any company failing to discharge any material Continuing Obligation (as defined in the New Standstill Agreement) when due or pay any interest on any Standstill Obligation when due, and, in either case, such failure continues for a period of 20 Business Days and has not been waived by the relevant creditor;
- (i) interest not having been paid within 20 Business Days of the due date on the Bonds;

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- (j) the Bondholder Restructuring Agreement and/or the New Standstill Agreement (as appropriate) terminating or for any reason ceasing to be in full force and effect and/or to bind its counterparties thereto; and

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- (k) the Creditor Restructuring Agreement terminating in accordance with its terms.

**7. Termination events for Bond standstill**

The circumstances in which the standstill arrangements for the existing Bonds (as set out in the supplements to the existing Bond trust deed) will terminate are broadly similar to those for the Bondholder Restructuring Agreement and the New Standstill Agreement, as described above, but in certain circumstances termination is subject to the Bond Trustee being requested to serve a termination notice by holders of not less than 50 per cent. in principal amount of the Bonds then outstanding and having been indemnified to its satisfaction. In addition, the standstill arrangements for the existing Bonds will terminate on the Restructuring Long Stop Date, unless extended in relation to the relevant series as described above, following approval by written resolutions of holders of such series of Bonds. The standstill arrangements under the Bondholder Restructuring Agreement and the New Standstill Agreement may terminate in certain circumstances where the existing Bond trust deed does not permit termination of the standstill in respect of the Bonds. However, the standstill in relation to the Bonds will terminate on the date on which the Creditor Restructuring Agreement, the Bondholder Restructuring Agreement or the New Standstill Agreement are terminated.



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**PART V**

**ADDITIONAL INFORMATION**

**1. Responsibility**

The Directors of the Company, whose names appear in paragraph 2 below, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors of the Company (who have taken all reasonable care to ensure that such is the case) the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information.

**2. Directors And Registered Office**

The Directors of the Company and of New British Energy are:

- (a) Adrian Montague CBE (Chairman);
- (b) Mike Alexander (Chief Executive);
- (c) Roy Anderson (Chief Nuclear Officer\*);
- (d) Stephen Billingham (Finance Director);
- (e) William A. Coley (Non-Executive Director);
- (f) Pascal Colombani (Non-Executive Director);
- (g) John Delucca (Non-Executive Director);
- (h) Ian Harley (Non-Executive Director);
- (i) David Pryde (Non-Executive Director);
- (j) Clare Spottiswoode CBE (Deputy Chairman and Non-Executive Director); and
- (k) Sir Robert Walmsley (Non-Executive Director).

\*

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The appointment of Roy Anderson as Chief Nuclear Officer is to be approved by the NII under the terms of British Energy's site licences. British Energy expects this approval to be forthcoming. On this basis, for the purpose of this document, Roy Anderson is referred to as Chief Nuclear Officer.

The registered office of the Company and of New British Energy and the business address of each of the above Directors is 3 Redwood Crescent, Peel Park, East Kilbride G74 5PR.

### 3. Information on New British Energy

New British Energy was incorporated and registered in Scotland on 2 July 2004 with registered number 270184 under the Act as a public company limited by shares with the name of British Energy Group plc.

Details of New British Energy's authorised and issued share capital following Admission and changes to New British Energy's authorised and issued share capital since incorporation are set out in paragraph 2 of Part X of the Prospectus: Additional information .

A summary of the material provisions of New British Energy's memorandum and articles of association is set out in paragraph 3 of Part X of the Prospectus: Additional information .

### 4. Directors and other interests

The interests (all of which are beneficial unless otherwise stated) of the Directors and their immediate families and the interests of persons connected with the Directors in the share

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capital of the Company as at 23 November 2004 (being the latest practicable date prior to the publication of this document) and in the share capital of New British Energy on Admission which:

- (a) have been or will be notified by each Director to the Company or New British Energy by each Director pursuant to section 324 or section 328 of the Act;
- (b) are required pursuant to section 325 of that Act to be entered in the register referred to therein; or
- (c) are interests of a connected person of a Director which would, if the connected person were a Director, be required to be disclosed under paragraphs (a) or (b) above and the existence of which is known to or could with reasonable diligence be ascertained by that Director, as at 23 November 2004 (being the latest practicable date prior to the publication of this document), are, and are expected following Admission to be, as follows:

Name of Director	<i>At present</i>		<i>Assuming the Members Scheme becomes Effective</i>			<i>Assuming the Disposal is approved</i>			<i>Assuming the Members Scheme does not become Effective and the Disposal is not approved</i>	
	No. of Ordinary Shares	% of issued share capital	No. of New Shares	No. of Warrants	% of issued share capital	No. of New Shares	No. of Warrants	% of issued share capital	No. of New Shares	% of issued share capital
Adrian Montague	2,188	Negligible	43	92	Negligible		92	Negligible		
Ian Harley	2,000	Negligible	40	84	Negligible		84	Negligible		

As at 23 November 2004 (being the latest practicable date prior to the publication of this document) no options over British Energy Shares had been granted to Directors under the British Energy Option Schemes.

No Director has or has had any interest in any transaction which is or was unusual in its nature or conditions or is or was significant to the business of the British Energy Group and which was effected by any member of the British Energy Group during the current or immediately preceding financial year or which was effected during an earlier financial year and remains in any respect outstanding or unperformed.

In so far as is known to the Company and New British Energy, the following table shows the interests in New Shares, other than the interests of the Directors set out above, which, directly or indirectly, amount to 3 per cent. or more of New British Energy's issued share capital both as at 22 November (being the latest practicable date prior to the publication of this document) and as expected immediately following Admission:

*Assuming the Members Scheme becomes Effective*

*Assuming the Disposal is approved*

*Assuming the Members Scheme*

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Name							<i>does not become Effective and the Disposal is not approved</i>	
	No. of New Shares	No. of Warrants	% of issued share capital	No. of New Shares	No. of Warrants	% of issued share capital	No. of New Shares	% of issued share capital
Duquesne Capital Management, L.L.C.	78,542,317		14.0	80,786,384		14.4	80,786,384	14.4
Deutsche Bank AG, London	57,223,688		10.2	57,784,705		10.3	57,784,705	10.3
Stark Investments*	43,882,317	3,071,897	7.8	43,571,865	3,071,897	7.8	43,571,865	7.8
The Eureka (Euro) Fund Limited	44,320,308		7.9	45,442,341		8.1	45,442,341	8.1
Fidelity Investments	34,783,026		6.2	35,669,652		6.4	35,669,652	6.4
The Royal Bank of Scotland	30,868,315		5.5	31,527,888		5.6	31,527,883	5.6
LGC Holdings, L.L.C.	18,081,564		3.2	18,542,466		3.3	18,542,466	3.3

\* The percentage figures stated for Stark Investments are based on the undiluted share capital of New British Energy. After exercising all its Warrants, Stark Investments' interests in New Shares (as a percentage of New British Energy's fully diluted issued share capital) would be 8.0 per cent. assuming the Members' Scheme is approved, 7.9 per cent. assuming the Disposal is approved and 7.8 per cent, assuming neither the Members' Scheme or the Disposal is approved.

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The information in the above table has been provided to British Energy by advisers to certain of the creditors in connection with the application for Admission and, in certain cases, the number of New Shares has been calculated on the basis of the percentage figures provided. However, because the existing Bonds, the debt owed to the Eggborough Banks and the relevant claims of the Significant Creditors are tradeable (in accordance with the Creditor Restructuring Agreement), and because British Energy Shares may be bought or sold, the interests stated above may change between the date of this document and Admission. Supplementary listing particulars would be published if New British Energy becomes aware that there is a significant change in this information or a significant new matter has arisen in this regard (which would have been required to be mentioned in this document if it had arisen prior to the date of this document), in each case, which would be significant for the purpose of making an informed assessment about whether to invest in the New Shares, Warrants and/or New Bonds.

In so far as is known to the Company, no person directly or indirectly, jointly or severally exercises or could exercise control over the Company.

### **5. Directors service agreements and terms of appointment**

Details of the Directors service agreements and letters of appointment are set out in paragraph 7 of Part X of the Prospectus: Additional information .

Copies of the executive Directors service agreements and the letters of appointment of the non-executive Directors will be available for inspection at the address specified in paragraph 13 below.

### **6. Management and share incentive plans**

New British Energy has adopted a number of employee share incentive plans which are described in detail in paragraph 8 of Part X of the Prospectus: Additional information , including the Interim Bonus Plan and the LT Plan for senior executives of New British Energy and its subsidiaries.

Under the Interim Bonus Plan, the remuneration committee of New British Energy may grant a deferred bonus to senior executives of New British Energy and its subsidiaries to reward performance over the financial year ending 31 March 2005. The performance targets for this year have yet to be determined by the remuneration committee. The Interim Bonus Plan is intended to reward performance for that financial year only, and rewards for performance in subsequent financial years will be provided through the LT Plan. The Interim Bonus Plan is described in detail in paragraph 8.2 of Part X of the Prospectus: Additional information .

The LT Plan provides for the establishment of targets by the remuneration committee of New British Energy in relation to safety and environment, EBITDA (Pre-capex) (as defined in the LT Plan), nuclear output, non-outage backlog, trading measure, free cash flow and equity market capitalisation for each financial year. For executive directors and other members of the executive team this will consist entirely of Group targets. EBITDA (Pre-capex) and nuclear output targets have already been set for the financial years ending 31 March 2006, 31 March 2007 and 31 March 2008, and these are set out in paragraph 8.3 of Part X of the Prospectus: Additional information .

**7. Taxation**

This section describes certain UK and US tax consequences for Shareholders of implementation of the Members' Scheme and the Disposal and also the tax consequences for the Shareholders where neither the Members' Scheme nor the Disposal is approved. It should be noted that there are significant differences between the tax consequences for Shareholders in the UK and the US which result from the differences in the underlying tax.

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systems. The discussion of the tax consequences in the UK and US does not purport to be comprehensive, and the tax consequences of the proposals in other jurisdictions are not discussed. Shareholders considering the various alternatives set out in this document are therefore encouraged to consult their own tax advisers concerning the tax consequences of the proposals in light of their particular circumstances. A description of certain UK and US tax consequences of holding the New Shares and Warrants is set out in paragraph 12 of Part X of the Prospectus: Additional information .

### ***UK Taxation***

**The following summary describes certain UK income tax, capital gains tax, corporation tax, stamp duty and SDRT consequences for Shareholders of the implementation of the Members Scheme and the Disposal but does not purport to be comprehensive. Except where noted, it relates only to the position of persons who are the absolute beneficial owners of the British Energy Shares. The statements below may not apply to special situations, such as those of dealers in securities, authorised unit trusts, open-ended investment companies or persons connected with the Company, New British Energy or Holdings plc. Furthermore, the discussion below is generally based upon the provisions of UK tax law and UK Inland Revenue practice as of the date hereof, and such provisions may be repealed, revoked or modified (possibly with retrospective effect) so as to result in UK tax consequences different from those discussed below.**

**Shareholders considering the proposals set out in this document should consult their own tax advisers concerning UK tax consequences in light of their particular circumstances as well as any consequences arising under the law of any other relevant jurisdiction. No representations are made with respect to the tax consequences to any particular holder of British Energy Shares. Specifically, the comments below do not address: (i) tax other than UK income tax, capital gains tax, corporation tax, stamp duty and SDRT which are discussed below; (ii) any tax consequences for any persons other than Shareholders; (iii) any tax consequences other than in relation to the implementation of the Members Scheme or the Disposal; (iv) any tax consequences in a jurisdiction other than the UK; or (v) any tax consequences of any subsequent holding or disposal of New Share or Warrants. Shareholders who are resident in a jurisdiction other than the UK are strongly urged to consult their professional advisers to determine their own tax position.**

### ***Members Scheme***

If the Members Scheme is approved and becomes Effective then Scheme Shareholders will receive New Shares and Warrants. The Inland Revenue has agreed that, on the Members Scheme becoming Effective, there will be a chargeable gains disposal on the cancellation of the Scheme Shares in relation to each Scheme Shareholder.

This will crystallise a capital gain or loss for capital gains tax or corporation tax on chargeable gains purposes calculated as the market value of the New Shares and the Warrants (which the Inland Revenue have agreed will be the lower of: (i) the lower of the two prices shown in the quotations for shares or securities on the London Stock Exchange on the first day of trading plus one quarter of the difference between those two figures; and (ii) the halfway price between the highest and lowest prices recorded on that day) less the base cost of the Scheme Shares, which may, depending on the Scheme Shareholder's circumstances (including the availability of exemptions and allowable losses and whether the Scheme Shareholder is a corporate or an individual), give rise to a liability to capital gains tax or corporation tax in respect of chargeable gains. An allowable loss may arise if the proceeds received by the Scheme Shareholder are less than the base cost of their Scheme Shares.





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The Inland Revenue has agreed that those Scheme Shareholders who do not elect to receive New Shares and Warrants or whose Shareholder Elections are invalid and who therefore receive cash will be treated as disposing of their Scheme Shares for an amount equal to the consideration received for the New Shares and Warrants sold.

### *Disposal*

If the Members Scheme is not approved, or otherwise Lapses, but the Disposal is approved by Ordinary Shareholders then Shareholders will receive Warrants only. The receipt of the Warrants will give rise to a part disposal for capital gains purposes. The Inland Revenue have agreed that the residual value of the British Energy Shares will be nil so that the full base cost in the British Energy Shares will be deductible from the market value of the Warrants (as determined above) in determining the capital gain or loss. As discussed above, this may give rise to a liability to capital gains tax or corporation tax or an allowable loss in respect of chargeable gains, depending on the circumstances of the relevant Shareholder.

In the event that the Disposal is not approved by Ordinary Shareholders, the Inland Revenue have agreed that the British Energy Shares in the Company will be of negligible value after the Disposal is effected. Where a Shareholder makes a claim for the British Energy Shares to be of negligible value, the British Energy Shares will be treated as having been sold and immediately reacquired so that the Shareholder may realise, depending on its circumstances, a capital loss for the purposes of capital gains tax or corporation tax on capital gains equal to the Shareholder's base cost in the British Energy Shares.

### *Claiming an Allowable Loss*

A Shareholder who realises a loss for the purposes of capital gains tax must give notice to an officer of the Board of the Inland Revenue quantifying the amount of that loss before it will be treated as an allowable loss. The notice must be given within 5 years of 31 January following the year of assessment in which the Restructuring becomes effective.

### *Stamp Duty and SDRT on issue of New Shares and Warrants under the Members Scheme*

In relation to the New Shares being issued by New British Energy and subject to the comments below, no liability to stamp duty or SDRT will arise on the issue of, or on the issue of definitive share certificates in respect of, such shares by New British Energy and no liability to SDRT will arise on the issue of the Warrants. Where a Scheme Shareholder is entitled to receive New Shares or Warrants under the Members Scheme, there will be no charge to stamp duty or SDRT on the issue/transfer of New Shares and no charge to SDRT on the issue/transfer of Warrants pursuant to the Members Scheme to that Shareholder, or to a person holding the New Shares or Warrants on his behalf (assuming such person is neither: (i) a person whose business is or includes the provision of clearance services (or a nominee for such a person); or (ii) a person whose business is or includes issuing depository receipts (or a nominee or agent for such a person)).

Subject to the above, no stamp duty or SDRT should be payable by a Scheme Shareholder in respect of the arrangements for the distribution of the New Shares under the Members Scheme and no SDRT should be payable by a Scheme Shareholder in respect of the arrangements for the distribution of the Warrants under the Members Scheme. See paragraph 18 of the Explanatory Statement in Part II of this document in relation to the position of holders of British Energy ADRs if New ADRs in respect of the New

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Shares are issued and listed on the NYSE upon Admission.

If any stamp duty is payable upon the Warrant Instrument being produced in evidence in any proceedings in connection with the enforcement of the Warrant Instrument, the Warrants or the Subscription Rights (as such term is defined in condition 1 of the Warrants), under condition 8.1 of the Warrants, New British Energy has agreed to pay it.

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The conditions of the Warrants are set out in Part VIII of the Prospectus: Conditions of the Warrants .

### *US federal income taxation*

The following is a summary of the principal US federal income tax considerations for Shareholders that are US Holders regarding the implementation of the Members Scheme and the Disposal. This summary does not purport to discuss all aspects of US federal income tax that may be important to US Holders subject to special tax rules, such as banks, financial institutions, insurance companies, real estate investment trusts, regulated investment companies, grantor trusts, tax-exempt organizations, dealers in securities or currencies, traders in securities that elect mark-to-market tax accounting, persons that own or will own, directly or by attribution, 10 per cent. or more of the Company s or New British Energy s outstanding voting share capital for US federal income tax purposes, persons that own both claims that are the subject of the Creditors Scheme and British Energy Shares, persons subject to alternative minimum tax, certain US expatriates, person that have not held the British Energy Shares as capital assets within the meaning of Section 1221 of the US Internal Revenue Code of 1986, as amended (the Code ) (generally, property held for investment), persons whose functional currency is not the US dollar and persons that have held the British Energy Shares as part of a hedging, integrated, conversion or constructive sale transaction or straddle. Moreover, this summary does not address the US federal estate and gift tax consequences of the implementation of the Members Scheme and the Disposal and does not address the foreign personal holding company rules. The summary does not include any description of any US state or local tax that may be applicable to the implementation of the Members Scheme and Disposal. Shareholders are urged to consult their tax advisers with respect to the US federal income, state, local and foreign tax consequences of the implementation of the Members Scheme and the Disposal.

This summary is based upon the Code, its legislative history, existing and proposed US Treasury regulations promulgated thereunder, published rulings by the US Internal Revenue Service ( IRS ), and court decisions, all in effect as of the date hereof, all of which authorities are subject to change or differing interpretations, which changes or differing interpretations could apply retroactively.

As used herein, the term **US Holder** means a beneficial owner of British Energy Shares that, for US federal income tax purposes, is: (i) a citizen or individual resident of the United States; (ii) a corporation (or other entity treated as a corporation for US federal income tax purposes) created or organised in or under the laws of the United States or any state thereof (including the District of Columbia); (iii) an estate the income of which is subject to US federal income taxation regardless of its source; or (iv) a trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons (as defined in the Code) have the authority to control all substantial decisions of the trust or a trust that has made valid election under US Treasury regulations to be treated as a domestic trust.

If a partnership (or other entity treated as a partnership for US federal income tax purposes) holds British Energy Shares, the US federal income tax treatment of a partner will generally depend upon the status of the partner and the activities of the partnership. A partner of a partnership holding British Energy Shares, should consult its own tax advisers regarding the US federal income tax consequences of the implementation of the Members Scheme and the Disposal.

### *Members Scheme*

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If the Members' Scheme becomes Effective, then a US Holder will receive New Shares and Warrants in exchange for the US Holder's Scheme Shares. Although the US federal

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income tax treatment of this exchange is not entirely clear, it appears that a US Holder should generally recognise gain or loss on this exchange in an amount equal to the difference between the US Holder's adjusted tax basis in the Scheme Shares and the fair market value (as of the Restructuring Effective Date) of the New Shares and Warrants. Subject to the PFIC discussion below, this gain or loss will be a capital gain or loss, if the US Holder held the Scheme Shares as a capital asset, and will be treated as US-source gain or loss. US Holders should consult their own tax advisers as to the consequences to them of such capital gains (which may be taxed at rates lower than ordinary income in the case of US Holders that are individuals, trusts or estates and that have held their British Energy Shares for more than one year) and capital losses (the deductibility of which is subject to limitations). Assuming gain or loss is recognised in the manner just described, a US Holder's basis in the New Shares and Warrants will equal the fair market value of the New Shares and Warrants as of the date on which the Members' Scheme becomes Effective.

It should be noted that, although the exchange by US Holders of Scheme Shares for New Shares and Warrants is best viewed as a fully taxable transaction for US federal income tax purposes (as described in the preceding paragraph), it nonetheless is possible that the IRS will attempt to treat such exchange as a tax-free transaction pursuant to Section 351 of the Code and that a court will uphold such treatment by the IRS. In general, if a US Holder's exchange of Scheme Shares for New Shares and Warrants is treated as tax-free under Section 351, then any loss realised by the US Holder on the exchange will not be recognised. In addition, the US Holder generally will recognise the gain (if any) realized by it on the exchange only to the extent of the fair market value (as of the Restructuring Effective Date) of the Warrants received in the exchange. US Holders are urged to consult their own tax advisers regarding whether their exchange qualifies as a tax-free transaction under Section 351 and what the specific consequences to them are if the exchange does so qualify.

As discussed in paragraphs 8 and 13 of the Explanatory Statement in Part II of this document, in certain circumstances, New British Energy will allot and issue New Shares and Warrants to a person who will sell such New Shares and Warrants for cash. If New Shares or Warrants of a US Holder are sold by such person for cash, then the US Holder generally will recognise US source capital gain or loss at the time of that sale, in an amount equal to the difference, if any, between the US Holder's basis in the New Shares or Warrants and the amount of cash received as consideration. Since the holding period for New Shares and Warrants is likely to be less than one year when sold by such person, such capital gain or loss generally will be short-term capital gain or loss, and thus any such gain will be subject to the maximum marginal US federal income tax rate applicable to ordinary income.

As described above in paragraph 18 of the Explanatory Statement in Part II of this document, if a US Holder owns Scheme Shares evidenced by ADRs, and such US Holder receives New ADRs in exchange for such ADRs pursuant to the Members' Scheme, then New British Energy will pay any SDRT imposed with respect to the issuance of such New ADRs. A US Holder generally will not be entitled to a foreign tax credit in respect of such SDRT, and the payment of such SDRT by New British Energy may be treated as an additional amount realised upon the exchange of the US Holder's Scheme Shares evidenced by ADRs pursuant to the Members' Scheme. US Holders should consult their tax advisers regarding the US federal income tax treatment of any SDRT paid by New British Energy in respect of an issuance of New ADRs.

### *Disposal with Ordinary Shareholder approval*

If the Members' Scheme is not approved, or otherwise Lapses, but the Disposal is approved by the Ordinary Shareholders, then US Holders will receive Warrants. A US Holder generally will recognise gain or loss on the Restructuring Effective Date in an amount equal to the difference between the US Holder's adjusted tax basis in the British

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Energy Shares and the fair market value (as of the Restructuring Effective Date) of the Warrants received. Subject to the PFIC discussion below, this gain or loss will be a capital gain or loss, if the US Holder held the British Energy Shares as a capital asset, and will be treated as US-source gain or loss. US Holders should consult their own tax advisers as to the consequences to them of such capital gains (which may be taxed at rates lower than ordinary income in the case of US Holders that are individuals, trusts or estates and that have held their British Energy Shares for more than one year) and capital losses (the deductibility of which is subject to limitations). A US Holder's basis in the Warrants will equal the fair market value of the Warrants as of the Restructuring Effective Date.

As discussed in paragraphs 8 and 13 of the Explanatory Statement in Part II of this document, in certain circumstances, New British Energy will issue Warrants to a person who will sell such Warrants (or New Shares received upon such person's exercise of Warrants) for cash. If Warrants (or New Shares received upon exercise of Warrants) are sold, then the US Holder generally will recognise US source capital gain or loss at the time of that sale, in an amount equal to the difference, if any, between the US Holder's basis in the Warrants (or New Shares) and the amount of cash received as consideration. Since the holding period for the Warrants is likely to be less than one year when sold by such person, such capital gain or loss generally will be short-term capital gain or loss, and thus any such gain will be subject to the maximum marginal US federal income tax rate applicable to ordinary income.

### *Passive Foreign Investment Company Considerations*

Generally, for US federal income tax purposes, a foreign corporation will be a passive foreign investment company, or a PFIC, for any taxable year if either: (i) 75 per cent. or more of its gross income is passive income; or (ii) 50 per cent. or more of the value of its assets, determined on the basis of a quarterly average, is attributable to assets that produce or are held for the production of passive income. Passive income generally includes dividends, interest, royalties and rents not arising from the active conduct of a trade or business, and gains from the sale of assets that produce such income. If a foreign corporation is a PFIC in any taxable year that a US person owns shares, the US person may be subject to tax at ordinary income rates on: (a) a portion of any gain recognised on the sale of shares; and (b) any excess distribution paid on shares (generally, a distribution in excess of 125 per cent. of the average annual distributions paid by the foreign corporation in the three preceding taxable years).

If the Company were a PFIC for one or more taxable years during the period that a US Holder has owned British Energy Shares, then the US Holder may be subject to the consequences described above on the exchange of such British Energy Shares for New Shares and Warrants (pursuant to the Members Scheme) or on the receipt of Warrants (pursuant to the Disposal if approval of the Ordinary Shareholders is obtained). US Holders should consult their tax advisers to confirm whether they have treated the Company as a PFIC in any taxable year during the period they have held their British Energy Shares. Based on the Company's current activities and assets, although the matter is not free from doubt, the Company does not believe that it currently is a PFIC. No assurance, however, can be given as to its status in past years.

### *Disposal without Ordinary Shareholder approval*

If the Disposal is effected without the approval of the Ordinary Shareholders, then a US Holder generally will recognise a capital loss on the Restructuring Effective Date in an amount equal to the US Holder's adjusted tax basis in the British Energy Shares. If the US Holder's holding period for the British Energy Shares exceeds one year, such loss generally will be long-term capital loss, and, if the US Holder's holding period for the British Energy Shares is one year or less, such loss generally will be short-term capital loss. Any loss realized with respect to the British Energy Shares on the Restructuring Effective Date generally will be treated as a US-source loss.



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*US Backup Withholding Tax and Information Reporting*

Backup withholding tax and information reporting requirements may apply to payments to certain non-corporate US Holders of the proceeds from an exchange of a British Energy Share pursuant to the Members Scheme or the Disposal. The Company or its agent may be required to withhold backup withholding tax on a payment of proceeds to a US Holder (other than an exempt recipient, such as a corporation) if such US Holder fails to furnish its correct taxpayer identification number or otherwise fails to comply with, or establish an exemption from, such backup withholding requirements. Backup withholding tax is not an additional tax and may be credited against the beneficial owner's US federal income tax liability if the required information is furnished to the IRS in a timely manner.

**8. Material Contracts, Obligations and Entitlements**

*Continuing Group*

The following is a summary of the principal contents of each material contract (not being a contract entered into in the ordinary course of business) entered into by any member of the Continuing Group within the two years immediately preceding the date of this document and those contracts entered into by any member of the Continuing Group (not in the ordinary course of business) which contain any provision under which any member of the Continuing Group has any obligation or entitlement which is material to the Continuing Group at the date of this document:

- (a) the Business Transfer Agreement to effect the Disposal dated 8 October 2004 and made between British Energy and Holdings plc. Under the Business Transfer Agreement, British Energy will sell its entire business and assets (including all its shares in its subsidiaries other than the non-voting shares held by it in each of New British Energy and Holdings plc) to Holdings plc as a going concern. In consideration for such sale, Holdings plc will agree to perform the outstanding obligations under all of British Energy's contracts and to satisfy or discharge all of British Energy's liabilities and obligations. Furthermore, Holdings plc will indemnify British Energy against each loss, liability, cost and expense which British Energy may suffer in connection with: (i) all liabilities and obligations of British Energy assumed by Holdings plc under the Business Transfer Agreement; and (ii) British Energy's ownership or operation of its business and assets before or after completion of the Business Transfer Agreement. If the benefit of any of British Energy's contracts can be assigned without a person's consent, then the Business Transfer Agreement will constitute an assignment of the relevant contract to Holdings plc. If a contract cannot be assigned until consent is obtained or a novation is achieved, British Energy will hold the relevant contract and all benefits thereunder as trustee for Holdings plc and will upon receipt of any monies, goods, services or benefits account for and pay or deliver the same to Holdings plc.

Holdings plc is also required under the terms of the Business Transfer Agreement to: (i) take over the contracts of employment for British Energy's employees, together with all losses, liabilities and costs relating to those contracts of employment or the transfer thereof; and (ii) implement such arrangements as are required to effect the transition of the existing pension arrangements of British Energy and any Group undertaking to Holdings plc or such person as Holdings plc may nominate.

The Business Transfer Agreement will become effective only if the Members Scheme is not approved by the relevant shareholders (or otherwise lapses) and either: (a) the resolution to approve the Disposal is passed by the holders of Ordinary Shares at the extraordinary general meeting convened for that purpose; and/or (b) the listing of British Energy's A Shares and Ordinary Shares on the Official List has been cancelled pursuant to the Listing Rules. Completion of the Business Transfer Agreement shall take place immediately after the later of: (i) either of the foregoing conditions having been satisfied; and (ii)



satisfaction of the Restructuring Condition. The Business

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Transfer Agreement will automatically terminate if it has not been completed by the Restructuring Long Stop Date; and

- (b) the contracts described in paragraphs 17.1(c)-(o), (r), (s), (v), (z)-(gg), (tt), (uu), (ww) and (xx) of Part X of the Prospectus: Additional information . Under the Business Transfer Agreement referred to in (a) above, Holdings plc will perform all the outstanding obligations under these contracts and will satisfy or discharge all of British Energy's existing and future liabilities and obligations thereunder. Furthermore, Holdings plc will indemnify British Energy against each loss, liability, cost and expense which British Energy may suffer in connection with all liabilities and obligations of British Energy arising under these contracts.

### *Disposed Group*

Paragraphs 17.1 and 17.2 of Part X of the Prospectus: Additional information contain summaries of the principal contents of each material contract (not being a contract entered into in the ordinary course of business) entered into, or expected to be entered into upon or subsequent to the implementation of the Restructuring, by members of the Disposed Group.

Save as stated above, no member of the Disposed Group has entered into any contract which is or may be material (not being a contract entered into in the ordinary course of business) within the two years immediately preceding the date of this document or any other contract (not being a contract entered into in the ordinary course of business) which contains any provision under which any member of the Disposed Group has any obligation or entitlement which is or may be material to the Disposed Group at the date of this document.

## **9. Litigation**

### *Continuing Group*

Save as disclosed in paragraphs 16.2, 16.3, 16.8 and 16.9 of Part X of the Prospectus: Additional information , the Continuing Group has not been engaged in any legal or arbitration proceedings by or against the Continuing Group (including any such proceedings which are pending or threatened by or against the Continuing Group of which the Continuing Group is aware) which may have, or have had during the 12 months preceding the date of this document, a significant effect on the Continuing Group's financial position.

### *The Disposed Group*

Save as disclosed in paragraphs 16.2, 16.4, 16.5, 16.6 and 16.7 of Part X of the Prospectus: Additional information , none of the undertakings in the Disposed Group has been engaged in any legal or arbitration proceedings by or against the Disposed Group (including any such proceedings which are pending or threatened by or against any of the undertakings in the Disposed Group of which the Directors are aware) which may have, or have had during the 12 months preceding the date of this document, a significant effect on the Disposed Group's financial position.

10. **Working Capital**

In the opinion of the Company, having regard to the indemnity from Holdings plc referred to in paragraph 7 of the Explanatory Statement relating to all losses, liabilities, costs and expenses of the Continuing Group assumed by Holdings plc in connection with the Disposal, the working capital available to the Continuing Group is sufficient for the Continuing Group's present requirements, that is for at least the next 12 months following the date of this document.

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**11. Significant Change**

*Continuing Group*

Save for:

- (i) the announcements by British Energy:
  - (a) on 30 July 2004 that: (1) further work was necessary on one unit at each of the Heysham 1 and Hartlepool power stations to demonstrate the integrity of certain boilers which, at the date of this document, remain shut down (as discussed more fully in the risk factor on this subject appearing on page 103 of the Prospectus); and (2) it was revising its target of annual nuclear output from 64.5 TWh to around 61.5 TWh for the 2004/2005 financial year (as discussed more fully on page 32 of the Prospectus), which would have the effect of significantly reducing the Group's projected output for the year;
  - (b) on 22 October 2004 that, in light of further work required at Heysham 1 and Hartlepool before the units can be returned to service (as discussed more fully in the risk factor on this subject appearing on page 103 of the Prospectus), the nuclear output target for 2004/2005 of 61.5 TWh was vulnerable and may have had the effect of reducing the Group's projected output for the year and therefore the Group's profitability; and
  - (c) on 18 November 2004 that it had reduced its target of annual nuclear output to 59.5 TWh for the 2004/2005 financial year (as discussed more fully on page 32 of the Prospectus), which would have the effect of significantly reducing the Group's projected output for the year;
- (ii) the continuing increase in the market price of electricity from around £24.5 per MWh at the end of March 2004 to over £30.0 per MWh by 22 November 2004 (as discussed more fully on page 33 of the Prospectus in the paragraph headed: Sales) which required the Group to deposit additional collateral in support of British Energy's trading activities (as discussed more fully on page 34 of the Prospectus in the paragraph headed: Cash and liquidity);
- (iii) the deferral of certain payments to suppliers of up to £81.2m in aggregate as at 23 November 2004 (being the latest practicable date for obtaining this information prior to publication of this document) which may adversely affect the Group's relationship with suppliers (as discussed more fully on page 34 of the Prospectus in the paragraph headed: Cash and liquidity); and
- (iv) the litigation matters relating to Polygon and Brandes described in paragraph 16.9 of Part X of the Prospectus: Additional information which have involved the Company becoming a defendant in litigation proceedings,

there has been no significant change in the financial or trading position of the Continuing Group since 30 June 2004, the date to which the last published interim results were prepared, as set out in Part IV of the Prospectus, Section 2: Results for British Energy plc for the three months ended 30 June 2004 .

*Disposed Group*

Save for:

- (i) the announcements by British Energy:
  - (a) on 30 July 2004 that: (1) further work was necessary on one unit at each of the Heysham 1 and Hartlepool power stations to demonstrate the integrity of certain boilers which, at the date of this document, remain shut down (as discussed more fully in the risk factor on this subject appearing on page 103 of the Prospectus); and (2) it was revising its target of annual nuclear output from 64.5 TWh to around 61.5 TWh for the 2004/2005 financial year (as discussed more fully on page 32 of the Prospectus), which would have the effect of significantly reducing the Group's projected output for the year;

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- (b) on 22 October 2004 that, in light of further work required at Heysham 1 and Hartlepool before the units can be returned to service (as discussed more fully in the risk factor on this subject appearing on page 103 of the Prospectus), the nuclear output target for 2004/2005 of 61.5 TWh was vulnerable and may have had the effect of reducing the Group's projected output for the year and therefore the Group's profitability; and
- (c) on 18 November 2004 that it had reduced its target of annual nuclear output to 59.5 TWh for the 2004/2005 financial year (as discussed more fully on page 32 of the Prospectus), which would have the effect of significantly reducing the Group's projected output for the year;
- (ii) the continuing increase in the market price of electricity from around £24.5 per MWh at the end of March 2004 to over £30.0 per MWh by 22 November 2004 (as discussed more fully on page 33 of the Prospectus in the paragraph headed: Sales) which required the Group to deposit additional collateral in support of British Energy's trading activities (as discussed more fully on page 34 of the Prospectus in the paragraph headed: Cash and liquidity);
- (iii) the deferral of certain payments to suppliers of up to £81.2m in aggregate as at 23 November 2004 (being the latest practicable date for obtaining this information prior to publication of this document) which may adversely affect the Group's relationship with suppliers (as discussed more fully on page 34 of the Prospectus in the paragraph headed: Cash and liquidity); and
- (iv) the litigation matters relating to Polygon and Brandes described in paragraph 16.9 of Part X of the Prospectus: Additional information which have involved the Company becoming a defendant in litigation proceedings,

there has been no significant change in the financial or trading position of the Disposed Group since 30 June 2004, the date to which the last published interim results were prepared, as set out in Part IV of the Prospectus, Section 2: Results for British Energy plc for the three months ended 30 June 2004 .

**12. General**

Citigroup Global Markets Limited has given and has not withdrawn its written consent to the inclusion of the reference to its name in the form and context in which it is included.

**13. Documents for Inspection**

Copies of the following documents may be inspected at the offices of Clifford Chance Limited Liability Partnership, 10 Upper Bank Street, London, E14 5JJ during usual business hours on any weekday (Saturdays, Sundays and public holidays excepted) from the date of this document up to and including 22 December 2004:

- (i) the memorandum and articles of association of the Company and the memorandum and articles of association of New British Energy;
- (ii) the service agreements and letters of appointment referred to in paragraph 5 above;

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- (iii) the material contracts referred to in paragraph 8 above;
- (iv) the written consent referred to in paragraph 12 above;
- (v) the audited consolidated accounts of the Group for the two financial years ended 31 March 2003 and 31 March 2004;  
and
- (vi) this document.

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**THE MEMBERS SCHEME**

**IN THE COURT OF SESSION**

**SCOTLAND**

**IN THE MATTER OF BRITISH ENERGY PLC**

**- and -**

**IN THE MATTER OF THE COMPANIES ACT 1985**

**SCHEME OF ARRANGEMENT**

**(under section 425 of the Companies Act 1985)**

**- between -**

**BRITISH ENERGY PLC**

**- and -**

**THE HOLDERS OF SCHEME SHARES**

**(as hereinafter defined)**

**PRELIMINARY**

(A) In this scheme of arrangement, unless the context otherwise requires, the following expressions shall bear the following meanings:



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<b>A Shares</b>	the A Shares of 60p each in the capital of the Company
<b>A Share Court Meeting</b>	the meeting of holders of A Shares convened by order of the Court pursuant to section 425 of the Act to consider and, if thought fit, approve the Scheme, and any adjournment thereof
<b>Act</b>	the Companies Act 1985 (as amended)
<b>Amended Credit Agreement</b>	the credit agreement originally dated 13 July 2000 as amended and/or restated on 8 September 2000, 24 October 2000, 12 December 2000, 5 February 2001 and on or about the Scheme Effective Date between, amongst others, EPL, Barclays Bank PLC as agent and security trustee and certain financial institutions
<b>BEG</b>	British Energy Generation Limited
<b>BEG UK</b>	British Energy Generation (UK) Limited
<b>British Energy Shareholder</b>	a holder of any British Energy Share
<b>British Energy Shares</b>	the Ordinary Shares and the A Shares
<b>BNFL</b>	British Nuclear Fuels plc
<b>Board</b>	the board of directors of the Company or a duly appointed committee thereof
<b>Bondholder</b>	the holder of the ultimate beneficial interest in a Bond

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<b>Bonds</b>	all or any of the outstanding £109,861,000 5.949 per cent. guaranteed bonds of the Company due 2003 (the <b>2003 Bonds</b> ); the £163,444,000 6.077 per cent. guaranteed bonds of the Company due 2006 (the <b>2006 Bonds</b> ); and the £134,586,000 6.202 per cent. guaranteed bonds of the Company due 2016 (the <b>2016 Bonds</b> )
<b>Bond Trustees</b>	in relation to the 2003 Bonds, the Law Debenture Trust Corporation p.l.c., in relation to the 2006 Bonds, the Law Debenture Intermediary Corporation plc and in relation to the 2016 Bonds, Law Debenture Trustees Limited
<b>Company</b>	British Energy plc incorporated in Scotland with registered number 162273
<b>Court</b>	the Court of Session, Parliament House, Parliament Square, Edinburgh EH1 1RF
<b>Creditor Restructuring Agreement</b>	the agreement dated as of 30 September 2003 entered into by, amongst others, the Company, BEG, BEG UK and the Creditors (as amended or extended from time to time)
<b>Creditors</b>	the Significant Creditors, RBS, Bondholders, the Eggborough Banks and BNFL
<b>Creditors Scheme</b>	the scheme of arrangement to be proposed by the Company to the Bond Trustees and RBS pursuant to section 425 of the Act
<b>CREST</b>	the relevant system (as defined in the CREST Regulations) in respect of which CRESTCo is the operator (as defined in the CREST Regulations)
<b>CRESTCo</b>	CRESTCo Limited
<b>CREST Regulations</b>	the Uncertified Securities Regulations 2001 (S.I. 2001/3755) including any modifications thereof or any regulations in substitution therefor
<b>Election Return Time</b>	the latest time by which a form of election needs to be returned to the Registrars (being 6.00 p.m. on the business day immediately prior to Scheme Effective Date or such later date as the Company may agree)
<b>Eggborough Banks</b>	the lenders and swap providers in the syndicate of banks under the Amended Credit Agreement
<b>EPL</b>	Eggborough Power Limited
<b>Initial Shareholder</b>	Robert Armour (Company Secretary of the Company and New British Energy) and his nominee
<b>New British Energy</b>	British Energy Group plc incorporated in Scotland with registered number 270184
<b>New Shares</b>	the ordinary shares of 10p each in the capital of New British Energy
<b>New Special Share</b>	the special rights redeemable preference share of £1 in the capital of New British Energy

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<b>Non-voting Deferred Shares</b>	the non-voting deferred shares of 60p each in the capital of the Company
<b>Ordinary Share Court Meeting</b>	the meeting of holders of Ordinary Shares convened by order of the Court pursuant to section 425 of the Act to consider and, if thought fit, approve the Scheme, and any adjournment thereof
<b>Ordinary Shares</b>	the ordinary shares of 44 <sup>28</sup> /43p each in the capital of the Company
<b>RBS</b>	The Royal Bank of Scotland plc
<b>RBS Letter of Credit</b>	the letter of credit issued on 1 December 2000 by RBS in favour of Barclays Bank Plc (as facility agent) relating to the debt service reserve obligations of EPL under the Amended Credit Agreement
<b>Registrars</b>	the registrars of the Company, being Lloyds TSB Registrars
<b>Restructuring Long Stop Date</b>	12 noon on 31 January 2005 (or such later date as may be agreed in accordance with the terms of the Creditor Restructuring Agreement)
<b>Scheme or Scheme of Arrangement</b>	this scheme of arrangement under section 425 of the Act in its present form or with or subject to any modification, addition, term or condition approved or imposed by the Court
<b>Scheme A Shareholder</b>	each person who appears as a holder of one or more Scheme A Shares in the relevant register of members of the Company at the Scheme Record Time
<b>Scheme A Shares</b>	all the A Shares:
	(a) in issue at the date of this Scheme;
	(b) (if any) issued thereafter and prior to the Voting Record Time; and
	(c) (if any) issued at or after the Voting Record Time and before the making of the order by the Court for the reduction of capital which forms part of the Scheme in respect of which the original or any subsequent holder shall be bound by this Scheme or shall have agreed in writing to be bound by this Scheme
<b>Scheme Effective Date</b>	the date on which the Scheme becomes effective in accordance with its terms
<b>Scheme Ordinary Shareholder</b>	each person who appears as a holder of one or more Scheme Ordinary Shares in the relevant register of members of the Company at the Scheme Record Time

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<b>Scheme Ordinary Shares</b>	all the Ordinary Shares:  (a) in issue at the date of this Scheme;  (b) (if any) issued thereafter and prior to the Voting Record Time; and  (c) (if any) issued at or after the Voting Record Time and before the making of the order by the Court for the reduction of capital which forms part of the Scheme in respect of which the original or any subsequent holder shall be bound by this Scheme or shall have agreed in writing to be bound by this Scheme
<b>Scheme Record Time</b>	6.00 p.m. on the business day immediately prior to the Scheme Effective Date
<b>Scheme Shareholder</b>	a Scheme A Shareholder or a Scheme Ordinary Shareholder
<b>Scheme Shares</b>	the Scheme A Shares and the Scheme Ordinary Shares
<b>Share Price</b>	the average price reasonably expected by the person determined pursuant to clause 2(H) of this Scheme to be obtained for the New Shares required to be sold pursuant to such clause
<b>Significant Creditors</b>	Enron Capital & Trade Europe Finance L.L.C., Teesside Power Limited and Total Gas & Power Limited, and their respective successors in title
<b>Special Share</b>	the special rights redeemable preference share of £1 in the capital of the Company
<b>Subscription Price</b>	the amount payable in respect of a New Share for which a holder of a Warrant is entitled upon exercise of a Warrant to require subscription, such amount being 98p or such other amount as may from time to time be applicable in accordance with the conditions of the Warrants
<b>Uncertificated or in Uncertificated form</b>	recorded on the relevant register of the share, loan note or security concerned as being held in Uncertificated form in CREST and title to which, by virtue of the CREST Regulations, may be transferred by means of CREST
<b>Voting Record Time</b>	6.00 p.m. on the second day before the date of the Ordinary Share Court Meeting and the A Share Court Meeting or, if either the Ordinary Share Court Meeting or the A Share Court Meeting are adjourned, 48 hours before the time appointed for the relevant adjourned meeting
<b>Warrants</b>	the warrants to be issued by New British Energy to Scheme Shareholders entitling the holder to subscribe for New Shares

(B) At the date hereof, the authorised share capital of the Company is £874,999,632 divided into 991,679,020 Ordinary Shares, of which 620,362,444 are issued and are fully paid and the remainder are unissued, 645,586,678 A Shares, of which 80,908,247 are issued and are fully paid and the remainder are unissued, 74,752,351 Non-voting Deferred Shares, of

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which all are issued and are fully paid and one Special Share which is issued and fully paid and held jointly by The Secretary of State for Trade and Industry and The Secretary of State for Scotland.

- (C) New British Energy was incorporated in Scotland as a public limited company on 2 July 2004 under the name British Energy Group plc with registered number 270184.
- (D) The authorised share capital of New British Energy at the date of this Scheme is £50,000.20 divided into 2 New Shares of 10p each and 50,000 non-voting ordinary shares of £1 each of which 2 New Shares and 50,000 non-voting ordinary shares are in issue and fully paid. Prior to the Scheme Effective Date, the Initial Shareholder will approve an increase of New British Energy's authorised share capital to £480,050,001, comprising the creation of a further 2,799,999,998 New Shares, 2,000,000,000 convertible ordinary shares of 10p each and the New Special Share.
- (E) The Initial Shareholder holds 9,660 British Energy Shares and two New Shares. The Secretary of State for Trade and Industry and The Secretary of State for Scotland will jointly hold the New Special Share and the Company holds the 50,000 non-voting ordinary shares in the capital of New British Energy which New British Energy intends to repurchase following the Scheme becoming effective.
- (F) The purpose of this Scheme is to effect a transfer of ownership of the Company from the Scheme Shareholders to New British Energy by the cancellation of the Scheme Shares and the issue of a new share in the Company to New British Energy in consideration of New British Energy issuing New Shares (paid up in consideration of the compromise of part of the liabilities owed by New British Energy to the Creditors (other than BNFL) pursuant to the Creditor Restructuring Agreement and the Creditors' Scheme respectively) and Warrants to or for the benefit of the Scheme Shareholders. The Company also proposes to apply the balance of the reserve arising from the cancellation of the Scheme Shares not applied in paying up the new share to reduce the deficit in the profit and loss account of the Company brought about by a permanent loss of capital by the Company. New British Energy has agreed to transfer the new Ordinary Share in the Company acquired pursuant to this Scheme to British Energy Holdings plc, a subsidiary of New British Energy.
- (G) New British Energy and the Initial Shareholder have agreed to consent to the sanction of this Scheme by the Court and to undertake to be bound unconditionally thereby and to execute and do or procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it or them for the purpose of giving effect to this Scheme.
- (H) The Company also proposes to reduce its share capital by the cancellation and extinguishment of all the Non-voting Deferred Shares in issue outwith this Scheme.

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**THE SCHEME**

**1. Cancellation of the Scheme Shares**

- (A) The share capital of the Company shall be reduced by cancelling and extinguishing the Scheme Shares.
- (B) Forthwith and contingently upon the said reduction of capital referred to in clause 1(A) of this Scheme taking effect:
- (i) the authorised share capital of the Company shall be increased by 44<sup>28/43p</sup> by the creation of one new Ordinary Share of 44<sup>28/43p</sup> in the Company;
  - (ii) the Company shall apply 44<sup>28/43p</sup> of the reserve arising in its books on such reduction of capital in paying up, in full at par, the new Ordinary Share created pursuant to clause 1(B)(i) of this Scheme and shall allot and issue the same credited as fully paid up at par to New British Energy; and
  - (iii) the amount by which the reserve arising in the books of the Company on the reduction of capital pursuant to clause 1(A) of this Scheme exceeds the reserve applied to pay up, in full at par, the new Ordinary Share created pursuant to clause 1(B)(i) of this Scheme will be credited to the profit and loss account of the Company.

**2. Consideration for the cancellation of the Scheme Shares**

- (A) Immediately after the fulfilment of the steps in clause 2.5.1(a)(iv) of the Creditors Scheme, in consideration of the cancellation of the Scheme Shares and the compromise, full and final discharge, satisfaction and cancellation of part of the liabilities owed by New British Energy to the Creditors (other than BNFL) under the Creditor Restructuring Agreement and the Creditors Scheme respectively, New British Energy shall:

- (i) if a valid election is made pursuant to clause 2(E) of this Scheme or is deemed to have been made pursuant to clause 2(F) of this Scheme (subject to the provisions of clauses 2(B) and (C) of this Scheme) allot (credited as fully paid up) New Shares and issue Warrants to each Scheme Ordinary Shareholder on the following basis:

<b>for every 50 Scheme Ordinary Shares cancelled</b>	<b>1.0 New Share and 2.1 Warrants</b>
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and so in proportion for any other number of Scheme Ordinary Shares held. If the resulting number is not a whole number, the number of New Shares and/or Warrants receivable by a Scheme Ordinary Shareholder or on his behalf will be rounded down to the nearest whole number. Fractional entitlements to New Shares and/or Warrants shall not be allotted and/or issued (as appropriate) to Scheme Ordinary Shareholders or on their behalf; and

- (ii) if a valid election is made pursuant to clause 2(E) of this Scheme or is deemed to have been made pursuant to clause 2(F) of this Scheme (subject to the provisions of clauses 2(B) and (C) of this Scheme) allot (credited as fully paid up) New Shares and issue Warrants to each Scheme A Shareholder on the following basis:

<b>for every 50 Scheme A Shares cancelled</b>	<b>1.0 New Share and 2.1 Warrants</b>
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and so in proportion for any other number of Scheme A Shares held. If the resulting number is not a whole number, the number of New Shares and/or Warrants receivable by a Scheme A Shareholder or on his behalf will be rounded down to the nearest whole number. Fractional entitlements to New Shares and/or Warrants shall not be allotted and/or issued (as appropriate) to Scheme A Shareholders or on their behalf.

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- (B) Fractional entitlements to New Shares arising as a result of clause 2(A) will be aggregated and allotted and/or issued (as appropriate) to a person determined by New British Energy on terms that such person shall sell such New Shares, as soon as possible after the Scheme Effective Date, at the best price which can reasonably be obtained in the market at the time of sale, and distribute *pro rata* to each Scheme Shareholder entitled thereto the net proceeds of such sale, after the deduction of all expenses and commission, including any value added tax payable thereon by sending a cheque to such Scheme Shareholder or as he or she may direct by post within 14 days following completion of such sale and otherwise in accordance with clause 3 of this Scheme. In the absence of bad faith or wilful default, neither New British Energy, its directors and officers nor the person selling the New Shares shall have any liability for any loss or damage arising as a result of the timing or terms of such sale.
- (C) The Initial Shareholder who holds two New Shares shall be treated as having received such shares as part of his entitlement to receive New Shares under this Scheme and his entitlement to receive New Shares shall be reduced accordingly.
- (D) The New Shares to be issued pursuant to clause 2 of this Scheme shall rank in full for all dividends or other distributions made, paid or declared after the Scheme Effective Date on the ordinary share capital of New British Energy.
- (E) Each Scheme Shareholder may at the time and in the manner specified in this paragraph elect to have all (but not some only) of the New Shares and Warrants to which he or she is entitled pursuant to clause 2(A) of this Scheme registered in his or her name or in the name of a person nominated by him or her. An election under this paragraph shall be made by completing a form of election in such form as may be prescribed by the Board and delivering the same to the Registrars at any time prior to the Election Return Time with such evidence as the Board may require to prove the title of the person exercising such right and the capacity, power and due authority of the signatory. A form of election completed and delivered by a Scheme Shareholder shall only be valid if and to the extent such person holds Scheme Shares at the Scheme Record Time.
- (F) Subject to clause 2(G) of this Scheme every Scheme Shareholder shall be deemed to have elected to have the warrants issued to him or her pursuant to clause 2(A) of this Scheme registered in his or her name if the Company is advised by the person determined by New British Energy pursuant to clause 2(H) of this Scheme that the Share Price is less than the Subscription Price.
- (G) An election made under clause 2(E) of this Scheme or deemed to have been made under clause 2(F) of this Scheme shall be deemed to be invalid and of no effect insofar as it relates to New Shares and/or Warrants if in respect of the Scheme Shareholder making the election or the person nominated by him or her New British Energy is advised that the allotment or issue of New Shares and/or Warrants pursuant to this Scheme would or might infringe the laws of any jurisdiction outside the United Kingdom or would or might require compliance with any governmental or other consent or any registration, filing or other formality, which the Company or New British Energy (as the case may be) is unable to comply with or regards as unduly onerous to comply with.
- (H) New British Energy shall allot and/or issue the New Shares and/or Warrants (as appropriate) to which Scheme Shareholders are entitled and for which valid elections have not been made under clause 2(E) of this Scheme and have not been deemed to be made under clause 2(F) of this Scheme or have been deemed to be invalid pursuant to clause 2(G) of this Scheme to a person determined by New British Energy on terms that such person shall sell such New Shares and/or Warrants (or exercise such Warrants and sell the resulting New Shares) as soon as possible after the Scheme Effective Date at the best price which can reasonably be obtained in the market at the time of sale, and account for the net proceeds of such sale (if any), after the deduction of all expenses and commission, including any value added tax payable thereon (and, if any Warrants are exercised, after



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deduction of the aggregate Subscription Price for such Warrants), by sending a cheque to such Scheme Shareholder or as he or she may direct by post within 14 days following completion of such sale and otherwise in accordance with clause 3 of this Scheme. In the absence of bad faith or wilful default, neither New British Energy, its directors and officers nor the person selling the New Shares and/or Warrants shall have any liability for any loss or damage arising as a result of the timing or terms of such sale or exercise.

**3. Allotment and issue of New Shares and Warrants**

- (A) New British Energy shall, as soon as reasonably practicable after the Scheme Effective Date, allot and/or issue all New Shares and Warrants (as appropriate) which it is required to allot and issue to Scheme Shareholders or persons nominated by them pursuant to clause 2 of this Scheme and shall send by post to the allottees, or as they may direct, certificates for such New Shares and Warrants (as applicable). Where the Scheme Shares are held in Uncertificated form, New British Energy will procure that CRESTCo is instructed to cancel the entitlement to Scheme Shares of the Scheme Shareholder concerned and credit the appropriate stock account in CREST of the Scheme Shareholder concerned with such shareholder's entitlement to New Shares and Warrants provided that New British Energy may (if, for any reason, it wishes to do so) determine that all or part of such consideration shall be settled in the manner referred to in the first sentence of this clause 3(A).
- (B) All deliveries of certificates and all cheques required to be sent shall be sent through the post in prepaid envelopes addressed to the persons respectively entitled thereto, or as they may direct, at their respective addresses appearing in the register of members of the Company at the Scheme Record Time (or, in the case of joint holders, to the address of that one of the joint holders whose name stands first in the register in respect of such joint holding) or in accordance with any special instructions regarding communications.
- (C) None of the Company, New British Energy or the person referred to in clauses 2(B) and (H) of this Scheme shall be responsible for any loss or delay in transmission of certificates or cheques sent in accordance with this clause 3 which shall be sent at the risk of the persons entitled thereto.
- (D) All cheques shall be made payable to the holder or, in the case of joint holders, to the first-named of such holders of the Scheme Shares concerned and the encashment of any such cheque shall be a complete discharge to New British Energy for the money represented thereby.
- (E) With effect from and including the Scheme Effective Date, all certificates for Scheme Shares shall cease to be valid in respect of such holding and will cease to be of value. All certificates representing the Scheme Shares shall at the request of New British Energy or the Company be delivered for cancellation to New British Energy or to any person appointed by New British Energy to receive the same.
- (F) The preceding provisions of this clause shall take effect subject to any prohibition or condition imposed by law.

**4. Mandated payments and other instructions**

Each mandate in force at the Scheme Record Time relating to the payment of dividends on the British Energy Shares and each instruction then in force as to notices and other communications shall, unless and until varied or revoked, be deemed as from the Scheme Effective Date to be a valid and effective mandate or instruction to New British Energy in relation to the corresponding New Shares and Warrants to be allotted and issued pursuant to this Scheme.

5. **Costs**

The Company will pay all the costs and expenses relating to the negotiation, preparation and implementation of the Scheme.

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**6. Operation of this Scheme**

This Scheme shall become effective as soon as a certified copy of the Order of the Court sanctioning this Scheme under section 425 of the Act and confirming under section 137 of the Act the reduction of the capital of the Company provided for by clause 1 of this Scheme shall have been duly delivered to the Registrar of Companies for registration and, in the case of the confirmation of the reduction of capital, registered by him.

**7. Expiry date**

Unless this Scheme has become effective on or before the Restructuring Long Stop Date, it shall never become effective.

**8. Modification**

The Company and New British Energy may jointly consent on behalf of all persons concerned to any modification of or addition to this Scheme or to any condition which the Court may think fit to approve or impose.

Dated: 29 November 2004

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**NOTICE OF COURT MEETING OF ORDINARY SHAREHOLDERS  
OF BRITISH ENERGY PLC  
UNDER SECTION 425 OF THE COMPANIES ACT 1985**

In a Petition presented to the Court of Session at the instance of British Energy plc, a company incorporated under the Companies Act 1985 and having its registered office at 3 Redwood Crescent, Peel Park, East Kilbride, Lanarkshire (the **Company**) for sanction of a scheme of arrangement with members under Section 425 of the Companies Act 1985, confirmation of reductions of capital and re-registration as a private limited company, by virtue of an order made by Lord Eassie dated 9 November 2004 the Court has ordered that a meeting (the **Ordinary Share Court Meeting**) be summoned of the holders of Ordinary Shares (as defined in the members' scheme of arrangement hereinafter referred to) for the purpose of considering and, if thought fit, approving (with or without modification) a members' scheme of arrangement (the **Members Scheme**) proposed to be made between the Company and the holders of Ordinary Shares and the holders of A Shares (as defined in the Members' Scheme) and notice is hereby given that the Ordinary Share Court Meeting will be held at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ on 22 December 2004 at 10.30 a.m. at which place and time all holders of Ordinary Shares are requested to attend.

A copy of the said Members' Scheme and a copy of the statement explaining the effect of the Members' Scheme are included in the document of which this Notice forms part.

The holders of Ordinary Shares in the Company may vote in person at the Ordinary Share Court Meeting or they may appoint another person, whether a member of the Company or not, as their proxy to attend and vote in their stead. A green form of proxy for use at the Ordinary Share Court Meeting is enclosed herewith.

In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, will be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority will be determined by the order in which the names stand in the register of members of the Company in respect of the joint holding.

It is requested that forms appointing proxies be lodged with the registrars of the Company, Lloyds TSB Registrars, SEA 9441, The Causeway, Worthing BN99 6ED not less than 48 hours before the time appointed for the Ordinary Share Court Meeting or any adjourned relevant Court meeting, but if forms are not so lodged they may be handed to the Chairman at the Ordinary Share Court Meeting.

Only those shareholders registered in the register of members of the Company as at 6.00 p.m. on 20 December 2004 or, in the event that the Ordinary Share Court Meeting is adjourned, in the register of members 48 hours before the time appointed for the adjourned meeting shall be entitled to attend or vote in respect of the number of Ordinary Shares registered in their name at the relevant time. Changes to entries in the relevant register of members after 6.00 p.m. on 20 December 2004 or, in the event that the Ordinary Share Court Meeting is adjourned, in the register of members less than 48 hours before the time appointed for the adjourned meeting shall be disregarded in determining the rights of any person to attend or vote at the Ordinary Share Court Meeting.

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By said Order dated 9 November 2004, the Court has authorised the Ordinary Share Court Meeting to appoint Adrian Montague (the Chairman of the Company) or, failing him, Clare Spottiswoode (a director of the Company), to act as Chairman of the Ordinary Share Court Meeting and has directed the Chairman to report the result thereof to the Court.

Dated: 29 November 2004

MacRoberts

Excel House, 30 Sempole Street

Edinburgh EH3 8BL

*Solicitors for the Company*

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**NOTICE OF COURT MEETING OF A SHAREHOLDERS  
OF BRITISH ENERGY PLC  
UNDER SECTION 425 OF THE COMPANIES ACT 1985**

In a Petition presented to the Court of Session at the instance of British Energy plc, a company incorporated under the Companies Act 1985 and having its registered office at 3 Redwood Crescent, Peel Park, East Kilbride, Lanarkshire (the **Company**) for sanction of a scheme of arrangement with members under Section 425 of the Companies Act 1985, confirmation of reductions of capital and re-registration as a private limited company by virtue of an order made by Lord Eassie dated 9 November 2004 the Court has ordered that a meeting (the **A Share Court Meeting**) be summoned of the holders of A Shares (as defined in the members' scheme of arrangement hereinafter referred to) for the purpose of considering and, if thought fit, approving (with or without modification) a members' scheme of arrangement (the **Members Scheme**) proposed to be made between the Company and the holders of Ordinary Shares and the holders of A Shares (as defined in the Members' Scheme) and notice is hereby given that the A Share Court Meeting will be held at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ on 22 December 2004 at 11.30 a.m. (or as soon thereafter as the Ordinary Share Court Meeting (as defined in the Members Scheme) shall have been concluded or adjourned) at which place and time all holders of A Shares are requested to attend.

A copy of the said Members' Scheme and a copy of the statement explaining the effect of the Members' Scheme are included in the document of which this Notice forms part.

The holders of A Shares in the Company may vote in person at the A Share Court Meeting or they may appoint another person, whether a member of the Company or not, as their proxy to attend and vote in their stead. A blue form of proxy for use at the A Share Court Meeting is enclosed herewith.

In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, will be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority will be determined by the order in which the names stand in the register of members of the Company in respect of the joint holding.

It is requested that forms appointing proxies be lodged with the registrars of the Company, Lloyds TSB Registrars, SEA 9441, The Causeway, Worthing BN99 6ED not less than 48 hours before the time appointed for the A Share Court Meeting or any adjourned relevant Court meeting, but if forms are not so lodged they may be handed to the Chairman at the A Share Court Meeting.

Only those shareholders registered in the register of members of the Company as at 6.00 p.m. on 20 December 2004 or, in the event that the A Share Court Meeting is adjourned, in the register of members 48 hours before the time appointed for the adjourned meeting shall be entitled to attend or vote in respect of the number of A Shares registered in their name at the relevant time. Changes to entries in the relevant register of members after 6.00 p.m. on 20 December 2004 or, in the event that the A Share Court Meeting is adjourned, in the register of members less than 48 hours before the time appointed for the adjourned meeting shall be disregarded in determining the rights of any person to attend or vote at the A Share Court Meeting.

By said Order dated 9 November 2004, the Court has authorised the A Share Court Meeting to appoint Adrian Montague (the Chairman of the Company) or, failing him, Clare Spottiswoode (a director of the Company), to act as Chairman of the A Share

Court Meeting and has directed the Chairman to report the result thereof to the Court.

Dated: 29 November 2004

MacRoberts

Excel House, 30 Sempole Street

Edinburgh EH3 8BL

*Solicitors for the Company*

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**NOTICE OF EXTRAORDINARY GENERAL MEETING**

**BRITISH ENERGY PLC**

NOTICE IS HEREBY GIVEN that an extraordinary general meeting of the above named company (the **Company**) will be held at the Murrayfield Stadium Conference Centre, Edinburgh EH12 5PJ, on 22 December 2004 at 12 noon (or as soon thereafter as the separate meetings of the holders of A Shares and Ordinary Shares in the Company summoned by order of the Court for the same day and place shall have been concluded or adjourned) for the purpose of considering and, if thought fit, passing the following resolutions of which resolution 1 will be proposed as a special resolution and resolution 2 will be proposed as an ordinary resolution:

**SPECIAL RESOLUTION**

1. THAT:

- (A) The scheme of arrangement dated 29 November 2004 (the **Members Scheme**) between the Company and the holders of its A Shares of 60p each and Ordinary Shares of 44<sup>28</sup>/43p each a print of which has been produced to this meeting and for the purpose of identification signed by the chairman hereof, be approved;
- (B) for the purpose of giving effect to the Members Scheme:
- (i) the capital of the Company be reduced by cancelling and extinguishing the Scheme Shares (as defined in the Members Scheme);
  - (ii) forthwith and contingently upon the reduction of capital referred to in paragraph (i) above taking effect the authorised capital of the Company be increased by 44<sup>28</sup>/43p by the creation of one new Ordinary Share of 44<sup>28</sup>/43p in the capital of the Company, such new Ordinary Share to carry the rights and be subject to the restrictions set out in the articles of association of the Company;
  - (iii) the directors of the Company be unconditionally authorised for the purposes of section 80 of the Companies Act 1985 to allot the new Ordinary Share created pursuant to paragraph (B)(ii) of this resolution provided that:
    - (a) the maximum aggregate nominal amount of shares which may be allotted is 44<sup>28</sup>/43p;
    - (b) this authority shall expire on 31 October 2009; and
    - (c) this authority shall supersede and revoke any other authority under section 80 of the Companies Act 1985 previously granted and in force on the date on which this resolution is passed;



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- (iv) 44<sup>28</sup>/43p of the credit arising in the books of account of the Company as a result of the cancellation of the Scheme Shares be capitalised and applied in paying up in full at par the new Ordinary Share created pursuant to paragraph (B)(ii) of this resolution which shall be allotted, credited as fully paid, to British Energy Group plc or its nominee in accordance with the provisions of the Members' Scheme and the balance of the credit arising in the books of account of the Company as a result of the cancellation of the Scheme Shares be credited to the profit and loss account of the Company; and
- (v) the directors be empowered in substitution to all previous such authorities pursuant to section 95 of the Act to allot equity securities (as defined in section 94(2) of the Act) for cash pursuant to the authority conferred in paragraph (iii) above as if section 89(1) of the Act did not apply to any such allotments provided that this authority shall expire on 31 October 2009;
- (C) the capital of the Company be further reduced by cancelling and extinguishing the 74,752,351 issued Non-voting Deferred Shares of 60p each and the credit arising in the books of account of the Company as a result of the cancellation of the Non-voting Deferred Shares be credited to the profit and loss account of the Company; and
- (D) with effect from the passing of this resolution, the articles of association of the Company be amended by the adoption and inclusion of the following new article 138:

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**SCHEME OF ARRANGEMENT**

- (i) For the purpose of this article 138, references to the **Scheme** are to the scheme of arrangement between the Company and the Scheme Shareholders (as defined in the Scheme) dated 29 November 2004 under section 425 of the Act.
- (ii) Notwithstanding any other provision of these articles, any shares issued by the Company after the adoption of this article and before the making of the order by the Court for the reduction of capital which forms part of the Scheme shall be allotted and issued subject to the terms of the Scheme and the holder or holders of such shares shall be bound by the Scheme accordingly.
- (iii) If any Ordinary Shares or A Shares are allotted or issued to any person (a **new member** ) (other than to or to anyone acting on behalf of British Energy Group plc or any subsidiary undertaking of British Energy Group plc) after the making of the order by the Court for the reduction of capital which forms part of the Scheme they shall be immediately transferred to British Energy Holdings plc in consideration of and conditionally on the allotment and issue by British Energy Holdings plc to the new member of such number of shares in the capital of British Energy Holdings plc and having such rights and subject to such restrictions as the board of British Energy Holdings plc may decide in its absolute discretion.
- (iv) In order to give effect to any such transfer required by this article 138, the Company may appoint any person to execute and deliver a form of transfer on behalf of the new member in favour of British Energy Holdings plc and/or its nominees and to agree for and on behalf of the new member to become a member of British Energy Holdings plc. Pending the registration of British Energy Holdings plc as a holder of any share to be transferred pursuant to this article 138, British Energy Holdings plc shall be empowered to appoint a person nominated by the directors of the Company to act as attorney on behalf of any holder of such share in accordance with such directions as British Energy Holdings plc may give in relation to any dealings with or disposal of such share (or any interest therein), exercising any rights attached thereto or receiving any distribution or other benefit accruing to or payable in respect thereof and any holder of such share shall exercise all rights attached thereto in accordance with the directions of British Energy Holdings plc but not otherwise.

**ORDINARY RESOLUTION**

- 2. THAT the disposal of all of the Company's assets to British Energy Holdings plc (the **Disposal** ) pursuant to the agreement dated 8 October 2004 (the **Business Transfer Agreement** ) described in the circular to shareholders of which this notice forms part (the **Circular** ) be and is hereby approved and that the directors be and are hereby authorised to agree any adjustments required in accordance with the Business Transfer Agreement as they think fit, to exercise the rights of the Company and its subsidiaries under the Business Transfer Agreement as they think fit and to vary, amend or extend any of the terms of the Business Transfer Agreement as they think fit (provided any such variation, amendment or extension is anticipated in the Circular or is not of a material nature in the context of the Disposal as a whole) and to take such steps on behalf of the Company and its subsidiaries as they may consider necessary or desirable to meet the conditions of the Business Transfer Agreement and complete and carry the proposed Disposal into effect.

Registered office By order of the board

Robert Armour

3 Redwood Crescent *Secretary*

Peel Park

East Kilbride

G74 5PR 29 November 2004

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Notes:

- 1 A member of the Company entitled to attend and vote at the above meeting is entitled to appoint a proxy or proxies to attend and, on a poll, vote instead of him/her. A proxy need not be a member of the Company. A white Form of Proxy is enclosed. To be effective, the white Form of Proxy together with the power of attorney or authority, if any, under which it is signed (or a duly certified copy of any such power or authority) must be lodged with the Company's Registrars not less than 48 hours before the time of the meeting. Return of a completed Form of Proxy will not preclude a member from attending and voting personally at the meeting.
  
- 2 In accordance with Regulation 41 of the Uncertificated Securities Regulations 2001 and the articles of association of the Company, only those Ordinary Shareholders entered on the relevant register of members of the Company as at 6.00 p.m. on 20 December 2004 shall be entitled to attend or vote at the meeting in respect of the number of shares registered in their name at that time. Changes to entries on the relevant register of members after 6.00 p.m. on 20 December 2004 shall be disregarded in determining the rights of any person to attend or vote at the meeting.

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**EXHIBIT 20.2**

This document comprises: (i) listing particulars in relation to the issue of the New Shares and Warrants of British Energy Group plc pursuant to the Schemes and other arrangements with certain of the Creditors; (ii) a prospectus in relation to the issue of the Warrants of British Energy Group plc pursuant to the Disposal; and (iii) listing particulars in relation to the issue of the New Bonds of British Energy Holdings plc. Application has been made to the UK Listing Authority and to the London Stock Exchange respectively, for admission to the Official List of the UK Listing Authority and for trading on the London Stock Exchange's market for listed securities of the New Shares and Warrants of British Energy Group plc and the New Bonds of British Energy Holdings plc. It is expected that Admission will become effective and that dealings in the New Shares, Warrants and New Bonds will commence on the London Stock Exchange on the dealing day immediately following the Restructuring Effective Date.

This document has been prepared in connection with Admission, which is conditional upon the Restructuring being implemented. The implementation of the Restructuring remains subject to the satisfaction of a number of important conditions. A summary of the conditions and of the Restructuring is set out in Part VI: Further information relating to the Restructuring. Unless the context otherwise requires, this document assumes that the Restructuring has been implemented in accordance with its terms.

Copies of this document, as required by the Listing Rules made under section 74 of the Financial Services and Markets Act 2000, have been delivered to the Registrar of Companies in Scotland for registration as required by section 83 of that Act.

The Directors of British Energy Group plc and British Energy Holdings plc, whose names appear on page 4 of this document, accept responsibility for the information contained in this document. To the best of the knowledge and belief of the Directors (who have taken all reasonable care to ensure that such is the case), the information contained in this document is in accordance with the facts and does not omit anything likely to affect the import of such information. Your attention is drawn to the Risk factors set out in Part II of this document.

Any reference to this document means this document excluding all information incorporated by reference. British Energy Group plc and British Energy Holdings plc have each confirmed that any information incorporated by reference, including any such information to which readers of this document are expressly referred, has not been and does not need to be included in the document to satisfy the requirements of the Financial Services and Markets Act 2000 or the Listing Rules. British Energy Group plc and British Energy Holdings plc each believe that none of the information incorporated therein by reference conflicts in any material respect with the information included in the document.

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**BRITISH ENERGY GROUP PLC**

*(Incorporated and registered in Scotland under*

*the Companies Act 1985 with registered no. 270184)*

**and**

**BRITISH ENERGY HOLDINGS PLC**

*(Incorporated and registered in Scotland under*

*the Companies Act 1985 with registered no. 270186)*

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**Introduction to the Official List of**

**561,016,553 British Energy Group plc shares**

**29,527,187 Warrants to subscribe for up to 29,527,187 British Energy Group plc shares**

**and**

**£550,000,000 British Energy Holdings plc Bonds**

**Guaranteed by British Energy Group plc companies**

**Sponsored by Citigroup Global Markets Limited**

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This document contains certain statements, statistics and projections that are or may be forward-looking. These statements typically contain words such as intends , expects , anticipates , estimates and words of similar import. By their nature, forward-looking statements involve risk and uncertainty because they relate to events and depend on circumstances which may occur in the future. There are a number of factors that could cause actual results and developments to differ materially from those expressed or implied by such forward-looking statements. These factors include, but are not limited to, factors identified elsewhere in this document, other risks described in Part II: Risk factors, as well as: future revenues being lower than expected; increasing competitive pressures within the industry; general economic conditions or conditions affecting our industry, both domestically and internationally, being less favourable than expected; and/or conditions in the securities market being less favourable than expected.

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**NEW HAMPSHIRE SECURITIES LAW**

Neither the fact that a registration statement or an application for a licence has been filed under Chapter 421-B of the New Hampshire Revised Statutes Annotated (Chapter 421-B) with the State of New Hampshire nor the fact that a security is effectively registered or a person is licensed in the State of New Hampshire constitutes a finding by the Secretary of State of New Hampshire that any document filed under Chapter 421-B is true, complete and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the Secretary of State of New Hampshire has passed in any way upon the merits or qualifications of or recommended or given approval to, any person, security or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

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**SHAREHOLDERS IN IRELAND**

This document shall be first published or issued in the UK. Neither this document nor the information contained herein constitutes an offer to the public of the New Shares or Warrants and, accordingly, this document is not a prospectus within the meaning of the Irish Companies Act, 1963 (as amended) or the Irish European Communities (Transferable Securities and Stock Exchange) Regulations, 1992.

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The times and dates given below and mentioned throughout this document are based on current best case expectations and are subject to change as a result of, amongst other things, the factors noted below.<sup>1</sup>

	<b>2004</b>
Meetings of Bondholders (2003 Bonds)	
(2006 Bonds)	9.20am on 22 December 2004
(2016 Bonds)	9.40am on 22 December 2004 10.00am on 22 December 2004
Court meeting of Ordinary Shareholders of British Energy	10.30am on 22 December 2004
Court meeting of A Shareholders of British Energy	11.30am on 22 December 2004
Extraordinary General Meeting of Ordinary Shareholders of British Energy <sup>2</sup>	12.00 noon on 22 December 2004
Court meeting of certain Creditors of British Energy	12.30pm on 22 December 2004
Court hearing of petition to sanction Creditors' Scheme	14 January 2005
Court hearing of petition to sanction Members' Scheme	14 January 2005
Last day of dealings in the Existing Bonds	14 January 2005
Restructuring Effective Date <sup>3</sup>	14 January 2005
Admission of the New Shares, Warrants and New Bonds	8.00am on the dealing day immediately following the Restructuring Effective Date
Listing of New ADRs on the NYSE, if possible <sup>4</sup>	9.30am (New York Time) on the trading day immediately following the Restructuring Effective Date
Crediting of the New Shares and Warrants to CREST accounts and of the New Bonds to the common depositary's Euroclear and Clearstream accounts <sup>5</sup>	the dealing day immediately following the Restructuring Effective Date
Despatch of definitive New Share certificates and/or Warrant certificates to British Energy Shareholders where valid Forms of Election have been received	within 14 days of the Restructuring Effective Date
Despatch of cheques in respect of proceeds of sale of New Shares and/or Warrants to British Energy Shareholders where valid Forms of Election have not been received	within 14 days of the sale of the New Shares and/or Warrants

<sup>1</sup> These times and dates (including those in relation to the Restructuring Effective Date and Admission) are indicative only and are based on the Company's current best case expectation and will depend, amongst other things, on the timetable fixed by the Court, whether any objections are lodged in respect of the Members' Scheme or the Creditors' Scheme, the date upon which the Court sanctions the Creditors' Scheme and Members' Scheme (if relevant) and the date on which steps are taken to make the relevant Scheme Effective. Unless otherwise stated, all times stated in this document are London times and assume that Scheme Creditors have approved the Creditors' Scheme and that British Energy Shareholders have approved the Members' Scheme.

<sup>2</sup> To commence at the time fixed or, if later, immediately following the conclusion or adjournment of the relevant Court meeting.

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3. This date is indicative only and is based on the Company's current best case expectation and may change as a result of, amongst other things, any of the factors outlined in note 1 above.
4. On 28 September 2004, the NYSE suspended trading in British Energy ADRs and commenced proceedings to permanently delist British Energy ADRs from the NYSE. British Energy has appealed the NYSE's decision. If the Members' Scheme does not become Effective, or if British Energy or the Company fail to meet the NYSE's relevant listing criteria on or prior to Admission, New ADRs will not be issued or listed on the NYSE on Admission. In that event, we have agreed to take all reasonable steps to apply for a listing of New ADRs on the NYSE at such time following Admission as we are able to satisfy the NYSE listing criteria. In such circumstances, however, we will be required to satisfy the NYSE's listing criteria for new securities, including minimum public float and minimum shareholder eligibility requirements that we may not be able to satisfy immediately after Admission.
5. Crediting of the New Bonds and New Shares to which Creditors are entitled will commence on this date and will be made in accordance with the arrangements set out in the Creditor Restructuring Agreement (in respect of the Eggborough Banks and Significant Creditors) and the Creditors' Scheme Circular (in respect of RBS and the Bondholders). Crediting of the New Shares and/or Warrants to which British Energy Shareholders would be entitled if the Members' Scheme becomes Effective or if the Members' Scheme does not become Effective but the Disposal is approved will occur on this date if valid Forms of Election have been returned in accordance with the Members' Scheme Circular.

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**DIRECTORS, SECRETARY AND ADVISERS**

<b>Directors of British Energy Group plc and of British Energy Holdings plc</b>	Adrian Montague	(Chairman)
	Mike Alexander	(Chief Executive)
	Roy Anderson	(Chief Nuclear Officer) (Finance Director)
	Stephen Billingham William A Coley	(Non-executive Director)
	Pascal Colombani	(Non-executive Director)
	John Delucca	(Non-executive Director)
	Ian Harley	(Non-executive Director)
	David Pryde	(Non-executive Director)
	Clare Spottiswoode	(Deputy Chairman)
	Sir Robert Walmsley	(Non-executive Director)
<b>Company secretary of British Energy Group plc and of British Energy Holdings plc</b>	Robert Armour	
<b>Registered office of British Energy Group plc and of British Energy Holdings plc</b>	3 Redwood Crescent	
	Peel Park	
	East Kilbride	
	Scotland G74 5PR	
	Citigroup Global Markets Limited	
<b>Sponsor and financial adviser</b>	Citigroup Centre	
	33 Canada Square	
	London E14 5LB	
	PricewaterhouseCoopers LLP	
<b>Auditors to British Energy Group plc and to British Energy Holdings plc and reporting accountants</b>	Erskine House	
	68-73 Queen Street	
	Edinburgh EH2 4NH	
	<i>As to English law:</i>	<i>As to Scottish law:</i>
<b>Solicitors to British Energy Group plc and to British Energy Holdings plc</b>	Clifford Chance LLP	MacRoberts

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	10 Upper Bank Street	152 Bath Street
	London E14 5JJ	Glasgow G2 4TB
<b>Solicitors to the Sponsor</b>	Linklaters	
	One Silk Street	
	London EC2Y 8HQ	
<b>Joint Stockbrokers</b>	HSBC Bank plc	
	8 Canada Square	
	London E14 5HQ	
	Citigroup Global Markets Limited	
	Citigroup Centre	
	33 Canada Square	
	London E14 5LB	
<b>Principal Paying Agent</b>	HSBC Bank plc	
	Corporate Trust & Loan Agency	
	8 Canada Square	
	London E14 5HQ	
<b>Registrar for New Shares and Warrants</b>	Lloyds TSB Registrars	
	The Causeway	
	Worthing	
	West Sussex BN99 6DA	



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<b>Registrar for New Bonds</b>	HSBC Private Bank (Jersey) Limited PO Box 88, 1 Grenville Street St Helier Jersey JE4 9PF Channel Islands
<b>Distribution agent</b>	Law Debenture Trust Company of New York 767 Third Avenue New York, New York 10017
<b>Bankers</b>	Clydesdale Bank plc 12 St. Vincent Street Glasgow G1 2HL
<b>Bond Trustee</b>	The Law Debenture Trust Corporation p.l.c. Fifth Floor 100 Wood Street London EC2V 7EX
<b>ADR Depository</b>	JPMorgan Chase Bank, N.A. 4 New York Plaza New York, New York 10004
<b>Transfer Agents for New Bonds</b>	HSBC Bank plc Level 24 8 Canada Square London E14 5HQ Dexia Banque Internationale à Luxembourg, société anonyme 69, route d Esch L-2953 Luxembourg

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**KEY INFORMATION**

*The following summary information is extracted from the full text of this document. It does not purport to be complete and should be read in conjunction with the document as a whole and, in particular, the more detailed information appearing elsewhere in this document including the risk factors set out in Part II: Risk factors. You should not rely on this summary information only.*

*The summary financial information contained in this section is extracted without material adjustment from Part IV: Financial information and the summary unaudited pro forma financial information is extracted without material adjustment from Part V: Unaudited pro forma financial information. This financial information should be read in conjunction with the document as a whole and, in particular, the more detailed financial information set out in Parts IV and V. Our sales figures have been extracted from our underlying accounting records used in the preparation of Part IV: Financial information. Our capacity and output figures have been sourced from our own operational records. The term capacity is explained in detail in the Glossary at the end of this document.*

*Any reference to this document means this document excluding all information incorporated by reference. New British Energy and Holdings plc have each confirmed that any information incorporated by reference, including any such information to which readers of this document are expressly referred, has not been and does not need to be included in the document to satisfy the requirements of the Financial Services and Markets Act 2000 or the Listing Rules. New British Energy and Holdings plc believe that none of the information incorporated herein by reference conflicts in any material respect with the information included in this document.*

*Unless the context otherwise requires, this document assumes that the Restructuring has been implemented.*

*In this document, except as otherwise specified, we , us or our refer to New British Energy and/or Holdings plc together with, in each case, its subsidiaries as they will be from Admission or to British Energy and/or its subsidiaries and any of their respective predecessors in business, as the context may require.*

**Overview of the New British Energy Group**

We own and operate eight nuclear power stations in the UK, with a combined capacity of approximately 9,600 MW, and the Eggborough power station, a coal-fired power station in North Yorkshire, England, with a capacity of 1,960 MW. British Energy plc (British Energy) is the ultimate holding company of British Energy Generation Limited (BEG) which operates our six nuclear power stations in England, British Energy Generation (UK) Limited (BEG UK) which operates our two nuclear power stations in Scotland, Eggborough Power Limited (EPL) which operates the Eggborough power station and British Energy Power and Energy Trading Limited (BEPET) and British Energy Trading Services Limited (BETS) which are responsible for the sale of our electricity output.

*Our nuclear power stations*

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We own and operate two types of nuclear reactors, namely the advanced gas-cooled reactor (AGR) and the pressurised water reactor (PWR).

Seven of our nuclear power stations (Dungeness B, Hartlepool, Heysham 1, Heysham 2, Hinkley Point B, Hunterston B and Torness), are each powered by two AGRs. The eighth nuclear power station (Sizewell B), is powered by a single PWR.

### *High degree of regulation*

Our business is subject to a high degree of regulation in a number of areas, including nuclear safety and security, electricity generation, trading and supply and environmental. As safe generation of nuclear power is critical, the activities of the Nuclear Installations Inspectorate (NII), the key regulatory body in this area, have a significant impact on our business and operations. NII is part of the Nuclear Safety Division Directorate at the Health and Safety Executive (HSE) and acts in the HSE's name.

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**KEY INFORMATION (Continued)**

*Factors affecting electricity output*

The amount of electricity output from our nuclear power stations (assuming the overall generating capacity and output level at which we run our nuclear power stations is broadly constant) is principally affected by the number and duration of planned and unplanned outages. Planned outages are scheduled outages to allow for regulatory inspection, routine maintenance and, in some cases, refuelling.

Our reactors have experienced unplanned outages, caused by a variety of technical issues, which have resulted in losses of output of between 9.1 TWh and 12.8 TWh per year over the last five financial years. When output is lost as a result of an unplanned outage, we are often required to purchase electricity at unfavourable prices to meet our contractual obligations and this significantly affects the financial results of our operations. During the year ended 31 March 2004, we launched a Performance Improvement Programme (PIP) to enhance our operational performance and the reliability of our nuclear plants. Taking into consideration the impact of statutory outages and refuelling (but excluding planned repair outages and any unplanned outages), the notional maximum annual load factor which could theoretically be achieved across our portfolio of nuclear power stations is between 88 and 90 per cent., albeit that the maximum achieved in the last five years has been 81 per cent. for the year ended 31 March 2002.

*Nuclear station lifetimes and ability to extend*

Our nuclear power stations have a finite operating life. The assessment of the potential operating lifetime of each of our nuclear power stations when used in our financial statements is known as the accounting life. The primary factor in determining the operating life of a nuclear power station is the technical and economic practicability of supporting an agreed safety case for that particular nuclear power station. The adequacy of the safety case for each nuclear power station is confirmed at each statutory outage by us undertaking a review of operating performance and by an inspection of the plant and passing the findings of such review and inspection to the NII, who must then give its consent to a reactor being restarted. As such, a reactor may only be operated for the interval determined by the safety case, which, in respect of our AGR power stations, is currently 3 years. The NII's consent to a restart is a matter determined by the NII in its sole discretion. Its decisions are made by reference to its satisfaction with the safety case of the reactor in question. From time to time such consent to restart is not received from the NII when expected, resulting in delays to the restart dates of our reactors.

In addition, every ten years we have to undertake a periodic safety review (PSR) for each nuclear power station. The results of the PSR require the approval of the NII in order to secure continued operation.

The current potential operating lifetimes (and thus accounting lifetimes) of our AGR power stations, which were in most cases connected to the National Grid during the 1970s and 1980s, range from 25 to 35 years and is 40 years for our PWR power station. The current accounting lifetime used in our financial statements for each AGR power station, other than Dungeness B, is at least 5 years greater than its initial operating design life. Any decision to extend the operating life of an AGR power station used in our financial statements would be based, in large measure, on a combination of economic factors and the engineering judgements reached in respect of technical issues, details of which are set out in Part I, paragraph headed: Nuclear power station lifetimes.

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Our technical evaluation of the ability to extend the operating lifetime used in our financial statements for Dungeness B is well advanced but no financial assessment of this work has been undertaken to date. However, when we make decisions regarding significant expenditure and staffing levels at Dungeness B, we do so on the basis that Dungeness B's operating lifetime (and thus its accounting lifetime) may be capable of being extended to 2013. These decisions have been undertaken to preserve the possibility that such an extension may be achieved in the event that our financial assessment of the work and investment required to make a secure safety case

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**KEY INFORMATION (Continued)**

for the period up to 2013 transpires to be in favour of such an extension. In relation to our ability to extend the operating lifetime used in our financial statements for our other AGR power stations, our technical evaluations are currently at a less advanced stage. There can be no assurance that lifetime extensions will be attainable at any of our AGR power stations nor that the existing operating lifetimes used in our financial statements will be capable of being achieved. For further information on these issues see Part II: Risk factors.

Sizewell B currently has an operating lifetime of 40 years and an assumed closure date of 2035. Based on recent experience in the US (where the regulatory regime is different), regulatory approval has been given to some PWRs to extend their lifetimes so that they have a total lifetime of 60 years. Therefore, an extension to the current Sizewell B operating lifetime may be achievable. However, no evaluation has been undertaken to date in relation to extending Sizewell B's operating lifetime and there can be no assurance that such a lifetime extension will be achieved.

We recognise that extending the operating lifetimes of our nuclear power stations would enhance the value of our asset base and we plan to carry out evaluations to see if our nuclear power station operating lifetimes can be extended, subject to certain consents which would be required. Further information on the extension of nuclear power station lifetimes is set out below in Part I, paragraph headed: Extension of operating lifetimes.

*Trading*

We sell our generation through diverse routes to market. These include bespoke contracts for supply over periods of varying durations, some of which are for the supply of electricity in excess of a year, over-the-counter transactions in the wholesale traded market, electronic power exchange trading, direct supply to industrial and commercial customers, and sales of balancing and ancillary services to the National Grid. We also sell forward (i.e. sell output we have not yet generated) in order to manage the risks of short to medium term price volatility in wholesale electricity market prices and because there is insufficient liquidity in the short term markets alone for us to be sure that we would be able to sell our generation at an acceptable price.

We use these different routes to market with a view to reducing exposure to volatility in short and medium term wholesale electricity market prices whilst seeking to reduce the amount of credit support required.

We propose to enhance the use of financial products (such as options) to better hedge against the impact of increased levels of collateral being required by counterparties to our energy sales contracts as a result of sudden increases in price and/or decreases in output due to unplanned outages at our nuclear power stations.

For a description of our business see below Part I: Description of the New British Energy Group. For further information on our sales activities see Part III: Operating and financial review and prospects.

*Role of the Eggborough power station*

We acquired the Eggborough power station in March 2000 with a view to it providing:

- reserve capacity to mitigate the financial impact of having to buy power in the market in the event of an unplanned outage at one of our nuclear power stations;
- profiling or shaping to enable us to sell to a customer who requires flexible output in addition to the baseload generation that our nuclear power stations offer. Without access to the Eggborough power station's output, we would need to acquire this power from other generators to do this; and
- the ability for us to respond to (and take advantage of) short term changes in demand. Eggborough, like other fossil fuel power stations, can generally increase its output levels to meet such demand unlike our nuclear power stations which are baseload producers and which produce power regardless of demand (and thus realised price).

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**KEY INFORMATION (Continued)**

*Financial and operating results*

For the year ended 31 March 2004, British Energy's group turnover (excluding turnover from discontinued operations) was £1,516m, resulting in an operating profit of £57m (before exceptional operating credits of £283m). Our operating profit from continuing activities (after exceptional operating credits) was £340m. Output from our eight nuclear power stations for the year ended 31 March 2004 was, in aggregate, 65.0 TWh, up from the prior year's output of 63.8 TWh. Output from the Eggborough power station was 7.6 TWh for the year ended 31 March 2004 compared with 5.7 TWh for the prior year. For further information regarding our financial results for the year ended 31 March 2004, see Part III: Operating and financial review and prospects and Part IV: Financial information.

**Background to Restructuring and recent developments**

On 5 September 2002, we announced that we had initiated discussions with the Government with a view to seeking immediate financial support and to implement a longer term financial restructuring in the face of:

- the failure of our negotiations with British Nuclear Fuels plc (BNFL) which had been initiated by us to link prices paid under our fuel contracts with BNFL to wholesale electricity prices, with the aim of reducing the proportion of our costs which were fixed; and
- the board's review of the longer term prospects of the Group.

On 28 November 2002, when we announced the outline terms of our proposed restructuring, we highlighted some of the commercial and structural factors which had caused or compounded our financial difficulties, some of which the Restructuring seeks to address. These are set out below:

- our nuclear fleet in the UK had high fixed costs of production when compared with other generators of electricity (including the costs of supplies and services under our contracts with BNFL); as a merchant generator with no retail supply business we were (and will remain following Admission) heavily exposed to declines in wholesale electricity prices. Significant contracts for direct sales to industrial and commercial customers were closely linked to the wholesale electricity price which meant the business was unable to withstand the significant reduction in wholesale electricity prices which fell by over 35 per cent. over the two years to September 2002. Currently, subject to and following Admission, the exposure to declines in electricity prices is partially hedged within certain parameters by the contracts described below under the paragraph headed: New BNFL Contracts (although at current wholesale electricity price levels we are now making additional payments to BNFL as provided for in the New BNFL Contracts);
- our wholesale electricity price exposure at the time was exacerbated by a power purchase agreement and two contracts for differences which magnified our exposure to baseload electricity prices. The claims of the counterparties to these arrangements are being compromised pursuant to the Restructuring in exchange for shares to be issued by New British Energy (New Shares) and bonds to be issued by Holdings plc (New Bonds);



- we have an obligation under our nuclear site licences to decommission our nuclear power stations at the end of their useful lives. These liabilities were estimated to have a net present value (NPV) of £1.1 billion as at 31 March 2004. Certain of the decommissioning liabilities were covered by the Nuclear Generation Decommissioning Fund Limited (NDF) to which we contributed. However, there was no certainty that this fund, at the level of contributions we were making, would be sufficient to cover all of the liabilities to which it related. This uncertainty will, on Admission, be substantially mitigated by the new arrangements with Her Majesty's Secretary of State for Trade and Industry (the Secretary of State) described below under the paragraph headed: The Nuclear Liabilities Fund;

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**KEY INFORMATION (Continued)**

- our operations generate liabilities in respect of nuclear fuel and waste estimated at £3.5 billion for discounted contracted liabilities and £1.1 billion for discounted uncontracted liabilities (in each case as at 31 March 2004). Some of these liabilities are currently covered by long term contracts with BNFL, with the balance remaining uncontracted. These uncontracted liabilities are long term in nature and therefore subject to uncertainty. There is no guarantee that our business would generate sufficient funds to cover these contracted and uncontracted liabilities. This uncertainty will be substantially mitigated on Admission by the New BNFL Contracts and the new arrangements with the Secretary of State described below in the paragraphs headed: New BNFL Contracts and The Nuclear Liabilities Fund;
- our coal plant in Eggborough, which we acquired out of Group funds, also suffered from the reduction in wholesale electricity prices through 2001 and 2002 and the narrowing differential between winter and summer prices. The acquisition was refinanced with a project finance loan on 13 July 2000 and it was difficult for us to fund the repayments required. The debt owed to the providers of the project finance loan will be compromised under the terms of the Restructuring in exchange for, amongst other things: (i) New Shares; (ii) New Bonds; (iii) payments under an amended and restated version of the project finance loan made on substantially the same terms as the New Bonds (such that the proportion of our debt secured on the Eggborough power station will represent a significantly smaller part of our overall indebtedness); and (iv) options to purchase the shares in, or assets of, EPL on 31 March 2010 or, prior to 31 August 2009, at any time on or after the occurrence of an event of default under the amended and restated project finance loan that is continuing (the lenders have the right to assign and/or transfer all (but not part) of their rights under those options, subject to a pre-emption right in favour of the Group);
- we had investments in the US and Canada but these had not yet generated dividends and, in the case of Canada, required significant investment. As a result, they had stretched our financial resources. These assets have now been disposed of; and
- as at 30 September 2002, the Group had indebtedness of £1,050m (including £490m in connection with the Eggborough power station and approximately £408m of unsecured Existing Bonds) with significant debt repayment obligations to be made in cash and as a result of the loss of our investment grade rating in September 2002 our cash requirements increased significantly to meet the collateral requirements of trading counterparties.

On 1 October 2003, we announced that we had entered into binding agreements setting out the terms of the proposed restructuring of the British Energy Group (the Restructuring) with certain key creditors (the Creditor Restructuring Agreement) and the Secretary of State (the Government Restructuring Agreement). These agreements set out the principal terms of the Restructuring of the Group and the circumstances in which the Secretary of State would support the Restructuring. A summary of these agreements is set out below in Part VI: Further information relating to the Restructuring.

The implementation of the Restructuring is subject to the satisfaction of certain conditions and termination events which are described below in the paragraph headed: Conditions to the implementation of the Restructuring, and in further detail in Part VI: Further information relating to the Restructuring.

**Principal terms of the Restructuring**

The Creditor Restructuring Agreement dated as of 30 September 2003 was entered into by British Energy, certain other British Energy Group companies, Enron Capital & Trade Europe Finance LLC (ECTEF), Teesside Power Limited (TPL), Total Gas

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& Power Limited (Total), (Total, TPL and ECTEF collectively, the Significant Creditors), The Royal Bank of Scotland plc (RBS), the

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**KEY INFORMATION (Continued)**

members of the ad hoc committee of Bondholders (the ad hoc committee) and BNFL. By 31 October 2003, Bondholders, representing in aggregate with RBS 88.8 per cent. of the combined amount owing to Bondholders and RBS, had also entered into the Creditor Restructuring Agreement, along with all the lenders and swap providers in the syndicate of Eggborough banks (each an Eggborough Bank).

The Government Restructuring Agreement was entered into by British Energy, certain other British Energy Group companies, the Secretary of State, the NDF (to be enlarged into and renamed the Nuclear Liabilities Fund Limited or NLF) and the Trustees of the Nuclear Trust on 1 October 2003. This Agreement sets out the circumstances in which the Secretary of State will support the Restructuring and the agreements to be entered into with the New British Energy Group and, in certain cases, the NLF, which give effect to the proposals for the funding of certain of the New British Energy Group's qualifying uncontracted nuclear liabilities and qualifying decommissioning costs and certain contracted liabilities for historic spent fuel (namely, spent fuel arising from fuel loaded into our AGRs prior to the Effective Date (being the date immediately following the day on which the conditions to the effectiveness of the New BNFL Contracts are satisfied or waived)) described under the paragraph headed: The Nuclear Liabilities Fund. Until these agreements are entered into and become effective, certain members of the New British Energy Group are obliged to comply with certain of the provisions of those agreements as if they were in force. For further details, see Part VI: Further information relating to the Restructuring, paragraph headed: Nuclear liability arrangements. (Further information regarding the implications of the State Aid Approval on the liabilities of the Secretary of State under these agreements is set out in Part VI: Further information relating to the Restructuring under the paragraph headed: State Aid.)

The Restructuring involves the Bondholders, the Eggborough Banks, RBS and the Significant Creditors compromising their claims against the British Energy Group in exchange for, amongst other things, the issue to those creditors of New Bonds of our subsidiary Holdings plc and New Shares of the Company. The Restructuring contemplates that the Bondholders and RBS will compromise their claims through a Court-approved scheme of arrangement under section 425 of the Companies Act 1985 (the Act) (the Creditors' Scheme). The Significant Creditors will extinguish all, and the Eggborough Banks will extinguish part, of their existing claims against the British Energy Group pursuant to the various arrangements under the Creditor Restructuring Agreement and related documents.

In order to implement the Restructuring, it is proposed that British Energy will cancel its Ordinary Shares and A Shares, and will become a wholly-owned subsidiary of Holdings plc by means of a Court-approved scheme of arrangement under section 425 of the Act (the Members' Scheme) which will require the approval of British Energy Shareholders. If the Members' Scheme is not approved, then it is intended that the Restructuring will be implemented by the disposal of British Energy's assets (including its subsidiaries) to our subsidiary Holdings plc in exchange for it agreeing to assume all of British Energy's liabilities, including to Bondholders and RBS (the Disposal). In view of its size, the Disposal would, if the British Energy Shares were listed, constitute a Class 1 transaction by British Energy for the purposes of the Listing Rules requiring the approval of British Energy Shareholders. The British Energy Shares are no longer listed on the Official List and such approval is, therefore, no longer required but British Energy is, nonetheless, seeking the approval of the relevant British Energy Shareholders (that is, Ordinary Shareholders) at an extraordinary general meeting of British Energy to be held on 22 December 2004. If British Energy Shareholders do not approve the Members' Scheme (or if it otherwise Lapses) and Ordinary Shareholders do not approve the Disposal, British Energy is required, under the terms of the Creditor Restructuring Agreement, to proceed with the Disposal without such approval.

The Creditors' Scheme Circular was made available to RBS and Bondholders and the Members' Scheme Circular was posted to British Energy Shareholders on the same date as this document.



**Table of Contents****KEY INFORMATION (Continued)**

This document contains information relating to the securities to be issued pursuant to the Creditors Scheme, the Members Scheme and the Disposal (if it is approved).

For the purposes of the allocation of the New Bonds and New Shares among Creditors pursuant to the terms of the Restructuring, it was agreed that Creditor claims, or, in the case of the Eggborough Banks, their unsecured claims, would be treated as having the following values:

<b>Creditors as at 1 October 2003</b>	<b>Claim amount (approx.)</b>
	<b>(£ in m)</b>
Bondholders	£ 407.9
RBS	£ 37.5
Eggborough Banks	£ 210.0
TPL	£ 159.0
Total	£ 85.0
ECTEF	£ 72.0

British Energy and the other parties to the Creditor Restructuring Agreement agreed the allocation of the New Bonds and New Shares to be issued pursuant to the Restructuring in respect of unsecured claims based upon the claim amounts set out above, and taking into account a number of factors, including the identity of the relevant debtor and the amounts owed between British Energy and its principal subsidiaries. The allocation of: (i) New Bonds and New Shares to Creditors and British Energy Shareholders if the Members Scheme becomes Effective; and (ii) New Shares to Creditors if the Members Scheme does not become Effective, is as follows:

<b>Name of Shareholder in New British Energy (including Creditors and their respective allocations as at 1 October 2003)<sup>(1)</sup></b>	<b>New Shares if Members Scheme becomes Effective</b>		<b>New Shares if Members Scheme does not become Effective</b>		<b>New Bonds (to Creditors only)<sup>(2)</sup> (£ in m, approx.)</b>
	<b>No. of New Shares (in m, approx.)</b>	<b>% of issued share capital<sup>(4)</sup></b>	<b>No. of New Shares (in m, approx.)</b>	<b>% of issued share capital<sup>(4)</sup></b>	
Bondholders	286.1	51.0	293.4	52.3	154.0
RBS	26.2	4.7	26.9	4.8	14.2
TPL	78.8	14.0	80.8	14.4	43.5
Total	42.1	7.5	43.2	7.7	23.3
ECTEF	37.2	6.6	38.1	6.8	20.0
Eggborough Banks	76.6	13.7	78.5	14.0	20.0 <sup>(3)</sup>
British Energy Shareholders	14.0	2.5	0.0	0.0	0.0

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<b>TOTAL</b>	<b>561.0</b>	<b>100.0</b>	<b>561.0</b>	<b>100.0</b>	<b>275.0</b>
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### Notes:

- (1) TPL, Total and ECTEF have since assigned certain of their respective interests under the Creditor Restructuring Agreement and their respective claims against the British Energy Group to Deutsche Bank AG London (Deutsche Bank) which is, consequently, a Significant Creditor. We are aware that a proportion of these interests may have been sub-participated to third parties. The interest of Deutsche Bank in the Ordinary Shares at the date of this document and as expected immediately following Admission, in so far as is known to us, is disclosed in Part X: Additional information, paragraph 6.3.
- (2) In addition, the NLF will receive £275m of New Bonds and a right to receive the NLF Cash Sweep Payment together with further amounts payable under the Contribution Agreement (see below Part VI: Further information relating to the Restructuring, paragraph headed: Contribution Agreement).
- (3) Excludes £150m bond-equivalent payments through the Amended Credit Agreement (see below and in Part VI: Further information relating to the Restructuring, paragraph headed: Eggborough arrangements).
- (4) Percentage of issued share capital immediately following Admission excluding the impact of the NLF Cash Sweep Payment, the Warrants and Employee Options.

Source: British Energy

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**KEY INFORMATION (Continued)**

Further principal elements of the Restructuring are as follows:

- ***Eggborough arrangements.*** The Eggborough Banks, as creditors with the benefit of the RBS Letter of Credit and security over, amongst other things, the shares in, and assets of, EPL (our subsidiary that owns the Eggborough power station), will be repaid approximately £37.5m pursuant to the RBS Letter of Credit and have agreed to replace the balance of their existing secured claims with a right to receive £150m under an amended and restated credit agreement (the Amended Credit Agreement) on substantially the same payment terms as the New Bonds, together with £20m of New Bonds issued by our subsidiary, Holdings plc, and 13.7 per cent. of the New Shares in the Company.
- In addition, the Eggborough Banks will be granted: (i) options exercisable at any time prior to 31 August 2009 under which they may acquire the shares in, or assets of, EPL on 31 March 2010 in consideration for, amongst other things, £104m (subject to certain adjustments depending on the condition of the Eggborough power station on 31 March 2010) and the cancellation of the outstanding payments under the Amended Credit Agreement at such time; and (ii) options under which they may acquire the shares in, or assets of, EPL at any time prior to 31 August 2009, on or after the occurrence of an event of default under the Amended Credit Agreement that is continuing in consideration for a fee (which varies depending on the type of event of default) and the cancellation of the outstanding payments under the Amended Credit Agreement at such time (each an Eggborough Option). The Eggborough Banks will be entitled to assign and/or transfer all (but not part only) of their rights under the Eggborough Options to a third party, subject to a pre-emption right in favour of the New British Energy Group under which a member of the New British Energy Group may purchase such rights at 105 per cent. of the price offered by the relevant third party. The Eggborough Banks shall continue to benefit from their existing security and certain new security which will secure, amongst other things, the Eggborough Banks' rights under the Amended Credit Agreement and the Eggborough Options. As a result, on and at any time after the occurrence of an event of default under the Amended Credit Agreement that is continuing, the Eggborough Banks shall have the right to:
  - (i) prior to 31 August 2009, exercise an Eggborough Option or enforce their security referred to above; or
  - (ii) on or post 31 August 2009, enforce their security.

EPL's payments under the Amended Credit Agreement will be funded by the New British Energy Group and consequently the recovery of the Eggborough Banks on enforcement of their security should effectively equal the outstandings under the Amended Credit Agreement at the relevant time even in circumstances where the shares in, or assets of, EPL are worth less than such outstandings.

If the Eggborough Banks were to give notice of their intention to exercise an Eggborough Option, we would seek alternative ways of performing the services that the Eggborough power station provides, either through entering into contracts with third parties or by purchasing an equivalent power station. We would also seek to mitigate our trading risks by adopting a revised trading strategy.

A more detailed summary of the Eggborough arrangements is set out below in Part VI: Further information relating to the Restructuring, paragraph headed: Eggborough arrangements;



- ***The Nuclear Liabilities Fund.*** Under new arrangements with the Secretary of State, the existing NDF will be enlarged into and renamed the NLF which will fund, subject to certain exceptions, the New British Energy Group's qualifying uncontracted nuclear liabilities and qualifying decommissioning costs. The Secretary of State has agreed to fund: (i) qualifying uncontracted nuclear liabilities and qualifying decommissioning costs to the extent they exceed the assets of the NLF; and (ii) subject to certain exceptions, contracted liabilities for historic spent fuel. As at 31 March 2004, the market value of the NDF was

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**KEY INFORMATION (Continued)**

£440m. To the extent there is any surplus in the NLF, this amount will be paid to the Secretary of State. The New British Energy Group will be responsible for funding certain excluded or disqualified liabilities and will, in certain circumstances, be required to compensate or indemnify the NLF and the Secretary of State in relation to such liabilities. Our obligations under these arrangements with the Secretary of State will be guaranteed by each Material New British Energy Group Company. These excluded and disqualified liabilities are described in greater detail in Part VI: Further information relating to the Restructuring, paragraph headed: Nuclear liability arrangements and in Part X: Additional information, paragraphs 17.2 (c) and (d). (Further information regarding the implications of the State Aid Approval on the liabilities of the Secretary of State under these agreements is set out in Part VI: Further information relating to the Restructuring under the paragraph headed: State Aid.)

In consideration for the assumption of these liabilities by the Secretary of State and the NLF, Holdings plc will issue £275m in New Bonds to the NLF. The New British Energy Group will make various ongoing payments to the NLF including an annual contribution initially equal to 65 per cent. of the New British Energy Group's adjusted net cash flow (calculated on the basis set out in the summary of the Contribution Agreement in Part X: Additional information, paragraph 17.2 (e)) (the NLF Cash Sweep Payment). This percentage may be adjusted for certain corporate actions but may never exceed 65 per cent. The New British Energy Group will also make the following payments to the NLF: (i) fixed decommissioning contributions equal to £20m per annum (stated in March 2003 monetary values and indexed to RPI) but tapering off as the nuclear power stations are currently scheduled to close; and (ii) £150,000 (stated in March 2003 monetary values and indexed to RPI) for every tonne of uranium in PWR fuel loaded into the Sizewell B reactor after the Restructuring Effective Date. The payments to be made to the NLF are described in greater detail below in Part X: Additional information, paragraph 17.2 (e).

The NLF will have the right from time to time to convert all or part of the NLF Cash Sweep Payment into Convertible Shares (the NLF Conversion Right). On a full conversion, the NLF would hold up to 65 per cent. of the thereby enlarged equity share capital of the Company. However, the terms of the Convertible Shares include a limit on the voting rights attaching to such shares equal to the maximum amount which can be held by the NLF without triggering a mandatory offer under the City Code on Takeovers and Mergers (Takeover Code), being currently 29.9 per cent. of the voting rights of the Company (and, for this purpose, taking into account the voting rights attributable to any other ordinary shares of the Company held or acquired by any person acting in concert with the NLF). This voting restriction applies for so long as the Convertible Shares are held by the NLF. The Convertible Shares will convert automatically into ordinary shares in the Company on transfer to a third party but are not convertible at the election of the NLF prior to such transfer.

There are restrictions under the terms of the Contribution Agreement on the manner in which the NLF may exercise the NLF Conversion Right or dispose of any of the shares arising on such exercise. In addition, the Secretary of State has confirmed to the Company that she will not, during the six month period immediately following the implementation of the Restructuring, direct the NLF to exercise the NLF Conversion Right or dispose of any shares in the Company unless certain exceptional circumstances arise (which are set out in the summary of the Contribution Agreement in Part X: Additional information, paragraph 17.2 (e)) including, amongst other things, actions taken or proposed by any person in respect of a member of the Group (and not expressly contemplated by any of the Nuclear Liabilities Agreements) which will or may, in the opinion of the Secretary of State, have an adverse effect on the interests of the Secretary of State or the NLF.

The Secretary of State has also confirmed that she has no current intention to direct the NLF to exercise the NLF Conversion Right following the expiry of the six month period referred to above but reserves the right to do so. The Secretary of State intends to



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**KEY INFORMATION (Continued)**

ensure that prior to the giving of any direction to the NLF to exercise the NLF Conversion Right or to dispose of the shares issued pursuant to such exercise, the Secretary of State (and/or the NLF at her direction) would take financial advice and would take such advice as to the market impact of the conversion or disposal (including the desirability of avoiding multiple sales of small amounts of shares). Finally, the Secretary of State has confirmed to the Company that she does not currently intend to change the investment policy as regards the matters described above.

The Secretary of State will have an option to acquire for £1 each nuclear power station and related station assets (subject to certain exclusions) for the purpose of decommissioning or continuing the operation of those nuclear power stations beyond the date of closure of those stations assumed by the Group (which date will include any changes to such dates in our financial statements following the extension of current station lifetimes). An option to continue to operate a nuclear power station may (unless the New British Energy Group has given notice that it will close the station early) only be exercised at any time up to and including the date which is two years before the scheduled closure date of the station but transfer of the station pursuant to the exercise of the option cannot complete until the scheduled closure date of the station, at the earliest. The Secretary of State also has an option to acquire the Group's interests in United Kingdom Nirex Limited (Nirex).

A more detailed summary of the new nuclear liability arrangements described above is set out in Part VI: Further information relating to the Restructuring, paragraph headed: Nuclear liability arrangements and Part X: Additional information, paragraphs 17.2 (c) to (n);

- **New BNFL Contracts.** On 31 March 2003 and 16 May 2003 respectively, we exchanged contracts with BNFL covering front-end (i.e. fuel preparation before it enters the reactor) and back-end (i.e. handling, storage and ultimate disposal of spent fuel) AGR fuel services required to give effect to the Restructuring. The amendments (set out in the March 2003 Deeds of Amendment) to the existing front-end contracts (the Existing AGR Fuel Supply Agreements) became effective on 1 April 2003 but, with the exception of the new arrangements for the supply of uranium to BEG, may be terminated if the Restructuring is not completed. The new front-end post 2006 contracts (the Post 2006 AGR Fuel Supply Agreements) are conditional upon completion of the Restructuring. The amendments to the existing back-end fuel services arrangements (which will become the BNFL Historic Contracts) and the New Spent Fuel Agreements are also conditional upon completion of the Restructuring. If the Restructuring does not complete, the Existing AGR Fuel Supply Agreements (as amended by the March 2003 Deeds of Amendment) will revert to the previous arrangements and the agreements comprising the BNFL Historic Contracts will remain as they are at the date of the posting of this document.

The principal payment terms of the Existing AGR Fuel Supply Agreements (as amended by the March 2003 Deeds of Amendment) and the Post 2006 AGR Fuel Supply Agreements are as follows:

- (i) a payment of £28.5m fixed per annum until 31 March 2006, but discounted on a linear basis in accordance with the market baseload price of electricity to a minimum payment of £13.5m per annum at a market price of £15.0 per MWh. The fixed starting price falls to £25.5m thereafter and is also subject to the discounting mechanism; and
- (ii) a payment of £191,000 per tonne of uranium in AGR fuel delivered.

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With respect to the New Spent Fuel Agreements (i.e. in respect of fuel loaded into our AGRs after the Effective Date (new spent fuel), we will be required to pay:

- (i) a payment of £150,000 per tonne of uranium in AGR fuel, payable on loading of such new spent fuel into one of our AGRs;
- (ii) a rebate/surcharge against the payment mentioned in (i) above equivalent to 50 per cent. of the difference between the market baseload price of electricity in a year and

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**KEY INFORMATION (Continued)**

£16.0 per MWh multiplied by the MWh produced by the AGR fleet in that year. The market baseload price of electricity used in the calculation will not be less than £14.8 and not more than £19.0 per MWh; and

- (iii) if the market baseload price of electricity exceeds £19.0 per MWh, a surcharge against that payment equivalent to 25 per cent. of the difference between the market baseload price of electricity in a year and £19.0 per MWh multiplied by the MWh produced by the AGR fleet in that year. The market baseload price of electricity used in that calculation will not be less than £19.0 and not more than £21.0 per MWh.

Unlike under our existing arrangements with BNFL, whereby we retain title to and therefore remain responsible for the ultimate disposal of our spent fuel, and which will still apply to the Historic Fuel Agreements (although the costs of disposal will be covered under the provisions of the Nuclear Liabilities Agreements), BNFL will assume title to new spent fuel on delivery to BNFL from our AGR power stations.

All of the above monetary amounts (for fuel supply and the New Spent Fuel Agreements) are stated in July 2002 and 2002/2003 values and are indexed to RPI.

As a result of the standstill arrangements with BNFL (described below in the paragraph: Standstill arrangements), since 1 April 2003 we have been making payments under our existing back-end agreements with BNFL, (which, on Restructuring, will become the BNFL Historic Contracts) as if the pricing provisions of the New Spent Fuel Agreements (as described above) applied.

The pricing provisions in the New BNFL Contracts highlighted above are intended to enable us to reduce a proportion of our fuel costs which are fixed by providing for a discount when the market baseload price of electricity is below a specified amount and a surcharge when above this amount. As electricity prices have risen substantially since October 2003, we are now making additional payments to BNFL under the new arrangements for spent fuel management in the form of the surcharge referred to above. This will continue for so long as electricity prices remain above £16.0 per MWh (in 2002/2003 monetary values and indexed to RPI).

A more detailed summary of the New BNFL Contracts is set out in Part VI: Further information relating to the Restructuring, paragraph headed: The New BNFL Contracts and Part X: Additional information, paragraphs 17.1 (z) to (ss);

- **Standstill arrangements.** The standstill agreement entered into by us with certain of our creditors (the Consenting Creditors) on 14 February 2003 (the Old Standstill Agreement) has been extended to include all Bondholders and will continue whilst the Restructuring is being implemented. The standstill arrangements restrict the Consenting Creditors from taking any steps to initiate insolvency proceedings or demand or accelerate any amounts due and payable to them by members of the British Energy Group during the Standstill Period. The Standstill Period will terminate on the occurrence of a termination event, which includes, amongst other things, implementation of the Restructuring. During the continuation of the standstill arrangements, certain of the Consenting Creditors will be paid interest but not principal in respect of their claims against members of the British Energy Group. A more detailed summary of the standstill arrangements is set out in Part VI: Further information relating to the Restructuring, paragraph headed: Continuation of the Standstill Arrangements; and

- ***Sale of our interests in Bruce Power and AmerGen.*** On 14 February 2003 we announced that we had completed the disposal of our 82.4 per cent. interest in Bruce Power LP to a consortium for C\$627m, subject to a possible additional sum contingent on the restart of two of the reactor units sold. In this regard we have received a payment of C\$30m and may be entitled to additional sums. On 12 February 2004, we received a

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**KEY INFORMATION (Continued)**

notice of claim under the master purchase agreement alleging breach of certain warranties and representations relating to tax and the condition of plant. Further information on this claim is set out in Part X: Additional information, paragraphs 16.2 and 16.3.

On 23 December 2003 we completed the disposal of our 50 per cent. interest in AmerGen Energy Company, LLC to Exelon Generation Company, LLC (Exelon) for US\$277m, subject to adjustment. These adjustments are still outstanding and we are in dispute with Exelon regarding certain of these adjustments. Further information on this dispute is set out in Part X: Additional information, paragraph 16.5.

**Conditions to the implementation of the Restructuring**

The implementation of the Restructuring is subject to three stages of conditionality, namely:

- conditions which need to be satisfied prior to the proposal of the Creditors Scheme and the Members Scheme to the trustees of the Existing Bonds (the Existing Trustees) and RBS and British Energy Shareholders, respectively (the Initial Conditions);
- subsequent to the satisfaction of the Initial Conditions, conditions which need to be satisfied before the Creditors Order and, if the Members Scheme is approved, the Members Order, is filed with the Scottish Registrar for registration (the Filing Conditions); and
- finally, the Creditors Scheme becoming Effective and, unless the Members Scheme has Lapsed, the Members Scheme becoming Effective (the Restructuring Condition).

On 24 September 2004, the Secretary of State received notification from the European Commission (State Aid Approval) that in so far as the Restructuring involves the grant of State Aid by the Government, such aid is compatible with the common market established through the Economic Community Treaty (Common Market) subject to certain conditions set out therein and described below in the paragraph headed: Restrictions on our ability to operate. On 12 October 2004, we announced that the other Initial Conditions to the implementation of the Restructuring had been satisfied. In relation to the Filing Conditions, the Restructuring is conditional on, amongst other things, the Secretary of State not having determined and notified British Energy in writing that, in her opinion, the British Energy Group (including for this purpose New British Energy and Holdings plc) will not be viable in all reasonably foreseeable conditions without access to additional financing (other than financing which the Secretary of State is satisfied has been committed and will continue to be available when required).

In addition to the above conditions, the Restructuring will not be implemented if either of the Creditor Restructuring Agreement or the Government Restructuring Agreement is terminated in accordance with its terms (the Termination Rights). In such circumstances, the standstill arrangements, which restrict Consenting Creditors (including Bondholders) from taking any steps to initiate insolvency proceedings or demand or accelerate any amounts due and payable to them by any member of the British Energy Group, would also terminate. Both the Creditor Restructuring Agreement and the Government Restructuring Agreement will automatically terminate if British Energy receives a valid notice from the relevant parties prior to the Creditors Scheme (and if



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relevant, the Members Scheme) becoming Effective terminating the Creditor Restructuring Agreement on the basis that there is a continuing Material Adverse Change. The Filing Conditions, the Restructuring Condition and the Termination Rights are described in greater detail in Part VI: Further information relating to the Restructuring.

Also, unless otherwise agreed by requisite majorities of the Creditors, BNFL, the Secretary of State and British Energy, the Creditor Restructuring Agreement, the Government Restructuring Agreement and the standstill under the amended terms and conditions of the Existing Bonds will automatically terminate (and consequently the Restructuring will not be implemented) if the Creditors Scheme has not become Effective by 12 noon on the earlier of: (i) 120 days after the last of the Initial Conditions has been satisfied; and (ii) 31 January 2005 (Restructuring Long Stop Date) which date may be extended subject to the agreement of British Energy, BNFL, the

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**KEY INFORMATION (Continued)**

Secretary of State, certain majorities of relevant Creditors and a written resolution of a simple majority of holders of each series of the Existing Bonds as described in Part VI: Further information relating to the Restructuring.

Our indicative timetable for the Restructuring anticipates the Creditors' Scheme becoming Effective and Admission occurring in mid-January. However, the indicative timetable is our best case expectation and subject to change and delay (see note 1 to the Indicative Timetable of Principal Events on page 3 of this document). We have, therefore, decided that it is prudent to seek an extension to the present long stop dates of 31 January 2005 and have proposed terms for an extension to at least 31 March 2005 to Creditors, BNFL and the Secretary of State.

The proposed extension to the Restructuring Long Stop Date under the Creditor Restructuring Agreement requires the agreement of British Energy, the holders of a majority of the claims of Bondholders and RBS, the Significant Creditors, BNFL and the holders of two-thirds of the Eggborough Banks' debt and swap claims (including Barclays). In addition the provision of an extended RBS Letter of Credit is a condition of the proposed extension. The extension of the Creditor Restructuring Agreement also requires written resolutions of Bondholders to extend the standstill period under the terms of the Existing Bonds to be signed by a simple majority of the holders of each series of the Existing Bonds.

The Secretary of State is not a party to the Creditor Restructuring Agreement but, for technical reasons, her consent is required to enable that agreement to be extended in the manner contemplated. The Secretary of State's agreement is also required and is being sought to extend the long stop date for completion of the Government Restructuring Agreement.

The proposed extension will (if it becomes effective) also preserve the possibility of extension of the Restructuring Long Stop Date under the Creditor Restructuring Agreement beyond 31 March 2005 and up to 31 October 2005. However, each of those parties and majorities who are required to agree the proposed extension would have absolute discretion as to whether to object to or confirm the continuation of the extension period beyond 31 March 2005 and may require amendments to the standstill and restructuring arrangements in connection with the Restructuring being completed after 31 March 2005. Furthermore the agreement of the Secretary of State would be required to extend the Government Restructuring Agreement.

In any event, if it were to become reasonably apparent that the Restructuring would not be completed by 31 March 2005, British Energy would be required to renegotiate the payments payable to BNFL with effect from completion of the Restructuring after 31 March 2005 under the BNFL Agreements for historic spent fuel services which have been agreed on the assumption that the Restructuring would complete and these payments would commence before 31 March 2005. Subject as further discussed in Part VI: Further information relating to the Restructuring, these payments are expected to be funded by the Government under the HLFA and consequently any new schedule would require agreement between British Energy, BNFL and the Government. As such even if the proposed extension becomes effective there can be no assurance that any extension beyond 31 March 2005 will be available on the present terms of the Restructuring or any other terms.

If such an extension is obtained and/or it becomes apparent that the Restructuring Effective Date will be delayed beyond 31 January 2005, we will inform shareholders by making the appropriate announcement to a Regulatory information service and the press. For the avoidance of doubt, in such circumstances, Admission may not occur prior to 31 January 2005 and will remain conditional on the Restructuring being implemented.

**Restrictions on our ability to operate**

The Commission has confirmed that the giving of State Aid in connection with the Restructuring is compatible with the Common Market. As part of the State Aid Approval, we have been required to agree to certain measures and conditions with the Government which will govern our business (compensatory measures).

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**KEY INFORMATION (Continued)**

The key compensatory measures are:

- not, until 23 September 2010, to own or acquire any rights of control over:
  - (i) additional operational nuclear generating capacity in the EEA, (which would not include contracts to operate and maintain nuclear plants where we have no interest in the electricity output), without the prior approval of the Commission; or
  - (ii) registered, operational, fossil-fuelled generating capacity in the EEA or large hydro-electric generating capacity in the UK, which in aggregate exceeds a capacity of 2,020 MW (although some relaxation of this restriction has been agreed to provide for a transitional period in cases where the Eggborough power station ceases to be available to us);
- to establish and maintain our existing nuclear generation activities, electricity direct supply sales business (DSB) and electricity trading business in separate subsidiaries by 1 April 2005;
- not to allow our existing nuclear generation business to provide a cross-subsidy to our non-nuclear generation activities or any other business of the Group; and
- not, for a period of six years, to price the energy element of our DSB contracts below the prevailing wholesale price, save for in exceptional market circumstances (to be determined by an Independent Expert, to be appointed within four months from the date of the State Aid Approval).

The State Aid Approval requires the Government to ensure that the restructuring plan as communicated to the Commission is fully implemented.

The Directors expect, on the basis of how we currently conduct our operations and discussions with relevant authorities and regulatory bodies, that the obligations: (i) to establish and maintain our existing nuclear generation activities, our DSB and electricity trading business in separate subsidiaries by 1 April 2005; and (ii) not to allow our nuclear generation business to cross-subsidise our non-nuclear or other businesses, will not have a material adverse effect on the financial results of our business. However, arrangements and restrictions designed to secure compliance with these obligations are still in the process of being precisely defined (further information on the steps we have taken in this respect are set out in a Deed of Undertaking, a summary of which is contained in Part X: Additional information, paragraph 17.1(o)), and will be untested on Admission and no assurance can be given that events will not differ materially from the Directors' expectations in this area. We have no current intention to sell any of our output at below the wholesale price and therefore do not consider that the requirement that we do not price the energy element of our DSB contracts below the prevailing market price will have any effect on our business. For further detail on the impact of the other restrictions referred to above, see Part II: Risk factors, the paragraph headed: Our business is affected by a number of restrictions which restrict our ability to develop new sources of income.

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The State Aid Approval provides that the Government is permitted to fund the payment of: (a) liabilities related to the cost of management of spent fuel loaded into our AGR power stations prior to the Effective Date (historic spent fuel) up to a specified level; (b) the costs of certain other liabilities set out in the Historic Liabilities Funding Agreement (the HLFA) (these costs, however, are not taken into account in calculating the above specified level); and (c) any shortfall of the NLF as regards the payment of liabilities related to our nuclear assets decommissioning and its uncontracted liabilities. The State Aid Approval states that as soon as expenditure corresponding to (i) the nuclear decommissioning and uncontracted liabilities referred to above and (ii) the costs of the certain other liabilities set out in the HLFA referred to above exceed a specified threshold, the Government shall submit enhanced additional reports (on an annual basis) to the Commission demonstrating that the Government payments are restricted to meeting these liabilities, and that proper steps have been taken to limit expenditure

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**KEY INFORMATION (Continued)**

to the minimum necessary to meet those liabilities. Further details regarding the specified level and the specified threshold referred to above are set out in Part VI: Further information in relation to the Restructuring, under the paragraph headed: State Aid.

We have agreed with the Secretary of State to implement the above compensatory measures pursuant to the Deed of Undertaking. Further information on the compensatory measures is set out in Part VI: Further information relating to the Restructuring, paragraph headed: State Aid. In relation to the requirement to consolidate our nuclear generation activities in a single subsidiary by 1 April 2005, it is unlikely that we will be able to obtain all the necessary consents by that date. If that is the case, specific alternative arrangements which have a similar effect and which we have agreed with the Government under the Deed of Undertaking will be implemented. (Further information on this issue is set out in the summary of the Deed of Undertaking in Part X: Additional information, paragraph 17.1(o)). Under the Deed of Undertaking, we have also undertaken not to dispose of all or part of our nuclear generation business or our DSB, or carry out any corporate restructuring of the New British Energy Group, without the Secretary of State's prior approval (such approval not to be unreasonably withheld), if such disposal or restructuring may cause the Secretary of State to be in breach of her obligations under the State Aid Approval.

Pursuant to the terms of our various agreements with the Secretary of State and Government controlled entities, we are, or will be, subject to the following key restrictions on our operations:

- not to announce or pay any dividend or distribution or make any acquisition unless our cash exceeds the amount specified in the Contribution Agreement at the end of the financial period preceding the dividend, distribution or acquisition and would or would be likely to exceed the specified amount at the end of the financial period in which such dividend, distribution or acquisition is to be made;
- not to incur any expenditure other than expenditure:
  - (i) in relation to Agreed Collateral Purposes (as defined in the summary of the Contribution Agreement in Part X: Additional information, paragraph 17.2(e)), outage costs, working capital requirements, debt servicing and operating costs; or
  - (ii) the primary purpose of which is: the maintenance (including non-recurring maintenance) of, or capital repairs to, our nuclear power stations and/or the Eggborough power station, or is intended to enable aggregate annual output of our nuclear power stations at a level which is around the highest output of the nuclear power stations in any of the preceding five financial periods (subject to a minimum of 68.0 TWh) adjusted as nuclear power stations close (provided that the permission to incur expenditure to enable aggregate nuclear output at this level does not permit capital investment in excess of £20m per annum, without the approval of the Secretary of State, where the principal purpose of such expenditure is to enable the extension of scheduled closure dates of any of our nuclear power stations); and/or to enable output at the Eggborough power station at a level consistent with historical performance levels,

unless: (a) our cash exceeds the amount specified in the Contribution Agreement at the end of the financial period preceding the expenditure and would or would be likely to exceed the same at the end of the financial period in which such expenditure is to be made; or (b) it consists of specified expenditure for which the required funds have previously been allocated to a notional reserve in accordance with the terms of the Contribution Agreement;

- if we achieve an investment grade rating, although we may reduce the Target Amount of the Cash Reserves (that is, initially, £490m plus the amount by which cash employed as collateral exceeds £200m), we may not pay any distribution or make any acquisition of any undertaking if we know or have reasonable grounds to believe that doing so would or would be likely to result in the loss of such investment grade rating, save to the extent

**Table of Contents****KEY INFORMATION (Continued)**

that such distribution or acquisition would not reduce the aggregate amount of our cash and any committed facilities (which are available for, and intended and expected by the Board to be used for the same purposes for which our cash may be applied) below the amount specified in the Contribution Agreement;

- at an operational level, not to make any operational change at our nuclear power stations which might increase the NPV of the Costs of Discharging Liabilities (as defined in the NLFA) by in excess of £1m (in March 2003 values and indexed to RPI) without notifying the Nuclear Decommissioning Authority (NDA) under the NLFA;
- we are required in certain circumstances to obtain the approval of the NDA under the NLFA before implementing certain operational changes at any of our nuclear power stations, for example those which might increase the NPV of the Costs of Discharging Liabilities by in excess of £10m (in March 2003 values and indexed to RPI);
- we are required, in certain circumstances (details of which are set out in the summary of the NLFA set out in Part X: Additional information, paragraph 17.2(c)), to obtain the approval of the NDA under the NLFA to, amongst other things, extensions to the scheduled closure dates of our nuclear power stations (and consent must be given where the economic benefits accruing to the NLF or the Secretary of State are reasonably likely to exceed the incremental nuclear liabilities arising as a consequence), our decommissioning plans, our contracting strategy (and certain large contracts) for decommissioning our nuclear power stations and discharging uncontracted liabilities;
- we are required to seek the prior approval of the Secretary of State to exercise certain strategic rights under the BNFL Historic Contracts or to making amendments to any of our agreements with BNFL if these impact on the level of historic liabilities;
- we may not enter into material transactions with affiliates unless on arm's length terms (subject to similar exceptions as are contained in the terms and conditions of the New Bonds) and we will be (until a certain date but no later than 31 March 2014) subject to a negative pledge not to create security interests (subject to similar exceptions as are contained in the negative pledge covenant of the New Bonds) without the prior written consent of the NLF and the Secretary of State unless at the same time equal security is granted to the NLF and the Secretary of State to secure amounts that are or may become payable under the NLFA, HLFA, Contribution Agreement, Government Option Agreement, Nirex Option Agreement and Guarantee and Indemnity, summaries of which are set out in Part X: Additional information, paragraphs 17.2(c), (d), (e), (i), (j) and (k)); and
- we must comply with certain conduct of business obligations during the periods in which the options can be exercised under the Government Option Agreement (a summary of which is contained in paragraph 17.2 (i) of Part X: Additional information), including, amongst others: (i) operating our nuclear power stations in the ordinary and usual course and, in the period immediately prior to the scheduled closure date of those nuclear power stations, restricting certain actions which may affect the Secretary of State's ability to exercise the options to decommission or continue operation of those stations; (ii) not to enter into certain contracts or commitments for capital expenditure (except where approved under the Contribution Agreement or the NLFA); or (iii) not to grant security over our nuclear power stations without the consent of the Secretary of State.

In addition, the terms of the Special Share held by each of the Secretary of State and the Secretary of State for Scotland restrict us from disposing of our shares in BEG and BEG UK, and restrict BEG and BEG UK from disposing of any of their respective nuclear power stations, without the prior consent of the holder of the relevant Special Share (such consent only to be withheld, if, in the holder's opinion, the disposal would be contrary to the interests of national security).





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**KEY INFORMATION (Continued)**

Further, we will be subject to restrictive covenants as set out in the terms and conditions of the New Bonds, including, amongst others, the following:

- we are prohibited from incurring financial indebtedness (other than certain permitted financial indebtedness) and from issuing guarantees of financial indebtedness unless the consolidated fixed charge coverage ratio (as defined in the New Bonds) is in accordance with the ratio set out therein. Permitted financial indebtedness includes up to £75m of additional debt, of which £60m may be secured;
- we may not pay dividends unless the Target Amount is met and no event of default or potential event has occurred and is continuing. In addition, we may not make certain other restricted payments unless the consolidated fixed charge coverage ratio referred to above is met and the amount of the payment does not exceed 50 per cent. of consolidated net income for the relevant period;
- there are limitations on the ability to repurchase our own shares and on investments, asset sales and sale and leaseback transactions;
- there are also restrictions on transactions with affiliates, but transactions with BNFL, EPL and the NLF are permitted provided that they comply with certain requirements as set out in the terms and conditions of the New Bonds;
- we are subject to a negative pledge, subject to customary exceptions;
- there are also certain restrictions on the conduct of our business, which are set in paragraph 8.14 of Part VII: Terms and conditions of the New Bonds. The intention is to allow us the flexibility to continue our existing business of generating and selling electricity and we are also permitted to trade electricity within Europe and to decommission our nuclear power stations (or those previously owned by us); and
- if the Target Amount is reduced as permitted by the Contribution Agreement, or if we otherwise have surplus cash as a result of asset sales or if the Eggborough Break Option (as defined in the terms and conditions of the New Bonds) is exercised, then we are obliged to apply this excess cash (once the surplus exceeds £10m) in redeeming the New Bonds.

If the New Bonds attain an investment-grade rating from at least two rating agencies (one of which must be Moody's) and provided that no event of default or potential event of default is subsisting, then most of the restrictive covenants described above will be suspended, although they will be reinstated if the investment-grade rating from such agencies is withdrawn.

A summary of the terms of the New Bonds including the covenants referred to above is contained in Part VII: Terms and conditions of the New Bonds.

Finally, the Receivables Facility Agreement contains detailed covenants for the benefit of the facility provider, which mirror those under the New Bonds. In addition to these, the Receivables Facility Agreement also contains a financial interest coverage covenant

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(assessed on a consolidated group-wide basis) and covenants relating to the conduct of the electricity supply business customary for a receivables facility. A summary of the Receivables Facility Agreement is set out in Part X: Additional information, paragraph 17.1 (q).

We do not believe that the restrictions on our expenditure under our existing agreements, or those agreed to, in particular the restrictions in the Contribution Agreement, prohibit spending on PIP (as currently envisaged) at the levels previously announced.

### **Business strategy**

Our business strategy is constrained by, amongst other things, the terms of the Contribution Agreement, the New Bonds, the Receivables Facility Agreement and the compensatory

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**KEY INFORMATION (Continued)**

measures we have agreed to in connection with the State Aid Approval. Therefore, we expect to execute the following strategy:

- **Improving reliability** Our principal business objective is to improve operational reliability through: investment in plant projects, major repairs and strategic spares; improving the way our plant is maintained and operated; and reducing human errors that have led to unplanned outages. In short, we aim to produce more electricity more reliably from our nuclear power stations and this will be the most significant element of our strategy by a considerable margin;
- **Seek life extensions** Progress on improving the material condition of our nuclear power stations may allow us to demonstrate safety cases that support the extension of their operating lives; and
- **Input into wider UK energy debate** In the longer term, we will seek to apply our skills, expertise and assets in playing a part in the evolution of the power market and in any future debate commenced by the Government regarding the UK's energy strategy.

Overall we are aiming to raise our standing in the worldwide nuclear community by demonstrating increasing capability to the World Association of Nuclear Operators (WANO) and the Institute of Nuclear Power Operations (INPO) as a basis of establishing our credentials as an operator and manager of choice.

As our nuclear power stations close, our ability to invest in new business development opportunities may be further restricted due to a lack of sufficient cash resources and this issue may be exacerbated should some of our nuclear power stations be required to close earlier than the estimated closure date used in our financial statements.

**Table of Contents****KEY INFORMATION (Continued)****Summary financial information of the British Energy Group**

The financial information in the table below for the three years ended 31 March 2004 has been extracted without material adjustment from Part IV: Financial information. It should be read in conjunction with all other information relating to New British Energy and Holdings plc contained in this document. You should not rely on the summarised information in this section of the document only. The financial information for the financial years ended 31 March 2000 and 31 March 2001 has been extracted, without material adjustment, from our audited statutory accounts for those periods and has then been restated as per note 1.

	Year ended 31 March				
	(1) 2000	(1) 2001	(5) 2002	(5) 2003	(5) 2004
	£m	£m	£m	£m	£m
<b>Profit and Loss Account Information:</b>					
<b>UK GAAP</b>					
Turnover	2,058	2,124	2,049	1,903	1,516
Turnover continuing operations	1,989	1,954	1,701	1,528	1,516
Turnover discontinued operation <sup>(4)</sup>	69	170	348	375	
Operating profit/(loss) <sup>(5)</sup>	412	280	(271)	(3,702)	340
Operating profit/(loss) continuing operation <sup>(5)</sup>	414	284	(323)	(3,799)	340
Operating (loss)/profit discontinued operations	(2)	(4)	52	97	
Profit/(loss) before taxation <sup>(5)</sup>	225	57	(483)	(4,192)	232
Taxation	(118)	(48)	(25)	368	2
Profit/(loss) after taxation <sup>(5)</sup>	107	9	(508)	(3,824)	234
Ordinary dividends <sup>(2)(3)</sup>	(48)	(48)	(48)		
Other dividends	(47)	(2)	(2)		
Basic earnings/(loss) per ordinary share(s) <sup>(5)</sup>	16.4p	1.2p	(86.8)p	(638)p	38.9p
Diluted earnings/(loss) per ordinary share(s) <sup>(5)</sup>	16.4p	1.2p	(86.8)p	(638)p	38.9p
Dividends per ordinary share, net <sup>(2)(3)</sup>	8.0p	8.0p	8.0p		

	As at 31 March				
	(1) 2000	(1) 2001	(5) 2002	(5) 2003	(5) 2004
	£m	£m	£m	£m	£m
<b>Balance Sheet Information:</b>					
<b>UK GAAP</b>					
Fixed assets <sup>(5)</sup>	5,620	5,245	4,805	761	935
Total assets <sup>(5)</sup>	7,051	6,784	6,671	2,175	2,672
Net current assets	73	854	891	229	290
Provisions and long term liabilities	(4,490)	(4,931)	(5,173)	(4,375)	(4,391)
Equity shareholders funds/(deficit) <sup>(5)</sup>	1,110	1,075	386	(3,478)	(3,259)
Net assets/(liabilities) <sup>(5)</sup>	1,203	1,168	523	(3,385)	(3,166)

	Year ended 31 March				
	(1)	(1)	(5)	(5)	(5)
	2000	2001	2002	2003	2004
	£m	£m	£m	£m	£m
<b>Cash Flow Information:</b>					
<b>UK GAAP</b>					
Operating profit/(loss) including exceptional items <sup>(5)</sup>	412	280	(271)	(3,702)	340
Cash generated by operations:					
Depreciation charges	260	277	585	4,025	(245)
Nuclear liabilities charged to operating costs	141	132	156	105	130
Nuclear liabilities and other provisions discharged:					
Nuclear liabilities	(310)	(319)	(332)	(115)	(59)
Other provisions discharged	(34)	(39)	(43)	(45)	(3)
Onerous trading contract provisions			209		
Regular contributions to UK decommissioning fund	(17)	(17)	(18)	(18)	(19)
Operating exceptional UK decommissioning fund movement				13	(13)
Working capital:					
Decrease in stocks	4	27	66	60	10
(Increase)/decrease in debtors	(54)	97	(117)	(18)	4
Increase/(decrease) in creditors <sup>(5)</sup>	48	(161)	145	31	11
Net cash inflow from operating activities	450	277	380	336	156
Payments to acquire tangible fixed assets	(137)	(133)	(225)	(282)	
Net cash inflow from operating activities net of capital expenditure	313	144	155	54	156

**Table of Contents****KEY INFORMATION (Continued)**

- (1) Our consolidated financial statements were restated in 2002 to reflect the retroactive application of the UK Accounting Standards Board's Financial Reporting Standard No. 19 – Deferred Tax, FRS 19. FRS 19 came into effect with respect to all accounting periods ending after 31 January 2002 and requires that, when calculating the amount of taxation, full provisions be made for all timing differences for deferred taxes. The financial information for 2000 and 2001 has been restated to comply with the requirements of FRS 19.
- (2) Dividends per share exclude any associated UK tax credit available to certain holders of Ordinary Shares.
- (3) In July 1999, British Energy Shareholders approved a return of value of approximately £432m.
- (4) The turnover for discontinued operations which related to Bruce Power (our interest in which was sold on 14 February 2003) are set out on a 100 per cent. holding basis. British Energy's share in Bruce Power was 82.4 per cent. prior to the disposal. Discontinued activity turnover prior to 31 March 2001 comprises electricity and gas supply sales made by Swalec (now part of the Scottish & Southern Energy Group) prior to its disposal on 7 August 2000.
- (5) From 1 April 2004, the British Energy Group has adopted the UK Accounting Standards Board's Urgent Issues Task Force Abstract No. 17 (revised 2003) – Employee Share Schemes (UITF 17) and Urgent Issues Task Force Abstract No. 38 – Accounting for ESOP Trusts (UITF 38). UITF 17 and UITF 38 relate to the measurement of the Employee Share Scheme charge and the presentation and disclosure of own shares held. The adoption of these new accounting guidelines has resulted in a restatement of the results for the year ended 31 March 2004. Additionally, the financial information for the financial statements for 2002 and 2003 has been restated on the same basis. The financial information for the year ended 31 March 2000 and 2001 has not been restated for these new requirements.

**Summary unaudited pro forma financial information of the New British Energy Group**

The unaudited pro forma financial information in the table below has been extracted without adjustment from Part V: Unaudited pro forma financial information and should be read in conjunction with that Part, particularly the notes set out therein. This information is for illustrative purposes only and may not, because of its nature, give a true picture of the financial position of the New British Energy Group. This section includes summarised information only and reference should be made to Part V: Unaudited pro forma financial information to obtain further details. The pro forma information has been prepared to provide information about how the proposed listing of New Shares, Warrants and New Bonds, as well as the terms of the Restructuring, might have affected the consolidated income statement for the year ended 31 March 2004 and the net asset statement as at 31 March 2004.

**Unaudited pro forma consolidated income statement for the year ended 31 March 2004**

	Pre-exceptional	Exceptional	
	Items	Items	Total
	31 March	31 March	31 March
	2004	2004	2004
	£m	£m	£m
Group turnover excluding discontinued joint venture	1,516		1,516

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Operating costs before exceptional items	(1,503)		(1,503)
Operating profit before exceptional operating items	13		13
Exceptional operating items		270	270
Revalorisation charges	(5)		(5)
Net interest	(38)		(38)
Exceptional financing credits		5	5
Taxation on profit on ordinary activities			
(Loss)/profit attributable to shareholders	(30)	275	245



**Table of Contents****KEY INFORMATION (Continued)****Unaudited pro forma consolidated net asset statement as at 31 March 2004**

	<b>31 March 2004</b>
	<b>£m</b>
Tangible fixed assets	590
Investments	4
Goodwill	1,372
<b>Fixed assets</b>	<b>1,966</b>
<b>Current assets</b>	
NLF receivable and HMG indemnity	4,278
Other current assets	1,297
	5,575
Creditors falling due in less than 1 year	(605)
<b>Net current assets</b>	<b>4,970</b>
<b>Total assets less current liabilities</b>	<b>6,936</b>
Nuclear liabilities falling due in greater than 1 year	(2,268)
Bonds and loans	(676)
Creditors due to NLF	(212)
Provision for the NLF Cash Sweep Payment	(287)
Provisions	(1,865)
<b>Net assets</b>	<b>1,628</b>

The unaudited pro forma financial information set out above is based on the consolidated profit and loss account for the year ended 31 March 2004 and the balance sheet at that date of the British Energy Group, aggregated with the financial position of New British Energy Group. It is intended to provide illustrative information on how the Restructuring and the proposed listing of New Shares, Warrants and New Bonds might have affected the financial position of the New British Energy Group as at that date.

The accounting for the Restructuring of the New British Energy Group is expected to follow the principles of acquisition accounting, owing to the significant change in ownership of the Group. It should be noted that the unaudited pro forma financial information does not include any fair value adjustments that may be required to reflect the acquisition accounting applied upon completion of the Restructuring. These may have a significant impact on the results and financial position of the New British Energy Group once the Restructuring becomes Effective, but the magnitude of those adjustments will only be determinable at or after the Restructuring Effective Date.

The Company will include a table detailing the assets and liabilities acquired pursuant to the Restructuring, as well as the fair value adjustments made, in the next set of annual accounts to be published following the Restructuring Effective Date. The narrative attached to the table will set out the basis for the fair value adjustments and will also explain the reason for any significant differences from the values or approach included in the proforma consolidated net asset statement set out in Part V: Unaudited pro forma financial information. Should a material adjustment to the value of our assets arise as a result of a fair value adjustment exercise undertaken prior to our next set of annual accounts, we would announce the results of such an exercise in accordance with our continuing obligations as a listed company.

Goodwill recorded in the balance sheet will be dependent upon these fair values and therefore may be different from the goodwill set out in the unaudited pro forma financial information above. Goodwill will also be subject to an immediate review for impairment and may be required to be written down. The pro forma financial information does not reflect any potential write down of any goodwill. The unaudited pro forma financial information does not include the results and cash flows for the period from 1 April 2004 to the Restructuring Effective Date.

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**KEY INFORMATION (Continued)**

The main adjustments made in preparing the unaudited pro forma financial information are summarised as follows:

- removal of the results of discontinued businesses;
- recognition of the impact of the New Spent Fuel Agreements with BNFL which are conditional on the Restructuring becoming Effective;
- recognition of the new capital structure, including New Bonds and Eggborough loan, together with the impact on interest expense;
- recognition in the net asset statement and impact on the income statement of the Secretary of State undertaking which will be provided to fund back-end fuel services for spent AGR fuel loaded prior to the Effective Date and any future shortfall in NLF funding of qualifying uncontracted nuclear liabilities (including PWR back-end fuel services) and qualifying decommissioning costs;
- recording of £275m of New Bonds issued to the NLF;
- recognition of commitments to fund the NLF through the NLF Cash Sweep Payment and an annual £20m contribution (in March 2003 monetary values and indexed to RPI) and tapering off as AGR nuclear power stations are currently scheduled to close. The provision for the NLF Cash Sweep Payment includes amounts to reflect the Company's commitment to pay to the NLF 65 per cent. of cash balances and 65 per cent. of the net financial working capital balances once they have converted to cash;
- updating the carrying value of fixed assets to reflect the impact of the Restructuring on the discounted future cash flows of the business; and
- recognition of goodwill (the value of which has been determined based on recent prices of the Company's bonds which will, upon completion of the Restructuring, be converted into a significant proportion of the Group's equity). The unaudited pro forma financial information does not reflect the impact of the fair value exercise on the carrying value of net assets which will be performed on Restructuring or any potential write down of goodwill or subsequent amortisation.

**Relationship with Government**

The Secretary of State's statement to Parliament on 28 November 2002 set out the limits of the support which the Government was prepared to provide to the Restructuring in order to support its overriding objectives of securing the safety of British Energy's nuclear power stations and the security of electricity supply to the Grid and customers. For further details of the Government support to be provided, see the summaries of the NLFA, the HLFA and the Contribution Agreement set out in Part X: Additional information, paragraphs 17.2 (c), (d) and (e).

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As a result of these objectives, the Government, both directly and through the NLF, has availed itself of a number of rights granted to it under the Government Restructuring Agreement (pursuant to the immediately operative provisions of the Nuclear Liabilities Agreements) to protect its significant financial interest in the Group. However, the Restructuring has been implemented on the basis that the Board will manage the business of the Group going forward, albeit within these constraints.

During the period prior to the signing of the Creditor Restructuring Agreement, we kept and since then, have continued to keep the Secretary of State closely informed of, amongst other things, our financial and trading prospects. We also provide the Secretary of State with reports and other information as required under the Government Restructuring Agreement and the Creditor Restructuring Agreement. Post-Restructuring, New British Energy will be required to supply information to the Secretary of State and the NLF (see Part VI: Further information relating to the Restructuring, paragraph headed: Nuclear liability arrangements). We are also

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**KEY INFORMATION (Continued)**

required under the terms of the Nuclear Liabilities Agreements, amongst other things, to provide the Secretary of State with all the information she would reasonably need to monitor the financial health of the Group (including monthly cashflow information covering the period 18 months ahead) and to only adopt trading policies which are prudent in light of the Group's on-going financial resources and obligations and to comply with such trading policies. As a result of these requirements, the Company has agreed to provide the Secretary of State and Shareholder Executive with, amongst other things, periodic reports on its business performance and strategic and business plans and for there to be regular meetings and communication between the Secretary of State and senior executives and the Board on a range of topics. Over time, the frequency and content of the reporting may be reviewed.

***ONS classification and the NAO conclusion***

On 24 September 2004, the Office of National Statistics (ONS) announced that, for the purposes of production of the United Kingdom National Accounts (National Accounts), British Energy had been classified as in the public sector. As explained in the announcement, the National Accounts are produced to describe activities in a national economy, including transactions taking place between sectors of that economy. The ONS is responsible for the National Accounts which are compiled in accordance with international standards. In assessing the status of British Energy as a public sector body, the ONS stated that it took into account the powers conferred on the Government under the terms of the Government Facility and to be conferred on the Government as a result of the Restructuring.

The National Audit Office (NAO) has independently concluded, on the basis of the circumstances extant as at 21 September 2004, that British Energy should be accounted for post- Restructuring as a quasi-subsiidiary of the DTI.

This classification of British Energy as a public sector body is relevant for the purposes of compiling the National Accounts but does not prevent the implementation of the Restructuring. Similarly, the NAO's opinion that the DTI should account for British Energy as a quasi-subsiidiary does not impact on the implementation of the Restructuring. The Company is a public limited company owned by its shareholders and managed independently by its Board who will be subject to the normal private sector disciplines, fiduciary duties and Companies Act requirements. The Company is an independent entity and has control over a majority of its assets.

In the light of the level and type of interaction we will have with the Government post-Restructuring, the Company will need to conclude whether, for the purposes of FRS8, the Government constitutes a related party and if so, what level of disclosure will be required with regard to transactions with the Government, including transactions of a routine nature with parties such as the Inland Revenue, Customs and Excise and local authorities, amongst others.

The NAO's conclusion does not change the position that the Group has adopted in relation to the application to it of the Utilities Public Procurement Rules.

**Dividend and financial policy**

The Board intends to distribute to Shareholders as much of the Company's available cash flow as prudently possible, but not until operational requirements of the business permit. In addition, under the terms of the Restructuring, there are certain restrictions on, or factors affecting, the Board's ability to pay dividends including:

- we are required to fund cash reserves out of our net cash flow in order to support the New British Energy Group's collateral and liquidity requirements post-Restructuring (the Cash Reserves). The initial target amount for the Cash Reserves is £490m plus the amount by which cash employed as collateral exceeds £200m (the Target Amount). Prior to paying any dividends, our cash must equal or exceed the Target Amount and certain

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**KEY INFORMATION (Continued)**

other amounts specified in the Contribution Agreement, a summary of which is set out in Part X: Additional information, paragraph 17.2 (e);

- the terms of the Contribution Agreement also require that once the Cash Reserves are funded to the Target Amount, we must make the NLF Cash Sweep Payment. Initially this is 65 per cent. (the Payment Percentage) of the New British Energy Group's adjusted net cash flow (calculated on the basis set out in the summary of the Contribution Agreement). The Payment Percentage may be adjusted for certain corporate actions but may never exceed 65 per cent. The requirement to make the NLF Cash Sweep Payment will greatly reduce the amount of cash that would otherwise be available for distribution to Shareholders. In addition, we may not pay any dividends without making an additional payment to the NLF if the result of paying such dividends would be that the aggregate amount of dividends paid to Shareholders in the period following the Restructuring would exceed the aggregate of our annual adjusted net cash flow in such period less the aggregate NLF Cash Sweep Payments payable in such period;
- the terms of the New Bonds contain certain covenants (which are described in detail in Part VII: Terms and conditions of the New Bonds), including a restriction that allows us to pay a dividend only if the Target Amount is met and no event of default has occurred; and
- we must have distributable reserves.

As a result of these restrictions and after making a prudent allowance for collateral requirements, the Directors consider that the earliest period for which a dividend may be declared is the financial year ending 31 March 2007.

Subject to these restrictions, the Board intends to distribute to shareholders as much of the Company's available cash flow as prudently possible. Any such decision to make such a distribution will be made in the circumstances of the time. In relation to any financial year in respect of which the Company might otherwise be permitted to pay a dividend, the Directors might, for example, consider during the course of that year (or subsequent to it) whether it would be prudent to redeem or repurchase New Bonds (which in turn would require an Accelerated Decommissioning Payment to be made to the NLF), make additional contributions to the Group's pension schemes, allocate cash to the Forecast Expenditure Reserve in accordance with the Contribution Agreement (for instance, to meet certain qualifying expenditure on PIP which is due in the following financial period, to acquire or fund a specific fixed asset or undertaking (expected to be from cash and not from borrowings)) or retain Cash Reserves in excess of the Target Amount.

Movements in the operational cash flow of the Group (prior to debt service and the adjustments referred to above) from one financial year to another are likely to be volatile, for example because of movements in the wholesale price of electricity and variability in our output.

Taking account of the constraints set out above, consideration of prudence and the likely volatility of operating cash flows, the Directors believe that any dividends paid by the Company may vary in size and frequency.

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Under the terms of the Contribution Agreement, the Company may reduce the Target Amount if the New Bonds are rated investment grade by Moody's, Standard & Poor's or Fitch. The Directors believe that even with the achievement of a low investment grade rating, the financial position of the Group would not likely allow any reduction of the Target Amount to enable any release of Cash Reserves.

Under the terms of the New Bonds, certain covenants, including in relation to dividends and debt incurrence, will be suspended if Moody's and one other rating agency rate the New Bonds as investment grade. However, in view of the feedback received from the ratings agencies which resulted in the announcement on 23 September 2004 of indicative non-investment grade ratings the Directors consider that it will be difficult to meet this condition.



**Table of Contents****KEY INFORMATION (Continued)****Management and share incentive plans**

The executive members of the Board have changed significantly since the announcement of the Restructuring with the departure of David Gilchrist in August 2004, Keith Lough in December 2003 and Dr Robin Jeffrey in February 2003 and through the appointments of Mike Alexander in March 2003 and more recently Roy Anderson as Chief Nuclear Officer and Stephen Billingham as Finance Director. Roy Anderson brings relevant experience having worked previously for a number of years in the industry. Stephen Billingham has a track record with major international companies and experience in corporate recovery. Neil O Hara also joins the Executive Committee after his appointment as Trading Director in May 2004.

Our non-executive Board membership has been strengthened by recent appointments. The appointments of William Coley, Pascal Colombani and Sir Robert Walmsley have greatly enhanced the Board's nuclear expertise. The appointment of John Delucca in February 2004 has brought significant experience of financial restructurings to the Board. Most recently, the appointment of David Pryde has brought in depth knowledge of trading and risk management.

The Company has adopted a number of employee share incentive plans (which are described in detail in Part X: Additional information, paragraph 8) including an Interim Deferred Bonus Plan (Interim Bonus Plan) and a Long Term Deferred Bonus Plan (the LT Plan) for senior executives of the Company and its subsidiaries. Under the Interim Bonus Plan, the Remuneration Committee may grant a deferred bonus to senior executives of the Company and its subsidiaries to reward performance over the financial year ending 31 March 2005. The performance targets for this year have yet to be determined by the Remuneration Committee. The Interim Bonus Plan is intended to reward performance for that financial year only, and rewards for performance in subsequent financial years will be provided through the LT Plan. The Interim Bonus Plan is described in detail in Part X: Additional information, paragraph 8.2. The LT Plan provides for the establishment of targets by the Remuneration Committee in relation to safety and environment, EBITDA (Pre-Capex) (as defined in the LT Plan), nuclear output, non-outage backlog, trading measure, free cash flow and equity market capitalisation for each financial year. For executive Directors and other members of the executive team, the targets consist entirely of these targets. EBITDA (Pre-Capex) (as defined in the LT Plan) and nuclear output targets have already been set for the financial years ending 31 March 2006 and 31 March 2007 and these are set out in Part X: Additional information, paragraph 8.3.

Under his letter of appointment (see paragraph 7.3.1 of Part X: Additional information), Adrian Montague is entitled to a fee of £100,000 contingent upon Restructuring becoming Effective and binding on all interested parties, payable on Admission. It is intended that following Admission, Mr Montague's letter of appointment will be amended to provide for 30 per cent. of his post-Admission base fee of £150,000 to be settled in shares under arrangements which remain to be agreed in detail.

With effect from 1 September 2004, British Energy modified its fee structure for all non-executive Directors except Adrian Montague. In addition to the fees set out in Part X: Additional information, paragraph 7.3, non-executive Directors are entitled to receive the following:

Membership of board committee	£1,500 per committee
Travel to/from US	£1,000 per occasion
Travel to/from Continental Europe	£500 per occasion

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Attendance at Board meeting or committee meeting	£500 per occasion
Telephone attendance at Board meeting or committee meeting	£250 per occasion

The Deputy Chairman of the audit committee (currently John Delucca) is also entitled to receive additional fees of £10,000 per annum. Each non-executive Director will also receive £13,000 per annum payable in New Shares, such shares to be allocated quarterly in arrears. Current non-executive Directors will each receive a single payment of £10,000 payable in New Shares as soon as possible after Admission. Any new non-executive Directors joining the Board after this time will also receive a similar payment.

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**KEY INFORMATION (Continued)**

**Current trading and prospects**

*Trading at the time of the announcement of the Restructuring*

At the time of the announcement of the outline terms of our Restructuring on 28 November 2002, the wholesale market price for electricity had been around £17.0 per MWh for delivery in 2003/2004 whilst average unit operating costs (including those in relation to the Eggborough power station) for the six months ended 30 September 2002 were approximately £19.9 per MWh. In short, as a result of our high fixed cost base (particularly the costs associated with our fuel) on a per MWh basis, our costs of producing electricity were exceeding our achieved selling price. We entered into the agreements with Creditors, BNFL and the Secretary of State in October 2003 in order to avoid administration in circumstances where no other viable option was available to the Group. The agreements provide the best that we could negotiate for shareholders at the time. We believe the only alternative would have been for us to take appropriate insolvency proceedings under which any distribution to shareholders would have been highly unlikely.

At the time of the announcement of the formal terms of the Restructuring on 1 October 2003, we had contracted to sell our electricity for the remainder of that financial year at what we estimated at that time would be an average price of £17.1 per MWh. At that time, we had entered into fixed price contracts for summer 2004 and winter 2004/2005 in relation to approximately 50 per cent. of our output for 2004/2005 at an average price of £18.3 per MWh and altogether had contracts to sell approximately 90 per cent. of our output for that period. Taken together with the partial hedge provided by the New BNFL Contracts (assuming the market price could fall below £21.0 per MWh), this meant we would only be 8 per cent. exposed to fluctuations in the wholesale electricity price. The prevailing market price at the time had been £21.6 per MWh for 2004/2005.

The wholesale market price for electricity has increased significantly compared to the price at the time that the Restructuring was announced. This increase in the wholesale price for electricity, together with key elements of the Restructuring, details of which are set out in summary in the bullet points on the second half of page 9 and on page 10 (and which are dealt with more fully in Part VI: Further information relating to the Restructuring) mean that the outlook for the Group has improved since the announcement made on 28 November 2002, although this has been offset by declines in output.

*Current, financial and trading prospects*

Nuclear output was 15.0 TWh (a 72 per cent. load factor) for the three month period ended 30 June 2004, 28.7 TWh (a 68 per cent. load factor) for the six month period ended 30 September 2004 and 33.1 TWh (a 67 per cent. load factor) for the seven month period ended 31 October 2004. The UK nuclear output for the equivalent periods in 2003 was 17.0 TWh (a 82 per cent. load factor), 33.3 TWh (a 79 per cent. load factor) and 37.9 TWh (a 77 per cent. load factor). The reduction on the previous year, and in the second quarter of this year compared to the first quarter, has been primarily due to unplanned outages.

During the three-month period ended 30 June 2004 and six-month period ended 30 September 2004, investment expenditure on plant projects, major repairs and strategic spares across the whole Group, including incremental costs associated with PIP, totalled £32m and £64m respectively of which we estimate that £17m and £32m respectively may have been capitalised, with the main projects in the period including replacement of cast iron pipework, fuel route improvements and the implementation of the work

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management programme. As a result of the FRS 11 impairment review in the financial year ended 31 March 2003, all expenditure of a capital nature has been expensed and will continue to be expensed until such time as it is possible to demonstrate that it results in an enhancement to the carrying value of fixed assets.

As previously indicated, the Company had already contracted to sell much of its planned nuclear output for the current year during the previous financial year and has had to buy back

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**KEY INFORMATION (Continued)**

power. Therefore it has not seen the full benefit of the recent rises in electricity prices. These factors, as well as increased pension costs and an increased depreciation charge related to the impairment reversal made in March 2004 have had a significant adverse impact on our profitability and cash flow. In view of the recent unplanned outages and the delayed return to service of Hartlepool and Heysham 1, the Directors consider that the outlook for the Company's financial and trading prospects for the remainder of the financial year will be challenging.

The principal factors affecting the financial and trading prospects of the Group for the current financial year are: nuclear output, nuclear unit cash costs, sales, PIP and cash and liquidity:

***Nuclear output***

Following the unplanned outage at Heysham 1, as a result of cast iron pipework failure, we reviewed the implications for further cast iron pipework replacement at our other nuclear power stations and, accordingly, on 19 March 2004 we announced that our indicative target for nuclear output for 2004/2005 was reduced from 67.0 TWh to 64.5 TWh. We have suffered a number of unplanned outages since that date and following the evaluation of structural inspections carried out during a statutory outage at our Hartlepool power station, we decided that further work was required to demonstrate the integrity of certain boilers. This work entailed intrusive visual inspections of a number of boiler closure units. This also involved certain inspections being undertaken at Heysham 1. In addition, we are making modifications to our safety cases for Hartlepool and Heysham 1 to address flooding and fire threats and also to address graphite core brick cracking.

On 30 July 2004, we announced that we had revised our target nuclear output for 2004/2005 from 64.5 TWh to around 61.5 TWh. However, following discussions with the NII concerning our programme of works at Hartlepool and Heysham 1, we currently expect that Hartlepool and Heysham 1 will not return to service until later this calendar year and consequently (as we announced on 18 November 2004) we expect nuclear output of 59.5 TWh in the financial year ending 31 March 2005. Based on the Company's business plans, we further expect the average annual nuclear output over the next three financial years (including this financial year) to be approximately 61.8 TWh.

Subject always to our continuing obligations as a listed company, we propose to publish information regarding our output on a quarterly basis at the same time as we publish the results for that quarter (rather than on a monthly basis) and we do not propose to make further forward-looking statements regarding our proposed annual output during a financial year.

***Nuclear unit cash costs***

Average unit costs for our nuclear power stations include maintenance, expenditure on nuclear plant and equipment and corporate overheads but exclude the impact of the NLF Cash Sweep Payment and working capital movements. In determining projected average nuclear unit cash costs, we make a number of assumptions relating to, amongst other things, output, fuel, operating costs (including staff and pension contributions), operational maintenance expenditure and capital expenditure, electricity prices and inflation. The resulting projections may change over time as a result of changes to one or more of these variables. Payments due to

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BNFL for fuel and ancillary services under the revised arrangements vary with electricity prices (as determined by the electricity reference price in the new arrangements) and movements in electricity prices may result in changes to our average nuclear unit cash costs.

In October 2003, we announced our projected three year average nuclear unit cash costs per MWh for our nuclear power stations. These were costs based on an assumed level of output of 67.0 TWh per annum, levels of capital expenditure in the range of £85m to £90m and electricity prices ranging from £14.0 per MWh to £22.0 per MWh.

In June 2004, we announced an increase in our estimate for average nuclear unit cash costs to take account of increased investment in plant projects, major repairs and strategic spares across

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**Table of Contents****KEY INFORMATION (Continued)**

the whole Group (which includes incremental PIP expenditure). Based on the financial resources we expect to have available to us, for the financial year ending 31 March 2005, this investment will be in the range of £140m to £170m including incremental PIP expenditure of approximately £20m. If our financial resources are otherwise required due to unforeseen outages or changes to electricity prices and collateral requirements, we may be required to adjust our investment plans accordingly. In addition electricity prices have risen substantially since October 2003 and as a result we are now making additional payments to BNFL as provided for under the new arrangements for back-end fuel services. This will continue for so long as electricity prices remain above £16.0 per MWh (in 2002/2003 monetary values and indexed to RPI). Taking both factors into account, average nuclear unit cash costs were estimated in June 2004 to be £18.1 per MWh at then current electricity prices and assuming average annual output of 67.0 TWh.

The Directors have conducted a review of the projections for the three year period ending 31 March 2007 and annual average nuclear output for the period is now expected to be on average around 61.8 TWh per annum. On this basis, our average nuclear unit cash costs are projected to be £19.1 per MWh at current price levels. The Directors expect that these average unit costs will remain unchanged whilst wholesale baseload electricity prices remain at or above £22.7 per MWh at 2003/2004 price levels (or £21.0 per MWh, at 2002/2003 price levels, indexed to RPI), and assuming we achieve our average annual nuclear output figure. However should wholesale baseload electricity prices fall below this figure, our fuel costs will decrease in accordance with the provisions of our revised arrangements with BNFL.

Since the October 2003 announcement, nuclear unit cash costs have increased due to the higher level of projected investment and the costs of PIP, the increase in electricity prices and the reduction in projected output and inflation. The original nuclear unit cash cost of £14.5 per MWh was quoted at a reference electricity price of £16.0 per MWh (at 2002/2003 price levels) and an annual output level of 67.0 TWh. Rebased to current electricity prices, the nuclear unit cash costs would have been £16.4 per MWh compared with the current projection of £19.1 per MWh. Of this £2.7 increase, £1.1 is due to PIP, £0.2 is due to other cost increases, £0.4 is due to inflation and £1.0 is due to the output reduction.

**Sales**

As of 22 November 2004, contracts were in place covering virtually all of the planned output for the financial year ending 31 March 2005, of which nearly all are at fixed prices. The average price for these fixed price contracts is £21.0 per MWh. For 2005/2006, contracts are in place for approximately two-thirds of planned generation, with approximately half of these being at fixed prices at an average price of approximately £25 per MWh. The market price for forward baseload contracts has continued to rise and the wholesale price for annual contracts with delivery in 2005/2006 has risen from around £24.5 per MWh at the end of March 2004 to over £30.0 per MWh by 22 November 2004, an increase of some 20 per cent. Whilst there is no guarantee that these prices will continue to prevail they are comfortably above our estimates of average unit costs.

**PIP**

As a result of PIP's wide ranging nature and the time and costs involved in implementing it, we do not expect to see the benefits of the hoped for improvement in operational reliability in the current or next financial year. The degree of improvement in operational reliability and the quantification of its impact on our financial results will depend on how the implementation of PIP progresses in the next 12 months but the Directors believe, on the basis of other improvement programmes implemented elsewhere in the world, that

enhancements in output reliability should be capable of being achieved.

However, AGR power stations are unique to the UK and were built in the 1970s and 1980s by different design consortia to different design specifications. Accordingly, there can be no assurance that the improvement in reliability achieved in other nuclear power station improvement programmes, upon which PIP is based and which have been undertaken on newer



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**KEY INFORMATION (Continued)**

fleets of nuclear power stations based on non-AGR technology, will be capable of being achieved in respect of our AGR power stations.

***Cash and liquidity***

On 30 June 2004, net debt was £382m with gross debt standing at £883m. We had cash and liquid resources of £501m of which £321m was deposited as collateral in support of our trading activities. At 31 October 2004, the amounts were £450m and £332m respectively. We also entered into a Receivables Facility Agreement on 25 August 2004 to provide additional liquidity. We have agreed to defer amounts due to certain suppliers in order to better match the profile of monthly expenditure with the receipt of income from the sale of electricity.

In an attempt to align our nuclear fuel costs with receipts from sales of electricity in a year more closely, we have deferred an agreed sum of £20m in this financial year under certain of our contractual arrangements with BNFL which we intend to pay in respect of July invoiced payments, on 1 February 2005 and in respect of August and September invoiced payments, on 1 March 2005.

In addition, we have agreed a further side letter with BNFL dated 10 November 2004 under which it has been agreed that certain other payments under our existing fuel arrangements may be deferred. These payments were due in August, September and October 2004 and aggregate approximately £35m. We have agreed to pay approximately £10m of this amount on or before 31 December 2004, and the balance in two tranches in amounts to be agreed on or before 31 January 2005 and 28 February 2005, respectively. The contractual late payment interest at the rate of LIBOR plus 2 per cent. has started to accrue in relation to the amounts outstanding. BNFL has agreed that these late payments will not constitute non-compliance with our payment obligations for the purpose of our June 2004 deferral arrangements described above, provided the additional deferred amounts are paid in accordance with the proposal set out above.

**Working capital statement**

In the opinion of the Company and Holdings plc, having regard to the facilities available to the New British Energy Group, each has sufficient working capital to meet its present requirements, that is, for at least the next 12 months following the date of this document.

**Admission and dealings of New Shares, New Bonds and Warrants and delisting of British Energy Shares**

Application has been made to the UK Listing Authority for the New Shares, Warrants and New Bonds to be admitted to the Official List and to the London Stock Exchange for the New Shares, Warrants and New Bonds to be admitted to trading. It is expected that

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Admission of the New Shares, Warrants and New Bonds to the Official List will become effective and that dealings in the New Shares, Warrants and New Bonds will commence on the dealing day following the Restructuring Effective Date.

On 23 September 2004, British Energy sent its shareholders a letter in accordance with the Listing Rules, notifying shareholders of its intention to apply to the UKLA to cancel the listings of the British Energy Shares. Following an application by British Energy for the UKLA to cancel the listings of the British Energy Shares from the Official List, the UKLA cancelled the listings with effect from 8.00 a.m. on 21 October 2004 and the last day for dealings in British Energy Shares on the main market of the London Stock Exchange was 20 October 2004. Although the British Energy Shares are no longer listed on the Official List, the London listings of the Existing Bonds have not been cancelled and British Energy, therefore, remains subject to the continuing obligations applying to issuers of specialist debt securities under the Listing Rules. British Energy is exempt from the other continuing obligation provisions of the Listing Rules which apply to issuers of equity securities but intends to comply with these obligations as if the listings of the British Energy Shares had not been cancelled. It will not, however, regard itself as

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being subject to the requirements of the Listing Rules to seek shareholder approval for significant transactions such as the Disposal or related party transactions. Application will be made for the listing of the Existing Bonds to be cancelled and the last day for dealings in the Existing Bonds will be the Restructuring Effective Date.

On 28 September 2004, the New York Stock Exchange (NYSE) suspended trading in the British Energy American Depositary Receipts (British Energy ADRs) and commenced proceedings to permanently delist British Energy ADRs from the NYSE. The NYSE announced it had taken this action in response to British Energy's announcement on 23 September 2004 of its intention to delist the Ordinary Shares and A Shares from the London Stock Exchange. British Energy has appealed the NYSE's decision to delist the British Energy ADRs. However, there can be no assurance that its appeal will be successful or that British Energy or the Company will meet the relevant listing criteria on the NYSE for the New British Energy American Depositary Receipts (New ADRs).

If the Members' Scheme becomes Effective and British Energy or the Company satisfies the relevant listing criteria for the NYSE, the New ADRs will be listed for trading on the NYSE on Admission. If the Members' Scheme does not become Effective but the Disposal is approved or if the Members' Scheme becomes Effective and neither British Energy nor the Company are able to satisfy the relevant listing criteria for the NYSE on or prior to Admission holders of British Energy ADRs who are eligible will receive the New Shares and/or Warrants, as the case may be, to which they are entitled, but no New ADRs will be issued on Admission. In that event, we have agreed to take all reasonable steps to apply to list our New ADRs on the NYSE at such time following Admission as we are able to satisfy the NYSE listing criteria. In such circumstances, however, we will be required to satisfy the NYSE's listing criteria for new securities, including minimum public float and minimum shareholder eligibility requirements that we may not be able to satisfy immediately after Admission. For additional information, see Part IX: Description of American Depositary Receipts.

**Share capital and indebtedness**

***The authorised, issued and fully paid share capital of New British Energy and Holdings plc as at the date of publication of this document is as follows:***

	Authorised		Issued	
	Amount(£)	Number	Amount(£)	Number
<b>New British Energy</b>				
ordinary shares of 10p each	0.20	2	0.20	2
non-voting ordinary shares of £1 each	50,000	50,000	50,000	50,000
<b>Total</b>	<b>50,000.20</b>		<b>50,000.20</b>	
		Authorised		Issued

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	<u>Amount(£)</u>	<u>Number</u>	<u>Amount(£)</u>	<u>Number</u>
<b>Holdings plc</b>				
ordinary shares of £1 each	1	1	1	1
non-voting ordinary shares of £1 each	50,000	50,000	50,000	50,000
	<u>          </u>		<u>          </u>	
<b>Total</b>	50,001		50,001	
	<u>          </u>		<u>          </u>	

New British Energy and Holdings plc have no indebtedness as at the date of this document. The terms of the Restructuring will result in a significant amount of the existing indebtedness of the British Energy Group being renegotiated, and will not be indebtedness of New British Energy or Holdings plc on Admission.

**Table of Contents****KEY INFORMATION (Continued)**

*The authorised, issued and fully paid share capital of New British Energy and Holdings plc as at the date of Admission will be as follows:*

	Authorised		Issued	
	Amount(£)	Number	Amount(£)	Number
<b>New British Energy</b>				
ordinary shares of 10p each	280,000,000	2,800,000,000	56,101,655.30	561,016,553
non-voting ordinary shares of £1 each <sup>1</sup>	50,000	50,000	50,000	50,000
convertible ordinary shares of 10p each <sup>2</sup>	200,000,000	2,000,000,000	Nil	Nil
special rights redeemable preference shares of £1 each	1	1	1	1
<b>Total</b>	<b>480,050,001</b>		<b>56,151,656.30</b>	

<sup>1</sup> These shares will not be listed and will be repurchased and cancelled following Admission. See Part X: Additional information, paragraphs 2.1.3 and 2.6.2 for further details.

<sup>2</sup> These shares will not be listed.

New British Energy will have 2,238,983,447 authorised but unissued ordinary shares of 10p each at Admission, of which 2,000,000,000 will be reserved for issue following conversion of the Convertible Shares in accordance with the rights attaching to the Convertible Shares (as described in Part X: Additional information, paragraph 4), and 29,527,187 will be reserved for issue pursuant to the Warrants (if the British Energy Shareholders approve the Members' Scheme or the Ordinary Shareholders approve the Disposal) as described in Part VIII: Conditions of the Warrants. Of the remaining 209,456,260 authorised but unissued ordinary shares of 10p each which are not reserved in this way: (i) up to 187,000,000 (being approximately one third of the aggregate number of the ordinary shares of 10p each expected to be in issue as at Admission) will be authorised for issue other than for cash or in connection with a rights or other similar issue in favour of the holders of relevant securities; and (ii) up to 28,050,000 (being approximately five per cent. of the aggregate number of the ordinary shares of 10p each expected to be in issue as at Admission) will be authorised for issue generally for cash. The authorised but unissued share capital will also be available for issue pursuant to the employee incentive arrangements in accordance with the relevant limits set out in Part X: Additional information, paragraph 8.

	Authorised		Issued	
	Amount(£)	Number	Amount(£)	Number
<b>Holdings plc</b>				
ordinary shares of £1 each	20,000,000	20,000,000	10,000,000	10,000,000
non-voting ordinary shares of £1 each <sup>1</sup>	50,000	50,000	50,000	50,000
special rights redeemable preference shares of £1 each	1	1	1	1
non-voting deferred share of £1 each	1	1	0	0
<b>Total</b>	<b>20,050,002</b>		<b>10,050,001</b>	

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- <sup>1</sup> These shares will be repurchased and cancelled following Admission. See Part X: Additional information, paragraphs 2.1.3 and 2.6.2 for further details

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The following table of pro forma indebtedness of the New British Energy Group has been extracted from Part V: Unaudited pro forma financial information which has been prepared as if the Restructuring had been completed on 31 March 2004:

	<b>As of 31 March 2004</b>
	<b>Pro forma £m</b>
<b>Debt repayable within one year:</b>	
New Bonds	19
CTA Global Bond	5
Amounts due to the NLF	20
	<b>44</b>
<b>Debt repayable after more than one year:</b>	
Amounts due to the NLF	212
New Bonds	531
CTA Global Bond	145
	<b>888</b>
<b>Total indebtedness</b>	<b>932</b>

## Notes:

- (1) All debt will be guaranteed by all Material Subsidiaries of the New British Energy Group.
- (2) In relation to the CTA Global Bond, the payment terms of a term loan granted under the Amended Credit Agreement match those under the CTA Bonds. The liabilities under the Amended Credit Agreement are secured against, amongst other things, the shares and assets of EPL including the CTA Global Bond held by EPL.
- (3) These payments to the NLF are secured by the DDP Debenture under which the New British Energy Group has granted fixed and floating charges over substantially all of its assets and undertakings (subject to specific exclusions).
- (4) The analysis excludes the Receivables Facility which has been put in place subsequent to 31 March 2004. The British Energy Group is required to post collateral in the form of cash to meet its trading requirements. As at 31 October 2004, the British Energy Group had cash and cash equivalents amounting to £450m, of which £332m was posted as collateral to support its trading obligations.
- (5) New British Energy will also be required to make an annual payment of, initially, 65 per cent. of its adjusted net cash flow, measured at each financial year-end (the NLF Cash Sweep Payment). For further information in relation to the NLF Cash Sweep Payment, see Part X: Additional information, paragraph 17.2(e).

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- (6) The British Energy Group has a number of contingent liabilities, (as described in Note 17 of the unaudited quarterly financial statements in Section 2 of Part IV: Results for British Energy plc for the three months ended 30 June 2004), as follows:
- (i) On 12 February 2004 British Energy received a notice of warranty claims from the consortium which purchased the British Energy Group's 82.4 per cent. interest in Bruce Power alleging breach of certain warranties and representations relating to tax and to the condition of certain plant at the Bruce Power station.
  - (ii) The principal tax claim relates to the treatment of expenditure at the Bruce Power station during the period of British Energy's part ownership and is currently being considered by the Canadian tax authorities. The treatment proposed by British Energy could result in a rebate of a material amount of tax to the British Energy Group that has never been recognised in the financial statements. The consortium claims that allowance of the expenditure for that period would cause it to lose future deductions. British Energy has rejected the tax claim. British energy is confident that the amount of the tax claim should not, in any event, materially exceed the amount of the rebate, and that the tax claim should have no material cash flow impact on the British Energy Group.
  - (iii) The claim relating to the condition of the plant is based upon alleged erosion of certain parts of the steam generators, including the support plates, through which boiler tubes pass, which it is alleged resulted in an extended outage of one unit at the plant to carry out repair works and loss of revenues and costs of approximately C\$64.5m. The consortium also claims that the alleged erosion may reduce the operating life of the unit and/or result in further repairs involving further losses. British Energy has rejected the claim and expects to defend it if it is pursued further.
  - (iv) Under the agreement with the consortium C\$20m is retained in trust to meet any representation and warranty claims, and this may be retained pending agreement or determination of the claims.
  - (v) The British Energy Group has given certain indemnities and guarantees in respect of the disposal of its investment in AmerGen. As a result of an accounting adjustment made by Exelon to AmerGen's management accounts and closing accounts as at 21 December 2003, British Energy may be required to make a payment to Exelon of up to US\$13.7m. British Energy served a dispute notice on Exelon on 4 June 2004 to preserve its rights and the parties are endeavouring to resolve the matter amicably. The agreement with Exelon for the sale of AmerGen requires that, prior to instituting any litigation or other dispute resolution procedure, the companies will in good faith seek to resolve any dispute.



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**KEY INFORMATION (Continued)**

- (7) Save as disclosed above, there is no loan capital, borrowing, indebtedness, contingent liabilities or guarantees of the New British Energy Group. Save for the amounts due under the Amended Credit Agreement and the amounts due to the NLF, all other indebtedness is unsecured.
- (8) Save as disclosed above there has been no material change in the indebtedness or contingent liabilities or guarantees of the New British Energy Group that will impact on the New British Energy Group since 8 October 2004.
- (9) New British Energy has no indebtedness and as such, the consolidated indebtedness of Holdings plc is the same as the consolidated indebtedness of New British Energy.

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**INTRODUCTION****Overview**

Our principal activities are the generation, sale and trading of electricity. We are the UK's largest generator of electricity, producing over one fifth of the UK's electricity and employing approximately 5,100 staff in the UK. Our registered office is located in Scotland.

The Group owns and operates eight nuclear power stations in the UK, with a combined capacity of approximately 9,600 MW, and the Eggborough power station, a coal-fired power station in North Yorkshire, England, with a capacity of 1,960 MW. British Energy is the ultimate holding company of British Energy Generation Limited (BEG) which operates our six nuclear power stations in England, British Energy Generation (UK) Limited (BEG UK) which operates our two nuclear power stations in Scotland, Eggborough Power Limited (EPL) which operates the Eggborough power station and British Energy Power and Energy Trading Limited (BEPET) and British Energy Trading Services Limited (BETS) which are responsible for the sale of our electricity output. Our power stations were connected to the National Grid between 1976 and 1995. The present structure of the Group is set out in Part VI: Further information relating to the Restructuring, paragraph headed: Group structure. For a description of the electricity industry in the UK (except for Northern Ireland where we do not operate), see the paragraph below headed: The electricity industry.

For the year ended 31 March 2004, British Energy's group turnover (excluding turnover from discontinued operations) was £1,516m, resulting in an operating profit of £57m (before exceptional operating credits of £283m). Our operating profit from continuing activities (after exceptional operating credits) was £340m. Output from our eight nuclear power stations for the year ended 31 March 2004 was, in aggregate, 65.0 TWh, up from the prior year's output of 63.8 TWh but less than the targeted output of 67.0 TWh. Output from the Eggborough power station was 7.6 TWh for the year ended 31 March 2004 compared with 5.7 TWh for the prior year. For further information regarding our financial results for the year ended 31 March 2004, see Part III: Operating and financial review and prospects and Part IV: Financial information.

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Seven of our nuclear power stations, Dungeness B, Hartlepool, Heysham 1, Heysham 2, Hinkley Point B, Hunterston B and Torness, are each powered by two advanced gas-cooled reactors (AGRs). The eighth nuclear power station, Sizewell B, is powered by a single pressurised water reactor (PWR). For a description of the nuclear generation industry, see the paragraph below headed: The nuclear generation industry.

For a description of the legislative and regulatory environment affecting the operation of the Eggborough power station, see below the paragraph headed: Coal-fired generation.

We use various routes to market in the UK, including sales to the wholesale market, direct supply sales to industrial and commercial customers and sales via long term contracts. For a

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

description of our sales activities see below the paragraph headed: Electricity sales. For further information on our sales strategy see Part III: Operating and financial review and prospects.

Our business is subject to a high degree of regulation in a number of areas, including nuclear safety and security, electricity generation, trading and supply and environmental. For a description of our regulatory environment, see below the paragraph headed: Regulation.

**History**

We were originally state-owned and were privatised by the Government on 15 July 1996 through an international offering of shares in British Energy. At the time of privatisation, we were the holding company for Nuclear Electric Limited (now BEG) and Scottish Nuclear Limited (now BEG UK) which owned and operated the nuclear power stations which we continue to own and operate today. Following privatisation, we expanded the British Energy Group by acquiring, amongst other things, interests outside the UK.

In 1997, we formed AmerGen Energy Company, LLC (AmerGen), a joint venture with PECO Energy of Philadelphia, now part of Exelon Corporation, to pursue acquisition opportunities in the US nuclear generation market. AmerGen purchased three nuclear power stations in the US during 1999 and 2000 for US\$130m.

In March 2000, we purchased the Eggborough power station for £646m. In May 2001, our Canadian subsidiary Bruce Power Limited Partnership (Bruce Power), formed specifically for the purpose, completed a transaction to lease the Bruce nuclear power plant in Ontario, consisting of eight reactors, from 12 May 2001 to 31 December 2018 with an option to renew the lease for up to a further 25 years. Bruce Power made an initial payment of C\$537m (subject to closing adjustments) and a further C\$225m was payable on a deferred basis. In addition, annual lease payments comprising fixed and variable elements were payable.

In February 2001, we formed Offshore Wind Power Limited, a 50:50 joint venture with Renewable Energy Systems Ltd, to develop offshore wind power around the UK mainland coast.

Our subsidiary, British Energy Retail Markets Limited, purchased South Wales Electricity plc's electricity and gas supply business in February 2000 and subsequently sold it to Scottish and Southern Energy in August 2000. At the same time, BEPET entered into a ten year energy sales agreement with Scottish and Southern Energy.

**Reasons for the Restructuring and recent developments**

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Due to, amongst other factors, difficult conditions in the UK electricity market, on 5 September 2002 the British Energy board announced that it had initiated discussions with the Government with a view to seeking immediate financial support and to implement a longer term financial restructuring. On 1 October 2003, the British Energy board announced that we had agreed the terms of the proposed restructuring (Restructuring) of the British Energy Group with certain of our creditors and the Secretary of State.

The Restructuring will, in broad terms, be implemented through a debt for equity and debt swap involving the creation of two new holding companies, New British Energy and our wholly-owned subsidiary Holdings plc. We will issue ordinary shares (New Shares) and Holdings plc will issue new bonds (New Bonds) to the Creditors in exchange for the Creditors agreeing to extinguish all or, in the case of the Eggborough Banks, part of their claims against members of the British Energy Group. Under new arrangements with the Secretary of State, the existing Nuclear Generation Decommissioning Fund (the NDF) will be enlarged into and renamed the Nuclear Liabilities Fund Limited (the NLF) which will fund the New British Energy Group's qualifying uncontracted nuclear liabilities and qualifying decommissioning costs. In addition, the Secretary of State for Trade and Industry (the Secretary of State) has agreed to fund:

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

(i) qualifying uncontracted nuclear liabilities and qualifying decommissioning costs to the extent they exceed the assets of the NLF; and (ii) subject to certain exceptions certain contracted liabilities for historic spent fuel (namely, spent fuel arising from fuel loaded into our AGRs prior to the Effective Date (being the date immediately following the day on which the conditions to the effectiveness of the New BNFL Contracts are satisfied or waived)). To the extent that there is any surplus in the NLF, this amount will be paid to the Secretary of State.

The New British Energy Group will be responsible for funding certain excluded or disqualified liabilities and will, in certain circumstances, be required to compensate or indemnify the NLF and the Secretary of State in relation to such liabilities. These excluded and disqualified liabilities are described in greater detail in Part VI: Further information relating to the Restructuring, paragraph headed: Nuclear liability arrangements.

We also have (or in some cases will, on completion of the Restructuring, have) new contracts in place with British Nuclear Fuels plc (BNFL) which are designed to reduce the proportion of fuel costs which are fixed by providing for a discount when the wholesale market price of electricity is below a specified amount and a surcharge when above this amount. As electricity prices have risen substantially since October 2003, we are now making additional payments to BNFL under the new back-end arrangements in the form of the surcharge referred to in the Key information section, paragraph headed: New BNFL Contracts. This will continue for so long as electricity prices remain above £16.00 per MWh (in 2002/2003 monetary values and indexed to RPI).

Further details of these arrangements are set out in Part X: Additional information. For a summary of the Restructuring see Part VI: Further information relating to the Restructuring. Further information regarding the implications of the State Aid Approval on the liabilities of the Secretary of State under these agreements is set out in Part VI: Further information relating to the Restructuring under paragraph headed: State Aid.

Under the terms of the Restructuring, we agreed to dispose of our North American assets, namely Bruce Power and AmerGen, a 50:50 joint venture which operated three nuclear power stations in the United States. These disposals were completed on 14 February 2003 and 22 December 2003 respectively. Separately, we also disposed of our interest in Offshore Wind Power Limited which was completed on 23 December 2003.

On 22 September 2004, the European Commission (Commission) issued the State Aid Approval, subject to certain compensatory measures and conditions, further details of which can be found in Part VI: Further information relating to the Restructuring.

**THE ELECTRICITY INDUSTRY**

**The structure of the electricity industry in the UK**

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The electricity generated at power stations in the UK is delivered to consumers through integrated transmission and distribution systems. The electricity industry comprises the following segments:

- **Generation:** the production of electricity at power stations;
- **Transmission:** the bulk transfer of electricity across a system consisting of high voltage lines and electrical plant, also known as the Grid;
- **Distribution:** the transfer of electricity from the transmission system and its delivery across low voltage distribution systems to consumers;
- **Supply:** the arrangements covering the bulk purchase of electricity by suppliers and its sale to consumers. Competition was introduced into the supply market in April 1990 and since May 1999 all consumers have been able to select their electricity supplier. Any company holding an appropriate electricity supply licence can supply any customer nationwide by obtaining access to the transmission and/or distribution networks; and

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

- **Interconnectors:** the transmission systems in the UK are interconnected to allow the import and export of electricity between transmission systems. The England and Wales transmission system is connected to the Scottish transmission system via an interconnector jointly owned by the National Grid, Scottish Power and Scottish and Southern Energy, and to the French transmission system via an interconnector owned by the National Grid and Réseau de Transport d'Electricité. In addition, the Scottish transmission system is also connected to the Northern Ireland transmission system via an interconnector owned by Moyle Interconnector Ltd.

We compete in the generation market and in certain parts of the supply market and may in the future compete in auctions for the right to access existing interconnector capacity.

**Sources of generation in the UK**

Most of the electricity produced in the UK is generated by power stations which produce heat by burning fossil fuels such as coal, oil or natural gas. Nuclear power stations, by contrast, capture the heat released from splitting atoms. The heat is used to turn water into steam (in a boiler) which then turns a turbine which drives an electrical generator. Apart from nuclear and fossil fuel power generation, electricity can also be generated from renewable energy sources, such as water and wind, as well as from the incineration of household and industrial waste, biomass and burning gases emitted from landfill sites (together, Renewables). Key characteristics of the principal types of power stations in the UK are as follows:

- **Coal and oil fired power stations**

Until 1996, coal-fired power stations represented by far the largest proportion of electricity generation capacity in the UK. However, since this time the trend in generation has been the continuing growth of gas-fired generation and the displacement of coal and oil-fired generation. Coal and oil fired stations are generally capable of varying output as short term demand for electricity changes. Following the divestment by National Power (now RWE Innogy) and Powergen (now E.ON UK) of a number of coal-fired power stations for regulatory reasons, stations in England and Wales are now owned and operated by many different companies. In Scotland, all of the major coal-fired power stations are still owned by Scottish Power. In March 2000, we acquired the Eggborough power station from National Power.

- **Nuclear power stations**

Nuclear power stations were designed to operate for sustained periods of time at relatively constant output levels and are not well suited to varying output quickly. Their low variable (as opposed to fixed) costs also mean that they have a commercial incentive to generate as much electricity as possible and therefore continue to generate electricity during periods when market prices are low. We and Magnox Electric plc (Magnox) (a subsidiary of BNFL) are the only operators of generating nuclear power stations in the UK.

- **CCGT power stations**



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In a combined cycle gas turbine (CCGT) power station, the hot gases, created by natural gas combustion, are used first to drive the turbine generator and then used in a boiler to produce steam to drive a second turbine generator, producing additional power from the same fuel. CCGT stations are generally fuelled by gas alone, although some stations have the capability to burn gas-oil.

Since 1990, CCGT power stations have provided the majority of new generating capacity with nearly 10,000 MW of new capacity having been commissioned since 1996. In addition, there are open cycle gas turbine (OCGT) stations, whose hot exhaust gases, typically created by gas-oil combustion, are used to drive the turbine and then expelled into the atmosphere. OCGTs and CCGTs in the UK are generally capable of varying output.

**Table of Contents****PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

- **Hydro-electric (natural flow) power stations**

UK hydro-electric power stations, which account for the largest proportion of electricity from renewable sources, use water flows from reservoirs or rivers to turn turbines. These hydro-electric stations are mostly located in Scotland. Hydro-electric stations can vary output at short notice when water flows are sufficient.

- **Pumped storage power stations**

Pumped storage power stations are a type of hydro-electric station. During periods when electricity prices are relatively low they use electricity to pump water from a low reservoir to a higher holding reservoir. During periods when electricity prices are relatively high, the water is released through the turbines to produce electricity. Pumped storage power stations are net consumers of electricity but they are able to generate electricity at short notice to meet sudden increases in demand (when prices are high) or in the event of the sudden breakdown of another generating set or its disconnection from the Grid.

- **Renewables**

Apart from hydro-electric power, electricity is generated in Great Britain from other renewable energy sources including wind, incineration of household and industrial waste and burning gases emitted from landfill sites.

There have been a number of recent developments in the field of renewable energy schemes. For further details, see the paragraph below headed: Renewables obligation.

The figures in the table below show the capacity (in MW) of the major power producers in the UK by station type.

	31 December				
	1999	2000	2001	2002	2003
<b>Major power producers in England and Wales</b>					
Total declared net capability	58,485	60,585	61,850	59,333	60,299
Of which:					
Conventional steam stations:	28,713	28,128	28,128	25,634	26,211
Coal fired	21,954	21,240	21,240	18,971	19,068
Oil fired	2,649	2,753	2,753	2,528	2,750
Mixed or dual fired <sup>(1)</sup>	4,110	4,135	4,135	4,135	4,393
Combined cycle gas turbine stations	16,110	19,275	20,443	20,186	20,967
Nuclear stations	10,516	10,046	10,046	10,046	9,658
Gas turbines and oil engines	817	807	897	1,131	1,127
Hydro-electric stations:					
Natural flow	124	124	131	131	131
Pumped storage	2,088	2,088	2,088	2,088	2,088
Renewables other than hydro	117	117	117	117	117
<b>Major power producers in Scotland</b>					

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Total declared net capability	9,776	9,677	9,601	9,465	9,531
Of which:					
Conventional steam and combined cycle gas turbine stations	5,169	5,070	5,070	5,069	5,070
Nuclear stations	2,440	2,440	2,440	2,440	2,440
Gas turbines and oil engines	264	264	174	83	150
Hydro-electric stations:					
Natural flow	1,203	1,203	1,217	1,173	1,171
Pumped storage	700	700	700	700	700
<b>Major power producers in Northern Ireland<sup>(1)</sup></b>					
Total declared net capability	1,984	1,930	1,930	1,816	1,915
Total declared net capability in UK	70,245	72,192	73,381	70,614	71,745

(1) Includes gas fired stations that are not Combined Cycle Gas Turbines.

Source: DTI (dated 29 July 2004)

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

**Key differences between nuclear and fossil fuel generation in the UK**

A nuclear power station produces power at a level which cannot be easily adjusted to reflect changes in demand for power and as such is a baseload producer. By contrast, a fossil fuel power station can start and stop electricity production and can vary its output level more rapidly in response to changes in demand in a way which allows it to better react to pricing pressures in the market.

A nuclear power station consumes considerably smaller amounts of fuel by volume per unit of electricity generated than a coal-fired power station. For example, our AGR power stations use approximately 4 tonnes of uranium in fuel to produce 1.0 TWh of electricity compared to our PWR power station which uses approximately 3 tonnes of uranium in fuel and our coal-fired power station which uses approximately 400,000 tonnes of coal per TWh. The fuel supply costs of a nuclear power station are relatively inexpensive per unit of electricity produced compared with fossil fuels. Nuclear power also has the advantage of producing negligible emissions of carbon dioxide, sulphur dioxide and nitrogen oxides.

Whereas conventional power stations produce large volumes of exhaust gases which are discharged to the atmosphere, a nuclear power station has very little direct effect on the environment generally and as such is not significantly affected by environmental legislation seeking to limit emissions of carbon dioxide and other greenhouse gases. Nuclear power stations do, however, produce radioactive waste which requires careful handling, transport, storage and disposal arrangements. Nuclear fuel must also be handled, transported and stored safely. Nuclear power stations are also more complex and expensive to decommission than fossil fuel power stations. For more details on decommissioning, refer below to the paragraph headed: Nuclear decommissioning. These factors add to the costs of nuclear generation and create long term liabilities. Consequently, fuel supply represents a smaller proportion, and spent fuel and waste handling and station decommissioning a higher proportion, of the cost of the electricity produced from nuclear generation compared with fossil fuel generation.

**The electricity market**

***Structure***

The electricity market in the UK currently comprises three separate markets which can also supply to each other, namely: (i) England and Wales; (ii) Scotland; and (iii) Northern Ireland (where we do not operate). Each of these markets has a different commercial framework. Whilst in Scotland the market structure has remained substantially unchanged since privatisation of the electricity industry in 1991, in England and Wales the New Electricity Trading Arrangements (NETA) were introduced in March 2001 to replace the arrangements that had been in place since 1990.

The Government and the regulator, the Gas and Electricity Markets Authority (GEMA), are committed to a programme of reforms which will effectively extend NETA to cover the whole of Great Britain. This programme, known as the British Electricity Trading and Transmission Arrangements (BETTA), is currently scheduled for implementation in April 2005. BETTA will create a common set of trading rules so that electricity can be freely traded across Great Britain as well as a common set of rules for access to, and charging for, the transmission network. There will also be a single grid system operator in Great Britain which will be independent of

generation and supply interests.

***England and Wales***

A key feature of NETA is that electricity is traded at bilaterally negotiated prices rather than relying on a pool to match supply and demand and set a single market clearing price. The contracts by which these trades occur may be negotiated directly between the parties, arranged through third party brokers on standard terms or traded anonymously via electronic power exchanges.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

A balancing mechanism (which is given effect through the Balancing and Settlement Code (BSC)), operated by the transmission system operator, National Grid, adjusts for the imbalance of demand and supply in real time. The BSC rules also provide for the settlement, in half-hourly blocks, of differences (imbalances) between the contractual and physical positions of parties to the BSC, who may be generators, suppliers or traders of wholesale power. If a supplier requires more power to meet its contractual obligations, or if a generator has contracted to sell more power than it is able to produce, the contract is fulfilled by the shortfall being provided by the balancing mechanism.

Market participants are required to notify the energy contract volume aggregation agent (which is appointed by the Balancing and Settlement Code Company, a subsidiary of National Grid) of the volumes of electricity that they have contracted for each half-hour period and National Grid of their intended level of generation or consumption over that period. Participants may also, where appropriate, choose to submit bids and offers into the balancing mechanism to increase or reduce their production or consumption and National Grid can call upon these to balance the system. Under the rules of the BSC, a party's imbalance volume is the difference between its notified contract volume and its metered volume. If the two amounts do not match, the party is then producing (or consuming) electricity which has not been contracted for. Imbalance settlement (or cash out) is designed so that any such electricity is charged at a price that should reflect the costs incurred by National Grid in keeping the system balanced.

A cash out mechanism exists in which there are two energy imbalance prices, a System Buy Price (SBP) and a System Sell Price (SSP), both of which are generally disadvantageous compared with the prevailing market price. Parties that are short of electricity are charged SBP for their imbalance volumes and parties that have a surplus receive SSP. This serves to incentivise the parties to generate or contract to meet their customers' demands.

The costs of administering the system balancing mechanism are recovered from parties to the BSC in proportion to their physical volumes of electricity produced or consumed.

***Scotland***

In Scotland, the market structure has remained substantially unchanged since privatisation of the electricity industry in 1991. Currently, there is no wholesale electricity market in Scotland (although this is due to change with the introduction of BETTA as referred to above and as described in greater detail below in paragraph: Regulation) and therefore we currently sell all of our output from Hunterston B and Torness nuclear power stations to Scottish Power and Scottish and Southern Energy pursuant to the Nuclear Energy Agreement described in the section below headed: Arrangements in Scotland.

***Demand***

Demand for electricity in the UK is affected by a number of factors including: the time of day; weather; changes in economic activity; the relative energy requirements of individual sectors of the economy; improvements in the efficiency of electricity usage; and the price to consumers of electricity relative to other forms of energy.

Electricity consumption in the UK has generally risen over the last few decades. The annual rate of growth of UK electricity consumption has been broadly between 1.5 per cent. and 2 per cent. between 1996 and 2003. The transmission system operators in Great Britain forecast an increase in peak demand over the next few years, with the average demand growth over the period to 2009/2010 of approximately 1 per cent. per annum.

***Generation***

Competition in generation in England and Wales has developed significantly from the highly concentrated market that existed in 1990. The entry of new, independent power producers and

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

the divestment of stations by National Power (now RWE Innogy) and Powergen (now E.ON UK) have led to significant changes in the market shares of the major generating companies. We are currently the largest generator in the UK and our major competitors are E.ON UK, RWE Innogy, EDF Energy, Drax Power Limited, Scottish Power, Scottish and Southern Energy and BNFL. In addition, there are a large number of companies which own single power plants.

The increase in the number of gas-fired power stations, primarily at the expense of coal-fired power stations, has brought about a more balanced generation mix in England and Wales. In Scotland, the generation mix and ownership has remained largely unchanged, with Scottish Power and Scottish and Southern Energy, together with us, owning 98 per cent. of the generation capacity.

***Supply***

Competition was introduced into the supply market in April 1990 and since May 1999 all consumers have been able to select their electricity supplier regardless of their size or location. In 2002, following a review of the development of supply competition, GEMA removed all remaining price controls in the supply market in Great Britain. As at 31 March 2003, 38 per cent. of domestic customers in Great Britain were no longer serviced by their original supplier. In Great Britain, licensed transmission and distribution system operators are required to allow electricity suppliers access to their systems on a non-discriminatory basis.

There has been some consolidation of supply businesses in recent years. Excluding British Energy, there are currently only six major suppliers in Great Britain, namely E.ON UK, RWE Innogy, EDF Energy, Scottish Power, Scottish and Southern Energy and Centrica (British Gas). We operate in the industrial and commercial sector, while all the other major suppliers also compete in the domestic retail sector. Gaz de France has recently entered the supply market and competes in the industrial and commercial sector.

In Scotland, Scottish Power and Scottish and Southern Energy have the major share of the supply market. For example, as at December 2003, they supplied 63 per cent. and 82 per cent. respectively of domestic customers within their local Scottish supply areas. Other suppliers generally purchase electricity from Scottish Power or Scottish and Southern Energy to cover their requirements. The maximum price is set by GEMA based on a reference price from the England and Wales wholesale market.

**THE NUCLEAR GENERATION INDUSTRY**

**Introduction**

The process of producing electricity at a nuclear power station is broadly similar to the process used at a fossil fuel power station except in respect of the source of heat used to generate the steam which drives the turbines and electrical generators, thereby



producing electrical energy. In a nuclear power station, heat is created in the reactor core which is contained within a pressure vessel and a biological shield. In order to control the process of heat creation, control rods are inserted inside the reactor core. A coolant such as pressurised CO<sub>2</sub> or water passes through the reactor and transfers the heat to a boiler. Fuel rods have a limited life and therefore need to be periodically replaced. The refuelling of a reactor has an impact on its overall performance because this requires a reactor to be shut down or reduce its output in order to refuel.

### **Our nuclear power stations**

We own and operate two types of nuclear reactors namely, the AGR and the PWR. They differ in many respects including, amongst other things, in the design of the fuel used and of the reactor. Each of our seven AGR nuclear power stations, Dungeness B, Hartlepool, Heysham 1, Heysham

**Table of Contents****PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

2, Hinkley Point B, Hunterston B and Torness, are powered by two AGRs. Sizewell B is powered by a single PWR. Whereas the AGR design is unique to the UK, the PWR design is the most common reactor type in the world.

As well as being unique to the UK, our AGR power stations were constructed to varying specifications by different engineering consortia which we believe makes demonstrating safety cases for different reactors less straightforward. It can also mean that implementation of remedial action to make good a defect at one nuclear power station cannot be replicated with ease at other differently designed nuclear power stations. For further information on safety cases see the paragraph below headed: Nuclear power station lifetimes.

An AGR has a graphite moderator (which helps to enable the reaction) which is comprised of large graphite bricks with channels for the fuel rods, control rods and pressurised carbon dioxide coolant. The reactor is encased in a steel-lined, pre-stressed concrete pressure vessel which acts as one of the multiple barriers to the release of radioactivity in the event of an accident. The boilers in which water is heated are situated inside the pressure vessel. The AGR uses enriched uranium for its fuel.

A PWR is contained inside a steel pressure vessel filled with pressurised water which acts as the coolant and moderator. Pressurised water is pumped around the reactor and through the boilers. The pressure vessel, boilers and connecting pipework are contained within a steel-lined, pre-stressed, containment building which acts as one of the multiple barriers to the release of radioactivity in the event of an accident. The fuel used is enriched uranium dioxide and is contained in zirconium alloy tubes.

**Operating regime*****Capacity and output***

The electrical output of a nuclear power station depends on a combination of its overall generating capacity, the output level at which the station actually operates and its availability. The capacity of each nuclear power station is reviewed and amended from time to time to reflect the long-term capability of the plant. The table below sets out the capacity values for each of our nuclear power stations and the output of each of our nuclear power stations for the five years to 31 March 2004 and the percentage of the fleet's capacity that was achieved in each year (Annual Load Factor).

<u>Station</u>	<u>Capacity (MW)<sup>1</sup></u>	<u>Output (TWh)<sup>3</sup>/Year to 31 March</u>				
		<u>2004</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>	<u>2000</u>
Dungeness B	1,110	6.66	5.18	5.25	3.66	2.23
Hartlepool	1,210	8.28	9.34	8.83	9.09	9.32

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Heysham 1	1,150	6.28	7.85	8.11	8.92	8.45
Heysham 2	1,250	9.81	9.30	9.03	10.05	6.41
Hinkley Point B	1,220	8.11	8.26	8.98	8.23	7.68
Hunterston B	1,190	8.77	8.93	9.85	6.43	8.88
Sizewell B	1,188	8.90	9.20	9.22	8.43	9.06
Torness	1,250	8.15	5.70	8.30	7.71	10.17
<b>Total</b>	<b>9,568</b>	<b>64.96</b>	<b>63.76</b>	<b>67.57</b>	<b>62.53</b>	<b>62.20</b>
Annual Load Factor <sup>2</sup>		77%	76%	81%	75%	74%

1. Capacities are stated net of all power consumed for the stations own use, including power imported from the National Grid.
2. Annual load factors are obtained by dividing the actual output by the output that would have been achieved had each station operated at its stated capacity in that year for the entire period.
3. Output in each year reflects any statutory, refuelling and unplanned outages as discussed below.

Source: British Energy (2004)

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

The output levels which nuclear power stations can achieve relative to their stated capacities are affected by a number of factors, including plant operating conditions and operating strategies, which can result in a nuclear power station being operated at below its maximum capacity level. Nuclear power station availability is principally affected by the number and duration of planned and unplanned outages and load reductions, such as those required to carry out refuelling (as described below). Taking into consideration the impact of statutory outages and refuelling (but excluding planned repair outages and any unplanned outages), the maximum annual load factor which could theoretically be achieved across our portfolio of nuclear power stations is between 88 and 90 per cent., albeit that the maximum achieved in the last five years has been 81 per cent. for the year ended 31 March 2002.

***Statutory outages***

Periodically, our nuclear reactors need to be shut down to allow for regulatory inspection and routine maintenance. We refer to these as statutory outages.

The interval between statutory outages is determined by the plant safety case, which includes the requirements for inspection, maintenance and testing, and the arrangements in place to control this interval are approved by the NII. Currently, each of our AGRs must initiate a statutory outage once every three years and our PWR once every 18 months.

After a statutory outage, the NII's consent is required for a reactor's return to service and this consent is dependent upon us demonstrating an adequate safety case in respect of that reactor. For more information on safety cases see below in the paragraph headed: Nuclear power station lifetimes. We seek to reduce the impact of statutory outages on revenue by timing such outages to occur during periods of lower demand for electricity when prices are lower (generally between March and October). We also seek to reduce the duration of any statutory outages by improving the efficiency with which we conduct the required programme of work. AGR statutory outages completed during the year ended 31 March 2004 had an average duration of 53 days, compared to 56 days in 2003 and 46 days in 2002. Statutory outages are generally limited to one reactor within each AGR power station at any one time.

***Refuelling operations***

Reactor output is also affected by planned outages including load reductions required to carry out refuelling.

The plant design permits on-load refuelling (i.e. refuelling whilst the reactor's power is reduced to between 20 per cent. and 40 per cent. of full power) at Hinkley Point B, Heysham 2, Hunterston B and Torness to help reduce the amount of output lost due to refuelling. We refuel these reactors one at a time at each station. On-load refuelling operations typically take a few days to complete and are repeated approximately every six weeks for each reactor.

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At Heysham 1, Hartlepool and Dungeness B, we refuel the reactors whilst they are off-load (i.e. refuelling whilst the reactor s power is reduced to zero), which typically takes approximately one week. We also refuel these reactors one at a time at each station. This process typically occurs every five months for each reactor.

Improvements in fuel utilisation have reduced the amount of fuel required at each reactor. In particular, we have developed more efficient fuel management techniques, such as increasing fuel enrichment and moving partially burnt fuel assemblies from the edge of the reactor to the centre so that more of the energy can be extracted from the fuel, a process known as radial shuffling. Radial shuffling is carried out routinely at Hinkley Point B and Hunterston B and radial shuffling safety cases have been developed for Hartlepool and Heysham 1, where the process is expected to re-start in 2004, and approximately one year later at Dungeness B. Radial shuffling is not planned at Torness or Heysham 2 because it would disproportionately increase the time taken to complete refuelling and therefore would be uneconomical.

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We are presently in discussions with BNFL regarding possible further increases in fuel enrichment and changes to the fuel design that may further improve its utilisation and could also make it less susceptible to failure.

PWRs are not designed to refuel on-load and must be shut down for refuelling. Accordingly, we seek to time statutory outages at Sizewell B to coincide with refuelling outages. Although Sizewell B has only one reactor, that reactor has a performance capacity comparable to the combined reactor capacity of both reactors at an AGR power station and the impact of an outage for the same period is therefore substantially greater than that associated with a single AGR. Sizewell B currently operates for a period of up to 18 months between statutory/refuelling outages, the average length of which is 47 days. During refuelling, approximately one third of the fuel is replaced.

***Unplanned outages***

Our level of unplanned outages (see the table below) significantly affects our operations. To date these unplanned outages have been caused by a variety of technical issues, the most significant of which are problems with: our refuelling equipment and processes; turbine-generators; tendons; boilers; boiler feed pumps; gas circulators (which are used to pump carbon dioxide coolant gas around the reactor core); and the seawater coolant system. We believe that the loss of output arising from these outages is indicative of a deterioration in the materiel condition of our plant over time, caused by: (i) inadequate investment when compared with international benchmarks for spending at nuclear power stations; (ii) a failure to perform required maintenance on a timely basis; and (iii) human errors in the operation and maintenance of our plant including conducting our operations and maintenance functions on a station-by-station rather than fleet-wide basis. This conclusion is consistent with the findings of the World Association of Nuclear Operators (WANO) corporate review carried out in 2001 (details of which are set out below in the paragraph headed: Key findings from the WANO 2001 corporate review).

**Total unplanned outages (TWh)/Year to 31 March**

<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>
10.7	10.6	9.1	12.8	12.4

Source: British Energy (2004)

When an unplanned outage occurs we may, depending, amongst other things, on our contracted position, be compelled to buy additional power via the balancing mechanism referred to above in the paragraph headed: The electricity market. For further detail, see the risk factor headed Unplanned outages at our nuclear power stations could adversely affect our turnover and profitability.

***Performance Improvement Programme***

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To address the issues described above and with a view to reducing the level of unplanned outages, in August 2003 we brought together a team within British Energy and engaged a consortium of experienced external consultants, led by Ove Arup and Partners International Limited, in conjunction with significant support from WANO, to design and implement a far-reaching Performance Improvement Programme (PIP). Our PIP implementation team and power station management teams, supplemented with additional experienced nuclear professionals seconded from WANO, have targeted six focus areas namely: (i) foundation; (ii) training; (iii) human performance; (iv) equipment reliability; (v) management of work; and (vi) operational focus:

- (i) **Foundation:** provides the infrastructure to mobilise many of the changes planned across the fundamentals of human performance, equipment reliability, management of work and operational focus. Its focus is on creating a defined, aligned, effective and properly resourced organisation with improved organisational effectiveness to help achieve

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

excellence in nuclear plant operation. In addition, it aims systematically to develop management and leadership skills to meet station and corporate needs. We expect this aspect of the programme will lead to our employing more engineering and technician staff to work at our nuclear power stations;

- (ii) **Training:** supports foundation and seeks to develop and maintain a knowledgeable, skilled nuclear staff by creating the appropriate training to enable staff to do their job effectively and to ensure there is training to refresh and enhance skills;
- (iii) **Human performance:** involves promoting cultural change with a focus on accountability and striving for excellence, improving the skill sets of our operational support team and setting clear performance targets. The achievability of operational performance targets are reinforced by the consistent application of error reduction techniques. We have sought to capture the essence of this objective by defining our corporate ethos (communicated to our employees) as *Safe, profitable and proud*. Examples of progress to date include a number of operationally experienced people being appointed to senior positions in our central support functions, including the appointment of a new head of supply chain, improvements in our technical training function and the re-organisation of operational staff that we have undertaken at station level, including the appointment of certain new station directors;
- (iv) **Equipment reliability:** will involve significant investment to improve the materiel condition of our plant and to recover or attain higher levels of plant reliability and hence improve output levels. The asset survey review we recently concluded and the asset planning and investment division currently being formed will be instrumental in seeking to identify and prioritise necessary expenditure over the next five years and to assist in ensuring that this expenditure is well targeted;
- (v) **Management of work:** follows on from the work management programmes initiated in 2001 and aims to improve the effectiveness and efficiency of project management and work activities, including through the creation of a projects division; to standardise processes for resolving issues across sites where commonality can provide benefits; and to redirect planning and work management processes to reduce maintenance backlogs by, for example, undertaking more maintenance at the same time as works undertaken in relation to planned and unplanned outages. Other key objectives include keeping work scopes stable, improving adherence to work schedules and improving outage management across the fleet. This will be necessary as investment is increased in the plants in the ensuing years; and
- (vi) **Operational focus:** seeks to strengthen the management focus on excellence in nuclear operating performance. It includes the introduction of an effective corrective action programme, redirecting our engineering teams to focus more closely on the health and performance of our systems (targeting the root cause of problems), ensuring operational challenges are identified and resolved prior to them impacting the operation of the nuclear power stations, and promoting increased use of operating experience information to improve plant safety and reliability.

As it is implemented, we envisage that PIP will evolve over time, to reflect changes to our business and operations though its overriding objective - to reduce unplanned outages - would remain unchanged. We would also strive to ensure that in the long term the six strands of PIP would become an integral part of the way we work.

Following an initial mobilisation phase which ended in July 2004 and which included an asset condition survey to develop a detailed plan of action, the next phases of PIP implementation will focus on staff organisation, prioritisation of work activities, human performance initiatives and investing in people, processes and the materiel condition of our plant. The final phases are targeted to complete, subject to necessary working capital headroom being available, by 31 March 2007. Certain aspects of remedial capital investment will, however, likely run beyond that into the financial year ending 31 March 2008.





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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

The investment in the material condition of our plant will focus initially on those items which we believe from our asset survey condition, represent high priority issues. There can be no assurance that the items of plant which we have identified as lower priority issues, on the basis of information to date, will not be a cause of an unplanned outage in the future or that the order in which we deal with higher priority items of plant will prevent unplanned outages. Furthermore, we recognise that to successfully improve our overall business performance we will need to perform better across a number of different areas of our business, such as trading.

Further information regarding PIP is set out in the results for British Energy for the three months ended 30 June 2004 contained in Part IV, Section 2 under the paragraph headed: Performance Improvements.

By putting in place and implementing PIP, which in essence, involves investing in our people, processes and plant, we are aiming to increase the reliability of our nuclear generating assets. PIP should also lead to a reduction in our maintenance backlog. We believe that as a result of PIP, if properly implemented, we will be better placed to play a role in any future review by the Government of UK energy policy.

However, because of PIP's wide ranging nature and the time and costs involved in implementing it, we do not expect to see the benefits of the hoped for improvement in operational reliability in the current or next financial year. The degree of improvement in operational reliability and the quantification of its impact on our financial results will depend on how the implementation of PIP progresses in the next 12 months but the Directors believe, on the basis of other improvement programmes implemented elsewhere in the world, that enhancements in output reliability should be capable of being achieved.

AGR power stations are unique to the UK and were built in the 1970s and 1980s by different design consortia to different design specifications. Accordingly, there can be no assurance that the improvement in reliability achieved in other nuclear power station improvement programmes, upon which PIP is based and which have been undertaken on newer fleets of nuclear power stations based on non-AGR technology, will be capable of being achieved in respect of our AGR power stations.

In relation to the current financial year ending 31 March 2005, we believe that the investment in plant projects, major repairs and strategic spares across the whole New British Energy Group which includes incremental PIP expenditure of approximately £20m, will be in the range of £140m to £170m based on the financial resources we expect to have available to us. If our financial resources are otherwise required due to unforeseen outages or changes to electricity prices and collateral requirements, we may be required to adjust our investment plans accordingly. During the three-month period ending 30 June 2004 and six-month period ending 30 September 2004, investment expenditure on plant projects, major repairs and strategic spares across the whole Group, including incremental costs associated with PIP, totalled £32m and £64m respectively of which we estimate that £17m and £32m respectively may have been capitalised, with the main projects in the period including replacement of cast iron pipework, fuel route improvements and the implementation of the work management programme. Since the FRS11 impairment review in the financial year ended 31 March 2003, all expenditure of a capital nature has been expensed and will continue to be expensed until such time as it is possible to demonstrate that it results in an enhancement to the carrying value of fixed assets.

The detailed business plans for each of the two financial years ending 31 March 2006 and 31 March 2007 will not be finalised until shortly prior to the commencement of the relevant financial year. The incremental expenditure of PIP will depend on our financial

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resources and prospects at the relevant time. Based on our current expectations of future electricity prices and output, and therefore our financial resources, we believe that annual investment in plant projects, major repairs and strategic spares across the whole New British Energy Group, which includes incremental PIP annual expenditure in the range of £70m to £120m, will be in the range

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

of £200m to £250m in each of the years ending 31 March 2006 and 2007. This compares with the range of capital expenditure of £85m to £90m stated at the time we announced our Restructuring on 1 October 2003 which did not include any PIP expenditure, nor the costs of major repairs and strategic spares. If our financial resources are otherwise required due to unforeseen outages or changes to electricity prices and collateral requirements, we may be required to adjust our investment plans accordingly.

We do not believe that the restrictions on our expenditure under our existing agreements, or those agreed to, in particular the restrictions in the Contribution Agreement (to be entered into pursuant to the Government Restructuring Agreement), prohibit spending on PIP (as currently envisaged) at the levels previously announced.

**Nuclear power station lifetimes**

The primary factor in determining the operating life of a nuclear power station is the technical and economic practicability of supporting an agreed safety case for that particular station. A safety case is the underlying written report that describes the steps taken to secure the safe operation of a nuclear power station as well as certain supporting documents built up over the years of the station's operation that demonstrate the arrangements made for managing the safety of that station. The adequacy of the safety case for each nuclear power station is confirmed at each statutory outage by us undertaking a review of operating performance and by an inspection of the plant and passing the findings of such review and inspection to the NII. The NII is our key regulator and derives its powers from the Nuclear Installations Act 1965 (NIA) and the Health and Safety at Work Act 1974 (HSWA). As a licensee we seek to demonstrate to the NII a robust safety case which will likely involve detailed technical evaluations and may require complex judgements to be taken. The NII must then give its consent to a reactor being restarted. A reactor may thus only be operated for the interval determined by the safety case which, in respect of our AGR power stations, is currently three years.

In addition, every ten years, we have to undertake a Periodic Safety Review (PSR) for each nuclear power station. The results of the PSR require the approval of the NII in order to secure continued operation. Following the first PSRs at our AGR power stations, the NII gave its approval for a further ten years of operation for each of these stations based on an agreed programme of work for modifying the plant to ensure adequate safety cases. Our progress against the agreed programme of work is assessed at each statutory outage. Further information on PSRs can be found below in the paragraph headed: Periodic safety reviews.

Key elements in support of an AGR safety case are the justifications for the continuing integrity of the reactor's graphite core and the boilers (as they may be uneconomic to replace). Over the course of the nuclear generation process, cracks develop in the graphite bricks which form the graphite core in our AGRs. Such cracking can lead to the distortion of the core structure and the reduction of the AGRs' operational capacity. Our plants may require more frequent inspection to support our safety cases, which could result in prolonged statutory or unplanned outages. Reduced boiler life can be caused by different factors and can lead to a permanent reduction in boiler performance and potentially our ability to generate electricity. By contrast, the key element in support of a PWR's safety case is the ability to show the continuing viability of the lifetime of the reactor pressure vessel (as this is unlikely to be economic to replace). All these highly complex issues are subject to agreements being reached with the NII. For further detail regarding the risks associated with this aspect of our business see Part II: Risk factors, the risk factor headed: Our business is subject to extensive and unique regulations.

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The assessment of the potential operating lifetime of each of our nuclear power stations when used in our financial statements (for example, for purposes such as depreciation) is known as the accounting life. This is consistent with our technical assessment of the ability to make a secure safety case at each statutory outage and at the relevant PSR. The current potential operating lifetimes and, thus, accounting lifetimes are set out in the following table.

<b>Station</b>	<b>Lifetime (years)</b>	<b>Estimated<sup>1</sup> Closure Date</b>	<b>Date next PSR is submitted to NII</b>	<b>Date of expected response from NII</b>
Dungeness B	25	2008	December 2006	January 2008
Hinkley Point B	35	2011	December 2005	January 2007
Hunterston B	35	2011	December 2005	January 2007
Heysham 1	30	2014	December 2007	January 2009
Hartlepool	30	2014	December 2007	January 2009
Torness	35	2023	December 2008	January 2010
Heysham 2	35	2023	December 2008	January 2010
Sizewell B	40	2035	December 2013	January 2015

Source: British Energy

<sup>1</sup> The exact closure date based on current accounting lifetime of our AGR power stations will depend on the timing of the reactors' statutory outages. We will aim to close one of the two reactors at each AGR power station ahead of the other in order to allow de-fuelling, which forms part of the decommissioning process, to take place effectively.

Some of the technical risks affecting the lifetimes of our AGR power stations are set out in Part II: Risk factors under the risk factor headed: Problems of graphite core brick cracking and reduced boiler life could negatively affect our profitability and the lifetime of our AGR power stations.

**Extension of operating lifetimes**

The current operating lifetime used in financial statements for each AGR power station, other than Dungeness B, is at least five years greater than its initial operating design life. Any decision to extend the operating life of an AGR power station used in our financial statements would be based, in large measure, on a combination of economic factors and the engineering judgements reached in respect of technical issues, such as those referred to above.

Our technical evaluation of the ability to extend the operating lifetime used in our financial statements for Dungeness B is well advanced but no financial assessment of this work has been undertaken to date. However, when we make decisions regarding significant expenditure and staffing levels at Dungeness B, we do so on the basis that Dungeness B's operating lifetime (and thus its accounting lifetime) may be capable of being extended to 2013. These decisions have been undertaken to preserve the possibility that such an extension may be achieved in the event that our financial assessment of the work and investment required

to make a secure safety case for the period up to 2013 transpires to be in favour of such an extension. In relation to our ability to extend the operating lifetime used in our financial statements of our other AGR power stations, our technical evaluations are currently at a less advanced stage.

There can be no assurance that lifetime extensions will be attainable at any of our AGR power stations nor that the existing operating lifetimes used in our financial statements will be capable of being achieved. For further information see Part II: Risk factor headed: Problems of graphite core brick cracking and reduced boiler life are amongst those that could negatively affect our profitability and the lifetime of our AGR power stations. If our AGR power stations are to operate until the end of the current operating life used in our financial statements, we will also need to continue to be able to source AGR fuel from BNFL, the sole supplier of AGR fuel. This risk is set out in more detail in Part II: Risk factors, under the risk factor commencing: Our business depends upon equipment and service suppliers of a specialised nature.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Sizewell B currently has an operating lifetime of 40 years and an assumed closure date of 2035. Based on recent experience in the US (where the regulatory regime is different) where regulatory approval has been given to some PWRs to extend their lifetimes so that they have a total lifetime of 60 years, an extension to the current Sizewell B lifetime may be achievable. However, no evaluation has been undertaken to date in relation to extending Sizewell B's operating lifetime and there can be no assurance that such a lifetime extension would be attainable.

We recognise that extending the operating lifetimes of our nuclear power stations would enhance the value of our asset base and we plan to carry out evaluations to see if our nuclear power station operating lives can be extended subject, if required, to our being given consent by the NLF under the Contribution Agreement to spend the sums necessary to effect such evaluations. However, we recognise that such lifetime extensions will require the consent of the NDA pursuant to the Nuclear Liabilities Funding Agreement (NLFA) if the extension will result in an increase in the Costs of Discharging Liabilities (as defined in the NLFA). The NDA is obliged to consent if we can demonstrate that any economic benefits to the NLF or the Secretary of State deriving from the extension are reasonably likely to exceed the corresponding increase in such costs. Such benefits will be taken into account by the NDA in deciding whether to give its consent in other circumstances. For further information on the NLFA, see Part VI: Further information in relation to the Restructuring and Part X: Additional information, paragraph 17.2 (c). We also recognise that investing in improving the material condition of our plant may be required to support extending the operating lifetimes used in our financial statements.

**Nuclear fuel cycle**

There are several clearly identifiable stages in the life of nuclear fuel, which are collectively known as the fuel cycle. The stages of fuel preparation before it enters the reactor, namely, uranium procurement, conversion, enrichment and fabrication, are known as the front-end fuel cycle. The handling, storage, reprocessing and ultimate disposal of spent nuclear fuel and associated waste products are known as the back-end fuel cycle. The various stages of the fuel cycle and our fuel cycle contracts are described in more detail below.

***The front-end fuel cycle***

*Uranium procurement, conversion and enrichment*

The uranium procurement, conversion and enrichment stages are collectively termed uranics. Over the last 15 years, a substantial proportion of the world's uranics needs have been met from ex-military and civil stockpiles.

Uranium in the form of uranium ore concentrate, which is available on the world market, is first converted into uranium hexafluoride (natural UF<sub>6</sub>).

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There are five major suppliers of conversion services and there is a competitive world market, although one supplier (BNFL) has announced that its conversion plant will be shut down in 2006.

Once the uranium ore concentrate has been converted to natural  $UF_6$ , it is enriched by increasing the proportion of  $U_{235}$  (creating enriched  $UF_6$ ) to make it suitable for use in certain types of commercial nuclear reactor. There are four major suppliers of enrichment services and there is a competitive world market for these services.

### *Fabrication*

Up to the fabrication stage, fuel cycle processes are identical for both AGRs and PWRs. At the fabrication stage, enriched  $UF_6$  is converted into either AGR or PWR ceramic fuel pellets and



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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

assembled to produce fuel elements and fuel assemblies, respectively, which are subsequently loaded into the reactors.

Given the limited use of AGR technology globally, the sole supplier of AGR fuel fabrication services is BNFL. A competitive world market exists for PWR fuel fabrication services.

***Front-end fuel cycle contracts***

*Uranium procurement, conversion and enrichment*

BNFL purchases uranics on the world market using a number of suppliers in order to supply fabricated AGR fuel for our AGR power stations. Enriched uranium is also purchased by BNFL for on-supply to the PWR fuel fabricator that we use. These arrangements are set out in our AGR fuel fabrication and supply agreements with BNFL (Existing AGR Fuel Supply Agreements).

We have contracted to acquire AGR fuel from BNFL for the period to 31 March 2006 and, subject to amongst other things, the Restructuring becoming effective, beyond 31 March 2006 under the Post 2006 AGR Fuel Supply Agreements which are described in Part X: Additional information, paragraphs 17.1 (aa) and (cc). The Existing AGR Fuel Supply Agreements and Post 2006 AGR Fuel Supply Agreements give BNFL the responsibility for procuring the uranics requirements to meet our fuel orders as described below.

The uranics supplied by BNFL to BEG comprise the BEG stocks transferred to BNFL, as well as uranics obtained under BEG's contracts which were (and are in the process of being) novated to BNFL (under a deed of sale and purchase entered into on 31 March 2003 (the Uranics Sale and Purchase Deed) described in Part X: Additional information, paragraph 17.1 (ee)) and which are sufficient to fully meet our requirements for BEG's AGRs and PWR until at least the end of 2006. Thereafter, the uranics supplied by BNFL, where these are not committed under existing contracts, will have to be procured by BNFL on the market. Subject to the Restructuring becoming effective these arrangements will continue until at least 2010 at which time the parties may decide to continue the arrangements or, alternatively, to source our uranics procurement and supply services on the open market. BNFL has supplied uranics to BEG UK since 1996. Beyond 31 March 2006, the uranics supply arrangements to BEG UK will become part of the uranics supply arrangements to BEG as described above.

*AGR fuel fabrication*

We are dependent on BNFL as the sole supplier of AGR fuel fabrication services for the operating life of our AGRs. The supply component of our Post 2006 AGR Fuel Supply Agreements will expire when no further AGR fuel is required to be loaded into our AGR power stations. A summary of these agreements is set out in Part X: Additional information, paragraphs 17.1 (z) to (cc).

We maintain stocks of fuel at our AGR power stations which, together with the capability of the AGRs to continue to generate power without the need for new fuel to be loaded, would be sufficient for, typically, three to four months continuous generation in the event of supply disruption.

The principal payment terms of the Existing AGR Fuel Supply Agreements (as amended by the March 2003 Deeds of Amendment) and the Post 2006 AGR Fuel Supply Agreements are as follows:

- (i) a payment of £28.5m fixed per annum until 31 March 2006, but discounted on a linear basis in accordance with the market baseload price of electricity to a minimum payment of £13.5m per annum at a market price of £15.0 per MWh. The fixed starting price falls to £25.5m thereafter and is also subject to the discounting mechanism; and
- (ii) a payment of £191,000 per tonne of uranium in AGR fuel delivered.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

These amounts are in July 2002 or 2002/2003 monetary values and are indexed to RPI.

*PWR fuel fabrication*

Fuel fabrication services for Sizewell B are currently provided by Framatome ANP (Framatome) utilising enriched UF<sub>6</sub> supplied to us by BNFL under BEG's Existing AGR Fuel Supply Agreement. The agreement with Framatome provides for a mix of fixed commitments for PWR fuel and options for us to call for additional PWR fuel, and is capable of meeting Sizewell B's requirements until around 2015.

As PWR fuel is readily available in a competitive world market, we believe that it would be possible to secure replacement supplies in the event of supply disruption from our PWR fuel supplier, subject to fuel compatibility and licensing requirements.

***The back-end fuel cycle***

*Spent fuel*

Spent fuel is used fuel which is removed from a reactor because it can no longer support the required level of power generation. Following a three to six month period of storage and cooling in water-filled ponds at the AGR power station sites, the spent AGR fuel is loaded into specially designed flasks and transported to BNFL's plant at Sellafield for storage and reprocessing or long term storage. Our spent PWR fuel is stored on-site in a cooling pond pending construction of a longer term dry storage facility (such construction to be funded by the NLF pursuant to the NLFA). Spent AGR and PWR fuel can be stored for long periods prior to final disposal, or, after a period of at least three years for spent AGR fuel or five years for spent PWR fuel, it can be reprocessed.

*Spent fuel reprocessing*

Reprocessing of spent AGR fuel separates uranium and plutonium from highly radioactive nuclear waste products and is followed by storage of the resulting materials. We use BNFL's reprocessing facilities at Sellafield in Cumbria, England.

Reprocessed uranium can be recycled once it has been converted, enriched and fabricated into new AGR or PWR fuel. Reprocessed uranium is not currently used in the UK and regulatory consents have not been obtained for its use.

*Nuclear waste*

Nuclear waste products are categorised by their radioactivity levels into low level radioactive waste, intermediate level radioactive waste and high level radioactive waste.

Low level waste (LLW) comprises potentially contaminated or slightly radioactive materials, such as used protective clothing and tools. In the UK, LLW represents approximately 86 per cent. by conditioned volume of radioactive waste. Most LLW can be handled by workers wearing simple protective clothing and gloves and without any requirement for radiation shielding.

Intermediate level waste (ILW) includes the sludges and resins from the cleaning of cooling pond water and certain wastes arising from the reprocessing of spent fuel. In the UK, approximately 14 per cent. by conditioned volume of radioactive waste is classified as ILW.

High level waste (HLW) comprises spent fuel which will not be reprocessed and certain nuclear waste products separated out from uranium and plutonium during the reprocessing of spent fuel. These categories of waste are characterised by the fact that their temperature may rise significantly as a result of the high level of radioactivity and this needs to be taken into account in the design of storage or disposal facilities. In the UK, HLW excluding spent fuel represents

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

approximately 0.1 per cent. by conditioned volume of radioactive waste from reprocessing, although this contains approximately 95 per cent. of the total radioactivity in all nuclear waste (excluding uranium and plutonium recovered from reprocessing).

Current Government policy on managing radioactive waste is that HLW should be stored for at least 50 years to allow the radioactivity to decay and consequent heat generation to reduce. Once the waste has cooled, one of the options is underground disposal. Spent fuel which is not reprocessed should similarly be allowed to cool. Once the HLW has cooled, it will continue to be stored pending a decision on final disposal. There is currently no disposal route available in the UK for either ILW or HLW, however the Government has asked the newly-formed Committee on Radioactive Waste Management to report to it on this issue in 2006. Upon implementation of the Restructuring, the costs of disposal will be dealt with under the New Spent Fuel Agreements with BNFL in respect of new spent fuel and under the Historic Fuel Agreements and the Nuclear Liabilities Agreements in respect of historic spent fuel. (Further information regarding the implications of the State Aid Approval on the liabilities of the Secretary of State under these agreements is set out in Part VI: Further information relating to the Restructuring under paragraph headed State Aid.)

*Management and disposal of operational nuclear waste*

We are responsible for the management and disposal of all operational nuclear waste arising from our operations in conformity with relevant laws and regulations and having regard to Government policy.

LLW is often incinerated on site and the resulting ash and other LLW that has not been incinerated is compacted, if appropriate, and then sent to BNFL for disposal at its facility at Drigg in Cumbria, England. We have contracts in place with BNFL until 31 March 2005 for the disposal of LLW. We intend to enter into further contracts with BNFL for the disposal of LLW at Drigg beyond 31 March 2005.

At present our ILW is stored on-site in purpose-built facilities and, in most cases, these facilities are designed to accommodate all of the ILW that we expect to be created during the current nuclear power station lifetimes. In anticipation of the fact that the capacity of our untreated ILW resin storage tanks at Sizewell B will be exhausted by 2008/2009, we are presently engaged in modifying the station's on-site encapsulation plant to enable it to encapsulate ILW. Once the ILW has been encapsulated in metal drums, the waste can be stored in Sizewell B's conditioned waste storage building. We intend to complete the encapsulation plant modifications before ILW resin storage tank capacity exhaustion.

***Back-end fuel cycle contracts***

*Reprocessing and long-term management of spent fuel*

AGR fuel

Each individual AGR power station's storage capacity varies but overall average capacity is approximately equivalent to nine months of spent fuel storage and with the storage facilities usually holding approximately six months' spent fuel, this leaves approximately three months' additional capacity in case of any short term interruptions in the movement of spent fuel to BNFL's Sellafield site. If a nuclear power station's spent fuel storage facilities became full, that station could theoretically continue to generate electricity, but the volume of electricity produced would gradually reduce as the fuel in the reactors was consumed. It would not be possible to load additional fuel into the reactor until at least the equivalent quantity of stored spent fuel was despatched to Sellafield.

We have contracts with BNFL (the only available supplier of reprocessing and long term storage services in respect of spent AGR fuel) for the long term management of spent fuel covering the

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

entire operating lives of our AGR power stations and for the fuel removed from the reactors at the end of their operating lives. Upon implementation of the Restructuring, these will be the Historic Fuel Agreements and the New Spent Fuel Agreements. We also have a number of agreements with BNFL for the provision of certain ancillary services in relation to spent fuel management. These are referred to as the BNFL Ancillary Agreements and, upon implementation of the Restructuring, will cover services provided in relation to both historic spent fuel and new spent fuel.

Upon implementation of the Restructuring, under the Historic Fuel Agreements, BNFL will provide spent fuel management services for an agreed period for historic spent fuel. The Secretary of State has also agreed, subject to the implementation of the Restructuring, to meet our liabilities to BNFL (subject to certain exceptions) under the Historic Fuel Agreements and, in relation to historic spent fuel, under the BNFL Ancillary Agreements (pursuant to provisions of the Historic Liabilities Funding Agreement (HLFA), which is summarised in Part X: Additional information, paragraph 17.2 (d)). (Further information regarding the implications of the State Aid Approval on the liabilities of the Secretary of State under these agreements is set out in Part VI: Further information relating to the Restructuring under paragraph headed State Aid.) We retain ultimate responsibility for these materials after the date on which BNFL is no longer obliged to perform the services; however, these liabilities will fall within the scope of the liabilities to be met by the NLF or, where the NLF has insufficient assets, the Secretary of State under the NLFA (as described below in the paragraph headed: Decommissioning and other nuclear liabilities). Under the HLFA, the Secretary of State will also have an option to acquire title to any of our historic spent fuel and materials deriving from spent fuel management at Sellafield.

Under the Historic Fuel Agreements, BNFL will be responsible for the storage of the uranium, plutonium and, pending disposal, HLW and ILW arising from historic spent fuel reprocessing and for the storage of historic spent fuel which is not reprocessed until agreed dates. BNFL will be obliged to treat, package and store ILW resulting from fuel reprocessed under the Historic Fuel Agreements. If we require it, BNFL will store our ILW waste until an agreed date. BNFL will also take title to, and all liabilities for, certain cooling pond equipment (LLW and/or ILW) which is used to store spent fuel on behalf of BEG. The contracts with BNFL also provide for the possibility of extending these periods of storage, subject to obtaining necessary regulatory and planning consents, and taking into account the need for storage beyond this date.

Upon implementation of the Restructuring, under the New Spent Fuel Agreements, BNFL will take title to, and all liability for, the management and ultimate disposal of all spent AGR fuel arising from fuel loaded into the reactors on or after the Effective Date, namely the new spent fuel.

With respect to the back-end fuel services under the New Spent Fuel Agreements, we will be obliged to pay:

- (i) a payment of £150,000 per tonne of uranium in AGR fuel, payable on loading of such new fuel into one of our AGRs;
- (ii) a rebate/surcharge against the payment mentioned in (i) above equivalent to 50 per cent. of the difference between the market baseload price of electricity in a year and £16.0 per MWh multiplied by the MWh produced by the AGR fleet in that year. The market baseload price of electricity used in the calculation will not be less than £14.8 and not more than £19.0 per MWh; and
- (iii)

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if the market baseload price of electricity exceeds £19.0 per MWh, a surcharge against that payment equivalent to 25 per cent. of the difference between the market baseload price of electricity in a year and £19.0 per MWh multiplied by the MWh produced by the AGR fleet in that year. The market baseload price of electricity used in that calculation will not be less than £19.0 and not more than £21.0 per MWh.

All of the above amounts are stated in 2002/2003 monetary values and are indexed to RPI.



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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

As a result of the standstill arrangements with BNFL (described above in the Key information section, paragraph headed: Standstill arrangements), since 1 April 2003 we have been making payments under our existing back-end fuel services contracts with BNFL as if the pricing provisions of the New Spent Fuel Agreements applied. BNFL has agreed to standstill in respect of the difference between amounts currently being paid and the amounts which would have been payable under the existing contracts (unamended).

The pricing provisions highlighted above are intended to enable us to reduce a proportion of our fuel costs which are fixed by providing for a discount when the market baseload price of electricity is below a specified amount and a surcharge when above this amount. As electricity prices have risen substantially since October 2003, we are now making additional payments to BNFL under the new arrangements for spent fuel management in the form of the surcharge referred to above. Our obligation to make additional payments for spent fuel management will continue for so long as electricity prices remain above £16.0 per MWh (in 2002/2003 monetary values and indexed to RPI).

The New Spent Fuel Agreements and the Historic Fuel Agreements (and other agreements ancillary thereto) are summarised in more detail in Part X: Additional information, paragraphs 17.1 (ff) to (ss) and further details on the costs are set out in Part III: Operating and financial review and prospects.

**PWR fuel**

We intend that spent PWR fuel from Sizewell B will be stored on the Sizewell B site pending final disposal of the fuel. PWR fuel is not currently expected to be reprocessed though this has not been discounted.

The spent fuel storage pond at Sizewell B was designed to accommodate 18 years of spent fuel arisings and will be reconfigured to accommodate approximately 30 years spent fuel arisings, subject to obtaining appropriate consents including from the NDA and the NII. The reconfiguration work requires completion by 2009/2010 to allow the continued operation of Sizewell B. At this time, it is our judgement that these works will be completed before or during 2009/2010. We will consider, in due course, arrangements for the remainder of lifetime arisings for spent PWR fuel in the light of the prevailing commercial and regulatory environment.

The qualifying costs of waste management and the disposal of spent PWR fuel from Sizewell B will be met by the NLF (described in greater detail below in paragraph below headed: Nuclear decommissioning).

***BNFL payment deferrals***

Certain of our contractual arrangements with BNFL provide for BNFL to use its reasonable endeavours to meet our requirements for deferring payments or for us to use our reasonable endeavours to meet BNFL's requirements for receiving advance payments under those agreements so long as neither party is adversely affected.

In exercise of this provision, we agreed with BNFL in June 2004 that the payment of certain charges invoiced by, and due to BNFL in July, August and September in each of the financial years of 2004/2005, 2005/2006 and 2006/2007 under the Existing BEG AGR Fuel Supply Agreement and Post 2006 BEG AGR Fuel Supply Agreement, may be deferred up to a maximum of £20m, providing we are in compliance with our other payment obligations under those agreements. These deferrals will allow us to align the payments for fuel due in any one of these three years more closely with the receipts from the sales of our electricity in the same year.

Accordingly, we have deferred the agreed sum of £20m in this financial year under this arrangement, and have stated to BNFL that it is our intention to pay the amounts in respect of the July invoiced payments on 1 February 2005 and to pay the amounts in respect of the August

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

and September invoiced payments on 1 March 2005. The interest payable on such deferred amounts for the period of the deferral is at the contractual late payment interest rate of LIBOR plus 2 per cent. Interest is calculated every three months, upon which BEG has an option to pay this interest or add it to the deferred payment amount.

In addition, we have agreed a further side letter with BNFL dated 10 November 2004 under which it has been agreed that certain other payments under our existing fuel arrangements may be deferred. These payments were due in August, September and October 2004 and aggregate approximately £35m. We have agreed to pay approximately £10m of this amount on or before 31 December 2004, and the balance in two tranches in amounts to be agreed on or before 31 January 2005 and 28 February 2005, respectively. The contractual late payment interest at the rate of LIBOR plus 2 per cent. has started to accrue in relation to the amounts outstanding. BNFL has agreed that these late payments will not constitute non-compliance with our payment obligations for the purpose of our June 2004 deferral arrangements described above, provided the additional deferred amounts are paid in accordance with the proposal set out above.

**Nuclear decommissioning**

***The decommissioning process***

Decommissioning of a nuclear power station is the process whereby it is shut down at the end of its economic life and eventually dismantled. Throughout the world, over 90 nuclear reactors have been shut down and a large number of decommissioning projects are in progress. Decommissioning has usually been planned to take place over several decades and the majority of these projects are at an early stage. However, there is a growing volume of experience of the early decommissioning activities and pre-closure planning and preparation requirements of large scale nuclear power station decommissioning.

Our objectives for decommissioning are to: ensure the continued safety of the public, the workforce and the environment; minimise the environmental impact as far as reasonably practicable; release sites for further use as appropriate; and, in a manner which is consistent with all of the foregoing, minimise the expenditure of resources.

We have adopted the Early Safestore Decommissioning Strategy (ESS) for decommissioning our AGR and PWR power stations. The principal activities of the ESS are:

- *Stage 1:* pre-closure preparatory work; defuelling; decommissioning engineering preparatory work; and management of potentially mobile operational wastes;
- *Stage 2:* dismantling redundant ancillary buildings; safestore development; site surveillance, care and maintenance; and

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- *Stage 3*: preparation for reactor building dismantling and clearance; retrieval and management of stored radioactive waste; reactor dismantling and reactor building dismantling and clearance; and site clearance and release for further use.

The Health and Safety Executive (HSE) receives requests from time-to-time to delicense parts of, or even entire sites licensed under the NIA. The NIA requires that before allowing all or part of a site to be delicensed, HSE must be satisfied that there has ceased to be any danger from ionising radiations from anything on the site or, as the case may be, on that part thereof. HSE is currently in the process of developing and publishing a policy statement that sets out its criteria for delicensing sites that are licensed under the NIA. Public consultation on this policy closed in July and the policy statement is expected later this year.

### ***Decommissioning and other nuclear liabilities***

We have an obligation under our nuclear site licences to decommission our nuclear power stations at the end of their useful lives. The estimated undiscounted cost of decommissioning our AGR and PWR power stations as reported in our financial statements for the year ended 31

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

March 2004 is £5.1 billion out of a total estimate for all nuclear liabilities of £15 billion. Currently, certain of the decommissioning liabilities are covered by the existing arrangements with the NDF to which we have made contributions pursuant to the terms of the Nuclear Decommissioning Agreement which was entered into on 29 March 1996.

If the Restructuring becomes effective, the Nuclear Decommissioning Agreement will terminate, the Nuclear Liabilities Agreements will become fully effective and the existing NDF will be enlarged into and renamed the NLF, as described below.

Under the terms of the Nuclear Liabilities Agreements, the NLF will, subject to certain exceptions, fund our qualifying uncontracted nuclear liabilities (i.e. all those nuclear liabilities for which there is currently no contract in place) and the qualifying costs of decommissioning our nuclear power stations (decommissioning costs). The NLF will be funded by contributions from us and the Secretary of State has agreed to fund the qualifying uncontracted nuclear liabilities and qualifying decommissioning costs to the extent that they exceed the assets of the NLF. To the extent that there are any surplus funds in the NLF, this amount will be paid to the Secretary of State. The Secretary of State has also agreed, again subject to certain exceptions, to fund certain of our contracted liabilities for historic spent fuel. (Further information regarding the implications of the State Aid Approval on the liabilities of the Secretary of State under these agreements is set out in Part VI: Further information relating to the Restructuring under paragraph headed State Aid.)

The New British Energy Group will be responsible for funding certain excluded or disqualified liabilities and will, in certain circumstances, be required to compensate or indemnify the NLF and the Secretary of State in relation to such liabilities. Our obligations under these arrangements with the Secretary of State will be guaranteed by each Material New British Energy Group Company. These excluded or disqualified nuclear liabilities are described in greater detail in Part VI: Further information relating to the Restructuring, paragraph headed: Nuclear liability arrangements and in Part X: Additional information, paragraphs 17.2 (c) and (d).

In consideration for the assumption of these liabilities by the Secretary of State and the NLF, Holdings plc will issue £275m of New Bonds to the NLF and the New British Energy Group will make the following ongoing payments to the NLF:

- the NLF Cash Sweep Payment;
- fixed decommissioning contributions of £20m per annum (stated in March 2003 monetary values and indexed to RPI) but tapering off as our AGR power stations are currently scheduled to close; and
- £150,000 (stated in March 2003 monetary values and indexed to RPI) for every tonne of uranium in PWR fuel loaded into the Sizewell B reactor after the Restructuring Effective Date.

The NLF will have the right from time to time to convert all or part of the NLF Cash Sweep Payment into Convertible Shares (the NLF Conversion Right). On a full conversion the NLF would hold up to 65 per cent. of the thereby enlarged equity share capital of the Company. However, the terms of the Convertible Shares include a limit on the voting rights attaching to such shares equal to the maximum amount which can be held by the NLF without triggering a mandatory offer under the City Code on Takeovers and

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Mergers (Takeover Code), being currently 29.9 per cent. of the voting rights of the Company (and, for this purpose, taking into account the voting rights attributable to any other ordinary shares of the Company held or acquired by any person acting in concert with the NLF). This voting restriction applies for so long as the Convertible Shares are held by the NLF. The Convertible Shares will convert automatically into ordinary shares in the Company on transfer to a third party but are not convertible at the election of the NLF prior to such transfer. There are restrictions on the manner in which the NLF may exercise the NLF Conversion Right or dispose of any of the shares arising on such exercise.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Further information relating to these arrangements is set out in Part VI: Further information relating to the Restructuring, paragraph headed: Nuclear liability arrangements and in Part X: Additional information, paragraph 17.2 (e).

**COAL-FIRED GENERATION**

**Eggborough power station s operating regime**

EPL, the owner of the Eggborough power station, was acquired from National Power in March 2000 using Group funds. This purchase was subsequently re-financed by a £550m project finance loan on 13 July 2000 between EPL and the Eggborough Banks, with the proceeds subsequently being received by British Energy.

Following the Restructuring, EPL will remain within the Group and continue to own and operate the Eggborough power station unless the Eggborough Banks: (i) exercise an Eggborough Option; or (ii) enforce their security and take ownership of EPL or the Eggborough power station.

Further details of these arrangements are set out in Part VI: Further information relating to the Restructuring and in Part X: Additional information.

Output from the Eggborough power station was 7.6 TWh during the year ended 31 March 2004, compared with 5.7 TWh and 7.1 TWh for the years ended 31 March 2003 and 31 March 2002, respectively. The Eggborough power station s output level is influenced by market prices, our contracted trading position; the extent to which its operation is required to cover for unplanned outages at our nuclear stations; and relevant environmental legislation (the influence of such relevant environmental legislation increasing significantly over time).

As a result of it being coal-fired, the Eggborough power station produces emissions of carbon dioxide (CO<sub>2</sub>), sulphur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) and therefore its future output will be affected by the impact of two important environmental initiatives which seek to limit these emissions namely, the EU Emissions Trading Scheme and the Large Combustion Plant Directive, which are discussed in the paragraph below headed: Future legislation affecting the Eggborough power station s output.

The Eggborough power station consists of four generating units which, together, have a combined registered capacity of approximately 1,960 MW and is operated at various output levels, rather than at constant levels in the manner of our nuclear power stations. Specifically, the Eggborough power station fulfils the following functions:

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- *Reserve capacity*: by maintaining a level of reserve capacity it assists in managing the trading risks associated with unpredictable reductions in the availability of our nuclear power stations. Calling on the Eggborough power station as an alternative source of generation reduces our reliance on the spot markets or the balancing mechanism;
- *Profiling or shaping*: unless a customer has a purely baseload power requirement (i.e. a requirement for unvarying amounts of energy) we are unable to meet their requirements based solely on our nuclear generation capacity. As a result, we need to combine our baseload generation with flexible output to meet the requirements of our customers who require varying levels of output over the term of their contract. The Eggborough power station provides us with a source of electricity generation for this purpose, thereby reducing our reliance on purchases from competitors; and
- *Flexibility*: changes in customer demand over the short term and the nature of the overall customer profile mean that we need to have access to capacity that is able to change output rapidly in response to changing requirements. Like other fossil fuel power stations, the Eggborough power station is able to provide this flexibility and is an alternative to the use of short term markets and power exchanges.



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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

We own an ash disposal site at Gale Common, close to the Eggborough power station, which is used for the disposal of ash produced by the Eggborough power station and by the nearby Ferrybridge power station, which is owned by a subsidiary of Scottish and Southern Energy.

**Investment in the Eggborough power station**

In response to recent developments in relation to the regulation of emissions, details of which are set out below in the paragraph headed: Future legislation affecting the Eggborough power station's output, we are in the process of fitting two of the four generating units at the Eggborough power station with flue gas desulphurisation (FGD) equipment. Once operational, the equipment is designed to reduce emissions of SO<sub>2</sub> to the atmosphere from the units which have been fitted with FGD by approximately 90 per cent. The FGD has been installed and commissioning tests are in progress. Handover of the project has been delayed pending resolution of certain performance issues. We currently believe that the issues can be resolved without having a material adverse effect on our financial or trading position.

As part of the Restructuring:

- in the period from the Restructuring Effective Date to 31 March 2010, certain constraints are imposed on the funding of the Eggborough power station including: (i) specifying the operating and maintenance costs that may be met; and (ii) imposing a cap of approximately £70m (subject to certain de minimis exceptions) on capital investment. Specifically, we are contractually committed to certain capital investment to improve the Eggborough power station's performance and reliability. Any further capital investment in the Eggborough power station by any member of the New British Energy Group that is a restricted subsidiary under the New Bonds will be treated as restricted payments under the New Bonds unless the limitation on restricted payments in the New Bonds has been suspended (by reason of the New Bonds attaining an investment grade rating from Moody's and at least one other rating agency at the relevant time); and
- in the period post 31 March 2010, we may fund capital investment in the Eggborough power station for maintenance including non-recurring maintenance and/or repairs of a capital nature only. Any further capital investment in the Eggborough power station by us or any member of the New British Energy Group that is a restricted subsidiary under the New Bonds will be treated as restricted payments under the New Bonds unless the limitation on restricted payments in the New Bonds has been suspended (by reason of the New Bonds attaining an investment grade rating from Moody's and at least one other rating agency at the relevant time).

Any investment in the Eggborough power station which is not permitted under the terms of the New Bonds will require approval by way of an extraordinary resolution passed at a New Bondholders' meeting as there are no express consent requirements in the New Bonds.

**Future legislation affecting the Eggborough power station's output**

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The EU Emissions Trading Scheme (ETS) and the revised Large Combustion Plant Directive (2001/80/EC) (LCPD) are major environmental initiatives which will have an important impact on the Eggborough power station as they seek to reduce the emission of CO<sub>2</sub>, SO<sub>2</sub>, NO<sub>x</sub> and particulates. The ETS is due to be implemented in January 2005. The main provisions of the LCPD which limit emissions are due to become effective on 1 January 2008. The LCPD will limit emissions even further than the current Large Combustion Plant Directive (1988/609/EC).

### ***ETS***

Combustion installations with a rated thermal input in excess of 20 MW (excluding hazardous or municipal waste installations) require a Greenhouse Gas Emissions Permit (an Emissions

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Permit). Under an Emissions Permit, a combustion installation is allocated CO<sub>2</sub> emissions allowances (ETS Allowances). From 1 January 2005 onwards, each combustion installation must begin monitoring CO<sub>2</sub> emission and surrender ETS Allowances equal in amount to its actual annual reportable emissions of CO<sub>2</sub> by the date falling four months from the end of the year in which such emissions arose. In any year, a combustion installation's emissions of CO<sub>2</sub> may not exceed its ETS Allowances for such year unless it has purchased additional ETS Allowances to cover such excess emissions (in principle, ETS Allowances should be tradable across all Member States, enabling those operators with a surplus of allowances to sell to those with a shortfall).

The Eggborough power station has an Emissions Permit, however, the Government is still in the process of determining the allocation of ETS Allowances for combustion installations. Implementation of the ETS in the UK involves a draft National Allocation Plan (NAP) under which each combustion installation, including the Eggborough power station, is given a CO<sub>2</sub> allocation for the period 2005/2007 (the First Phase). The Government published draft NAPs in January and May 2004 for consultation. These documents set out the principles for determining the total quantity of allowances and provided provisional installation-level allocations. The Government has always made clear that the allocations published were subject to change as a result of: updated emissions projections; verification of baseline data; and the inclusion of additional installations; and that the overall level of allowances to be set in the final allocation decision will be revised in the light of these changes. In the NAP submitted to the Commission in April 2004, the Government stated that in the First Phase of the ETS it was seeking an overall reduction in emissions of CO<sub>2</sub> which was in line with achieving reductions of 15.2 per cent on 1990 levels by 2010. On this basis, the First Phase would reduce emissions of CO<sub>2</sub> by 5.5m tonnes representing a 0.75 per cent. reduction of the total allowances and that this would be achieved by cutting the projected emissions of the power station sector by a corresponding amount.

In the draft list of installation level allocations, published by the Government in January 2004, the Eggborough power station was allocated ETS Allowances equating to 4.9m tonnes of CO<sub>2</sub> emissions in each of the calendar years 2005, 2006 and 2007. This is equivalent to the level of emissions associated with electrical output of approximately 5.4TWh in each such year. This allocation is scheduled to be finalised in autumn 2004 but may change. Depending on the final allocations, additional allowances may need to be acquired if the Eggborough power station is to continue to generate electricity at 2003/2004 levels. We, along with other industry participants, are lobbying the Government for an increase in ETS Allowances. (The Government has indicated that they intend to retain some ETS Allowances for new market entrants and to auction any unallocated ETS Allowances from this reserve on an annual basis in the years up to 2007).

On 27 October 2004, the Government announced that it was proposing to amend the NAP submitted in April to increase the total quantity of ETS Allowances by just under 3 per cent. because of revised projections of emissions by UK installations covered by the scheme. On 10 November 2004, the Government submitted its amendments to the Commission. Details of how this amendment, which is subject to approval from the Commission, will affect allocation to individual installations have not yet been published. The new allocation would be 5.2 per cent. below final projection of emissions for business as usual in the UK and the Government is continuing to look to the electricity supply industry to bear the burden of reducing emissions below business as usual projections.

The basis for the allocation of ETS Allowances in the second phase of the ETS (this relates to the period from 2008 to 2012) has yet to be determined by the Government.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

***LCPD***

The LCPD seeks to reduce the emissions of certain pollutants (namely NO<sub>x</sub>, SO<sub>2</sub> and particulates) into the air from large combustion plants. From 1 January 2008, under the LCPD, Member States must achieve significant emissions reductions by:

- ensuring that all permits for the operation of existing plants contain conditions requiring compliance with the Emission Limit Values (ELVs) established for existing plants; and/or
- ensuring that existing plants are subject to a National Emission Reduction Plan (NERP).

***ELV***

The ELV approach involves setting specific limits on the emission of NO<sub>x</sub>, SO<sub>2</sub> and particulates for individual plants which cannot be exceeded by a plant without it breaching its permit.

***NERP***

NERP applies an overall cap on emissions of NO<sub>x</sub>, SO<sub>2</sub> and particulates for each Member State. This cap is calculated by taking the aggregate of the limits that would have applied to each plant in operation within the Member State in the year 2000 had the ELV approach been taken (based on each plant's annual operating time, fuel used and thermal output averaged over the last five years of its operation up to and including the year 2000). As long as the cap is not breached, a Member State has some flexibility in the implementation of NERP. For example, it may allow plants to trade their allocations within the same Member State. However, a Member State's flexibility under an NERP approach is constrained by:

- the limits set under the pollution, prevention and control regime (for further detail, see the section below headed: Regulation of the Eggborough Power Station and Gale Common);
- the LCPD which provides that closure of plants subject to NERP will not result in a corresponding increase in allocation to the remaining plants subject to NERP; and
- the fact that the requirements of the LCPD under a national plan approach need to be met on a calendar year basis, (this therefore negates the possibility of banking or trading allowances across years).

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The Government has been in discussions with the electricity, steel, oil refining and other industries in recent months concerning the implementation of the LCPD. Discussion has focussed on whether to limit future emission rates for plants or to limit total emissions based on historic generation; and whether a plant will be treated as being a whole station, or an individual generating unit, in which case the Eggborough power station's four units would be treated as separate plants. In the case of the former, the Government has highlighted that it is in discussions with the Commission about implementing a hybrid solution where large power stations, such as Eggborough, would be subject to rate limits for future emissions.

Plant owners have the option to opt-out of the LCPD in which case they will be permitted to run plants for a total of 20,000 hours between 1 January 2008 and 31 December 2015, subject to additional regulations imposed by the Environment Agency (EA). Given the uncertainty on the key issues and the fact that the Government has not yet taken pivotal decisions on how the directive is to be implemented in the UK, the Government has provided further instruction that plant that is opted out by 30 June 2004 can be opted back in prior to 30 June 2005. British Energy has therefore chosen to conditionally opt-out its two non-FGD units, the conditionality relating to: (i) the choice to opt back in prior to the 30 June 2005 deadline; and (ii) whether a plant is treated as being a whole station, or an individual generating unit (if the former is the case the two-unit opt-out would be deemed

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invalid and those two units would be opted back-in again (subject to the consent of the Eggborough Banks holding 66 <sup>2</sup>/<sub>3</sub> per cent. of the debt under the Amended Credit Agreement (the Majority Banks), such consent not to be unreasonably withheld or delayed).

The final details of the implementation of the LCPD may affect the level of generation from the Eggborough power station and other fossil fuel plants in the future. The Government is expected to make a decision on how the LCPD will be implemented by early 2005.

***Other legislation***

Limits on the emissions of pollutants may also be imposed in permits issued by the EA and the Scottish Environment Protection Agency (SEPA) and it is possible that stricter limits could be imposed than under the ETS and the LCPD.

This is because the Department for Environment, Food and Rural Affairs is required to implement the LCPD and ensure that in doing so, the National Emissions Ceiling Directive is not compromised. In addition, the EA has to take into account the requirements of the Integrated Pollution Prevention Control Directive, the National Emissions Ceiling Directive, the Habitats Directive and the Water Framework Directive when setting permit conditions going forward.

**ELECTRICITY SALES**

***Routes to market***

We sell our generation through diverse routes to market. These include bespoke contracts for supply over periods of varying durations, some of which are for the supply of electricity in excess of a year, over-the-counter transactions in the wholesale traded market, electronic power exchange trading, direct supply to industrial and commercial customers, and sales of balancing and ancillary services to the National Grid. We also sell forward (i.e. sell output we have not yet generated) in order to manage the risks of short to medium term price volatility in wholesale electricity market prices and because there is insufficient liquidity in the short term markets alone for us to be sure that we would be able to sell our generation at an acceptable price.

***Role of trading***

Our approach to trading utilises these different routes to market with a view to reducing overall exposure to volatility in short and medium term wholesale electricity market prices whilst seeking to reduce the amount of credit support required. We aim to build a portfolio of wholesale trades and direct supply contracts (generally at fixed prices) to approximately match our planned generation

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output and to further mitigate the exposure to the wholesale market and, in particular, the risk of wholesale electricity market prices falling. This approach does however reduce in the medium term the benefit we receive from wholesale electricity prices rising. As of the end of October 2004, we had in place contracts for volume equivalent to virtually all of our planned generation in 2004/2005, of which nearly all are at fixed prices. For 2005/2006, contracts are in place for approximately two-thirds of planned generation, with approximately half of these being at fixed prices at an average price of approximately £25 per MWh. This includes an element of the Centrica contract (referred to below) and DSB and structured trades fixed during the period the year ended 31 March 2004 or before. This is substantially higher than the average realised price of £16.9 per MWh for the year ended 31 March 2004 but is lower than the prevailing wholesale electricity price for delivery in 2005/2006 which was in excess of £34.0 per MWh by the end of October 2004.

In addition to our hedging activities we may also undertake non-hedging related trades from time to time within set limits and policies approved by the Board.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

***Trades in the wholesale market***

Longer term structured trades, on fixed or floating price terms, are used in particular to hedge against exposure to falling market prices and to secure a longer term route to market for planned generation. Longer-term structured trades typically contain provisions to fix pricing up to 6 months ahead of the period for delivery.

We entered into a 4-year contract with Centrica on 19 March 2003 which expires in April 2007, for a total of 38 TWh. Over half of the output to be sold over the term of this contract is at fixed prices agreed at the time the contract was entered into and the remainder being linked to future electricity prices.

All of our over-the-counter trades, and a number of our longer term bespoke trades, are executed under the terms of Grid Trade Master Agreements (GTMA) agreed with the counter-party in question. The GTMA contract details responsibilities for contract notification and other obligations in respect of the BSC, payment terms, default and termination provisions, credit arrangements and other terms. Over-the-counter GTMA transactions, including both futures and options on electricity, are used to balance generation against the portfolio of contracts and as a hedge against adverse market price movements in the short to medium term.

Our ability to utilise the wholesale market as a route to market is affected by the strength and depth of the market, see Part II, risk factor headed: Lack of liquidity in the wholesale market may adversely affect us or require us to alter our trading strategy.

Short term trading is carried out via the Amsterdam Power Exchange (UK) Limited (APX), and is regulated by the Financial Services Authority. APX provides an anonymous electronic trading platform and clearing and notification service for electricity futures and spot trades for individual half-hour periods. We primarily use APX as a means of balancing our within-day physical position by either buying or selling to compensate for differences between our notified contractual position and planned generation and forecast supply up to gate closure, i.e. one hour before the start of the relevant delivery period. We typically trade 2-hour or 4-hour blocks, or individual half-hour periods.

Trading in products which may be regarded as regulated investments is carried out by our trading subsidiary, British Energy Trading Services Limited (BETS) as agent and arranger for BEPET. BETS is regulated by the Financial Services Authority in respect of these activities.

***Direct supply sales business (DSB)***

One of our more important routes to market is direct supply sales of electricity to industrial and commercial customers because, amongst other factors, we are not required to post any collateral to such customers. Further information on collateral can be found below in the paragraph headed: Cash collateral. Our target customer base for this business is predominantly among industrial



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users with electricity demands of over 1,000 MWh per annum. As of 31 March 2004, we had contracts in place to supply some 1,350 customers at 7,500 sites. Our DSB has increased by almost 30 per cent. in volume terms in the period 31 March 2003 to 31 March 2004 to 29.0 TWh, which is equal to approximately 40 per cent. of our total electricity generation. This follows an increase of 20 per cent. in volume terms in the period from 31 March 2002 to 31 March 2003. Contracts are generally entered into on a fixed price basis through a competitive tendering process. For most of our contracts, delivery starts in April or October and the term of most of our contracts is one or two years with the majority being for one year.

We are progressively increasing the range of customers and are targeting retail groups with a large number of sites; however, we are not licensed to supply domestic customers. We have continued to score highly in independent surveys of customer satisfaction in the industrial and commercial sector. We have held a number one ranking for over five years according to the

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Independent Energy Information Centre based on data compiled via a quarterly survey of their customer base. The survey is designed to measure how customers rate the service they receive from their suppliers in 18 separate service areas. These include, amongst others, contract price, responsiveness to enquiries, bill accuracy, clarity and promptness. We are also currently ranked second for customer satisfaction by Datamonitor in their 2004 survey.

***Arrangements in Scotland***

As there is currently no wholesale market in Scotland, we sell all the output from our Scottish nuclear power stations to Scottish Power and Scottish and Southern Energy under the terms of the Nuclear Energy Agreement (NEA).

Under the revised terms of the NEA, Scottish Power and Scottish and Southern Energy purchase the electricity generated by our Scottish power stations under arrangements more closely linked to market prices and terms for baseload energy in England and Wales than previously. The revised NEA will continue in operation until whichever is the earlier of 1 April 2006 and the introduction of BETTA (which is currently scheduled for 1 April 2005). The extension of the amended NEA beyond its original expiry date of 1 April 2005 will be subject to regulatory approval. Beyond the expiry of the NEA, Scottish Power and Scottish and Southern Energy have entered into contracts on GTMA terms up to 2011 at reducing volumes, subject to certain conditions being satisfied. We pay generators in Scotland in respect of the electricity supplied to our direct supply customers in Scotland.

***Cash collateral***

Our electricity contracts give rise to different requirements for us to provide credit support in the form of cash collateral. In respect of trades in the wholesale market, this is requested by counterparties to ensure that, should the contract terminate early for whatever reason, there are sufficient funds available to reimburse the costs they may incur in replacing the terminated transactions in the open market. In respect of most routes to market, and in respect of generation by our power stations, credit support is also required or requested to ensure that there are sufficient funds available to cover balancing, transmission, distribution and other similar costs and charges.

Until September 2002, credit support was generally provided by way of parent company guarantee from British Energy as British Energy had an investment grade credit rating and thus we were not generally required to post cash (or other) collateral. In September 2002, following the loss of our investment grade credit rating, our obligation to provide credit support to counterparties has been satisfied by collateral arrangements provided by the Secretary of State pursuant to the Government Facility (for further details see Part X: Additional information, paragraph 17.1 (r)). Our current and indicative credit rating on Admission means we are and will continue to be required generally to post collateral (see Part III: Operating and financial review and prospects).

The level of collateral that we are required to post at any time is a function of three factors namely: (i) our contracting strategy; (ii) contract price; and (iii) prevailing electricity market prices.

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Under certain of our GTMA wholesale contracts or as otherwise agreed, we are required to post collateral equal to the net sum of: (i) our billed or billable amounts which have not yet been paid for; (ii) the mark-to-market difference between the contract price and the prevailing market price at that time; and (iii) an additional sum that reflects the potential for market price volatility and future trades. Generally, we have agreed to undertake this calculation on a weekly basis and any collateral that needs to be posted is credited to a deposit account over which the relevant counterparty holds a first fixed charge. In some limited cases, the level of collateral that we are required to post is capped. This risk is set out in more detail in Part II: Risk Factors.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Our direct supply sales to industrial and commercial customers do not require us to post any collateral to the purchasers of the power. However, collateral is required by distribution network operators in order to cover charges that BEG has to pay them.

In 2002 and 2003, we entered into contracts at the then prevailing wholesale market price equivalent to a large proportion of our forecast 2004 generation output. Since then, electricity prices have increased substantially, which has resulted in us being required to post a significant amount of collateral in support of these contracts. We have since April 2004 sought to reduce the proportion of our sales to the wholesale market via GTMAs with a view to seeking to reduce our collateral requirements.

The Government Facility (as amended and extended) ceased to be available for drawing by the Group on 22 September 2004 following the issue of the State Aid Approval and the Government Facility will terminate upon the Restructuring Effective Date in accordance with its terms. Since 22 September 2004, incremental collateral requirements are being provided by a charge over cash deposits in accounts in the name of Group companies. Upon the implementation of the Restructuring, the Group is required to ensure that the cash collateral provided pursuant to the Government Facility be released and the Group is considering the form of credit support to be provided to its counterparties after the Restructuring Effective Date. Although the Group is satisfied that deposits in Group company accounts will represent reasonable alternative credit support, in certain cases other types of collateral may be required and it may be the case that the provision of such charge arrangements for such collateral arrangements may affect the willingness of certain counterparties to trade with the New British Energy Group.

**REGULATION**

**Introduction**

We participate in the electricity industry in two markets, namely England and Wales and Scotland, through a variety of routes. The nature of our electricity generation, the bulk of which comes from nuclear power stations, means that we are a highly regulated business. In addition to the safety, competition, health and environmental legislation which typically applies to a conventional power generation business, we are also subject to additional constraints which apply to the operators of nuclear sites. These regulatory regimes are described below in the paragraph headed: Regulation of the UK nuclear generation industry.

**Regulation of the electricity industry**

***Key legislation***

The framework for the economic regulation of the electricity industry in Great Britain is set out in the Electricity Act 1989 (Electricity Act) which has been amended by the Utilities Act 2000 (Utilities Act) and the Energy Act 2004 (Energy Act).

GEMA (more commonly known as the Office of Gas and Electricity Markets (OFGEM)) was established by the Utilities Act. In addition to its powers under the Competition Act, GEMA's functions under the Electricity Act include granting licences to generate, transmit, distribute or supply electricity; enforcing compliance with licence conditions; administering funds generated by the English and Scottish Renewables Obligation (described below in the paragraph headed: Renewables obligation); and setting standards of performance for electricity licensees. The Electricity Act requires GEMA and the Secretary of State to exercise their functions under that Act in the manner which they consider is best calculated to protect the interests of consumers present and future, wherever appropriate, by promoting effective competition.

***Regulatory developments***

On 22 July 2004, the Energy Act received Royal Assent. The Energy Act provides the framework for the establishment of the NDA to manage the clean-up of the UK's civil nuclear legacy as well

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

as the development of offshore wind and other marine renewable energy sources outside territorial waters. The Energy Act further provides for the implementation of BETTA thereby extending NETA to Scotland and creating a single wholesale electricity market for Great Britain. These new arrangements will create a much larger market for our Scottish generation once the NEA, under which all of our existing Scottish generation is currently sold to Scottish Power and Scottish and Southern Energy, ends on the earlier of 1 April 2006 and the introduction of BETTA. However, the termination of the NEA will also mean a loss of the guaranteed market for the output of our Scottish nuclear power stations and other routes to market will need to be developed.

In the White Paper, *Managing the Nuclear Legacy* (published 4 July 2002), a proposal was made by the Government for the establishment of a new Liabilities Management Authority now called the Nuclear Decommissioning Authority, or NDA) which will be responsible to the Government with a specific remit to ensure that the nuclear legacy is cleaned up safely, securely, cost effectively and in accordance with national and international environmental requirements. It was envisaged in the White Paper that the Government would accept direct financial responsibility for all of the liabilities that BNFL manages except those covered by commercial contracts, and the Energy Act sets up the framework to implement this proposal and provides the Secretary of State with the power to implement nuclear transfer schemes whereby BNFL's assets and liabilities may be transferred to the NDA.

The New BNFL Contracts contemplate that BNFL may, upon or at any time after the establishment of the NDA, assign or part with or sub-contract any of its rights or obligations under the contracts to the NDA to the extent required by or in consequence of, or to take a benefit available by reason of, any relevant legislation without requirement for consent and in due course, therefore, certain of our contracts with BNFL may be assigned to the NDA.

***Licences***

*Electricity generation licences*

Unless covered by an exemption, all electricity generators operating a power station in the UK are required by the Electricity Act to have a generation licence. In England and Wales, the conditions attached to a generation licence require the licence holder, amongst other things, to comply with the BSC, the Grid Code and the Connection and Use of System Code (CUSEC). For operators of power stations in Scotland, the conditions attached to generation licences require the holder, amongst other things, to comply with the relevant grid code and the settlement agreement for Scotland. Failure to comply with any of the generation licence conditions may subject the licensee to a variety of sanctions, including enforcement orders by GEMA, the imposition of monetary penalties or licence revocation if an enforcement order or payment of a monetary penalty is not complied with.

*Electricity supply licences*

Subject to minor exceptions, all electricity consumers in the UK must be supplied by a licensed supplier as provided for by the Electricity Act. Licensed suppliers purchase electricity and pay for the use of the transmission and distribution networks to deliver electricity to customers' premises. Supply licences now cover all of Great Britain and contain standard licence conditions for most suppliers.

The standard supply licence is split into four distinct parts with not all parts of the licence applicable to all supply licence holders. The licence deals with general obligations and requires the holder, amongst other things, to comply with the BSC, CUSC, Grid Code and Master Registration Agreement (the agreement to which all licensed suppliers and distribution businesses are party and which is concerned with retail customers changing their suppliers).

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

We currently hold one supply licence (held by BEG) through which our DSB makes supplies to our industrial and commercial customers. We are not licensed to supply to domestic customers.

*Impact of State Aid Approval on our licences*

On 22 September 2004, the Commission issued its decision on the Restructuring (State Aid Approval). The State Aid Approval provides that as far as the Restructuring involves the grant of State Aid by the Government, such aid is compatible with the Common Market. The Commission's decision is subject to certain conditions and compensatory measures. These conditions include, among others, a requirement that we separate our DSB from our generation and trading businesses by 1 April 2005. When we do so, it is our intention to transfer our existing supply licence for our DSB from BEG to British Energy Direct Limited, a new direct supply sales subsidiary. In addition, the State Aid Approval provides that we will consolidate our nuclear generation activities into a single subsidiary by 1 April 2005 and will use all reasonable endeavours to obtain licence modifications to separate our nuclear from our non-nuclear generation activities for regulatory purposes and prohibit our existing nuclear generation business giving cross-subsidies to our non-nuclear generation business and any other business of the Group. Should GEMA not accept the proposed licence modifications relating to regulatory separation of our nuclear and non-nuclear generation activities, the Deed of Undertaking (see Part X: Additional information, paragraph 17.1 (o)) provides for alternative arrangements which we believe would have the same effect.

**Renewables obligation**

One of the ways in which the Government is seeking to increase the proportion of electricity generated from renewable sources is by the introduction of the Renewables obligation (the Obligation). The Obligation on licensed electricity suppliers to source a proportion of their total electricity requirements from eligible renewable sources came into force in April 2002. The amount of the Obligation increases in steps from 3 per cent. in March 2003 to 10.4 per cent. in March 2011. On 8 September 2004, the Government issued a consultation paper on proposed changes to the Obligation, which would extend it from 10.4 per cent. in 2010/2011 to 15.4 per cent. by 2015/2016, and introduce a number of other changes intended to secure the Obligation and improve its operation. As we are a licensed electricity supplier, we are subject to the Obligation in respect of our DSB.

Each MWh of electricity produced by an accredited renewable generator earns a Renewables Obligation Certificate (ROC) or, in Scotland, a Scottish Renewables Obligation Certificate (SROC). These certificates can be sold or purchased independently from the electricity to which they relate and a supplier can meet its renewables obligation by presenting equivalent ROCs/ SROCs for the prescribed percentage of electricity supplied at the end of each year or by making a buy-out payment to GEMA (originally set at £30.0 per MWh and indexed to RPI) or a combination of both.

The Obligation is designed to incentivise electricity suppliers to acquire a sufficient number of certificates to meet their total electricity requirements, rather than making, in all likelihood, more expensive buy-out payments which are then re-distributed by GEMA (with interest accrued) to suppliers who have presented ROC/SROCs in compliance with the Obligation.



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In 2002/2003, the Obligation in respect of our DSB was 564,622 MWh. This was met through a combination of ROCs, SROCs, and contributing to the buy-out fund. The cost of meeting the Obligation is recovered from customers through their bills. For 2003/2004 the amount of the Obligation was 4.3 per cent. and the buy-out payment was £30.5 per MWh.

We are undertaking some co-firing of biomass at our Eggborough power station and using the ROCs arising therefrom to part meet the requirement we have under the Obligation.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Under the terms of the Contribution Agreement, we are permitted to increase expenditure up to certain annual thresholds on the development of renewable energy projects agreed with the Secretary of State and which would qualify for ROCs.

**Climate Change Levy**

The Climate Change Levy (CCL), introduced in April 2001, aims to encourage the efficient use of energy and to reduce carbon emissions by around 5m tonnes a year by 2010. Electricity from qualifying renewable and combined heat and power (CHP) generators are exempt from the levy. Current Government thinking is that the CCL will continue in spite of the implementation of ETS as described above in paragraph headed: ETS. The levy is currently set at £0.43 per kWh.

Our nuclear power stations and the Eggborough power station do not qualify as renewable or CHP generators for the purposes of CCL (except in relation to any qualifying biomass which is burnt at Eggborough). All suppliers are required to collect the CCL from their business customers and to pass this to HM Customs and Excise every quarter.

**Regulation of the Eggborough power station and Gale Common**

We are subject to numerous environmental regulations with respect to our ownership and operation of the Eggborough power station and the Gale Common ash disposal facility located next to the Eggborough power station.

A system of Integrated Pollution Control (IPC) for power stations was introduced under the Environmental Protection Act 1990 for which the EA has responsibility for enforcement. The EA's IPC authorisations require power stations to use Best Available Techniques Not Entailing Excessive Cost to prevent or, where that is not possible, to minimise and render harmless their emission of certain pollutants.

The Integrated Pollution Prevention and Control Directive has been implemented in the UK by the Pollution Prevention and Control Regulations and modifies the IPC regime, including in relation to noise, waste minimisation and energy efficiency. An application for a permit under the new Pollution Prevention and Control Regulations for the Eggborough power station must be submitted to the EA between 1 January and 31 March 2006. An application for a permit for Gale Common must be submitted to the EA between 1 January and 31 March 2007.

Disposal of ash to the Gale Common facility is governed by the Landfill (England and Wales) Regulations 2002, the Pollution Prevention and Control Regulations and two waste management licences which are regulated by the EA.

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More generally, we are also subject to the Water Resources Act 1991 which relates to water pollution and requires persons who have caused or knowingly permitted water pollution to carry out remedial works. The EU Environmental Liability Directive is aimed at the prevention and remedy of environmental damage to water, land and bio-diversity and is based on the principle that the polluter should bear the cost of damages caused to the environment or of measures to prevent imminent threat of damage.

### **Regulation of the UK nuclear generation industry**

#### ***Key legislation***

The construction, operation and decommissioning of nuclear installations and the protection of workers and the public against ionising radiations and security at nuclear plants are principally regulated by the Nuclear Installations Act 1965 (NIA), and the Anti-Terrorism Crime and Security Act 2001 (ATCSA), respectively. The transport of radioactive material is regulated by the Radioactive Material (Road Transport) Act 1991 (RMRTA).

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

The disposal of radioactive waste, including discharges to the environment, is regulated by the Radioactive Substances Act 1993 (RSA). The nuclear generation industry is also subject to the same regulations as other generators as regards non-nuclear aspects of health and safety and environmental protection (including emission of pollutants), in particular under the Health and Safety at Work Act 1974 (HSWA), the Environmental Protection Act 1990 (EPA), the Water Resources Act 1991 and the Pollution Prevention and Control Act 1999 and, in Scotland, the Control of Pollution Act 1974.

Further details regarding the risks associated with this aspect of our business are set out in Part II, the risk factor headed: We are subject to extensive and unique regulations.

***Nuclear Installations Act***

Under UK law, and in particular the HSWA, employers are responsible for ensuring the safety of their employees and the public. This responsibility is reinforced for nuclear installations by the NIA which establishes a nuclear licensing regime controlled by the HSE. The licensing function is administered on HSE's behalf by the NII. Operation of a nuclear plant is governed by the nuclear site licence and the licence conditions which are attached to it and apply to the whole plant through its life cycle, up to and including the early stages of decommissioning.

Before a nuclear site licence is granted by HSE, the NII must be satisfied as to the safety of the operation and eventual decommissioning of an installation, and the ability of the applicant to understand and meet its obligations. Prospective licensees will be assessed under three broad areas: organisation of the applicant and measures to discharge licence obligations; location and security of the site and; safety of the site's design, its manufacture, installation, commercial operation and maintenance.

The safety of the installation is demonstrated through a written safety case and the applicant also documents the arrangements for the management of safety which the NII assesses prior to granting a licence. Modifications to the original safety case are managed through arrangements which ensure that significant changes cannot be made if the NII objects.

There are nuclear site licence conditions requiring the licensee periodically to shut down the reactor to carry out inspections and maintenance (statutory outages), particularly in respect of the reactor core and other plant that cannot be accessed whilst operating, and to review and reassess the safety case for the plant. Statutory outages take place at intervals of up to three years for an AGR and up to 18 months for a PWR.

*The role of the NII*

The NII's approach to regulating safety involves defining levels of tolerable risk. Tolerable risks must be reduced to a level which is As Low As Reasonably Practicable (ALARP). Activities above this level of tolerability are not normally permitted. This means that

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employers must weigh the risks against the cost of reducing such risks and take steps to reduce or remove a risk unless it would obviously be unreasonable to expect such steps to be taken. The NII checks that steps have been taken to reduce risks such that they are ALARP. The ALARP principle has been embodied in a set of safety assessment principles which the NII uses as a basis for assessing safety cases.

The NII scrutinises the activities of the licensee directly on site, and those of the licensee's central support organisation, through the assessment of the licensee's written submissions. An NII inspector is allocated to each nuclear power station and is typically present on site one week per month to hold meetings with the station staff and to check for compliance with the licence conditions and safety case requirements. An inspection team may also visit the nuclear power station to assess a particular part of the plant, or aspect of the safety case, and may also visit the licensee's central support organisation to assess its part in ensuring safety on the licensed

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

sites. As discussed in greater detail in the paragraph below headed: Safety management, each licence also requires the establishment of a Nuclear Safety Committee (NSC) for each licensed site, to provide independent advice to the licensee on significant nuclear safety issues.

Before consenting to a reactor restarting following an outage, the NII has to be satisfied that, based on the previous operating experience and the condition of the plant, there is an adequate safety case for the operation of the plant for the next period. This may require enhancement of the safety case to justify continued operation. The NII's consent to a restart cannot be predicted by us and is a matter determined by the NII in its sole discretion. Its decisions are made by reference to its satisfaction with the safety case relating to the reactor in question. From time to time such consent to restart is not received from the NII.

The recent delays to reactor start-up at Hartlepool and Heysham 1 (both associated with the integrity of the pre-stressing wires of the wetted boiler closure units and significant modifications required to the safety case as a result of flooding and coincident fire threats) are recent examples of the NII intervening in a proposed reactor start-up.

The NII on behalf of the HSE regulates conventional and nuclear safety. Its enforcement powers include the serving of improvement notices, prohibition notices, and prosecutions, and in the case of nuclear site licence conditions, through the use of directions, specifications, notifications, consents, approvals and agreements. In addition to the ability to prevent a reactor restarting the NII may also direct a licensee to shut down a nuclear reactor.

Under our nuclear site licences, we are required to carry out a PSR to review the safety case for each of our nuclear power stations once every ten years to demonstrate that it is safe to operate the relevant reactors for the next ten years, taking into account current safety standards, the operational history and the effects of plant ageing. Further details of the PSR are set out below in the paragraph headed: Periodic safety reviews.

Conditions attaching to nuclear site licences require adequate arrangements to be made for the decommissioning of any plant. To ensure that a licensee's decommissioning strategies remain sound as circumstances change, they are reviewed every five years by the NII, which also consults the relevant environmental regulatory bodies. Applicants must justify their chosen decommissioning strategy to the NII and demonstrate that there will be adequate funds to carry out the work. A nuclear power station remains a licensed site throughout the decommissioning process and is subject to the same system of regulation as when it was operational.

Nuclear site licences for our nuclear power stations are currently held in England by BEG and in Scotland by BEG UK. We have announced our intention to re-license our two nuclear power stations in Scotland to BEG and we have applied to SEPA for consent to transfer the RSA authorisations to BEG. The re-licensing of our two Scottish nuclear power stations is expected to be completed in 2005 and will result in all of our UK nuclear power stations being operated by a single licensed company. This is also the subject of an undertaking to the Commission by the Government and by our corresponding agreement pursuant to the Deed of Undertaking to carry out certain compensatory measures in connection with the State Aid Approval, further details of which are set out in Part VI: Further information relating to the Restructuring paragraph headed: State Aid. Further information on the proposed move to a single licensee is set out below in the paragraph headed: NII safety management audit.

*Safety management*

In accordance with its site licence, each nuclear power station has established an NSC to provide independent advice to the licensee on significant nuclear safety issues. The NSC consists of senior company personnel with knowledge of, and responsibility for, nuclear safety and the relevant station director and external appointees who have significant experience in the nuclear industry. The NII approves the terms of reference of each NSC, which determines the matters to be referred to it, and has a power of veto on any appointment to an NSC.

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**Table of Contents****PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)***Licence condition on organisational change*

In March 2000, HSE added a new condition to the standard nuclear site licence, thereby bringing changes to organisational structure and resource directly within the licensing regime. We have site licence compliance arrangements in place to address the new licence condition and to manage organisational changes which may affect nuclear safety, such as the creation of new station posts, reductions in manpower or outsourcing of functions. A programme director and change plan were put in place in connection with the closure of the current headquarters at Peel Park, East Kilbride, Scotland to manage the impact on the business and enable the licensees to satisfy themselves and the NII that the closure will not adversely affect the overall availability of suitably qualified and experienced staff within the central functions who support nuclear operations.

*Nuclear liability under the Nuclear Installations Act (NIA)*

The NIA provides that the licensee of a nuclear site has a duty to ensure that no occurrence involving either nuclear material or ionising radiation causes personal injury or damage to property other than property belonging to the licensee or any other property which is on the site and is used in connection with the operation of the nuclear installation. The licensee is exclusively liable for a breach of this duty irrespective of fault.

Under the NIA, our liability to pay compensation for a breach of this duty is currently limited to £140m per occurrence (excluding interest or costs). The NIA requires the licensee to make provision, by insurance or such other means as the Government may approve, for sufficient funds to be available at all times to ensure that duly established claims are satisfied up to £140m in the aggregate per site in respect of each of the periods of the licensee's responsibility specified in the NIA. The NIA also requires that the Government will make available such sums (in addition to insurance or other funds which may be available from the licensee) as may be required to ensure that all duly established claims (excluding interest or costs) in respect of any occurrence are satisfied, up to 300m special drawing rights (equivalent to approximately £240m). Contributions to this amount are made by the Signatories to the Brussels Convention. A claim for compensation which is not satisfied out of this sum may, under the NIA, be satisfied by the Government to such extent as it may determine. These provisions mean that if the licensee's liability to pay compensation (£140m per occurrence excluding interest or costs) exceeds the provision (e.g. by insurance) that it is required to make (£140m in the aggregate per site excluding interest or costs), the shortfall must be paid by the Government. This could happen where there are two or more occurrences at a site which, in aggregate, give rise to established claims in excess of £140m. These provisions may be illustrated with an example (this example assumes that both occurrences are within the same period of responsibility under the terms of the NIA):

- (a) if an occurrence at a site results in established claims of £100m (excluding interest or costs) the licensee would be liable for the full amount since that amount falls within the provision it is required to make (£140m per site in the aggregate excluding interest or costs); and
- (b) if there were another occurrence at the same site resulting in established claims of a further £100m (excluding interest and costs), only £40m would be payable by the licensee (that being all that remains of the provision of £140m per site in the aggregate excluding interest or costs it is required to make).



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It remains possible, however, that the Secretary of State may direct the licensee to begin a new period of responsibility in the light of previous occurrences or claims thereby requiring the licensee to reinstate any provision that may have been reduced as a result of claims following an occurrence.

It is likely that these thresholds will increase in the future. On 12 February 2004, the Government signed two Protocols to amend the Paris Convention on Third Party Liability in the Field of

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Nuclear Energy, 1960 and the Supplementary Brussels Convention, 1963 which, together, increase the limit of liability of nuclear operators to litigation by persons in states which are parties to the Convention to a minimum of £700m; the liability of the Government to £500m; and the liability of the pool of funds contributed to by contracting parties to the Brussels Convention to £300m. Total compensation available under the revised regime will be a minimum of £1.5 billion, a four-fold increase. In addition, the definition of nuclear damage will be expanded to allow a broader range of damage to be compensated, including economic loss and the costs of preventive measures. Following ratification of the Protocol, the NIA will be amended. The Directors believe that the insurance market will have sufficient capacity to offer cover for these increased limits of liabilities when implemented (and are aware that the costs of insurance will increase in line with the increases in liability resulting from the intended amendments to the NIA described above).

Further details are set out below in the paragraph headed: Insurance.

***Periodic safety reviews***

As mentioned above, in the paragraph headed: Nuclear power station lifetimes, the adequacy of the safety case for each nuclear power station is confirmed at each statutory outage, at which point the NII reviews the operating performance of the station and the results of examination, maintenance, inspection and testing that we have carried out on the plant. Prior to consenting to the nuclear reactor restarting, the NII must be satisfied that there is an adequate safety case for the operation of the plant.

In addition to this ongoing monitoring, pursuant to a condition of our nuclear site licences, a PSR is required at each nuclear power station, at intervals of not more than ten years, to review the safety case for continuing to operate that nuclear reactor for the next ten years taking into account operational history, plant ageing and current safety standards. The nuclear power station's commercial viability may be significantly eroded if we fail to establish the adequacy of the safety case to the NII's satisfaction. As licensee, we seek to demonstrate a robust safety case which will likely involve detailed technical evaluations and complex judgements.

The scope and timing of the PSR is agreed between the NII and the licensee. Once the timing of the PSR is agreed the licensee carries out the review and submits its findings to the NII. The NII's expectation from a PSR is that it will receive confirmation that safety structures, systems and components remain fit for purpose insofar as they are able to perform according to original design intent and that modern standards are achieved as far as reasonably practicable. Additional (or modifications to) safety structures, systems and components that are required to revalidate a safety case, which are identified through the PSR process, are generally to be completed by the licensee prior to the PSR decision date. The NII may require additional work to be carried out to demonstrate the adequacy of the safety case for continued operation and the progress of any such work will usually be monitored by the NII on an ongoing basis.

The first PSR has been completed for each of our AGR power stations. Sizewell B, the last nuclear power station to complete a PSR, provided its submission to the NII in December 2003. The NII is expected to complete its assessment of that submission in September 2005 (although generally the NII takes approximately thirteen months to assess our PSRs). For details of the PSR dates for all our nuclear power stations see the paragraph above headed: Nuclear power station lifetimes.

The next PSRs of Hunterston B and Hinkley Point B nuclear power stations are planned to be submitted to the NII in December 2005 at which time we will be required to confirm that all the recommendations arising from the previous PSRs of Hunterston B and Hinkley Point B have been implemented. The NII's decision whether to agree continued operation of each nuclear power station is expected a year or so after these submission dates.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

***Public safety***

*Security*

We operate in a world where we must be vigilant to security threats of all sorts in particular as a result of increased levels of terrorist activity internationally. Our operations are regulated and subject to inspection by the Office for Civil Nuclear Security (OCNS) and must comply with the Nuclear Industries Security Regulations 2003 (the NIS Regulations) which are made under ATCSA and all directions made under that legislation. The OCNS also publish annual reports for the Secretary of State. Its latest annual report dated July 2004 is entitled: The State of Security in the Civil Nuclear Industry and Effectiveness of Security Regulation April 2003-March 2004. This report outlines the ongoing changes and planned improvements in security regimes at the UK's nuclear power stations. We are working with the OCNS, along with other nuclear operating companies, to introduce, where necessary, improvements on our security arrangements which may result in increased security costs.

Our security arrangements have been independently reviewed in connection with Admission and, following the findings of that review, we remain confident that our security regime and processes are of a high standard and meet the necessary UK regulatory requirements and where necessary, have an agreed security improvements plan which conforms with Government guidelines. The review covered protective security-related compliance issues as well as compliance with legal requirements. The review concluded that our security policy and our security risk management audit process are documented and subject to regular internal review and that we have effective systems in place to address security issues across a range of areas including personnel recruitment, information technology, physical security and health and safety. We make every effort to ensure that robust security management is achieved.

*Emergency arrangements*

Emergency arrangements have been established and demonstrated to the satisfaction of the NII who also approve an emergency plan for each nuclear power station which is lodged with, amongst others, local emergency services and public libraries. Information on emergency arrangements is discussed at local consultative meetings and information is provided to local residents. Each nuclear power station has an emergency control centre on-site, as well as off-site arrangements for co-ordination with the police, the local authorities, other emergency services and other government agencies. No nuclear incidents have occurred at any of our sites which have resulted in a release of radioactivity above the authorised level.

*Transport*

The transport of all radioactive material, both waste and fuel, off-site must comply with the Department for Transport's requirements under RMRTA and the HSE's requirements under HSWA and ATCSA. The RMRTA regulates the transport by road of radioactive material. Under these Acts, the Government may regulate the packaging, labelling, consignment, handling, transport, storage and delivery of radioactive packages. The current regulations require certain consignments to be specifically approved by the Secretary of State for Transport.

***Health & safety***

*Safety performance*

Under the terms of our nuclear site licences, all incidents are required to be recorded and investigated and those of significance must be notified to the NII within defined time scales.

To aid public understanding of the safety significance of events at nuclear installations and their consequences, the International Atomic Energy Agency and the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development have developed the International

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Nuclear Event Scale which sets out various levels of incident increasing in seriousness from 0 (i.e. an anomaly with no safety significance) to 7 (i.e. a major accident with widespread health and environmental effects) and the criteria relating to each level.

Only events at level 4 and above involve a significant release of radioactivity off-site. There has never been an event at any of our nuclear power stations resulting in an exposure to radiation of a person on or off the site above the statutory exposure limits, or the need to consider countermeasures to protect the public off-site. No event has been rated higher than level 2 at any of our nuclear power stations (i.e. an incident with a significant failure in safety provisions but with sufficient defence in depth remaining to cope with additional failures or an event resulting in a radiation dose to a worker in excess of the statutory annual dose limit and/or an event which leads to the presence of significant quantities of radioactivity in the installation in areas not expected by design and which require corrective action).

There has been a reduction in the collective dose from radiation exposure to our workers from 0.12 man Sv/reactor in 2002/2003 to 0.09 man Sv/reactor in 2003/2004. This figure represents approximately one tenth of the worldwide median of the operators contributing to information collated by WANO and places us in the top 10 per cent. of performers in this respect.

We maintain an open culture that promotes the reporting of all accidents, including those where no injury actually resulted. The industrial safety accident rate is used to indicate the average number of accidents involving time off work of one day or more. In the year to 31 March 2004, our industrial safety accident rate (i.e. the number of accidents for all utility personnel permanently assigned to a station that result in one or more days away from work (excluding the day of the accident) or one or more days of restricted work (excluding the day of the accident) or fatalities) was 0.68 lost-time accidents per 200,000 man-hours of operation, an increase from 0.53 in the prior year but a significant improvement from 1.06 in the year ended 31 March 2002. While we have made significant improvements in the last two years, our current performance ranks unfavourably in comparison to other nuclear operators contributing data in respect of their industrial safety accident rates to WANO.

A further measure of safety performance is made by the Royal Society for the Prevention of Accidents (ROSPA) who monitor and compare the potential severity of accidents and type of lost-time accident and organisational control procedures in place across UK industry. ROSPA has recognised our safety performance by awarding all of our eight nuclear power stations with Gold Awards for achieving very high standards of safety and health in 2003/2004. Gold Medal Awards were presented to two of our nuclear power stations for continued safety performance over the last five years and five of our nuclear power stations were awarded the President's Award for achieving Gold Awards for the last ten years.

*NII safety management audit*

In 1998, the Board announced its decision to reorganise the British Energy Group and, in particular, our two licensed subsidiaries, BEG and BEG UK, to bring all eight UK nuclear power stations under one licensee, namely BEG. Following this decision, in April and May 1999, the NII carried out a major audit of the safety management arrangements in the central functions that support safety at the licensed sites. The report from this audit was published by the NII in January 2000 and included 103 recommendations to be addressed by both licensees. The NII expressed concern about the ability of BEG and BEG UK to maintain adequate levels of technical support in the future, the extended working time of technical staff, the levels of contractor support being used and the adequacy of the management of change arrangements. The NII confirmed that it was not concerned about the immediate safety of

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the nuclear power stations, but wished to ensure that BEG and BEG UK remained adequate nuclear licensees in the future. For further information on risks associated with these issues see Part II: Risk Factors.

Since publication of the NII audit report in January 2000, we have worked to develop processes to address the NII's concerns. Of the 103 recommendations, 83 have been fully cleared and

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

require no further action, one has yet to be cleared (although the way to resolve the issue has been agreed), and 19 are being monitored to confirm that the agreed resolution has been fully carried out. The NII has confirmed that it will review the BEG and BEG UK management of the proposed relocation of technical staff from Peel Park to Barnwood over the next year or so as a test of whether the processes put in place to address the audit findings are working, and will not finally clear the majority of the remaining 19 recommendations until they are satisfied.

***Compliance with nuclear regulations***

We seek to emphasise the importance of maintaining and continuing to develop a 'safety first' culture in addition to complying with regulatory requirements. Our overall organisational structures and policies and our safety management arrangements are designed to recognise, implement and monitor legislative requirements and developments through appropriate procedures and practices.

***WANO***

We are a member of WANO which is an international non-governmental organisation comprising operators from more than 420 nuclear power plants in over 30 countries. WANO aims to maximise the safety and reliability of its members' nuclear power plants. WANO undertakes a programme of site evaluations with the intent of reviewing operations at each of our nuclear power stations every two years.

WANO also carries out corporate evaluations where 'corporate' means any part of the power plant organisation which does not report directly to the station director. These evaluations provide an opportunity for members to be informed of how other members of WANO perform in relation to the question of corporate organisation and how the member in question is performing against benchmarks called Performance Objectives & Criteria (POs&Cs) which WANO has developed over the years. A subset of the POs&Cs has been developed as the basis for corporate reviews. At our request, WANO carried out a corporate review of BEG and BEG UK in July 2001, which was the first such review outside of North America.

***Key findings from the WANO 2001 corporate review***

In September 2001 WANO presented the findings of the corporate review and identified five areas for improvement:

- the material condition and equipment performance of our nuclear power stations needed significant improvement as it was adversely impacting the reliability of those stations;



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- we needed to develop a strong operational focus to ensure sufficient attention was given to the problems and priorities that affect safe and reliable performance of our nuclear power stations;
- the corporate organisation needed to be aligned around an integrated strategy with the clear lines of authority and accountability to improve overall performance;
- operating experience information needed to be used effectively by the line organisation to prevent the recurrence of operational events; and
- an unambiguous message regarding the overriding importance of nuclear safety needed to be provided throughout the organisation.

### ***June 2003 WANO revisit***

In June 2003, a WANO corporate review team returned to BEG and BEG UK to review progress in addressing the five main areas for improvement described above. The findings of the team

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

were that, although they recognised the significant work that had been done to address the issues raised in 2001, the actual progress was not sufficient to place the British Energy Group in the same category as the best performing nuclear operators in the world. However, we have reformulated our strategic business objectives and we believe these will address WANO's concerns as well as seeking to improve our performance. Our efforts to gain world standards of safety and reliability are being supported by PIP (described above in the paragraph headed: Performance Improvement Programme).

***August 2004 WANO revisit***

In August 2004, a WANO team completed a further review and reported on our progress in addressing June 2003 recommendations. This report, received in September 2004, acknowledged the progress that we had made with PIP and agreed that PIP, if properly implemented, would resolve the shortfalls in our performance that WANO had earlier identified. Whilst acknowledging our progress, the WANO team advised that additional emphasis should be placed on improving our reliability and safety culture.

**Environmental**

***Waste, emissions and discharges***

The Radioactive Substances Act 1993 (RSA) governs the disposal of radioactive waste including radioactive discharges. Radioactive gaseous, liquid or solid waste may only be disposed of or moved off the nuclear licensed site in accordance with authorisations granted under the RSA.

In England and Wales, the EA regulates nuclear power stations and grants authorisations for radioactive waste disposal under the RSA. In Scotland, SEPA regulates under the RSA. We have obtained all necessary consents and authorisations from the EA and SEPA for the disposal of radioactive waste and discharges from our nuclear power stations.

Authorisations for disposal of radioactive waste require the operator to use best practicable means to reduce discharge of radioactivity. The operator must in any event comply with the authorised discharge limits set by the EA or the SEPA. In England, the EA also sets quarterly notification levels for discharges which are lower than these limits and which, if exceeded, require a formal notification and justification to the EA that best practicable means have been employed. The Energy Act requires the EA and the SEPA to carry out periodic reviews of the limitations and conditions attached to the authorisations. In June 2004, the EA announced that it is reviewing the radioactive waste disposal authorisations at all six of BEG's nuclear power stations. The review is intended to ensure that the authorisation limits and conditions remain fully effective, appropriate and up to date reflecting recent technical developments and anticipated site developments as well as national radioactive waste policy. The review is expected to take three years, with public consultation planned for 2006.

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To enable the re-licensing to BEG of the two nuclear power stations in Scotland currently licensed to BEG UK under the NIA, it is also necessary for BEG to be granted the RSA authorisations in respect of the two Scottish nuclear power stations. Applications for transfer of these authorisations have been made to SEPA and the authorisations are expected to be available on a similar timescale to the nuclear site licences to permit relicensing in 2005.

The EPA provides for a waste management licensing regime and imposes certain obligations and duties on companies that treat, keep and dispose of non-radioactive waste. Separately, the Integrated Pollution Control (IPC) environmental authorisation regime introduced in 1991 under the EPA provides an authorisation regime for emissions which requires that a nuclear power station use the Best Available Techniques Not Entailing Excessive Cost to prevent or, where that is not possible, to minimise and render harmless the emission of certain pollutants. A new Integrated Pollution Prevention and Control (IPPC) regime, which will combine the waste

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

management and emission regimes and will impose progressively stricter requirements on nuclear power stations, is being implemented. It is expected to be fully implemented by 2007 but will not totally replace the existing waste management licensing regime. The regulatory bodies under the new IPPC regime will remain the EA and SEPA.

***Consumer information***

The EU has recently issued a liberalisation directive relating to electricity markets. It includes a requirement for electricity suppliers to provide information on the types of fuel that have been used to produce the electricity, to assist consumers in making informed choices about the environmental impact of the electricity they buy. This requirement is imposed by way of a new licence condition which will be introduced this autumn, although we have been disclosing fuel mix and other environmental information to customers since 2003.

***Environmental performance***

The Centre for Environment, Fisheries and Agriculture Science produces a *Radioactivity in Food and the Environment* report on behalf of the EA, SEPA, the Food Standards Agency and the Environmental Heritage Service of Northern Ireland which contains radiological monitoring data. The report shows that in 2002 radiation doses to the public resulting from our radioactive discharges to the environment were well below the national and international limits in all parts of the UK.

Both in England and Wales and in Scotland, compliance with radioactive waste disposal authorisations is assessed through returns made to the relevant regulator and a regular programme of site inspections by the regulator.

None of our nuclear power stations has ever been prosecuted for exceeding any of its authorised limits for the disposal of radioactive waste. However, in January 2003 BEG UK was prosecuted at Haddington Sheriff Court, Scotland relating to the unauthorised discharge of an Active Effluent Discharge Tank in October 2001 at Torness and was fined £15,000 reflecting the fact that: (i) this was the first ever prosecution against BEG UK; (ii) the action it took in reporting and remedying the breach; and (iii) the absence of detriment to the environment.

We have been served with a number of Enforcement Notices from the environmental regulatory authorities requiring improvements to plant and/or processes associated with environmental performance, all but two of which we have currently dealt with to the satisfaction of those authorities (because the end dates for making improvements in respect of these particular issues has not yet expired). In October 2003, the EA wrote to us highlighting a series of incidents and non-compliance (both actual and potential) that, in its view, indicated a serious shortfall in our compliance with our environmental permits and environmental legislation. In December 2003, we responded to the EA setting out the actions that we intended to take to resolve the issues raised in their October 2003 letter. The EA's response to our proposals in January 2004 was broadly positive and supportive of the steps we propose to take, although they included some additional suggested measures to be considered by BEG and a requirement for improvements in environmental management and maintenance of the sites. We have established a new function, led at Director level, to focus on environmental and nuclear liabilities issues, and whose key objective is to work with each of our nuclear power

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stations to raise their environmental standards and performance; upgrade management arrangements to meet the EA's expectations; and implement common best practices across the nuclear fleet. We continue to meet with the EA to review our environmental performance.

The EA's latest *Spotlight on Business Environmental Performance* report notes that in 2003 it had raised with our Directors concerns in relation to 21 actual or potential breaches of environmental permits at our six English nuclear power stations. These breaches were dealt with by enforcement action, including a prosecution at Dungeness B. In light of the actions we have taken to rectify this situation and described above, the EA notes in its report that we have

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responded positively by reorganising responsibility for environmental management and planning environmental improvement projects at each of our nuclear power stations.

The EA on 23 September 2004 issued an enforcement notice against BEG at Sizewell B for failing to maintain and keep in good repair the systems for discharging relevant radioactive waste. This relates to alleged discharges of solid waste from two liquid radwaste systems. We cannot rule out further action being taken by the EA over this matter.

**PROPERTY, PLANT AND EQUIPMENT**

Our properties consist of power stations, administrative offices and land and various other properties (a small number of which are held pending disposal). We own the freehold (in England and Wales) and feuhold (in Scotland) to each of our eight UK nuclear power stations and the Eggborough power station as well as the administrative centres at Barnwood near Gloucester in England. In connection with the closure of Peel Park, we have agreed to take on other office leased premises in Scotland at Renfrew and Livingston.

On 2 July 2003, we announced proposals to close our current corporate headquarters at Peel Park in East Kilbride. Under these proposals, certain operational posts will be relocated to our Barnwood office, and our headquarters will be transferred to a new location at Livingston in Scotland. On 15 September 2004, we announced the sale of Peel Park. In connection with the sale of Peel Park we leased a small part of those offices back. A small number of support staff will remain at Peel Park. We have consulted with those employees directly affected by these proposals. Our remaining staff who choose not to be re-located to Barnwood will be temporarily relocated to offices in Renfrew until personnel can be found to fill the position at Barnwood.

In addition, we currently lease an office in London.

Details of our power stations and principal offices are set out below:

<u>Type</u>	<u>Type of nuclear power station (where relevant)</u>	<u>Capacity (MW)</u>	<u>Location</u>
<b>Nuclear Power Stations:</b>			
Dungeness B	AGR	1,110	England
Hartlepool	AGR	1,210	England
Heysham 1	AGR	1,150	England
Heysham 2	AGR	1,250	England

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Hinkley Point B	AGR	1,220	England
Hunterston B	AGR	1,190	Scotland
Sizewell B	PWR	1,188	England
Torness	AGR	1,250	Scotland
<b>Coal-Fired Power Station:</b>			
Eggborough		1,960	England
<b>Principal Offices:</b>			
Barnwood, Gloucester			England
Sheldon Square, London			England
Renfrew			Scotland
Systems House, Livingston			Scotland

Source: British Energy

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In connection with our privatisation in July 1996, we entered into a Property Clawback Deed with the then Secretary of State for Trade and Industry. The Property Clawback Deed provides that in the event of the disposal, or an event deemed to be a disposal, of any property in which we had an interest as at 31 March 1996 (other than licensed sites within the meaning of the NIA), the Government is entitled to 50 per cent. of any post-tax gain realised on the disposal in excess of £400,000 increased in accordance with RPI since 1 April 1996. The Property Clawback Deed will cease to have effect from 31 March 2006. We do not believe that a post-tax gain susceptible to claw back was realised on the sale of our offices at Peel Park.

Certain of our Group companies have granted security over their assets in order to secure the Decommissioning Default Payment and related costs and expenses under the Contribution Agreement pursuant to the DDP Debenture which will become effective from the Restructuring Effective Date. For further information on the DDP Debenture, see Part X: Additional information, paragraph 17.2 (f).

In addition, under the Government Option Agreement, the Secretary of State will have an option to acquire for £1 each nuclear power station and related station assets (subject to certain exclusions) for the purpose of decommissioning or continuing the operation of the nuclear power stations beyond the date of closure of those stations chosen by the Group. The assets to be transferred upon the exercise of the option will include only that part of the land owned by the nuclear power station which is required for the decommissioning or continued operation of the nuclear power station and the remainder of the land will be retained by the Group. Consequently, the Government Option Agreement imposes restrictions on the use of the retained land and grants certain rights of access to the Secretary of State (or her nominated purchaser) over this retained land. There are also provisions for the Secretary of State to pre-approve the entry into certain agreements relating to this retained land. The Government Option Agreement is described in greater detail in Part VI: Further information relating to the Restructuring, paragraph headed: The Nuclear Liabilities Fund (and in more detail in Part X: Additional information, paragraph 17.2 (i)).

**INSURANCE**

The principal types of insurance carried by us cover: material damage and business interruption; nuclear liability under the NIA; conventional third party liability; directors and officers liability; employers liability; property; motor; personal accident and travel insurance; pension trustee liability; and fidelity guarantee insurance. The principal terms of the material damage and business interruption cover, mandatory insurance cover under the NIA and insurance cover for terrorist acts are set out below.

***Material damage and business interruption***

In respect of nuclear sites, we insure most of our material damage (including machinery breakdown, boiler explosion and excessive temperature within the nuclear reactor) and business interruptions risk and take all of our nuclear liability cover through Nuclear Risk Insurers Ltd, which is also known as the Nuclear Pool. In 1957 the Nuclear Pool was established by commercial insurers and Lloyd's underwriters to insure nuclear installations in the UK. Similar arrangements exist in other western countries and nuclear pools reinsure each other. The UK Nuclear Pool is the principal insurer of nuclear risks in the UK. Given the current lack of alternative capacity in the insurance market, we will need to continue to insure against these risks with the Nuclear Pool.



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The balance of cover for material damage and business interruption for nuclear sites is insured with the European Mutual Association for Nuclear Insurance (EMANI), of which British Energy is a member. The material damage cover is subject to a deductible of £5m for each and every loss and the business interruption cover is subject to a deductible equal to 90 days of any loss if the cause of the interruption is in a radiation area of the plant and 60 days in respect of other areas

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of the plant. Furthermore, we retain 7.5 per cent of any loss in excess of the retentions referred to above.

EMANI is a mutual company based in Brussels comprising several non-US owners and operators of civil nuclear facilities. EMANI participates in British Energy's material damage and business interruption insurance programme on a co-insurance basis.

Under its articles of association, members of EMANI may become liable for a retrospective premium call of up to a maximum of six times their annual premium at the time the call is made, in the event of exhaustion through claims of its guarantee fund of £72m. Currently EMANI would be able to withstand one full limit loss before its guarantee fund would be exhausted and a premium call on members of 3.03 times their annual premium, would be necessary in order to reinstate it. British Energy's current annual premium is £721,399. Theoretically, in the event of additional claims in the same year leading to another exhaustion of the guarantee fund, a further premium call could be made up to an aggregate maximum of six times current annual premium, which on current levels, would be up to £4,328,394.

It should be noted that no premium call has ever been made during the twenty-six years of EMANI's existence.

We have also arranged balance sheet protection cover with the Nuclear Pool and EMANI which provide reimbursement for all costs incurred following a loss which exceeds £125m and results in the closure of a unit. These costs would include a diminution in the asset value of the nuclear power station and decontamination.

The Group's insurances contain customary exclusions and restrictions. For example, the material damage and business interruption cover for nuclear sites excludes cover for damage caused by losses due to erosion, corrosion, stress corrosion, cracking or embrittlement due to prolonged neutron bombardment as well as other exclusions.

The material damage and business interruption cover for the Eggborough power station is written by the commercial insurance market. It is subject to a deductible for each and every loss for losses to generator transformers of £1.75m and for all other losses of £1m. The business interruption cover is subject to a deductible equal to 60 days of any loss if the cause of the interruption is damage to the steam boiler, steam turbine generator, generator transformers or LP Rotors and 45 days for all other losses. The generator transformers deductible is based on the understanding that EPL has access to a spare transformer owned by EPL for the sole use of EPL and stored on EPL's site. EPL is also currently in negotiations in respect of a shared spares agreement with PowerGen that will allow it to call upon another spare transformer. If the shared spares agreement is not agreed between EPL and PowerGen and therefore the other spare generator transformer is not available to EPL, the deductible will continue to remain at 60 days on the proviso that the spare owned by EPL remains available. If however, for any reason, neither the EPL spare or the proposed shared spare is available, the deductible will revert to 90 days.

The Group's insurances contain standard exclusions and restrictions and the material damage and business interruption cover does not therefore provide cover for damage caused by, for example, losses due to erosion, corrosion, stress corrosion or cracking.

***Nuclear liability under the NIA***

In relation to nuclear liability under the NIA, we have complied with our obligations under the NIA to make appropriate financial arrangements to meet claims under the NIA by obtaining insurance cover for an aggregate limit of £140m per site; see the above paragraph headed: Nuclear liabilities under the Nuclear Installations Act. The cover is subject to a right of recovery by Insurers of £10m in respect of any one claim. In relation to the increase in the required level

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of cover which will arise following the ratification of the Protocol (referred to above under the heading: Nuclear liability under the Nuclear Installations Act) to £700m, our insurer has confirmed its expectation of being able to provide sufficient insurance capacity to accept the risks required by the increased cover. We are not, however, in a position to determine how much more this mandatory insurance may cost compared to our current insurance premiums nor to describe the other terms on which our insurer would be willing to make the cover available.

***Terrorism cover***

Cover for nuclear liability sustained by acts of terrorism has been obtained for the year ending 31 March 2005 from the Nuclear Pool. This cover is subject to the same limits and rights of recovery by insurers as that referred to in the paragraph above headed Nuclear liability under the NIA. The Nuclear Pool indicated following the terrorist attacks on the World Trade Centre in New York that it would not provide cover for nuclear liability arising from terrorist acts without agreement from the Government that it would provide reinsurance cover. This arrangement is subject to annual review and has been forthcoming for the last three years. There is no assurance that the Government will be able to do so in the future.

In addition, the Nuclear Pool provides cover for damage to nuclear installations caused by acts of terrorism resulting in fire or explosion only and resultant business interruption cover caused by terrorist acts as part of the material damage and business interruption policy for nuclear installations. Coverage is subject to the same retentions for material damage and business interruption as outlined above. Cover also applies to all other non-nuclear locations excluding Eggborough.

For Eggborough, we have purchased cover for the cost of damage and business interruption sustained by acts of terrorism from the commercial insurance market. This cover is subject to the same retentions as the material damage and business interruption policy purchased for Eggborough.

When considering the appropriateness of the insurance cover, we have assessed the insurable risks and the advice of our insurance brokers. We are of the opinion that cover provided by the current insurance programme for the Group is of the type, scope and in the amount that is normally purchased by a business of our nature and situation. In addition, we believe that the levels of retained liability under the current insurance programme for the Group are of the amount that is normally purchased by a business of our nature and situation.

***Nira Limited (Nira)***

British Energy currently holds shares in Nira, a captive insurance company registered in the Isle of Man. Its shareholding as at 30 September 2004 was 656,939 or 3.11 per cent. of Nira. As a shareholder of Nira, British Energy is called upon to agree and adopt the financial statements and, if applicable, the proposed allocation of profits that is tabled each year at Nira's annual general meeting. At 30 September 2004, Nira was showing a net loss of £998,634. Dividends of £955,145 were declared on 4 June 2004 and Nira has incorporated the dividend payments as part of its loss to produce a loss figure in its books of £1,953,799 as at 30 September 2004. Under its articles of association, members of Nira are liable to be called upon from time to time in respect of any

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monies unpaid on their shares as Nira is a limited liability company. However, British Energy's shares in Nira are paid in full.

British Energy is currently disposing of its shareholding in Nira. Nira has a five-year exit policy. A special agreement was reached in 2000 to allow British Energy to dispose of its shares. Fifty per cent. of its shares were redeemed in 2001 with the balance being redeemed in equal instalments over the next four years. The final redemption of shares will be effected no later than 30 June 2005.

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**EMPLOYEE SHARE INCENTIVE PLANS**

New British Energy has adopted the following employee share incentive plans:

- The British Energy Group plc Interim Deferred Bonus Plan 2005 (the Interim Bonus Plan);
- The British Energy Group plc Long Term Deferred Bonus Plan (the LT Plan);
- The British Energy Group plc Executive Share Option Plan 2004 (the British Energy Group plc Executive Plan);
- The British Energy Group plc Employee Share Option Plan 2004 (the British Energy Group plc Employee Plan);
- The British Energy Group plc Share Incentive Plan (the SIP) and an associated trust (the SIP Trust); and
- The British Energy Group plc Sharesave Scheme 2004 (the British Energy Group plc Sharesave Scheme)

(together, the British Energy Group plc Share Plans).

**Principal features common to all the British Energy Group plc Share Plans**

Each of the British Energy Group plc Share Plans may operate over newly issued shares, market purchased shares or, if appropriate, treasury shares (other than the Interim Bonus Plan or the LT Plan for which New Shares will be issued).

The British Energy Group plc Share Plans provide that:

- no options/awards will be granted which would cause the number of shares issued or issuable pursuant to options/awards granted in the previous ten years under the British Energy Group plc Executive Plan or any other executive share plan adopted by New British Energy or any subsidiary to exceed 5 per cent. of New British Energy's issued ordinary share capital; and
- no options/awards will be granted which would cause the number of shares issued or issuable pursuant to options/awards granted in the previous ten years under any British Energy Group plc Share Plan or any other

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employee share plan adopted by New British Energy or any subsidiary to exceed 10 per cent. of New British Energy issued ordinary share capital.

- Any treasury shares transferable or transferred under British Energy Group plc Share Plans will be deemed to be new issue shares in New British Energy when calculating the limits described above.

Further information on employee share incentive plans is set out in Part X: Additional information, paragraph 8.

### **PENSIONS**

Since we were previously part of a state owned industry, our employees are members of the Electricity Supply Pension Scheme (ESPS), an industry-wide scheme. The ESPS is divided into a number of financially independent sections, which are known as Groups (for further information see Part X: Additional information, paragraph 9 headed: Pensions). We operate two ESPS Groups: the British Energy Generation Group (Generation Group) and the British Energy Combined Group (Combined Group).

Members' normal contributions are at the rate of five per cent. of salary for the Generation Group and six per cent. of salary for the Combined Group. Employers' regular contributions

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

(before adjustment for the 31 March 2004 actuarial valuation results see further below) are currently at the rate of 17.1 per cent. of salaries for the Generation Group and 15.3 per cent. of salaries for the Combined Group, these being the rates advised by the ESPS actuary following the 31 March 2001 actuarial valuations. Prior to 1 November 2002, employers' regular contributions to the Generation Group were paid at the rate of 10 per cent. of salaries as from 1 April 2001 as part of our arrangements (in accordance with the terms of the ESPS) to deal with the past service funding surplus that was disclosed by the 2001 valuation. For both of our ESPS Groups, the employer contribution rates are (as from 1 April 2004) subject to an offset on account of contracting-out age-related rebates from the Inland Revenue (as advised by the ESPS actuary). Additional contributions are required from the employers from time to time as advised by the ESPS actuary to fund certain additional liabilities, such as the additional costs of redundancy related early retirement benefits.

In addition to their benefits from the ESPS, approximately 25 of our current and former employees have contractual entitlements to additional pension payments (and, in some cases, life assurance benefits) which supplement the benefits payable from the ESPS. These additional benefits are funded from our own operational cash flow at such time as they become due (except for the life assurance arrangements, which are externally insured).

As at 31 March 2004:

- the Generation Group had 4,859 contributing members, 8,412 pensioners (including dependants) and 2,191 deferred pensioners, and the value of the net assets of the Generation Group was £1,791,000,000; and
- the Combined Group had 258 contributing members, 14 pensioners (including dependants) and 12 deferred pensioners, and the value of the net assets of the Combined Group was £31,000,000.

The preliminary report on the actuarial valuation for the Generation Group as at 31 March 2004 states that on the ongoing actuarial basis used by the ESPS actuary, the Generation Group had a funding deficiency of £375,800,000 as at 31 March 2004.

The preliminary report on the actuarial valuation for the Combined Group as at 31 March 2004 states that on the ongoing actuarial basis used by the ESPS actuary, the Combined Group had a funding deficiency of £8,800,000 as at 31 March 2004.

The principal financial assumptions used by the ESPS actuary for the purposes of the Generation Group valuation were as follows:

	<b>Method of calculating assumptions</b>	<b>Position at 31 March 2004</b>
Price inflation	Difference between long-dated Fixed and Index-Linked Gilt yields	2.9 per cent. per annum



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Rate of general pay increases	As Price inflation plus 1.5 per cent. per annum	4.4 per cent. per annum
Rate of pension increases	Price inflation subject to a floor of 0 per cent. per annum	3.0 per cent. per annum
Rate of increases of preserved pensions	As Rate of pension increases	3.0 per cent. per annum
Post-retirement discount rate	Long-dated Fixed Gilt yield plus 0.5 per cent. per annum	5.2 per cent. per annum
Pre-retirement discount rate	Long-dated Fixed Gilt yield plus 2.0 per cent. per annum	6.7 per cent. per annum

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

The provisions of the ESPS and the privatisation protected persons statutory pensions regulations (for further information see Part X: Additional information, paragraph 9 headed: Pensions, in relation to those regulations generally) require us to make additional employer contributions to each of our ESPS Groups, with a view to making good any funding deficiency over time (with regard to appropriate actuarial advice, as provided for under the ESPS and the protected persons regulations). We have taken actuarial advice (based on the valuation results as at 31 March 2004, referred to above) as to the future employer contribution requirements for the Generation Group and currently anticipate that:

- as from 1 April 2005, the rate of employers regular contributions for future service benefits under the Generation Group will increase from 17.1 per cent. of salaries to 22.4 per cent. of salaries (less the offset on account of contracting-out age-related rebates from the Inland Revenue, as advised by the ESPS actuary, which is currently assessed as 2.1 per cent. of salaries);
- additional employer contributions will be paid towards the Generation Group funding deficiency (in monthly instalments), totalling £19.0m for the twelve months commencing 1 April 2005, £19.5m for the twelve months commencing 1 April 2006 and £20.0m for the twelve months commencing 1 April 2007; and
- those additional employer contributions to the Generation Group would then increase to a total of £50.3m for the twelve months commencing 1 April 2008 (also to be paid in monthly instalments), and would then be paid at that rate increasing by 2.5 per cent. for each successive period of twelve months from 1 April 2009 until 31 March 2017. However, in practice we anticipate that the employer contribution requirements as from 1 April 2008 for both of our ESPS Groups will be determined by reference to the results of the next regular ESPS actuarial valuations, as at 31 March 2007.

It is our intention to contribute towards the Generation Group funding deficiency at higher rates than those set out above if sufficient cash resources, in light of our other obligations and working capital requirements, permit.

We currently anticipate that as from 1 April 2005, the rate of employers regular contributions for future service benefits under the Combined Group will increase from 15.3 per cent. of salaries to 19.7 per cent. of salaries (less the offset on account of contracting-out age-related rebates from the Inland Revenue, as advised by the ESPS actuary, which is currently assessed as 3.3 per cent. of salaries). We will also be making additional employer contributions towards the Combined Group funding deficiency (having regard to appropriate actuarial advice).

**Table of Contents****PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)****DIRECTORS, SENIOR MANAGEMENT AND EMPLOYEES****Directors of New British Energy and Holdings plc**

The members of the Board and the board of directors of Holdings plc at the date of this document are:

<u>Name</u>	<u>Position</u>	<u>Age</u>
Adrian Montague	Chairman	56
Mike Alexander	Chief Executive#	57
Roy Anderson	Chief Nuclear Officer*#	56
Stephen Billingham	Finance Director#	46
William A Coley	Non-executive Director	61
Pascal Colombani	Non-executive Director	59
John Delucca	Non-executive Director	61
Ian Harley	Non-executive Director	54
David Pryde	Non-executive Director	55
Clare Spottiswoode	Deputy Chairman	51
Sir Robert Walmsley	Non-executive Director#	63

\*The appointment of Roy Anderson as Chief Nuclear Officer is to be approved by the NII under the terms of our site licences. We expect this approval to be forthcoming. On this basis, for the purpose of this document, we refer to Roy Anderson as Chief Nuclear Officer.

#These Directors are also directors of BEG and BEG UK. It is intended that the remaining Directors will also in due course be appointed directors of BEG and BEG UK.

***Adrian Montague***

Appointed Chairman of New British Energy and Holdings plc on 16 September 2004. Currently Chairman of British Energy having been appointed in November 2002, he is currently also Chairman of Michael Page International plc, Chairman of Network Rail, Chairman of Infrastructure Investors Limited, a director of Cross London Rail Links Limited, a senior international adviser to Société

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Generale and a non-executive director of Friends Provident plc and Cellmark AB. A law graduate of Cambridge University, he was a partner with Linklaters & Paines, before joining Kleinwort Benson as Head of Project and Export Finance Department in 1994, and subsequently became Global Co-Head of the Project Finance of Dresdner Kleinwort Benson in 1997. Then he undertook a number of senior roles in the implementation of the Government's private finance policies, serving as the Chief Executive of the Treasury Taskforce from 1997-2000, and as Deputy Chairman of Partnerships UK plc, and a Private Finance Advisor to the Department of the Environment, Transport and The Regions between 2000 and 2001. In September 2002 he was appointed to head the review team monitoring London's Crossrail project and he has recently been appointed the pro bono Chair (as well as a director) of Cross London Rail Links Limited, the project company, until March 2005. He was awarded a CBE in 2001.

### ***Mike Alexander***

Appointed Chief Executive of New British Energy and Holdings plc on 16 September 2004. Currently Chief Executive of British Energy having been appointed in March 2003. Prior to joining British Energy he was Chief Operating Officer and an executive Board Member of Centrica plc, and before that Managing Director of British Gas Trading. After graduating from Manchester University with a BSc in Chemical Engineering and an MSc in Control Engineering

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

he joined BP, undertaking a number of operational plant improvement, engineering, corporate planning and business development projects throughout the world. He joined British Gas in 1991 as Commercial Director of BG Exploration & Production Limited and was a Director of several overseas exploration and production subsidiaries, becoming Managing Director of British Gas Supply Limited. Whilst at British Gas he directed their move into the deregulated electricity market and oversaw the launch of the Goldfish credit card. He is a Chartered Engineer and Chartered Scientist and a Fellow of the Institute of Chemical Engineers. He is a non-executive Director of Associated British Foods plc and was previously Chairman of AG Solutions Limited, Hydrocarbon Resources Limited, Goldfish Bank Limited and a non-executive Director of The Energy Saving Trust Limited. He is Chairman of the Executive and Group Risk Management Committees and a member of the Nuclear Performance Review Committee.

***Roy Anderson***

Appointed Chief Nuclear Officer of New British Energy and Holdings plc on 16 September 2004. Currently Chief Nuclear Officer of British Energy, having also been appointed to that position on 16 September 2004 following his joining British Energy on 5 July 2004. Previously President of Public Service Enterprise Nuclear Group in the US and Chief Nuclear Officer of Nuclear Management Company LLC and Florida Power Corporation. His early career involved working for Carolina Power and Light Company, Boston Edison Company and General Electric Company, all in the US. He has a degree in marine and nuclear engineering and an MBA in operation research. He is a member of the Executive, Group Risk Management, Nuclear Performance Review and Safety, Health and Environment Committees.

***Stephen Billingham***

Appointed Finance Director of New British Energy and Holdings plc on 16 September 2004. He joined British Energy on 25 August 2004 and was appointed to the Board as Finance Director on 16 September 2004. Prior to joining British Energy, he was the Group Finance Director of the engineering consultancy and support services group, WS Atkins plc, during its successful financial recovery. Previously, he led the finance team which signed the large and complex Metronet London Underground Public Private Partnership, which maintains two-thirds of the London Underground infrastructure. For seven years he was the Group Treasurer of the engineering group BICC plc (now Balfour Beatty plc). He has held finance positions in Severn Trent Plc, Burmah Oil plc and British Telecommunications plc. He holds a BSc from Brunel University and a PhD from the University of Aston in Birmingham. He is member of the Association of Corporate Treasurers.

***William A. Coley***

Appointed as an independent non-executive Director of New British Energy and Holdings plc on 16 September 2004. Currently an independent non-executive Director of British Energy having been appointed in June 2003. He joined Duke Energy, a major US utility company, as an engineer in 1966, becoming Group President in 1997 and retiring from this position in 2003 after a 37 year career with the company. During his time at Duke Energy he held a variety of management and executive roles including Vice-President, Central Division and Senior Vice-President, Power Delivery. He was elected to Duke Energy's Board of Directors in 1990, becoming Senior Vice-President, Customer Group and was President of the Associated Enterprises Group between 1994 and 1997. A Non-Executive Director of CT Communications Inc., and Peabody Energy (all publicly traded companies) and a director of ER Jahna Enterprises (a privately owned company), he holds a BSc in Electrical Engineering from the Georgia Institute

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of Technology. He is a registered Professional Engineer in North and South Carolina. He is Chairman of the Nuclear Performance Review Committee and a member of the Governance and Nominations and Remuneration Committees.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

***Pascal Colombani***

Appointed as an independent non-executive Director of New British Energy and Holdings plc on 16 September 2004. Currently an independent non-executive Director of British Energy having been appointed in June 2003. He holds a doctorate in nuclear physics and is a former Chairman and CEO of the French Atomic Energy Commission. He was also formerly the Chairman (non-executive) of Areva, the nuclear engineering conglomerate, and a board member of Electricité de France, France Télécom, Cogéma, Framatome and Technicatome. He is a member of the French Academy of Technology, an Associate Director at ATKearney and a board member of Alstom SA and of the French Institute of Petroleum. He was awarded the Legion of Honour in 2000. He is a member of the Governance and Nominations and Nuclear Performance Review Committees.

***John Delucca***

Appointed as an independent non-executive Director of New British Energy and Holdings plc on 16 September 2004. Currently an independent non-executive Director of British Energy having been appointed in February 2004. He holds an MBA in Finance from Fairleigh-Dickinson University School of graduate study and a BA from Bloomfield College and has held a variety of senior roles in US business. Most recently, from 2003 until March of this year he was Executive Vice-President and Chief Financial Officer of the REL Consultancy Group. Prior to that, from 1998 to 2002 he was executive Vice-President, Finance and Administration and Chief Financial Officer of Coty Inc and a member of their Executive Committee. Between 1993 and 1998 he was Senior Vice-President and Treasurer of RJR Nabisco Inc., having previously held executive positions with Hasco Associates, a private investment group, the Lexington Group, providing financial consulting to distressed companies, the Trump Group and the International Controls Corporation, where he was executive Vice-President and CFO as well as Chairman and CEO of a subsidiary, Transway Finance Company. He is a non-executive Director, and chairs the audit committees of, ITC Deltacom, Enzo Biochem Inc. and The Elliott Company. He has been a lecturer at Fordham University's Graduate School of Business Administration and Adjunct Assistant Professor at Seton Hall University School of Business Administration. He is Deputy Chairman of the Audit Committee and a member of the Governance and Nominations and Trading Review Committees.

***Ian Harley***

Appointed as an independent non-executive Director of New British Energy and Holdings plc on 16 September 2004. Currently an Independent Non-Executive Director of British Energy having been appointed in June 2002. He joined Abbey National in 1977 where he held a variety of posts in the Finance, Retail Banking and Wholesale Banking Divisions before joining the board in 1993. He spent nine years on the board as first, Finance Director, then Chief Executive, before retiring in 2002. An Economics graduate of Edinburgh University, he is a Fellow of the Institute of Chartered Accountants and a Fellow and Past President of the Institute of Bankers. He is currently a non-executive director of Rentokil Initial plc and Remploy Limited, a Governor of the Whitgift Foundation and a Vice-President of the National Deaf Children's Society. Previously Chairman of the Association for Payment Clearing Services, a member of the Deposit Protection Board, appointed by the Bank of England, and a member of the Financial Services Authority's Practitioner Panel. He is Chairman of the Audit Committee and a member of the Governance and Nominations and Trading Review Committees.

***David Pryde***

Appointed as an independent non-executive Director of New British Energy and Holdings plc on 16 September 2004. Currently an independent non-executive Director of British Energy having been appointed on 1 September 2004, he has extensive trading and risk management experience. Having formerly headed precious metals trading in Asia for NM Rothschild and



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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

Sons Ltd and Philipp Brothers Inc., he joined JP Morgan & Co Inc. in 1984 and has subsequently held various senior management positions in trading businesses, including Global Head of Precious Metals Trading, Global Head of Commodity Derivatives Trading and Marketing and Global Head of Futures and Options Brokerage. He sat on the boards of the Commodity Exchange, the Chicago Mercantile Exchange and the Futures Industry Association. He is Chairman of the Trading Review Committee and a member of the Remuneration and Audit Committees.

***Clare Spottiswoode***

Appointed Deputy Chairman and senior independent non-executive Director of New British Energy and Holdings plc on 16 September. Currently an independent non-executive Director of British Energy having been appointed in December 2001. Her career started as an economist with the Treasury before establishing her own software company. Between 1993 and 1998 she was Director General of Ofgas and has also served as a member of the Government's Deregulation Task Force (1993) and the Public Services Productivity Panel (1998). Mrs Spottiswoode currently chairs Busy Bees Nurseries Group Limited and Economatters Limited and was previously a non-executive Director of Booker plc. She is also currently a non-executive Director of Advanced Technology (UK) plc, Tullow Oil plc and Petroleum Geo-Services ASA. Awarded a CBE for services to industry in 1999, she holds degrees from Cambridge and Yale Universities. She is the Chairman of the Remuneration Committee, a member of the Trading Review Committee and she is the senior independent non-executive Director.

***Sir Robert Walmsley***

Appointed as an independent non-executive Director of New British Energy and Holdings plc on 16 September 2004. Currently an independent non-executive Director of British Energy having been appointed in August 2003. Previously he served in the Royal Navy where his final appointment was as Controller of the Navy and member of the Navy Board as a Vice Admiral, starting in 1994. He was knighted in 1995. During his earlier naval career he held a number of nuclear related posts including service as the Chief Engineer of a nuclear submarine, Project Manager of a Nuclear Submarine Refit and Refuel, and Chairman of the Naval Nuclear Technical Safety Panel; he was Director General, Submarines between 1993 and 1994. After retiring from the Navy, he was appointed as Chief of Defence Procurement (a Permanent Secretary grade post in the Civil Service), occupying that position from 1996 until 2003. Holding an MA from Cambridge University and a postgraduate diploma in control engineering, he also was awarded an MSc in Nuclear Science and Technology from the Royal Naval College. He is an independent director of General Dynamics Corporation, EDO Corporation, Stratos Global Limited and he is Chairman of EDO (UK) Limited and the Major Projects Association. Earlier this year he was appointed as a Senior Adviser at Morgan Stanley. He is Chairman of the Safety, Health and Environment and Governance and Nominations Committees. He is also a member of the Remuneration, Audit and Nuclear Performance Review Committees. He is also a non-executive Director of the Group's licensed nuclear generator subsidiaries.

**Senior management**

In addition to the executive Directors referred to above, the current executive management team are:

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<u>Name</u>	<u>Position</u>	<u>Age</u>
Robert Armour	General Counsel and Company Secretary	45
Neil O Hara	Trading Director	38
Sally Smedley	HR Director	55

**Table of Contents****PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)*****Robert Armour***

Appointed Company Secretary of New British Energy and Holdings plc on 2 July 2004. Appointed Company Secretary of British Energy on 13 December 1995 and General Counsel in 2003. A solicitor, he was a partner in Wright Johnston & Mackenzie, solicitors, between 1986 and 1990 before joining Scottish Nuclear as Company Secretary in 1990. He was Director of Performance Development for Scottish Nuclear between 1993 and 1995. From 1997 to 2003 he was Director of Corporate Affairs. He holds a law degree and MBA from Edinburgh University and has also attended INSEAD's Advanced Management Programme.

***Neil O Hara***

Appointed Trading Director of British Energy on 4 May 2004. He was previously employed by RWE Innogy and before that was Managing Director for Strategy and Business Development at American Electric Power.

***Sally Smedley***

Appointed HR Director of British Energy on 8 February 1999. Previously Human Resources and Corporate Relations Director of East Midlands Electricity plc and Employee Relations Director of BOC Group plc. She has a BSc (Tech) in Occupational Psychology.

We are looking to appoint a new Technical Director, to lead our Technical division on a permanent basis, to replace one of our executives who is fulfilling this role on a temporary basis.

**Employees**

The table below sets out the average number of full-time equivalent permanent employees of the British Energy Group, categorised by business area, for each of the last three financial years.

<b>Business Area</b>	<b>Year to 31 March</b>		
	<b>2002</b>	<b>2003</b>	<b>2004</b>
Power Stations Generation	3499	3579	3612

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Corporate Support Functions	399	430	467
Engineering & Technical Support	603	586	552
Group Services	49	67	82
Business Development	18	16	10
North America	32	28	12
Eggborough	251	247	258
Power & Energy Trading	101	129	146
	<hr/>	<hr/>	<hr/>
Total	4952	5082	5139
	<hr/>	<hr/>	<hr/>

Source: British Energy

The classification of employees is for our internal purposes and has and may change from time to time to reflect our business needs. A large proportion of our employees (approximately 80 per cent. of the total) are members of trade unions. We believe that the number of employees will likely have increased by approximately 254 in the financial year ending 31 March 2005.

### **CORPORATE GOVERNANCE**

The Directors support high standards of corporate governance. We have undertaken an evaluation of the Board's performance to date as recommended by the Higgs Report 'Review of the role and effectiveness of non-executive directors' and from Admission we intend to comply with best practice in corporate governance, including the requirements of Section 1 of the

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

revised Combined Code. We intend to comply with the requirements of the US Sarbanes-Oxley Act of 2002 (Sarbox) and to adopt a code of business conduct and ethics that meets the standards set forth in Sarbox and, if our New ADRs are listed on the NYSE, the NYSE Listed Company Manual as if, to the extent required to do so under the terms of the New Bonds, we were a domestic US issuer. As the successor company to British Energy, we have built on its experiences of corporate governance to assist us formulating our practices and policies outlined below.

**The Board**

Our Chairman is Adrian Montague. Mike Alexander is our Chief Executive and will be responsible for safety throughout our business. Stephen Billingham is our Finance Director and, subject to NII approval, Roy Anderson will be our Chief Nuclear Officer. The Board also comprises seven non-executive Directors. Biographies of the Directors are set out in the paragraph above headed Directors, senior management and employees .

We intend to comply with the sections of the Combined Code concerning the balance of the Board. We will have three executive and seven non-executive Directors in addition to the Chairman and all our non-executive Directors are independent. The independent non-executive Directors are William Coley, Pascal Colombani, John Delucca, Ian Harley, David Pryde, Clare Spottiswoode and Sir Robert Walmsley. Clare Spottiswoode is the Company's senior non-executive Director and Deputy Chairman. It is intended that at each annual general meeting any Director who has been appointed by the Board since the previous annual general meeting will be required to retire and may seek election, together with such other Directors as necessary, to ensure that the number nearest to, but not less than, one third of the Directors for the time being stand for election (or re-election) at that meeting. In order to comply with the provisions of Rule A.7 of the Combined Code, we intend to ensure that all Directors seek re-election at least every three years. We intend to review the composition of the Board from time to time and to make any appropriate appointments.

All of the non-executive Directors who will be serving on the Board have held senior positions in other major organisations either in the UK or internationally. Each of them will be involved in decision making on key issues facing the Group and will bring a wide range of experience to the Board. It is intended that our non-executive directors meet as a group from time to time without executive directors present. Although the Chairman will be present at some of these meetings, he will not be present at meetings to appraise his performance.

In accordance with the requirements of the Combined Code, the Board will have a number of matters reserved to it, including appropriate strategic, financial and organisational matters. These will be considered at the Board's monthly meetings. The Board will receive reports covering operational, financial, safety, risk management and regulatory performance to assist it in identifying key issues for the business on a regular and timely basis. All Directors may obtain independent professional advice at the Company's expense, and all Directors will have access to the advice and services of the Company Secretary, Robert Armour, who will be accountable to the Board through the Chairman on all corporate governance matters. Where appropriate, matters may be delegated to Board committees, all of which will have written constitutions and terms of reference. The various committees and their intended roles and memberships are identified below.

**Matters requiring Board approval**

The Board is responsible for ensuring compliance of all Group activities with statutory and regulatory requirements and has specified that the following actions must be subject to Board approval:

- any alteration of the articles of association or the memorandum of association of the Company or its operating subsidiaries and approval of the procedures and regulations of the Board;

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

- approval of the Group corporate plan and the Group budget;
- approval of financial transactions, borrowings and contracts, except as delegated by financial and contractual authorities for the Group;
- approval of the annual report and accounts, the half yearly results and major price sensitive announcements on behalf of the Company;
- the undertaking by the Company of material litigation;
- disposal of land or assets except as delegated under the Board authorities;
- the entry into contracts for land or non-operational assets except as delegated under the Board authorities;
- the acquisition or disposal of shareholdings in companies;
- investment decisions except as delegated under the Board authorities;
- the appointment of key advisers to the Group;
- amalgamation of the pension schemes of Group companies or major alterations to the pension scheme trust deeds;
- group electricity trading and contracting strategy; and
- the approval of the Group's capital and funding structure.

**Duties of the Chairman and the Chief Executive**

The division of responsibilities between the Chairman and Chief Executive has been documented and approved by the Board in accordance with good practice. The division of responsibility is reviewed periodically. In essence Adrian Montague, as non-executive Chairman, is responsible for the proper and efficient running of the Board and its scrutiny of, and assistance to, management. Mike Alexander, as Chief Executive, is responsible for the proper and efficient running of our business.

**Risk management**

The Board will be responsible for determining strategies and policies for risk and control and management will be responsible for designing, operating and monitoring risk and control processes which implement Board policies effectively. The Board and its committees will consider risk management and internal control on a regular basis in accordance with the recommendations of the Turnbull report, Guidance for directors on the Combined Code .

The New British Energy Group s risk management process will be based on the identification, mitigation and monitoring of the key risks that influence our strategy and business objectives.

At its regular meetings, the Board will review our business objectives and the risks and controls associated with these. Specific categories of risk will also be reviewed by appropriate committees, including the group risk management committee and subsidiary boards. Risks reviewed by the Board will include: safe operation of our plant; operational risks including reliability, output, plant condition and human performance; the financial position of the New British Energy Group; changes in energy markets; nuclear safety and safety regulations; commercial and environmental regulation; policy proposals by legislative bodies in the markets in which we operate; treasury and trading financial exposures; major contracts; and the acquisition of radioactive waste management services.

Our reporting arrangements will operate across the New British Energy Group s operating subsidiaries and corporate functions, monitoring business performance against key



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### **PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

performance indicators and the business plan. Risk logs identifying business risks facing the New British Energy Group as a whole and particular parts of the business will be regularly considered at subsidiary and divisional level and reported to the Executive Committee so that mitigation plans may be established and monitored. Our principal operating subsidiaries will also monitor internal control and risk mitigation. In particular the boards of BEG and BEG UK will review the operation of the New British Energy Group's UK nuclear fleet and risk and internal control issues affecting those businesses.

The conduct of risk assessment will involve senior management of the New British Energy Group in addition to the Executive Directors. The results of these assessments will be summarised and reported to the Board. These risk assessments will continue to be used as part of our evaluation of the risks we face.

The Board intends to report on management and decommissioning liabilities to the boards of BEG and BEG UK as the authorised licence holders which will, in turn, approve the Annual Liabilities Report required under the NLFA.

#### **Committee structure and reporting**

The chairman of each committee will report to the full Board following each committee meeting reporting on decisions taken or endorsed and making recommendations as appropriate to the Board. The Board may delegate authority to each of the said committees where the subject of the delegation does not require Board approval. The papers for each committee are made available to all Board members, other than the Remuneration and Nominations Committee papers which are only circulated to independent members or as those committees may direct. The Chief Executive reports to the Board each month on the decisions or recommendations of the executive committee. The intention of the committee structure is to allow the committees to scrutinise performance in more detail than the Board could achieve in full session and so allows the Board to focus to a greater extent on strategic issues.

Our committee structure is described below:

#### ***Audit Committee***

The Audit Committee will be comprised entirely of independent Directors and will be chaired by Ian Harley. John Delucca will be deputy chairman. Ian Harley and John Delucca are considered to be the financial experts on the Audit Committee. The Audit Committee's primary purpose will be to assist the Board in overseeing the integrity of our financial statements and compliance with legal and regulatory requirements and for scrutinising announcements with a material financial impact. The Committee will also be responsible for considering and recommending appropriate accounting policies for the Group, and reviewing the adequacy and effectiveness of internal control and compliance procedures and ensuring that the Group complies with all statutory requirements in relation to the principles, policies and practices adopted in the preparation of financial statements. The Committee will review risk management processes across the Group including actions to mitigate or control key risks facing us. The Committee will receive reports twice per annum from both our external and internal auditors in relation to matters arising from their work. The Committee will receive reports regularly (being at least twice per annum) from the Group Risk Management Committee. The Committee will

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review the scope and results of the external audit including the auditors' effectiveness, independence and objectivity, and will be responsible for making recommendations to the Board in relation to the appointment and independence of the external auditors and their remuneration. The Committee will also review the nature and extent of the non-audit services provided by the external auditors to the New British Energy Group to ensure that these are appropriate, and that a balance of objectivity and value for money is maintained. The Committee will normally meet the day prior to a Board meeting and otherwise as required by the business of the Company.

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

***Remuneration Committee***

The Committee will be comprised entirely of independent Directors and will be chaired by Clare Spottiswoode. The Chief Executive, Mike Alexander, will attend meetings to give advice as required by the committee. He will not be present when matters affecting his own terms and conditions are being discussed. The Committee will advise the Board on the pay, benefits and other employment conditions of the executive Directors and the members of the executive committee. The committee will also review the pay and benefits of other senior staff to ensure reasonable consistency. The committee will meet at least four times per annum.

In determining the remuneration package for individual Directors, the committee will target total remuneration at the middle-market level of its comparator companies. The comparator group consists of other utilities and other companies of similar size, type of activity or complexity.

The committee's aim will be to ensure that the total package (which includes benefits) is competitive and that, as a consequence, we will attract and retain executive Directors with the skills and abilities to manage and develop the business.

It will be our policy that a significant proportion of our executive Directors' total remuneration should be variable and linked to our performance. Recognising the external market, the movement in the base pay of our executive Directors and executive committee members should be broadly in line with the pay increases awarded to other staff. Additionally, it will be our policy that in determining the link between base and variable pay, our commitment to safety and the environment should be reflected, and that there should be a strong and clear link between reward and performance against agreed stretch targets. No elements of remuneration other than base pay are pensionable.

The remuneration of our non-executive Directors will be determined by the Board without the participation of the Directors concerned. As they will be appointed for three-year terms they will not have service contracts. They will not be eligible for participation in any of our share schemes and they will not receive any pension provisions from us.

The policy of the remuneration committee will be to set notice or contract periods for executive Directors at one year or less. Where it is necessary to offer longer notice or contract periods to new Directors who are externally recruited our policy will be to reduce these as soon as possible after the initial period. From Admission, all our executive Directors have a 12 month rolling contract.

***Governance and Nominations Committee***

The Governance and Nominations Committee will be comprised entirely of independent Directors and will be chaired by Robert Walmsley. The Committee will be responsible for encouraging and monitoring the adoption of good corporate governance practice drawing on the practices and codes prevailing in the UK, US and the EU. It will review the Company's code of conduct and ethics

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and compliance with this and legal obligations generally. The Committee will also advise on the corporate social responsibility performance of the Group.

The Committee will also advise our Board in relation to senior appointments throughout the Group including appointments to Committees, in consultation with the Chairman of the Company. Board appointments recommended by the Committee will be made after an appropriate search and selection process has been undertaken including, where appropriate, the use of external advisers to identify suitable candidates.

### ***Safety, Health and Environment Committee***

This Committee will provide advice to the Board in relation to the health and safety of our staff, contractors, visitors and the general public, plant safety and our environmental performance. It

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

will review key safety and environmental risks affecting the business and the actions taken to mitigate or control them. It will be chaired by Robert Walmsley and will include three independent experts as well as other Directors and certain senior members of management. The meetings, which will consider both site specific and generic issues, will be held in rotation at our nuclear power stations with the station manager and site safety representatives in attendance. The Committee will normally meet quarterly.

***Nuclear Performance Review Committee***

The Nuclear Performance Review Committee will consider and advise the Board and the Executive Committee on issues relating to the performance of and improvements to our nuclear fleet including operational performance, performance improvement, plant reliability, preventive maintenance and materiel condition. The Committee will review and advise on the implementation and direction of PIP. The Committee will be chaired by William Coley and its membership will include Mike Alexander, other non-executive Directors with appropriate technical expertise, Roy Anderson and certain other senior managers with technical expertise. Mike Alexander and executives of the nuclear generation subsidiary boards will continue to have responsibility for and will direct the operational and safety policy of our nuclear operations. The Committee will normally meet the day prior to a Board meeting.

***Executive Committee***

Chaired by Mike Alexander, the Executive Committee, comprising the senior executives, will direct our business in accordance with delegated authorities from the Board. The Executive Committee will meet weekly to maintain close scrutiny and management of our affairs, directing performance, taking corrective action and ensuring the Board is kept abreast of all material events.

**Management Committees**

A number of Executive Management Committees will also be used to assist the Directors in controlling the business. These will include the boards of our two nuclear generation subsidiaries (which hold nuclear site licences) which will continue to have responsibility for, and direct operational and safety policy in, our nuclear operations.

***Group Risk Management Committee***

This Committee will be an Executive Committee chaired by Mike Alexander. Stephen Billingham will be Deputy Chairman. It will meet every two months to review the group-wide risk management processes of the business, maintain an overview of the risks facing the business and report to the audit committee on a regular basis.

***Trading Review Committee***

The Trading Review Committee will be chaired by David Pryde and will meet at least six times a year to review hedging and risk management strategy for trading and to ensure activities are conducted within overall risk limits. The Committee will review and provide advice on the management and use of risk measurements and control, as well as monitor performance against strategy. It will also oversee the management and maintenance of the policies, procedures, authorisation and overall risk control framework which will be carried out by a sub-committee, the Trading Risk Sub-Committee.

***Pensions Committee***

This will be an Executive Committee which will monitor the management of our two pension schemes and will be chaired by Sally Smedley. The Chairmen of the British Energy Generation Group Trustees and the British Energy Combined Group Trustees are members, as are certain

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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

other Directors and Senior Managers of the Group. The Committee will review and advise on the policies being adopted by the trustees of these schemes and will be responsible for advising the Board and reporting to the Audit Committee on all matters relating to these schemes.

***Disclosure committee***

This Management Committee was established as part of our response to the requirements of Sarbox. The Committee will be chaired by the Group Financial Controller and will comprise management level representatives of operational and corporate departments from throughout the Group. Its role will be to review the accuracy and completeness of our proposed financial and certain other public statements and/or reports. It will report to the Audit Committee and to our Chief Executive Officer and Finance Director.

***Sarbox***

Sarbox introduced new and enhanced standards of corporate governance and business and financial disclosure for companies with securities registered pursuant to the US Securities Exchange Act of 1934, as amended (Exchange Act). Many of these requirements apply to us as a non-US company with securities registered under the Exchange Act. Examples of these standards include the requirement that our Chief Executive and Chief Financial Officer certify the accuracy of the disclosure, the efficacy of the internal controls and other matters relating to the preparation of our annual report filed with the SEC; changes to the role and composition of the audit committee; and rules relating to internal controls. Furthermore, under the terms of the New Bonds, we have agreed to prepare quarterly reports on Form 10-Q and annual reports on Form 10-K containing the information required to be disclosed therein as if we were a domestic US issuer and not a foreign private issuer. In order to disclose the information that would be required for a domestic US issuer, we would be required to disclose our compliance with the standards required of a domestic US issuer, including the corporate governance requirements pertaining to Board committee composition applicable to NYSE-listed domestic US issuers; provided the New ADRs are listed on that exchange. In all cases however, we will comply with Sarbox as if we were a domestic US issuer only to the extent it does not conflict with or violate any law, rule or regulation of the UK, including, but not limited to, the Act, or any code or other requirement (including, but not limited to, the Combined Code and the listing standards of the UKLA).

The SEC, as directed by Section 404 of Sarbox (Section 404), adopted rules requiring public companies to include a report by management in their annual filing with the SEC that contains an assessment by management of the effectiveness of internal controls over financial reporting. In addition, independent auditors must report two opinions; firstly, on management's assessment of the effectiveness of internal controls over financial reporting, and secondly, on their own assessment of the effectiveness of internal controls over financial reporting.

This legislation is, therefore, a new requirement for domestic US registrants as well as overseas registrants. Under the SEC implementation rules, overseas registrants would normally have an additional year to comply with this requirement, however, as part of our undertaking to Bondholders, we have agreed to comply for our annual filing for the period ended 31 March 2005.

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As with many US domestic registrants, we have been working diligently and vigorously to review and test our internal controls over financial reporting in order to ensure our compliance with the Section 404 requirements. We have set up a dedicated implementation team to work on this, led by a senior member of our finance function, who reports directly to the finance director, as well as having regular dialogue with the Chairman of the Audit Committee, who regularly attends Audit Committee meetings to provide status reports. The implementation team includes representatives from Internal Audit. We have also appointed independent external consultants



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**PART I DESCRIPTION OF THE NEW BRITISH ENERGY GROUP (Continued)**

to work with the implementation team to ensure that our approach to compliance with Section 404 is thorough and robust. They also provide us with regular advice on how interpretation of this new regulation is developing in the US and the rest of the world to ensure that we are able to adapt our approach to emerging practice as necessary.

We believe that we are on course to complete the work required in order to meet the deadlines. However, there is still much to be done and because this is new legislation and interpretations and working practices continue to develop, there remains a risk that issues may emerge that require to be reported by management and/or our independent auditors.

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**PART II RISK FACTORS**

*This Part sets out the principal risk factors affecting New British Energy and Holdings plc and should be read in conjunction with all other information relating to New British Energy and Holdings plc contained in this document. You should not rely on the information in this part of the document only. Additional risks and uncertainties not presently known to New British Energy or Holdings plc or that New British Energy or Holdings plc deem immaterial may also have a material adverse effect on the business, financial condition or results of operations of any or all of them. None of the risk factors identified below seek to qualify or limit the working capital statement in Part X: Additional information, paragraph 13.*

*For ease of reference only, the risk factors set out below have been grouped into the following two categories:*

- (A) *operating, industry, environmental and regulatory risks; and*
- (B) *risks related to ownership of New Shares, New Bonds and Warrants.*

**(A) OPERATING, INDUSTRY, ENVIRONMENTAL AND REGULATORY RISKS**

***If we do not find alternative sources of income as our nuclear power stations start to close we may not be able to recover our costs from our turnover.***

Five of our AGR power stations are, based on current scheduled accounting closure dates, due to close by 2014. This will reduce our generating capacity by 61.5 per cent. of our current generating capacity. There can be no assurance that station lifetime extensions will be achievable at any of our AGR power stations or at our PWR power station. Since our ability to find alternative sources of income is restricted by the compensatory measures we have agreed to undertake in connection with the Commission's approval of the State Aid elements of the Restructuring, the terms of our arrangements with Government (including, in particular, the Contribution Agreement and the HLFA) and the restrictive covenants in the New Bonds and the Receivables Facility Agreement, if our remaining assets do not generate income in line with our expectations at that time (for example as a result of earlier than anticipated closure of a nuclear power station) our costs may exceed our turnover and this may adversely affect our financial results and our ability to pay dividends and may require us to close the remainder of our AGR and/or PWR power stations earlier than anticipated.

***Our future profitability is dependent upon several factors, some of which are outside our control.***

*Costs structure and variable electricity prices*

The operation of our nuclear power stations is characterised by high fixed costs. Additionally, some of our costs are not borne by our non-nuclear competitors because they are unique to the nuclear power generation industry.

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Our ability to generate sufficient turnover at sufficient margin to cover our fixed costs is dependent, in part, on favourable electricity prices and our sales and trading strategy. Electricity prices depend on a number of market factors, including, the impact of worldwide demand for fossil fuel, UK demand for power and environmental legislation. Because our costs are primarily fixed in nature, they cannot be reduced in periods of low electricity prices. Therefore, in these circumstances it is possible that we may not produce sufficient turnover from our electricity sales and/or trading to cover our generation costs.

In addition, increasing vertical integration in the electricity sector is likely to affect the liquidity of the markets in which we trade and the volatility of those markets. This in turn may affect the revenue from our electricity sales or trading, and may adversely impact our proposed trading going forward.

### *Unplanned outages*

Unplanned outages of our nuclear and fossil power stations result in lost generation and, due to our contractual obligations to deliver electricity at pre-established prices and quantities, we

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**PART II RISK FACTORS (Continued)**

may, therefore, be required to purchase replacement electricity volume in the open market which may be at unfavourable prices. Given the complexity of operating nuclear and fossil fuel power stations, we do not believe that we will be able to completely eliminate the risk of unplanned outages and we cannot predict the timing or impact of these outages with any certainty.

Therefore, there is no assurance that we will be profitable or generate sufficient cash to fund our operations.

***Unplanned outages at our nuclear power stations could adversely affect our turnover and profitability.***

Historically, our nuclear output has been adversely affected by unplanned outages and unplanned reductions in output. We believe that the loss of output is indicative of a deterioration of the material condition of plant over time in part caused by inadequate investment over the last few years which has resulted in an increase in our maintenance backlog and failure to carry out required maintenance on a timely basis.

Further, some of our unplanned outages flow from human errors in the operation and maintenance of our plant.

Plant unreliability can result in significant imbalance costs being incurred. In the medium term we have contracted to supply most of our electricity to customers at pre-agreed prices and volumes. If our nuclear power stations fail to produce the amount of electricity that we have contracted to supply or have otherwise already balanced in the wholesale market, we may have to enter into the short term market or accept the prices prevailing in the balancing mechanism to meet any such shortfall in output. Prices in the short-term market and imbalance mechanism may be very high, particularly in periods of tight capacity margins for generating plant in the UK, and the unplanned outages of our nuclear power stations may raise demand and therefore raise prices in these markets.

***PIP may be constrained by our cash resources and there is no assurance that the hoped for benefits of PIP will materialise. This may adversely affect our prospects in the long term.***

Although we are attempting to improve our plant reliability through increased investment and the implementation of PIP, there is no guarantee that we will be able to identify and/or remedy the causes of plant unreliability. Even if we can identify the causes, there is no assurance that we will be able to implement cost effective solutions or PIP in such a way as to maximise the potential benefits that PIP may afford due to the requirements to maximise the output of our plants. The amount we are able to spend on PIP will be affected by the availability of our cash resources and, in the future in certain circumstances, may be restricted or prohibited by our arrangements with the NLF.

***Our nuclear stations utilise sea water for condensing the steam from the turbines and for cooling the reactor pressure vessel and turbine-generator auxiliaries. These systems are essential to support generation and their failure could result in lost generation, adversely affecting our revenues and profitability.***

In 2003, the failure of a cast iron pipe carrying sea water at Heysham 1 resulted in unplanned losses of some 3.2 TWh. Hunterston B, Hartlepool and Hinkley Point B and to a much lesser extent Dungeness B, Heysham 2 and Torness nuclear power stations also use cast iron pipe work for carrying sea water.

To address the problem, we have developed a strategy to systematically replace the existing cast iron pipe work at these nuclear power stations with steel pipe work coated with a corrosion

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**PART II RISK FACTORS (Continued)**

resistant barrier. The corrosive nature of sea water may affect other parts of our pipe work systems, although inspection and maintenance strategies are in place to mitigate this risk. This program of work is planned to take place in 2004/2005, 2005/2006 and 2006/2007 and we have made allowances for additional outages to enable this work to take place. We cannot assure you that there will not be further unplanned losses if any failure occurs before the planned program of work is completed.

***Problems of potentially damaged boiler closure unit pre-stressing tendons and subsequent inspection requirements at our Hartlepool and Heysham 1 nuclear power stations could negatively affect our profitability or revenues.***

At our AGR power stations, tendons (comprised of steel wires) are used to maintain the integrity of the pre-stressed concrete pressure vessel. We have recently identified corrosion induced failure in a small number of individual tendon wires at our Hartlepool nuclear power station. The access for inspection and repair to these tendon wires is straightforward, and hence repairs are considered to be undemanding.

However, steel pre-stressing wires are used to fulfil a similar safety functional requirement to assure the integrity of the boiler closure units (which are housed within the concrete pressure vessels) at our Hartlepool and Heysham 1 nuclear power stations. As a result of the discovery of corrosion induced failure of the tendon wires (as described above), the NII has concluded that boiler closure unit steel wires could also suffer from corrosion induced failure. Unlike the pressure vessel tendon wires, these boiler closure unit wires were not designed with an engineered facility for inspection and therefore are more difficult to inspect.

To address the NII's concern we have completed a limited inspection of the boiler closure unit tendon top anchorages and limited sections of the tendon wires at three of our Hartlepool and Heysham 1 reactors and have demonstrated as far as can be determined, that the tendon wires are intact and free from corrosion. The inspection programme is no longer impacting on the return to service of these reactors.

However, we may wish, or be required by the NII, to make further more detailed inspections at these three reactors. Such inspections would be complex and invasive and therefore could result in a substantial loss of output, which could adversely affect our profitability. Until any such inspections are completed we cannot give assurances as to the length of outages or the cost of work that may be required to complete the inspections or any repairs.

***A significant engineering fault or a design flaw at one of our nuclear power stations, or one which is generic to a class of nuclear plants, could decrease our revenues and increase our costs.***

A major engineering fault at one of our nuclear power stations for example, affecting gas circulators, reactor coolant pumps and pipework systems, could result in the closure of that station ahead of its expected closure date. Furthermore, engineering faults or safety risks arising from a design problem that is generic to a particular type of nuclear plant could result in the closure of all our nuclear power stations of the same nuclear plant design ahead of their expected closure dates. The early closure of one nuclear power station or any one type of nuclear power station would result in a loss of planned future output and result in costs associated with the closure of the affected nuclear power station or stations.

To deal with the potential of a major engineering fault we have extensive inspection and testing programs in place in order to evaluate the physical condition of our nuclear power stations. These programs periodically identify certain technical issues for resolution. However, there is no assurance that our inspection process will identify all significant problems and the identification of technical issues with respect to our nuclear power stations may require us to incur significant expenditure for repairs or replacement of parts or equipment. This may result in lost output due to the outages necessary to complete such repairs or replacements.

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**PART II RISK FACTORS (Continued)**

There is also a risk that we may, through our ongoing review of our safety cases (i.e. PSRs) or our ongoing investigations and research activities, identify a significant shortfall. This may be in a safety case argument or supporting analysis or revised material properties or other plant performance aspect, which undermines a critical leg or legs of a safety case. The resolution of the issue may entail plant shutdown, reduced power operation or extensive plant modifications

***Problems of graphite core brick cracking and reduced boiler life could negatively affect our profitability and the lifetime of our AGR power stations.***

Graphite core brick cracking and reduced boiler life could lead to prolonged outages for testing and, potentially, early closures at certain of our AGR power stations. These risks are explained in greater detail below.

*Graphite core brick cracking*

The graphite cores in the AGRs are made up of a number of graphite bricks arranged in layers. Over the course of the nuclear generation process, the graphite bricks suffer from degradation.

Analysis has shown that this degradation can result in a significant number of the graphite bricks developing single or multiple cracks. We are not aware of any technique for eliminating the cracks. Such cracking can lead to the distortion of the core structure and the reduction of the AGRs operational capacity.

While our understanding of this issue continues to develop, there is uncertainty as to the level of tolerance of graphite bricks to multiple cracks that can be demonstrated and which may be acceptable to the NII. As such, the development of a safety case, and therefore the continued operation of the reactor, may not be possible. The potential impact of this risk is that currently assumed nuclear power station lifetime may not be achieved, particularly at Hinkley Point B, Hunterston B, Heysham 2 and Torness, and extensions to station lifetimes at those stations may not be possible.

We carry out periodic inspections on the AGR cores and