AES CORP
Form 10-Q
November 06, 2009
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# UNITED STATES

# SECURITIES AND EXCHANGE COMMISSION

**WASHINGTON, D.C. 20549**

# FORM 10-Q

**(Mark One)**

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the Quarterly Period Ended September 30, 2009**

**or**

¨ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**Commission file number 1-12291**

# THE AES CORPORATION

(Exact name of registrant as specified in its charter)

| **Delaware** | **54 1163725** |
|---|---|
| **(State or other jurisdiction of incorporation or organization)** | **(I.R.S. Employer Identification No.)** |
| **4300 Wilson Boulevard Arlington, Virginia** | **22203** |
| **(Address of principal executive offices)** | **(Zip Code)** |

**(703) 522-1315**

Registrant s telephone number, including area code:

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No ¨

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer , accelerated filer , and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

| Large accelerated filer x | Accelerated filer ¨ | Non-accelerated filer ¨<br>(Do not check if a smaller reporting company) | Smaller reporting company ¨ |
|---|---|---|---|

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No x

The number of shares outstanding of Registrant s Common Stock, par value $0.01 per share, on November 2, 2009, was 667,582,796.

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**THE AES CORPORATION**

**FORM 10-Q**

**FOR THE QUARTERLY PERIOD ENDED September 30, 2009**

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**PART I: FINANCIAL INFORMATION**

***ITEM 1. FINANCIAL STATEMENTS***

**THE AES CORPORATION**

**Condensed Consolidated Statements of Operations**

**(Unaudited)**

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2009 | 2008 | 2009 | 2008 |
| | (in millions, except per share data) | | | |
| Revenues: | | | | |
| Regulated | $ 2,092 | $ 2,089 | $ 5,542 | $ 6,043 |
| Non-regulated | 1,746 | 2,230 | 5,169 | 6,483 |
| Total revenues | 3,838 | 4,319 | 10,711 | 12,526 |
| Cost of Sales: | | | | |
| Regulated | (1,448) | (1,446) | (3,993) | (4,253) |
| Non-regulated | (1,382) | (1,911) | (3,980) | (5,240) |
| Total cost of sales | (2,830) | (3,357) | (7,973) | (9,493) |
| Gross margin | 1,008 | 962 | 2,738 | 3,033 |
| General and administrative expenses | (82) | (90) | (255) | (287) |
| Interest expense | (421) | (458) | (1,195) | (1,362) |
| Interest income | 94 | 156 | 282 | 405 |
| Other expense | (15) | (18) | (67) | (128) |
| Other income | 35 | 63 | 279 | 258 |
| Gain on sale of investments | 17 | - | 132 | 912 |
| Impairment expense | (6) | (22) | (7) | (94) |
| Foreign currency transaction losses on net monetary position | (1) | (60) | (13) | (123) |
| Other non-operating expense | (2) | - | (12) | - |
| INCOME FROM CONTINUING OPERATIONS BEFORE INCOME TAXES AND EQUITY IN EARNINGS OF AFFILIATES | 627 | 533 | 1,882 | 2,614 |
| Income tax expense | (205) | (168) | (485) | (725) |
| Net equity in earnings of affiliates | 18 | (4) | 75 | 38 |
| INCOME FROM CONTINUING OPERATIONS | 440 | 361 | 1,472 | 1,927 |
| (Loss) income from operations of discontinued businesses, net of income tax expense of $ , $ , $ and $ , respectively | - | (2) | - | 1 |
| Loss from disposal of discontinued businesses, net of income tax expense of $ , $ , $ and $ , respectively | - | - | - | (1) |
| NET INCOME | 440 | 359 | 1,472 | 1,927 |
| Less: Net income attributable to noncontrolling interests | (255) | (214) | (766) | (646) |
| NET INCOME ATTRIBUTABLE TO THE AES CORPORATION | $ 185 | $ 145 | $ 706 | $ 1,281 |
| BASIC EARNINGS PER SHARE: | | | | |
| Income from continuing operations attributable to The AES Corporation common stockholders, net of tax | $ 0.28 | $ 0.22 | $ 1.06 | $ 1.91 |
| Discontinued operations attributable to The AES Corporation common stockholders, net of tax | - | - | - | - |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| NET INCOME ATTRIBUTABLE TO THE AES CORPORATION COMMON STOCKHOLDERS | $ | 0.28 | $ | 0.22 | $ | 1.06 | $ | 1.91 |
| DILUTED EARNINGS PER SHARE: | | | | | | | | |
| Income from continuing operations attributable to The AES Corporation common stockholders, net of tax | $ | 0.28 | $ | 0.22 | $ | 1.06 | $ | 1.87 |
| Discontinued operations attributable to The AES Corporation common stockholders, net of tax | | - | | - | | - | | - |
| NET INCOME ATTRIBUTABLE TO THE AES CORPORATION COMMON STOCKHOLDERS | $ | 0.28 | $ | 0.22 | $ | 1.06 | $ | 1.87 |
| AMOUNTS ATTRIBUTABLE TO THE AES CORPORATION COMMON STOCKHOLDERS: | | | | | | | | |
| Income from continuing operations, net of tax | $ | 185 | $ | 147 | $ | 706 | $ | 1,281 |
| Discontinued operations, net of tax | | - | | (2) | | - | | - |
| Net income | $ | 185 | $ | 145 | $ | 706 | $ | 1,281 |

See Notes to Condensed Consolidated Financial Statements

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**THE AES CORPORATION**

**Condensed Consolidated Balance Sheets**

| | September 30, 2009 | December 31, 2008 |
|---|---|---|
| | (in millions except share and per share data) | |
| | (Unaudited) | |
| **ASSETS** | | |
| CURRENT ASSETS | | |
| Cash and cash equivalents | $ 2,020 | $ 903 |
| Restricted cash | 510 | 729 |
| Short-term investments | 1,357 | 1,382 |
| Accounts receivable, net of allowance for doubtful accounts of $275 and $254, respectively | 2,387 | 2,233 |
| Inventory | 578 | 564 |
| Receivable from affiliates | 28 | 31 |
| Deferred income taxes current | 158 | 180 |
| Prepaid expenses | 274 | 177 |
| Other current assets | 1,416 | 1,117 |
| Total current assets | 8,728 | 7,316 |
| NONCURRENT ASSETS | | |
| Property, Plant and Equipment: | | |
| Land | 1,092 | 854 |
| Electric generation, distribution assets, and other | 27,467 | 24,654 |
| Accumulated depreciation | (8,799) | (7,515) |
| Construction in progress | 4,466 | 3,410 |
| Property, plant and equipment, net | 24,226 | 21,403 |
| Other assets: | | |
| Deferred financing costs, net of accumulated amortization of $292 and $272, respectively | 391 | 366 |
| Investments in and advances to affiliates | 1,109 | 901 |
| Debt service reserves and other deposits | 655 | 636 |
| Goodwill | 1,423 | 1,421 |
| Other intangible assets, net of accumulated amortization of $202 and $185, respectively | 487 | 500 |
| Deferred income taxes noncurrent | 674 | 567 |
| Other | 1,568 | 1,696 |
| Total other assets | 6,307 | 6,087 |
| TOTAL ASSETS | $ 39,261 | $ 34,806 |
| **LIABILITIES AND EQUITY** | | |
| CURRENT LIABILITIES | | |
| Accounts payable | $ 1,223 | $ 1,042 |
| Accrued interest | 358 | 252 |
| Accrued and other liabilities | 3,086 | 2,660 |
| Non-recourse debt current | 1,357 | 1,074 |
| Recourse debt current | 214 | 154 |
| Total current liabilities | 6,238 | 5,182 |
| LONG-TERM LIABILITIES | | |
| Non-recourse debt noncurrent | 12,791 | 11,869 |

| | | |
|---|---|---|
| Recourse debt noncurrent | 5,298 | 4,994 |
| Deferred income taxes noncurrent | 1,316 | 1,132 |
| Pension and other post-retirement liabilities | 1,158 | 1,017 |
| Other long-term liabilities | 3,835 | 3,525 |
| Total long-term liabilities | 24,398 | 22,537 |
| Contingencies and Commitments (see Note 8) | | |
| Cumulative preferred stock of subsidiary | 60 | 60 |
| EQUITY | | |
| THE AES CORPORATION STOCKHOLDERS EQUITY | | |
| Common stock ($0.01 par value, 1,200,000,000 shares authorized; 677,017,626 issued and 667,483,036 outstanding at September 30, 2009; 673,478,012 issued and 662,786,745 outstanding at December 31, 2008) | 7 | 7 |
| Additional paid-in capital | 6,859 | 6,832 |
| Retained earnings (accumulated deficit) | 698 | (8) |
| Accumulated other comprehensive loss | (2,855) | (3,018) |
| Treasury stock, at cost (9,534,590 and 10,691,267 shares at September 30, 2009 and December 31, 2008, respectively) | (126) | (144) |
| Total The AES Corporation stockholders equity | 4,583 | 3,669 |
| NONCONTROLLING INTERESTS | 3,982 | 3,358 |
| Total equity | 8,565 | 7,027 |
| TOTAL LIABILITIES AND EQUITY | $ 39,261 | $ 34,806 |

See Notes to Condensed Consolidated Financial Statements

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**THE AES CORPORATION**

**Condensed Consolidated Statements of Cash Flows**

**(Unaudited)**

| | Nine Months Ended September 30, | |
|---|---|---|
| | 2009 | 2008 |
| | (in millions) | |
| OPERATING ACTIVITIES: | | |
| Net income | $ 1,472 | $ 1,927 |
| Adjustments to net income: | | |
| Depreciation and amortization | 767 | 760 |
| Gain from sale of investments and impairment expense | (115) | (832) |
| Provision for deferred taxes | (24) | 296 |
| Settlement of non-cash contingencies | (14) | 44 |
| (Gain) loss on the extinguishment of debt | (3) | 56 |
| Other | 33 | (76) |
| Changes in operating assets and liabilities: | | |
| Increase in accounts receivable | (82) | (363) |
| Increase in inventory | (10) | (101) |
| Decrease (increase) in prepaid expenses and other current assets | 114 | (35) |
| Increase in other assets | (133) | (246) |
| (Decrease) increase in accounts payable and accrued liabilities | (159) | 156 |
| Increase in income tax receivables and payables, net | 96 | 88 |
| Decrease in other long-term liabilities | (43) | (87) |
| Net cash provided by operating activities | 1,899 | 1,587 |
| INVESTING ACTIVITIES: | | |
| Capital expenditures | (1,765) | (1,963) |
| Acquisitions net of cash acquired | - | (1,135) |
| Proceeds from the sales of businesses | 2 | 1,093 |
| Proceeds from the sales of assets | 16 | 102 |
| Sale of short-term investments | 3,277 | 4,121 |
| Purchase of short-term investments | (2,774) | (4,262) |
| Decrease (increase) in restricted cash | 272 | (57) |
| Decrease (increase) in debt service reserves and other assets | 80 | (38) |
| Affiliate advances and equity investments | (137) | (205) |
| Loan advances | - | (173) |
| Other investing | (15) | 79 |
| Net cash used in investing activities | (1,044) | (2,438) |
| FINANCING ACTIVITIES: | | |
| (Repayments) borrowings under the revolving credit facilities, net | (96) | 382 |
| Issuance of recourse debt | 503 | 625 |
| Issuance of non-recourse debt | 1,189 | 1,908 |
| Repayments of recourse debt | (154) | (1,037) |
| Repayments of non-recourse debt | (622) | (1,037) |
| Payments for deferred financing costs | (72) | (62) |
| Distributions to noncontrolling interests | (561) | (450) |
| Contributions from noncontrolling interests | 75 | 407 |
| Financed capital expenditures | (27) | (52) |
| Purchase of treasury stock | - | (143) |
| Other financing | 8 | 21 |
| Net cash provided by financing activities | 243 | 562 |

| | | |
|---|---|---|
| Effect of exchange rate changes on cash | 19 | (50) |
| Total increase (decrease) in cash and cash equivalents | 1,117 | (339) |
| Cash and cash equivalents, beginning | 903 | 2,043 |
| Cash and cash equivalents, ending | $ 2,020 | $ 1,704 |
| SUPPLEMENTAL DISCLOSURES: | | |
| Cash payments for interest, net of amounts capitalized | $ 971 | $ 1,141 |
| Cash payments for income taxes, net of refunds | $ 389 | $ 390 |
| SCHEDULE OF NONCASH INVESTING AND FINANCING ACTIVITIES: | | |
| Assets acquired in noncash asset exchange | $ 111 | $ 18 |
| Assets acquired in acquisition of subsidiary | $ - | $ 946 |
| Non-recourse debt assumed in acquisition of subsidiary | $ - | $ 12 |
| Liabilities assumed in acquisition of subsidiary | $ - | $ 7 |
| Assets disposed of in noncash asset exchange | $ - | $ 4 |

See Notes to Condensed Consolidated Financial Statements

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**THE AES CORPORATION**

**Condensed Consolidated Statements of Changes in Equity**

**(Unaudited)**

| | THE AES CORPORATION STOCKHOLDERS | | | | | | |
|---|---|---|---|---|---|---|---|
| | Common Stock | Treasury Stock | Additional Paid-In Capital | (Accumulated Deficit) Retained Earnings | Accumulated Other Comprehensive Loss | Noncontrolling Interests | Consolidated Comprehensive Income |
| | (in millions) | | | | | | |
| Balance at January 1, 2009 | $ 7 | $ (144) | $ 6,832 | $ (8) | $ (3,018) | $ 3,358 | |
| Comprehensive income | | | | | | | |
| Net income | - | - | - | 706 | - | 766 | 1,472 |
| Change in fair value of available-for-sale securities, net of income tax | - | - | - | - | 6 | - | 6 |
| Foreign currency translation adjustment, net of income tax | - | - | - | - | 117 | 437 | 554 |
| Change in derivative fair value (including a reclassification to earnings, net of income tax) | - | - | - | - | 38 | 24 | 62 |
| Change in unfunded pension obligation, net of income tax | - | - | - | - | 2 | - | 2 |
| Other comprehensive income | | | | | | | 624 |
| Total comprehensive income | | | | | | | $ 2,096 |
| Capital contributions from noncontrolling interests | - | - | - | - | - | 79 | |
| Dividends declared to noncontrolling interests | - | - | - | - | - | (673) | |
| Disposition of businesses | - | - | - | - | - | (7) | |
| Preferred dividends of subsidiary | - | - | - | - | - | (2) | |
| Issuance of common stock under benefit plans and exercise of stock options | - | 18 | 11 | - | - | - | |
| Stock compensation | - | - | 16 | - | - | - | |
| Balance at September 30, 2009 | $ 7 | $ (126) | $ 6,859 | $ 698 | $ (2,855) | $ 3,982 | |

| | THE AES CORPORATION STOCKHOLDERS | | | | | | |
|---|---|---|---|---|---|---|---|
| | Common Stock | Treasury Stock | Additional Paid-In Capital | (Accumulated Deficit) Retained Earnings | Accumulated Other Comprehensive Loss | Noncontrolling Interests | Consolidated Comprehensive Income |
| | (in millions) | | | | | | |
| Balance at January 1, 2008 | $ 7 | $ - | $ 6,776 | $ (1,241) | $ (2,378) | $ 3,181 | |
| Comprehensive income | | | | | | | |
| Net income | - | - | - | 1,281 | - | 646 | 1,927 |
| Income from operations of discontinued businesses | - | - | - | - | - | (1) | |
| Change in fair value of available-for-sale securities, net of income tax | - | - | - | - | (1) | - | (1) |
| Foreign currency translation adjustment, net of income tax | - | - | - | - | (166) | (184) | (350) |
| Change in derivative fair value (including a reclassification to earnings, net of income tax) | - | - | - | - | 47 | (1) | 46 |
| | - | - | - | - | (2) | - | (2) |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Change in unfunded pension obligation, net of income tax | | | | | | | |
| Other comprehensive loss | | | | | | | (307) |
| Total comprehensive income | | | | | | | $ 1,620 |
| Capital contributions from noncontrolling interests | - | - | - | - | - | 432 | |
| Dividends declared to noncontrolling interests | - | - | - | - | - | (428) | |
| Acquisition of treasury stock | - | (144) | - | - | - | - | |
| Issuance of common stock under benefit plans and exercise of stock options | - | - | 23 | - | - | - | |
| Stock compensation | - | - | 27 | - | - | - | |
| Balance at September 30, 2008 | $ 7 | $ (144) | $ 6,826 | $ 40 | $ (2,500) | $ 3,645 | |

See Notes to Condensed Consolidated Financial Statements

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**THE AES CORPORATION**

**Notes to Condensed Consolidated Financial Statements**

**For the Three and Nine Months Ended September 30, 2009 and 2008**

## 1. FINANCIAL STATEMENT PRESENTATION

The prior period condensed consolidated financial statements in this Quarterly Report on Form 10-Q ( Form 10-Q ) have been reclassified to reflect the financial statement presentation requirements of new accounting guidance related to noncontrolling interests, which became effective for the Company on January 1, 2009, the new reportable segment structure discussed in Note 11 *Segments* and businesses held for sale and discontinued operations as discussed in Note 13 *Discontinued Operations*. In addition, certain immaterial prior period amounts have been reclassified within the condensed consolidated financial statements to conform to current period presentation.

On September 14, 2009, The AES Corporation filed a Current Report on Form 8-K ( September 2009 Form 8-K ) to recast previously filed financial statements included in the Company s Form 10-K for the period ended December 31, 2008 ( 2008 Form 10-K ) to reflect the effect of changes to the Company s reportable segments and the adoption of the presentation and disclosure provisions of new accounting guidance for noncontrolling interests, which required retrospective presentation and became effective for the Company on January 1, 2009. The revisions to the 2008 Form 10-K were limited to the Company s Business Overview, Selected Financial Data, Management s Discussion and Analysis of Financial Condition and Results of Operations and the Consolidated Financial Statements and Notes contained in Items 1, 6, 7 and 8. All other information in the 2008 Form 10-K remains unchanged.

### Consolidation

In this Quarterly Report the terms AES , the Company , us or we refer to the consolidated entity including its subsidiaries and affiliates. The tern The AES Corporation , the Parent or the Parent Company refer only to the publicly-held holding company, The AES Corporation, excluding its subsidiaries and affiliates. Furthermore, variable interest entities ( VIEs ) in which the Company has an interest have been consolidated where the Company is the primary beneficiary. Investments in which the Company has the ability to exercise significant influence, but not control, are accounted for using the equity method of accounting. All intercompany transactions and balances have been eliminated in consolidation.

### Interim Financial Presentation

The accompanying unaudited condensed consolidated financial statements and footnotes have been prepared in accordance with generally accepted accounting principles in the United States of America ( U.S. GAAP ) as contained in the Financial Accounting Standards Board ( FASB ) Accounting Standards Codification (the Codification or ASC ) for interim financial information and Article 10 of Regulation S-X issued by the Securities and Exchange Commission ( SEC ). Accordingly, they do not include all the information and footnotes required by U.S. GAAP for annual fiscal reporting periods. In the opinion of management, the interim financial information includes all adjustments of a normal recurring nature necessary for a fair presentation of the results of operations, financial position, changes in equity and cash flows. The results of operations for the three and nine months ended September 30, 2009, are not necessarily indicative of results that may be expected for the year ending December 31, 2009. The accompanying condensed consolidated financial statements are unaudited and should be read in conjunction with the 2008 audited consolidated financial statements and notes thereto, which are included in the September 2009 Form 8-K.

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**Significant New Accounting Policies**

*Noncontrolling Interests*

Effective January 1, 2009, we adopted new accounting guidance which changed the accounting for, and the reporting of, minority interest, now referred to as noncontrolling interests, in the Company s condensed consolidated financial statements. The adoption of this guidance resulted in the reclassification of amounts previously attributable to minority interest to a separate component of stockholders equity titled Noncontrolling Interests in the accompanying condensed consolidated balance sheets and statements of changes in equity. Additionally, net income and comprehensive income attributable to noncontrolling interests are reflected separately from consolidated net income and comprehensive income in the accompanying condensed consolidated statements of operations and statements of changes in equity. As required by the authoritative guidance, prior period financial statements have been reclassified to conform to the current year presentation.

The following summarizes significant changes in the Company s accounting policies related to the allocation of losses to noncontrolling interests, sale of stock of a subsidiary and the deconsolidation of a subsidiary:

The new authoritative guidance for noncontrolling interests revised the provisions of previously issued accounting standards regarding consolidation. Losses continue to be attributed to the noncontrolling interests, even when the noncontrolling interests basis has been reduced to zero. Previously, losses that otherwise would have been attributed to the noncontrolling interests were allocated to the controlling interest after the associated noncontrolling interests basis was reduced to zero. The Company had no material losses that it did not allocate to noncontrolling interests prior to the adoption of the new noncontrolling interests accounting guidance and the adoption did not have a material impact on the Company s financial position or results of operations.

The noncontrolling interests accounting guidance requires changes in a parent s ownership interest in a subsidiary, which result in the parent retaining its controlling financial interest to be accounted for as equity transactions. Gains or losses from such transactions are no longer recognized in net income and the carrying values of the subsidiary s assets (including goodwill) and liabilities are not adjusted. Previous SEC guidance provided an option in certain circumstances for a parent to recognize a gain or loss on the sale of stock by a subsidiary or account for the sale as an equity transaction. In certain transactions, AES had previously elected the option to recognize a gain or loss. Under the revised guidance on noncontrolling interests, this option is no longer available.

A parent company deconsolidates a subsidiary when that parent company no longer controls the subsidiary. When control is lost, the parent-subsidiary relationship no longer exists and the parent derecognizes the assets and liabilities of the subsidiary. If the parent company retains a noncontrolling interest, the remaining noncontrolling investment in the subsidiary is remeasured at fair value and is included in the gain or loss recognized upon the deconsolidation of the subsidiary. Under prior accounting standards, the retained noncontrolling interest in the subsidiary was not adjusted to fair value.

*FASB Accounting Standards Codification*

Effective for financial statements issued for interim and annual periods ended after September 15, 2009, the FASB established the Codification as the single source of authoritative U.S. GAAP recognized by the FASB to be applied by nongovernmental entities. Rules and interpretive releases of the SEC under authority of federal securities laws are also sources of authoritative U.S. GAAP for SEC registrants. The Codification supersedes all existing non-SEC accounting and reporting standards. All other non-grandfathered, non-SEC accounting literature is no longer considered authoritative if it is not included in the Codification.

As a result of the Codification, the FASB no longer issues new accounting standards in the form of FASB Statements, FASB Staff Positions or Emerging Issues Task Force Abstracts. Instead, new standards or changes to existing accounting guidance are issued as Accounting Standards Updates ( ASUs ), which will serve to update the Codification, provide background information about the guidance and the basis for conclusions on the changes to the Codification. U.S. GAAP content was not changed as a result of the FASB s Codification project. This Form 10-Q has been updated to reflect the new Codification organization and all previous references to specific accounting standards are now replaced by references to the overall subject matter that pertains to the accounting policy, issue or transaction.

*ASU No. 2009-06, Implementation Guidance on Accounting for Uncertainty in Income Taxes and Disclosure Amendments for Non-Public Entities ( ASU No. 2009-06 )*

In September 2009, the FASB amended the income tax accounting guidance with the issuance of ASU No. 2009-06, which provided additional implementation guidance on accounting for uncertainty in income taxes. ASU No. 2009-06 amended the definition of a tax position to clarify that the term tax position encompasses an entity s status, including its status as a pass-through entity. ASU No. 2009-06 also clarified that entities should attribute income taxes to either the entity or its owners based on how the tax laws and regulations of each jurisdiction attribute income taxes, rather than based on who pays the income taxes. If attributable to the entity, the accounting should be consistent with the guidance for uncertainty in income taxes. If the income taxes are attributable to the owner, the accounting by the entity would be as a transaction with owners. ASU No. 2009-06 also clarified that regardless of the tax status of a reporting entity, all tax positions of each entity in the consolidated or combined group must be considered when preparing financial statements for a group of related entities. ASU No. 2009-06 became effective for financial statements issued for interim and annual periods ended after September 15, 2009, or the quarter ended September 30, 2009 for AES. The adoption of ASU No. 2009-06 did not have a material impact on our financial statements.

**New Accounting Pronouncements**

The following accounting standards have been issued, but as of September 30, 2009 are not yet effective for and have not been adopted by AES.

*FAS No. 167, Amendments to FASB Interpretation No. 46(R) ( FAS No. 167 )*

In June 2009, the FASB issued an amendment to the accounting and disclosure requirements for the consolidation of VIEs. The amendment requires an entity to qualitatively, rather than quantitatively, assess the determination of the primary beneficiary of a VIE. This determination should be based on whether the entity has the power to direct the activities that most significantly impact the economic performance of the VIE and the obligation to absorb losses or the right to receive benefits of the VIE that could potentially be significant to the VIE. Other key changes include: the requirement for an ongoing reconsideration of the primary beneficiary, the criteria for determining whether service provider or decision maker contracts are variable interests, the consideration of kick-out and removal rights in determining whether an entity is a VIE, the types of events that trigger the reassessment of whether an entity is a VIE and the expansion of the disclosures previously required. The impact of FAS No. 167 may require the Company to consolidate the assets, liabilities and operating results of certain VIEs, including certain entities currently accounted for under the equity method of accounting that AES does not currently consolidate. It may also require the Company to deconsolidate certain VIEs that are currently consolidated. The impact of the adoption may be applied retrospectively with a cumulative-effect adjustment to retained earnings as of the beginning of the first year restated, or through a cumulative-effect adjustment on the date of adoption. FAS No. 167 is effective for fiscal years beginning after November 15, 2009, or January 1, 2010 for AES. Early adoption is prohibited. AES is currently reviewing the potential impact of FAS No. 167 and at this time has determined that the adoption of FAS No. 167 may have a material impact on its consolidated financial statements.

*ASU No. 2009-05, Fair Value Measurement and Disclosures ( ASU No. 2009-05 )*

In August 2009, the FASB issued ASU No. 2009-05, which amended the fair value measurement and disclosure accounting guidance for the fair value measurement of liabilities. ASU No. 2009-05 provided

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clarification that in circumstances in which a quoted price in an active market for the identical liability is not available, a reporting entity is required to measure fair value using one or more of the following techniques:

A valuation technique that uses the quoted price of the identical liability when traded as an asset or quoted prices for similar liabilities or similar liabilities when traded as assets.

Another valuation technique that is consistent with the fair value principles of the income approach or market approach.

ASU No. 2009-05 also clarified that when estimating the fair value of a liability, a reporting entity is not required to include a separate input or adjustment to other inputs to reflect the existence of a restriction that prevents the transfer of the liability. It also clarified that Level 1 fair value measurements include a quoted price in an active market for the identical liability at the measurement date and the quoted price for the identical liability when traded as an asset in an active market when no adjustments to the quoted price of the asset are required. ASU No. 2009-05 is effective for interim and annual periods beginning after issuance, or October 1, 2009 for the Company. The adoption of ASU No. 2009-05 is not expected to have a material impact on the Company s financial statements.

**2. INVENTORY**

The following table summarizes the Company s inventory balances as of September 30, 2009 and December 31, 2008:

| | September 30, 2009 | December 31, 2008 |
|---|---|---|
| | (in millions) | |
| Coal, fuel oil and other raw materials | $ 284 | $ 311 |
| Spare parts and supplies | 294 | 253 |
| Total | $ 578 | $ 564 |

**3. FAIR VALUE DISCLOSURES**

In April 2009, the FASB issued new accounting guidance requiring additional disclosures about the fair value of financial instruments in interim and annual financial statements.

The following table summarizes the carrying and fair value of the Company s financial assets and liabilities as of September 30, 2009 and December 31, 2008:

| | September 30, 2009 | | December 31, 2008 | |
|---|---|---|---|---|
| | Carrying Amount | Fair Value | Carrying Amount | Fair Value |
| | (in millions) | | | |
| **Assets** | | | | |
| Marketable securities [1] | $ 1,414 | $ 1,414 | $ 1,413 | $ 1,413 |
| Derivatives [2] | 147 | 147 | 350 | 350 |
| Total assets | $ 1,561 | $ 1,561 | $ 1,763 | $ 1,763 |
| **Liabilities** | | | | |
| Debt [3] | $ 19,660 | $ 20,470 | $ 18,091 | $ 15,588 |
| Derivatives [2] | 464 | 464 | 534 | 534 |

| | | | | |
|---|---|---|---|---|
| Total liabilities | $ 20,124 | $ 20,934 | $ 18,625 | $ 16,122 |

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(1) See Note 4 *Investments in Marketable Securities* for additional information regarding the classification of marketable securities in the fair value hierarchy.

(2) See Note 5 *Derivative Instruments and Hedging Activities* for additional information regarding the fair value of derivatives.

(3) See Note 7 *Long-Term Debt* for additional information regarding the fair value of the Company s recourse and non-recourse debt.

The Company adopted the revised fair value measurement provisions as of January 1, 2008 for financial assets and liabilities and January 1, 2009 for all nonrecurring fair value measurements of nonfinancial assets. In general the Company s nonfinancial assets and liabilities that are measured at fair value on a nonrecurring basis include goodwill; intangible assets, such as sales concessions, land rights and emissions allowances; and long-lived tangible assets including property, plant and equipment. The Company did not recognize any material adjustments to nonfinancial assets or liabilities measured at fair value on a nonrecurring basis during the three or nine months ended September 30, 2009. Although the adoption of the new fair value measurement and disclosure accounting guidance did not materially impact our financial condition, results of operations or cash flows, additional disclosures about fair value measurements are included in this Form 10-Q.

The Company s financial assets and liabilities that are measured at fair value on a recurring basis fall into two broad categories: marketable securities and derivatives. Marketable securities are generally measured at fair value using the market approach. The Company s investments in marketable securities generally consist of debt and equity securities. Equity securities are adjusted to fair value using quoted market prices. Debt securities primarily consist of unsecured debentures, certificates of deposit, government debt securities and money market funds held by our Brazilian subsidiaries. Returns and pricing on these instruments are generally indexed to the CDI (Brazilian equivalent to LIBOR), Selic (overnight borrowing rate) or IGPM (inflation) rates in Brazil and are adjusted based on the banks assessment of the specific businesses. Fair value is determined based on comparisons to market data obtained for similar assets and are considered Level 2 inputs. These investments are primarily issued by highly rated institutions and governmental agencies and therefore the consideration of counterparty credit risk does not have a material impact on the determination of fair value. The Company s derivatives are valued using the income approach. When deemed appropriate, the Company minimizes its risk from interest and foreign currency exchange rate and commodity price fluctuations through the use of derivative financial instruments. The Company s derivatives are primarily interest rate swaps to establish a fixed rate on non-recourse variable rate debt, foreign exchange instruments to hedge against currency fluctuations and derivatives or embedded derivatives associated with commodity contracts. The fair value of the Company s derivative portfolio was determined using internal valuation models, most of which are based on observable market inputs including interest rate curves and forward and spot prices for currencies and commodities.

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The following table sets forth by level within the fair value hierarchy the Company s financial assets and liabilities that were measured at fair value on a recurring basis as of September 30, 2009. Financial assets and liabilities have been classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company s assessment of the significance of a particular input to the fair value measurement requires judgment, and may affect the determination of the fair value of the assets and liabilities and their placement within the fair value hierarchy levels.

| | September 30, 2009 | Quoted Market Prices in Active Market for Identical Assets (Level 1) | Significant Other Observable Inputs (Level 2) | Significant Unobservable Inputs (Level 3) |
|---|---|---|---|---|
| | | (in millions) | | |
| **Assets** | | | | |
| Available-for-sale securities | $ 1,399 | $ 16 | $ 1,341 | $ 42 |
| Trading securities | 7 | 7 | - | - |
| Derivatives | 147 | - | 70 | 77 |
| Total assets | $ 1,553 | $ 23 | $ 1,411 | $ 119 |
| **Liabilities** | | | | |
| Derivatives | $ 464 | $ - | $ 303 | $ 161 |
| Total liabilities | $ 464 | $ - | $ 303 | $ 161 |

The following table presents a reconciliation of all assets and liabilities measured at fair value on a recurring basis using significant unobservable inputs (Level 3) for the three and nine months ended September 30, 2009:

| | Three Months Ended September 30, 2009 | | Nine Months Ended September 30, 2009 | |
|---|---|---|---|---|
| | Derivatives | Available-For-Sale Securities [5] | Derivatives | Available-For-Sale Securities [5] |
| | (in millions) | | (in millions) | |
| Balance at beginning of period [1] | $ (9) | $ 2 | $ (69) | $ 42 |
| Total gains/losses (realized/unrealized) [1] | | | | |
| Included in earnings [2] | (3) | - | (20) | - |
| Included in other comprehensive income | (23) | - | 117 | - |
| Included in regulatory assets | (1) | - | 1 | - |
| Purchases, issuances and settlements [1] | (28) | 40 | (36) | - |
| Asset transferred in (out) of Level 3 | - | - | (187) [3] | - |
| Liabilities transferred (in) out of Level 3 | (20) [4] | - | 110 [4] | - |
| Balance at end of period [1] | $ (84) | $ 42 | $ (84) | $ 42 |
| Total gains/losses for the period included in earnings attributable to the change in unrealized gains/losses relating to assets and liabilities held at both the beginning and end of the period | $ (7) | $ - | $ (34) | $ - |

(1) Derivative assets and (liabilities) are presented on a net basis.

(2) See Note 5 *Derivative Instruments and Hedging Activities* for further information regarding the classification of gains and losses included in earnings in the Condensed Consolidated Statements of Operations.

(3) Assets transferred out of Level 3 during the nine months ended September 30, 2009 primarily resulted from the election of the normal purchase normal sale designation as of December 31, 2008 of a power purchase agreement ( PPA ). As such, the agreement was measured at fair value using significant unobservable inputs at December 31, 2008, but is subsequently being amortized and is not reported at fair value.

(4) Liabilities transferred (in) out of Level 3 were primarily a result of an (increase) decrease in the significance of unobservable inputs to calculate the credit valuation adjustments of these derivative instruments.

(5) Available-for-sale securities in Level 3 are auction rate securities and variable rate demand notes which have failed remarketing or are not actively trading and for which there are no longer adequate observable inputs available to measure the fair value.

**4. INVESTMENTS IN MARKETABLE SECURITIES**

New accounting guidance related to investments in debt and equity securities became effective and was adopted by the Company for the quarter ended June 30, 2009. The new guidance amended existing other-than-temporary impairment guidance for debt securities to change the recognition threshold and to improve the presentation and disclosure of other-than-temporary impairment on debt and equity securities in the financial statements. The new accounting guidance also changed the accounting requirements related to the recognition of other-than-temporary impairment of debt securities. If other-than-temporary impairment is recognized, it is separated into two pieces 1) the amount representing the credit loss is recognized in earnings and 2) the amount related to other factors is recognized in other comprehensive income unless there is a plan to sell the assets in which case it would be recognized in earnings. The amount recognized in other comprehensive income for held-to-maturity debt securities is then amortized over the remaining life of the security. The changes were effective for new and existing securities held by an entity as of the beginning of the period adopted and required a cumulative adjustment to the opening balance of retained earnings in the period of adoption with a corresponding adjustment to accumulated other comprehensive income. The adoption did not have a material impact on the Company s financial condition, results of operations, or cash flows. AES has incorporated the additional disclosure requirements on this Form 10-Q.

The following table sets forth the Company s investments in marketable debt and equity securities reported at fair value as of September 30, 2009 and December 31, 2008 by security type and by level within the fair value hierarchy. The security types are determined based on the nature and risk of the security and are consistent with how the Company manages, monitors and measures its securities. These securities have been classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company s assessment of the significance of a particular input to the fair value measurement requires judgment, and may affect the determination of the fair value of the securities and their placement within the fair value hierarchy levels.

| | September 30, 2009 | | | | December 31, 2008 |
|---|---|---|---|---|---|
| | Level 1 | Level 2 | Level 3 | Total [2] | Total [2] |
| | (in millions) | | | | |
| AVAILABLE-FOR-SALE: | | | | | |
| Unsecured debentures [1] | $ - | $ 706 | $ - | $ 706 | $ 674 |
| Certificates of deposit [1] | - | 470 | - | 470 | 493 |
| Government debt securities | - | 136 | - | 136 | 32 |
| Common stock [3] | 16 | - | - | 16 | 1 |
| Money market funds | - | 29 | - | 29 | 21 |
| Other | - | - | 42 | 42 | 42 |
| Subtotal | $ 16 | $ 1,341 | $ 42 | $ 1,399 | $ 1,263 |
| TRADING: | | | | | |
| Mutual funds | 7 | - | - | 7 | - |
| Subtotal | 7 | - | - | 7 | - |
| TOTAL | $ 23 | $ 1,341 | $ 42 | $ 1,406 | $ 1,263 |

(1) Unsecured debentures are instruments similar to certificates of deposit that are held primarily by our subsidiaries in Brazil. The unsecured debentures and certificates of deposit included here do not qualify as cash equivalents and meet the definition of a security under the relevant guidance and are therefore classified as available-for-sale securities.

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(2) The amortized cost approximated fair value of the available-for-sale securities at September 30, 2009 and December 31, 2008, with the exception of the common stock discussed below.

(3) During the three months ended September 30, 2009, an investment of the Company with a cost basis of $5 million, previously accounted for under the cost method, underwent an initial public offering ( IPO ). Subsequent to the IPO, the Company s investment in common stock became marketable. Beginning in the third quarter, the common stock was accounted for as available-for-sale and adjusted to fair value at September 30, 2009. As a result, an unrealized gain of $10 million was recognized in other comprehensive income.

The following table sets forth the stated maturities of the Company s investments in debt securities classified as available-for-sale as of September 30, 2009:

| | Available-for-sale debt securities (in millions) |
|---|---|
| Less than one year | $ 546 |
| One to five years | 710 |
| Five to ten years | 56 |
| After ten years | 42 |
| Total | $ 1,354 |

The following table summarizes the pre-tax gains and losses related to available-for-sale and trading securities for the three and nine months ended September 30, 2009 and 2008. There were no realized losses on the sale of available-for-sale securities. Gains and losses on the sale of investments are determined using the specific identification method. There was no other-than-temporary impairment recognized in earnings or other comprehensive income for the three and nine months ended September 30, 2009 and 2008.

| | Three Months Ended September 30, | | Nine Months Ended September 30, | |
|---|---|---|---|---|
| | 2009 | 2008 | 2009 | 2008 |
| | (in millions) | | | |
| Gains included in earnings that relate to trading securities held at the reporting date | $ - | $ - | $ 1 | $ - |
| Gain (losses) included in other comprehensive income | 10 | - | 10 | (2) |
| Gains reclassified out of other comprehensive income into earnings | 2 | - | 2 | - |
| Proceeds from sales | 1,712 | 2,374 | 2,982 | 3,957 |
| Gross realized gains on sales | 2 | - | 3 | - |

During the second quarter of 2009, three of the Company s generation businesses in the Dominican Republic exchanged $110 million of accounts receivable due from the government-owned distribution companies of the Dominican Republic for sovereign bonds of the same amount. The bonds, which were classified as available-for-sale securities, were adjusted to fair value when acquired. During the second and third quarter of 2009, the Company used a portion of the bonds with a carrying value of $31 million to settle third-party liabilities and sold the remaining bonds. As of September 30, 2009, all of the sovereign bonds had been sold or transferred.

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The following table sets forth the Company s investments in marketable securities classified as held-to-maturity as of September 30, 2009 and December 31, 2008:

| | September 30, 2009 | December 31, 2008 |
|---|---|---|
| | (in millions) | |
| Government debt securities | $ 4 | $ 93 |
| Certificates of deposit | 4 | 45 |
| Other | - | 12 |
| Total | $ 8 | $ 150 |

The amortized cost approximated fair value of the held-to-maturity securities at September 30, 2009 and December 31, 2008. As of September 30, 2009, all held-to-maturity debt securities had stated maturities within one year.

**5. DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES**

**Risk Management Objectives**

The Company is exposed to market risks associated with its enterprise-wide business activities, namely the purchase and sale of fuels and electricity as well as foreign currency risk and interest rate risk. In order to manage the market risks associated with these business activities, we enter into contracts that incorporate derivatives and financial instruments, including forwards, futures, options, swaps or combinations thereof as appropriate. Derivative transactions are not entered into for trading purposes.

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Interest Rate Risk

AES and its subsidiaries utilize variable rate debt financing for construction projects and operations, resulting in an exposure to interest rate risk. Interest rate swap, cap and floor agreements are entered into to manage interest rate risk by effectively fixing or limiting the interest rate exposure on the underlying financing. These interest rate contracts range in maturity through 2028. The following table sets forth, by type of interest rate index, the Company s current and maximum outstanding notional under its interest rate derivative instruments, the weighted average remaining term and the percentage of variable-rate debt hedged that is based on that index as of September 30, 2009 regardless of whether the derivative instruments are in qualifying cash flow hedging relationships:

| | September 30, 2009 | | | | | |
|---|---|---|---|---|---|---|
| | Current | | Maximum [1] | | | |
| Interest Rate Derivatives | Derivative Notional | Derivative Notional Translated to USD | Derivative Notional | Derivative Notional Translated to USD | Weighted Average Remaining Term [1] | % of Debt Currently Hedged by Index [2] |
| | | (in millions) | | | (in years) | |
| Bubor (Hungarian Forint) | 3,683 | $ 20 | 3,683 | $ 20 | <1 | 83% |
| Libor (U.S. Dollar) | 2,935 | 2,935 | 3,606 | 3,606 | 10 | 72% |
| Euribor (Euro) | 780 | 1,142 | 820 | 1,201 | 13 | 83% |
| Treasury Bills (U.S. Dollar) [3] | 70 | 70 | 70 | 70 | <1 | 123% |
| Libor (British Pound Sterling) | 51 | 82 | 51 | 82 | 10 | 65% |
| City of Petersburg, IN Pollution Control Refunding Revenue Bonds Adjustable Rate (U.S. Dollar) | 40 | 40 | 40 | 40 | 13 | 100% |

(1) The Company s interest rate derivative instruments primarily include accreting and amortizing notionals. The maximum derivative notional represents the largest notional at any point between September 30, 2009 and the maturity of the derivative instrument, which includes forward starting derivative instruments. The weighted average remaining term represents the tenor (remaining term) of our interest rate derivatives weighted by the corresponding maximum notional in USD.

(2) Excludes variable-rate debt tied to other indices where the Company had no interest rate derivatives.

(3) The debt and swap are related to a construction project. This swap does not currently qualify for cash flow hedge accounting.

Cross currency swaps are utilized in certain instances to manage the risk related to fluctuations in both interest rates and certain foreign currencies. These cross currency contracts range in maturity through 2028. The following table sets forth, by type of foreign currency denomination, the Company s outstanding notional of its cross currency derivative instruments as of September 30, 2009, which are all in qualifying cash flow hedging relationships. These swaps are amortized and therefore the notional amount represents the maximum outstanding notional as of September 30, 2009:

| | September 30, 2009 | | | |
|---|---|---|---|---|
| Cross Currency Swaps | Notional | Notional Translated to USD | Weighted Average Remaining Term [1] | % of Debt Currently Hedged by Index [2] |
| | (in millions) | | (in years) | |
| Chilean Unidad de Fomento (CLF) | 6 | $ 212 | 16 | 82% |
| Euro (EUR) | 4 | 6 | <1 | <1% |

(1) Represent the remaining tenor of our cross currency swaps weighted by the corresponding notional in U.S. Dollar.

(2) Represent the proportion of foreign currency denominated debt hedged by the same foreign currency denominated notional of the cross currency swap.

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Foreign Currency Risk

We are exposed to foreign currency risk as a result of our investments in foreign subsidiaries and affiliates. AES operates businesses in many foreign environments and such operations in foreign countries may be impacted by significant fluctuations in foreign currency exchange rates. Foreign currency forwards, swaps and options are utilized, where possible, to manage the risk related to fluctuations in certain foreign currencies. These foreign currency contracts range in maturity through 2010. The following tables set forth, by type of foreign currency denomination, the Company s outstanding notional over the remaining terms of its foreign currency derivative instruments as of September 30, 2009 regardless of whether the derivative instruments are in qualifying hedging relationships:

| | | September 30, 2009 | | |
|---|---|---|---|---|
| **Foreign Currency Options** | **Notional** | **USD Notional [1]** | **Probability Adjusted Notional [2]** | **Remaining Term** |
| | | **(in millions)** | | **(in years)** |
| Hungarian Forint (HUF) | 641 | $ 3 | $ - [3] | <1 |
| Philippine Peso (PHP) | 356 | 7 | 2 | <1 |
| Brazilian Real (BRL) | 123 | 63 | 5 | <1 |
| Argentine Peso (ARS) | 82 | 16 | - [3] | <1 |
| British Pound Sterling (GBP) | 8 | 13 | 9 | <1 |
| Euro (EUR) | 3 | 5 | 1 | <1 |

(1) Represent contractual notionals at inception of trade.
(2) Represents the gross notional amounts times the probability of exercising the option, which is based on the relationship of changes in the option value with respect to changes in the price of the underlying currency.
(3) De minimis amount.

| | | September 30, 2009 | |
|---|---|---|---|
| **Foreign Currency Forwards and Swaps** | **Notional** | **Notional Translated to USD** | **Remaining Term** |
| | | **(in millions)** | **(in years)** |
| Colombian Peso (COP) | 43,989 | $ 19 | <1 |
| Argentine Peso (ARS) | 145 | 34 | <1 |
| U.S. Dollar (USD) [1] | 5 | 5 | <1 |

(1) Related to a U.S. Dollar exposure at one of our subsidiaries in Brazil.

In addition, certain of our subsidiaries have entered into contracts denominated in currencies other than their own functional currencies or the currency of the item being purchased or sold. These contracts range in maturity through 2025. The following table sets forth, by type of foreign currency denomination, the Company s outstanding notional over the remaining terms of its foreign currency embedded derivative instruments as of September 30, 2009:

| | | September 30, 2009 | |
|---|---|---|---|
| **Embedded Foreign Currency Derivatives** | **Notional** | **Notional Translated to USD** | **Weighted Average Remaining Term [1]** |
| | | **(in millions)** | **(in years)** |
| Kazakhstani Tenge (KZT) | 55,831 | $ 370 | 10 |
| Hungarian Forint (HUF) | 107 | 1 | <1 |
| Argentine Peso (ARS) | 67 | 17 | 2 |
| Philippine Peso (PHP) | 27 | 1 | 4 |
| Euro (EUR) | 2 | 3 | 10 |
| Brazilian Real (BRL) | 2 | 1 | <1 |

(1) Represent the remaining tenor of our foreign currency embedded derivatives weighted by the corresponding notional in U.S. Dollar.

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Commodity Price Risk

We are exposed to the impact of market fluctuations in the price of electricity, fuels and environmental credits. Although we primarily consist of businesses with long-term contracts or retail sales concessions (which provide our distribution businesses with a franchise to serve a specific geographic region), a portion of our current and expected future revenues are derived from businesses without significant long-term revenue or supply contracts. These businesses subject our results of operations to the volatility of prices for electricity, fuels and environmental credits in competitive markets. We have used a hedging strategy, where appropriate, to hedge our financial performance against the effects of fluctuations in energy commodity prices. The implementation of this strategy can involve the use of commodity forward contracts, futures, swaps and options. Some of our businesses hedge certain aspects of their commodity risks using financial hedging instruments.

We also enter into short-term contracts for the supply of electricity and fuel in other competitive markets in which we operate. When hedging the output of our generation assets, we have power purchase agreements or other hedging instruments that lock in the spread in dollars per MWh between the cost of fuel used to generate a unit of electricity and the price at which the electricity can be sold. The portion of our sales and fuel purchases that are not subject to such agreements are exposed to commodity price risk. Eastern Energy in New York and Deepwater in Texas, two of our North America generation businesses, sell electricity into power pools managed by the New York Independent System Operator and the Electric Reliability Council of Texas, respectively. In addition, Eastern Energy has hedged a portion of its power exposure for 2010 by entering into hedges of natural gas prices, as movements in natural gas prices affect power prices. While there is a strong relationship between natural gas and power prices, the natural gas hedges do not currently qualify for hedge accounting treatment. All financial transactions at Eastern Energy hedge 80% of the forecasted sales of electricity through the remainder of 2009 and 45% of the forecasted sales of electricity in 2010. All financial transactions at Deepwater hedge 49% of the forecasted sales of electricity through the remainder of 2009 and 18% of the forecasted sales of electricity in 2010.

In addition, certain of our subsidiaries have entered into PPAs and fuel supply agreements that have been assessed as derivatives or contain embedded features that have been assessed as embedded derivatives. These contracts range in maturity through 2024. The following table sets forth by type of commodity, the Company s outstanding notional for the remaining term of its commodity derivative (excluding Eastern Energy and Deepwater) and embedded derivative instruments as of September 30, 2009:

| | September 30, 2009 | |
|---|---|---|
| **Commodity Derivatives** | **Volume (in millions)** | **Weighted Average Remaining Term [1] (in years)** |
| Natural gas (MMBtu) | 106 | 9 |
| Petcoke (Metric tons) | 15 | 15 |
| Coal (Metric tons) | 1 | 1 |
| Log wood (Tons) | 1 | 3 |
| Electricity (MWhs) | 1 | 1 |

[1] Represents the remaining tenor of our commodity and embedded derivatives weighted by the corresponding volume.

**Accounting and Reporting**

In accordance with the accounting standards for derivatives and hedging, we recognize all derivatives, except those designated as normal purchase normal sale, as either assets or liabilities on the balance sheet at fair value. Changes in the fair value of derivatives are recognized in earnings unless specific hedge criteria are met. Gains or losses on derivatives that do not qualify for hedge accounting are recognized as interest expense for interest rate derivatives, foreign currency gains or losses on foreign currency derivatives, and non-regulated revenue or non-regulated cost of sales for commodity derivatives.

The accounting standards for derivatives and hedging enable companies to designate qualifying derivatives as hedging instruments based on the exposure being hedged. Changes in the fair value of a derivative that is highly effective as, and is designated as and qualifies as, a cash flow hedge are deferred in accumulated other comprehensive income and are recognized into earnings as the hedged transactions affect earnings. Any ineffectiveness is immediately recognized in earnings as interest expense for interest rate hedges, foreign currency gains or losses on foreign currency hedges, and non-regulated revenue or non-regulated cost of sales for commodity hedges. For all hedge contracts, the Company maintains formal documentation of the hedge and effectiveness testing in accordance with the accounting standards for derivatives and hedging. If AES deems that a derivative is not highly effective as a hedge, hedge accounting will be discontinued prospectively. During the first nine months of 2009 no cash flow hedges were discontinued because it was probable that the forecasted transaction would not occur by the end of the originally specified time period (as documented at the inception of the hedging relationship) or within an additional two-month time period thereafter.

Certain derivatives are not designated as hedging instruments. While these instruments economically hedge interest rate risk, foreign exchange risk or commodity price risk, they do not qualify for hedge accounting treatment as defined by the accounting standards for derivatives and hedging.

The Company has elected not to offset net derivative positions in the financial statements. Accordingly, the Company does not offset such derivative positions against the fair value of amounts (or amounts that approximate fair value) recognized for the right to reclaim cash collateral (a receivable) or the obligation to return cash collateral (a payable) under master netting arrangements. At September 30, 2009, we held $37 million of cash collateral that we received from counterparties to our derivative positions, which is classified as restricted cash and accrued and other liabilities in the condensed consolidated balance sheets. Also, at September 30, 2009, we had no cash collateral posted with (held by) counterparties to our derivative positions.

As of September 30, 2009, approximately $(130) million, $1 million, $(1) million and $58 million of the pre-tax accumulated other comprehensive (loss) income related to interest rate derivative instruments, cross currency derivative instruments, foreign currency derivative instruments and commodity derivative instruments, respectively, is expected to be recognized as a (decrease) increase to income from continuing operations before income taxes over the next twelve months. The balance in accumulated other comprehensive loss related to derivative transactions will be reclassified into earnings as interest expense is recognized for interest rate hedges and cross currency swaps, as depreciation is recognized for interest rate hedges during construction, as foreign currency transaction and translation gains and losses are recognized for hedges of foreign currency exposure and as electricity sales are recognized for hedges of forecasted electricity transactions. Cash flows associated with settled derivatives have been included in the condensed consolidated statements of cash flows as operating and/or investing activities based on the nature of the underlying transaction.

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The following table sets forth by type of derivative the financial statement location and fair value of derivative instruments as of September 30, 2009:

| | September 30, 2009 | |
|---|---|---|
| | Designated as Hedging Instruments | Not Designated as Hedging Instruments |
| | (in millions) | |
| **Assets** | | |
| Other current assets | | |
| Cross currency derivatives | $ 1 | $ - |
| Foreign exchange derivatives | - | 2 |
| Commodity derivatives: | | |
| Electricity | 60 | - |
| Fuel | - | 23 |
| Other | - | 2 |
| Total other current assets | 61 | 27 |
| Other assets | | |
| Interest rate derivatives | 54 | - |
| Commodity derivatives: | | |
| Electricity | 5 | - |
| Total other assets noncurrent | 59 | - |
| Total assets | $ 120 | $ 27 |
| **Liabilities** | | |
| Accrued and other liabilities | | |
| Interest rate derivatives | $ (119) | $ (11) |
| Foreign exchange derivatives | (1) | (14) |
| Commodity derivatives: | | |
| Electricity | (2) | - |
| Fuel | - | (3) |
| Other | - | (13) |
| Total accrued and other liabilities current | (122) | (41) |
| Other long-term liabilities | | |
| Interest rate derivatives | (249) | (18) |
| Foreign exchange derivatives | - | (4) |
| Cross currency derivatives | (24) | - |
| Commodity derivatives: | | |
| Fuel | - | (2) |
| Other | - | (4) |
| Total other long-term liabilities | (273) | (28) |
| Total liabilities | $ (395) | $ (69) |

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The following tables set forth by type of derivative, the financial statement location and amount of gains (losses) recognized in accumulated other comprehensive loss ( AOCL ) and earnings related to the effective portion of derivative instruments in qualifying cash flow hedging relationships, as defined in the accounting standards for derivatives and hedging for the three and nine months ended September 30, 2009:

| | Three Months Ended September 30, 2009 | | |
|---|---|---|---|
| | Gains (Losses) Recognized in AOCL on Derivatives (in millions) | Location of Gains (Losses) Reclassified from AOCL into Earnings | Gains (Losses) Reclassified from AOCL (in millions) |
| Interest rate derivatives | $ (94) | Interest expense | $ (32) [1] |
| Cross currency derivatives | 3 | Interest expense | (1) |
| | | Foreign currency transaction gains (losses) on net monetary position | (9) |
| Foreign currency derivatives | (1) | Foreign currency transaction gains (losses) on net monetary position | - [2] |
| Commodity derivatives - electricity | 11 | Non-regulated revenue | 63 |
| Total | $ (81) | | $ 21 |

| | Nine Months Ended September 30, 2009 | | |
|---|---|---|---|
| | Gains (Losses) Recognized in AOCL on Derivatives (in millions) | Location of Gains (Losses) Reclassified from AOCL into Earnings | Gains (Losses) Reclassified from AOCL (in millions) |
| Interest rate derivatives | $ 7 | Interest expense | $ (71) [1] |
| Cross currency derivatives | 37 | Interest expense | (1) |
| | | Foreign currency transaction gains (losses) on net monetary position | 23 |
| Foreign currency derivatives | (1) | Foreign currency transaction gains (losses) on net monetary position | - [2] |
| Commodity derivatives - electricity | 120 | Non-regulated revenue | 150 |
| Total | $ 163 | | $ 101 |

(1) Excludes $4 million and $18 million of losses for the three and nine months ended September 30, 2009, respectively, reclassified from accumulated other comprehensive losses related to derivative instruments that previously, but no longer, qualify for cash flow hedge accounting.

(2) De minimis amount of losses reclassified from AOCL.

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The following tables set forth by type of derivative, the financial statement location and amount of gains (losses) recognized in earnings related to the ineffective portion of derivative instruments in qualifying cash flow hedging relationships, as defined in the accounting standards for derivatives and hedging, for the three and nine months ended September 30, 2009:

| | Location of Gains (Losses) Recognized in Earnings | Amount of Gains (Losses) Recognized in Earnings Three Months Ended September 30, 2009 | Nine Months Ended September 30, 2009 |
|---|---|---|---|
| | | (in millions) | |
| Interest rate derivatives | Interest expense | $ 2 | $ 12 |
| Cross currency derivatives | Interest expense | - [1] | 2 |
| Commodity derivatives - electricity | Non-regulated revenue | - [1] | (2) |
| Total | | $ 2 | $ 12 |

[1] De minimis amount of ineffectiveness recognized.

The following table sets forth by type of derivative, the financial statement location and amount of gains (losses) recognized in earnings related to derivative instruments not designated as hedging instruments, as defined in the accounting standards for derivatives and hedging, for the three and nine months ended September 30, 2009:

| | Location of Gains (Losses) Recognized in Earnings | Amount of Gains (Losses) Recognized in Earnings Three Months Ended September 30, 2009 | Nine Months Ended September 30, 2009 |
|---|---|---|---|
| | | (in millions) | |
| Interest rate derivatives | Interest expense | $ (23) | $ (42) |
| Foreign exchange derivatives | Non-regulated cost of sales | (1) | (12) |
| Foreign exchange derivatives | Foreign currency transaction gains (losses) on net monetary position | (8) | (30) |
| Commodity derivatives - PPA embedded | Non-regulated revenue | - | (5) |
| Commodity derivatives - other | Non-regulated revenue | (17) | (17) |
| Commodity derivatives - fuel | Non-regulated cost of sales | (1) | (1) |
| Total | | $ (50) | $ (107) |

In addition, IPL, the Company s North American integrated utility, has two derivative instruments for which the gains and losses are accounted for in accordance with accounting standards for regulated operations, as regulatory assets or liabilities. Gains and losses on these derivatives due to changes in fair value are recoverable through future rates and are initially recognized as an adjustment to the regulatory asset or liability and recognized through earnings when the related costs are recovered through IPL s rates. Therefore, these gains and losses are excluded from the above table. For the three and nine months ended September 30, 2009, there were decreases in the fair values of these derivatives of $2 million and $3 million, respectively, included in regulatory assets and liabilities on the accompanying condensed consolidated balance sheet.

**Credit Risk-Related Contingent Features**

Certain of our businesses have derivative agreements that contain credit contingent provisions which would permit the counterparties with which we are in a net liability position to require collateral credit support when the

fair value of the derivatives exceeds the unsecured thresholds established in the agreements. These thresholds vary based on the subsidiaries credit ratings and as their credit ratings are lowered the thresholds decrease, requiring more collateral support.

Eastern Energy, our generation business in New York, enters into commodity derivative transactions with several counterparties who have market exposure limits defined in their transaction agreements. Pursuant to the aforementioned credit contingent provisions, if Eastern Energy s credit rating were to fall below the minimum thresholds established in each of the respective transaction agreements, the counterparties could demand immediate collateralization of the entire mark-to-market value of the derivatives (excluding credit valuation adjustments) if they were in a net liability position. As of September 30, 2009, Eastern Energy had net liability positions of $1 million and had posted a nominal amount of collateral to support these positions based on its current credit rating and the related thresholds in the agreements.

In December 2007, Gener, our generation business in Chile, entered into cross currency swap agreements with a counterparty to swap the Chilean inflation indexed bonds issued in December 2007 into U.S. Dollars. Pursuant to the aforementioned credit contingent provisions, if Gener s credit rating were to fall below the minimum threshold established in the swap agreements, the counterparty could demand immediate collateralization of the entire mark-to-market value of the swaps (excluding credit valuation adjustments) if they were in a net liability position, which was $24 million at September 30, 2009. As of September 30, 2009, Gener had posted $50 million in the form of a letter of credit to support these swaps.

**6. INVESTMENTS IN AND ADVANCES TO AFFILIATES**

*50%-or-less Owned Affiliates and Majority-owned Unconsolidated Subsidiaries*

AES holds a 71% ownership interest in AES Energia Cartagena ( Cartagena ), a VIE, in which the Company is not the primary beneficiary. The Company s investment in Cartagena is a combination of common stock and participative loans. As a result of unrealized losses on Cartagena s interest rate hedges, in December 2008 the investment balance was reduced to zero and the recognition of equity losses was suspended. AES will resume the equity method of accounting and recognize income once Cartagena generates income of which AES s portion is greater than or equal to the cumulative losses AES has not recognized while the equity method of accounting has been suspended. In June 2009, Cartagena received a cash settlement of $53 million for liquidated damages, including legal costs incurred, related to the construction delay from December 2005 to November 2006 of the 1,200 MW generation plant in Cartagena, Spain. Cartagena used the settlement proceeds to repay a portion of the participative loans outstanding to its investors including AES. The Company received its proportionate share of the settlement, $35 million, which was recognized as net equity in earnings of affiliates in the second quarter of 2009 because the distribution was in excess of the Company s current investment balance of zero and AES does not have an obligation or intent to fund future cash flow requirements of Cartagena.

The following table summarizes financial information of the affiliates in which we own 50% or less and have the ability to exercise significant influence but do not control and our majority-owned unconsolidated subsidiaries accounted for using the equity method of accounting:

| | **50%-or-less Owned Affiliates [1]** | | | | **Majority-owned Unconsolidated Subsidiaries [2]** | | | |
|---|---|---|---|---|---|---|---|---|
| | **Three Months Ended September 30,** | | **Nine Months Ended September 30,** | | **Three Months Ended September 30,** | | **Nine Months Ended September 30,** | |
| | **2009** | **2008** | **2009** | **2008** | **2009** | **2008** | **2009** | **2008** |
| | **(in millions)** | | | | **(in millions)** | | | |
| Revenue | $ 343 | $ 301 | $ 880 | $ 889 | $ 41 | $ 43 | $ 120 | $ 131 |
| Gross margin | $ 73 | $ 14 | $ 143 | $ 99 | $ 21 | $ 18 | $ 41 | $ 49 |
| Net income (loss) | $ 58 | $ (3) | $ 92 | $ 80 | $ 5 | $ (5) | $ 27 | $ (2) |

(1) The 50%-or-less Owned Affiliates portion of the table excludes information related to the Companhia Energetica de Minas Gerais ( CEMIG ) business because the Company discontinued the application of the equity method of accounting in accordance with its accounting policy regarding equity method investments. In addition, although the Company s ownership interest in Trinidad Generation Unlimited, ( Trinidad ) is 10%, the Company accounts for its investment in Trinidad as an equity method investment because AES continues to exercise significant influence through the supermajority vote requirement for any significant future project development activities.

(2) The Majority-owned Unconsolidated Subsidiaries portion of the table includes information related to Barry, Cartagena, Cili and IC Ictas Energy Group. Although we continue to maintain 100% ownership of Barry, as a result of an amended credit agreement, no material financial or operating decisions can be made without the banks consent, and the Company no longer controls Barry. Consequently, the Company discontinued consolidating the business s results and began using the equity method to account for this unconsolidated majority-owned subsidiary.

**7. LONG-TERM DEBT**

The Company has two types of debt reported on its condensed consolidated balance sheet: non-recourse and recourse debt. Non-recourse debt is used to fund investments and capital expenditures for the construction and acquisition of electric power plants, wind projects and distribution companies at our subsidiaries. Non-recourse debt is generally secured by the capital stock, physical assets, contracts and cash flows of the related subsidiary. The default risk is limited to the respective business and is without recourse to the Parent Company and other subsidiaries. Recourse debt is direct borrowings by the Parent Company and is used to fund development, construction or acquisitions, including serving as funding for equity investments or loans to the affiliates. The Parent Company s debt is among other things, recourse to the Parent Company and is structurally subordinated to the affiliates debt.

Recourse and non-recourse debt are carried at amortized cost. The following table summarizes the carrying amount and fair value of the Company s recourse and non-recourse debt as of September 30, 2009 and December 31, 2008:

| | September 30, 2009 | | December 31, 2008 | |
|---|---|---|---|---|
| | Carrying Amount | Fair Value | Carrying Amount | Fair Value |
| | (in millions) | | | |
| Non-recourse debt | $ 14,148 | $ 14,897 | $ 12,943 | $ 11,200 |
| Recourse debt | 5,512 | 5,573 | 5,148 | 4,388 |
| Total debt | $ 19,660 | $ 20,470 | $ 18,091 | $ 15,588 |

The fair value of non-recourse debt is estimated differently depending upon the type of loan. The fair value of fixed rate loans is estimated using quoted market prices or a discounted cash flow analysis. For variable rate loans, carrying value typically approximates fair value. At December 31, 2008, credit spreads were significantly above historic levels. For the U.S. Dollar, Euro and British Pound markets where the Company believed the expanded credit spread was material, fair value was estimated using a discounted cash flow analysis. The increase in credit spreads was calculated as the difference between composite fair value curves, published by pricing services for the relevant issuer credit rating, and London Inter-Bank Offered Rate ( LIBOR ). For all other currencies, the Company continued to assume the carrying value was equal to fair value. During the second and third quarters of 2009, credit spreads returned to a typical range for all currencies and the Company concluded that carrying value approximated fair value for all of our variable rate debt as of September 30, 2009.

The fair value was determined using available market information as of September 30, 2009. The Company is not aware of any factors that would significantly affect the fair value amounts subsequent to September 30, 2009.

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**Non-Recourse Debt**

Subsidiary non-recourse debt in default or accelerated, including any temporarily waived default, is classified as current debt in the accompanying condensed consolidated balance sheets. The following table summarizes the Company s subsidiary non-recourse debt in default or accelerated as of September 30, 2009:

| Subsidiary | Primary Nature of Default | September 30, 2009 Default | Net Assets |
|---|---|---|---|
| | | (in millions) | |
| Kelanitissa | Covenant | $ 45 | $ 14 |
| Ebute [1] | Covenant | 8 | 160 |
| Total | | $ 53 | |

[1] Ebute, our subsidiary in Nigeria, received a waiver of default on September 18, 2008. The waiver gives Ebute until December 31, 2009 to cure the breached covenants; however, as this waiver does not extend beyond the Company s current reporting cycle and the probability of curing the default cannot be determined, the debt was classified as current.

None of the subsidiaries that are currently in default is a material subsidiary under the Parent Company s corporate debt agreements which would trigger an event of default or permit acceleration under such indebtedness. However, as a result of additional dispositions of assets, other significant reductions in asset carrying values or other matters in the future that may impact the Company s financial position and results of operations, it is possible that one or more of these subsidiaries could fall within the definition of a material subsidiary , and thereby, upon an acceleration of its non-recourse debt, trigger an event of default and possible acceleration of the indebtedness under the Parent Company s outstanding debt agreements.

On April 8, 2009, AES Gener S.A. ( Gener ) issued $196 million aggregate principal amount of 8% unsecured notes due in 2019. The unsecured notes were priced at a discount to par resulting in an 8.5% yield. The proceeds from this issuance are being used to meet Gener s funding requirements for projects under construction.

**Recourse Debt**

On March 26, 2009, the Parent Company and certain subsidiary guarantors amended the Parent Company s existing senior secured credit facility pursuant to the terms of Amendment No. 1 ( Amendment No. 1 ) to the Fourth Amended and Restated Credit and Reimbursement Agreement, dated as of July 29, 2008 (the senior secured credit facility ). The senior secured credit facility previously included a $200 million term loan facility maturing on August 10, 2011 and a $750 million revolving credit facility maturing on June 23, 2010 (the revolving credit facility ).

The principal modification set forth in Amendment No. 1 was a one-year extension of $570 million of revolving credit facility commitments from an original maturity date of June 23, 2010 to July 5, 2011. In addition, certain lenders determined that they would increase their commitment under the revolving credit facility by $35 million from March 26, 2009 through July 5, 2011. Accordingly, Amendment No. 1 increased the size of the revolving credit facility from $750 million to $785 million through June 23, 2010. From June 23, 2010 through July 5, 2011, the revolving credit facility size will be $605 million. No modifications were made to the amount or maturity date of the $200 million term loan facility.

The extended commitments from this amendment were subject to new pricing that included an upfront fee of 1.25% for participating in the extensions and an increase in undrawn commitment fees from 50 to 100 basis points. The annual interest rate on the drawn loans was also increased by 200 basis points to LIBOR plus 3.50%.

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Pricing and all other material terms remain unchanged for the revolving credit facility commitments which have not been extended.

On April 2, 2009 the Parent Company issued $535 million aggregate principal amount of 9.75% senior unsecured notes due 2016 in a private placement. The notes were priced at a discount to yield 11%. Subsequently, the Parent Company allocated a substantial portion of the proceeds to voluntarily reduce the size of its $600 million senior unsecured credit facility among the Parent Company, Merrill Lynch Bank USA and the banks party thereto (the senior unsecured credit facility ). At September 30, 2009, the remaining commitments under the senior unsecured credit facility were $108 million, which consisted primarily of letters of credit, the majority of which supported a project under construction in Bulgaria. On October 7, 2009, the Parent Company voluntarily reduced all of the remaining commitments available under the senior unsecured credit facility and terminated the facility agreement. The outstanding letters of credit under the senior unsecured credit facility were transferred to the senior secured credit facility.

On June 1, 2009, the Parent Company repaid at maturity all of its outstanding 9.5% senior unsecured notes at par for an aggregate principal amount of $154 million.

**8. CONTINGENCIES AND COMMITMENTS**

**Environmental**

The Company periodically reviews its obligations as they relate to compliance with environmental laws, including site restoration and remediation. As of September 30, 2009, the Company had recorded liabilities of $30 million for projected environmental remediation costs. Due to the uncertainties associated with environmental assessment and remediation activities, future costs of compliance or remediation could be higher or lower than the amount currently accrued. Based on currently available information and analysis, the Company believes that it is reasonably possible that costs associated with such liabilities, or as yet unknown liabilities, may exceed current reserves in amounts that could be material but cannot be estimated as of September 30, 2009.

The Company faces certain risks and uncertainties related to numerous environmental laws and regulations, including potential greenhouse gas ( GHG ) legislation or regulations, and actual or potential laws and regulations pertaining to water discharges, waste management (including disposal of coal combustion by-products), and certain air emissions, such as $SO_2$, $NO_x$, particulate matter and mercury. Such risks and uncertainties include risks and uncertainties related to increased capital expenditures or other compliance costs which could have a material adverse effect on certain of our U.S. or international subsidiaries and our consolidated results of operations.

To date, the primary regulation of GHG emissions affecting the Company s U.S. plants has been through the Regional Greenhouse Gas Initiative ( RGGI ). Under RGGI, ten Northeastern States have coordinated to establish rules that require reductions in $CO_2$ emissions from power plant operations within those states through a cap-and-trade program. States in which our subsidiaries have generating facilities include Connecticut, Maryland, New York and New Jersey. Under RGGI, power plants must acquire one carbon allowance through auction or in the emission trading markets for each ton of $CO_2$ emitted. As noted in the Company s 2008 Form 10-K and September 2009 Form 8-K, we have estimated that the costs to the Company of compliance with RGGI could be approximately $29 million per year for 2009 through 2011.

The primary international agreement concerning GHG emissions is the Kyoto Protocol which became effective on February 16, 2005 and requires the industrialized countries that have ratified it to significantly reduce their GHG emissions. The vast majority of the developing countries which have ratified the Kyoto Protocol have no GHG reduction requirements. Many of the countries in which the Company s subsidiaries operate have no reduction obligations under the Kyoto Protocol. In addition, of the 29 countries that the Company s subsidiaries operate in, all but two the United States (including Puerto Rico) and Kazakhstan have ratified the Kyoto Protocol.

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In July 2003, the European Community Directive 2003/87/EC on Greenhouse Gas Emission Allowance Trading was created, which requires member states to limit emissions of $CO_2$ from large industrial sources within their countries. To do so, member states are required to implement EC-approved national allocation plans ( NAPs ). The European Union has announced that it intends to keep the European Union Emissions Trading System ( EU ETS ) in place after the potential expiration of the Kyoto Protocol in 2012. The Company s subsidiaries operate seven electric power generation facilities, and another subsidiary has one under construction, within six member states which have adopted NAPs to implement Directive 2003/87/EC. The risk and benefit associated with achieving compliance with applicable NAPs at several facilities of the Company s subsidiaries are not the responsibility of the Company s subsidiaries as they are subject to contractual provisions that transfer the costs associated with compliance to contract counterparties. However, one such contract counterparty, GDF-Suez, is currently disputing these provisions with AES Energía Cartagena S.R.L. In connection with this dispute or any similar dispute that might arise with other contract counterparties, there can be no assurance that the Company and/or the relevant subsidiary will prevail, or that the administrative burden associated with any such dispute will not be significant.

In 2009, a key development in the area of GHG legislation has been the passage of H.R. 2454, The American Clean Energy and Security Act of 2009 ( ACESA ) by the U.S. House of Representatives on June 26, 2009. ACESA contemplates a nationwide cap and trade program to reduce U.S. emission of $CO_2$ and other greenhouse gases starting in 2012. Key features of ACESA include, among other things:

A planned target to reduce by 2020 GHG emissions by 17% from 2005 levels and to reduce GHG emissions by 83% from 2005 levels by 2050.

A requirement that certain GHG emitting companies, including most power generators, surrender on an annual basis one ton of $CO_2$ equivalent allowances or GHG offset credits for each ton of annual $CO_2$ equivalent emissions. Such companies will be required to meet allowance surrender requirements via the allocations of free allowances if available from the U.S. Environmental Protection Agency ( EPA ) or purchases in the open market at auctions if free allowances are not allocated, or otherwise.

A mechanism under which the EPA would initially issue a capped and steadily declining number of tradable free emissions allowances to certain sections of affected industries, including certain generators and utilities in the electricity sector, with such free distribution of allowances to the electricity sector phasing out over a five year period from 2026 through 2030.

A provision permitting up to two billion tons of GHG offset credits in the aggregate, if available, to be purchased annually by all emitters to satisfy the requirements above.

A provision precluding the EPA from regulating GHG emissions under the existing provisions of the Clean Air Act ( CAA ).

A temporary prohibition on the implementation of similar State or regional GHG cap and trade programs, with a six year moratorium (2012 to 2017) on the implementation or enforcement of similar GHG emission caps.

The establishment of a combined energy efficiency and renewable electricity standard ( RES ) that would require retail electric utilities to receive 6% of their power from renewable sources by 2012, with such requirement increasing to 20% by 2020. In certain circumstances, a portion of this requirement for renewable energy could be satisfied through measures intended to increase energy efficiency.

The Senate has begun to deliberate similar legislation with the introduction on September 30, 2009 of draft bill S. 1733, the Clean Energy Jobs and American Power Act ( CEJAPA ). CEJAPA contemplates a planned target to reduce by 2020 GHG emissions by 20% from 2005 levels and by 83% from 2005 levels by 2050. CEJAPA has not advanced out of the Senate Committee in which it was introduced (the Committee on the Environment and Public Works) and, if it does advance out of the Committee and is ultimately passed by the Senate, it may undergo significant revisions from its current form.

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At this time, if ACESA or CEJAPA were to be enacted into law, or some reconciled version of ACESA or CEJAPA were to be enacted, the impact on the Company s consolidated results of operations cannot be accurately predicted because of a number of uncertainties with respect to the specific terms and implementation of any such potential legislation, including, among other provisions:

- The number of free allowances that will be allocated to subsidiaries of the Company.
- The cost to purchase allowances in an auction or on the open market, and the cost of purchasing GHG offset credits.
- The extent to which our utility business (IPL) will be able to recover compliance costs from its customers.
- The benefits to our renewables businesses from the RES provision, if any.
- The benefits to our climate solutions projects from the potentially increased demand for GHG offset credits arising from GHG legislation, if any.
- The benefits from the temporary moratorium on state or regional GHG cap and trade programs, if any.

If federal legislation is not enacted that precludes the EPA from regulating GHG emissions under the CAA, the EPA plans to regulate GHG emissions. On September 28, 2009 the EPA proposed a rule to regulate GHG emissions from automobiles, a mobile source of emissions. If such rule is ultimately enacted with respect to a mobile source, one effect would be to subject stationary sources of GHG emissions (including power plants) to regulation under various sections of the CAA. The most important impact on stationary sources would be a requirement that all new sources of GHG emissions of over 250 tons per year, and existing sources planning physical changes that would increase their GHG emissions, obtain new source review permits from the EPA prior to construction. Such sources would be required to apply best available control technology to limit the emission of GHGs. On September 30, 2009, the EPA proposed a rule that would limit such regulation of stationary sources to those stationary sources emitting the $CO_2$ equivalent of over 25,000 tons per year of GHGs. In September of 2009 the EPA also finalized a rule mandating the widespread reporting and tracking of GHG emissions. Although this tracking and reporting rule does not mandate reductions in GHG emissions, data generated from its implementation may facilitate the further development of federal GHG policy, which may include mandatory GHG emissions limits.

Our subsidiaries conduct business in a number of countries that have ratified the Kyoto Protocol, an international agreement concerning GHG emissions. The Kyoto Protocol is currently expected to expire at the end of 2012. A United Nations conference, called COP 15, is planned for December of 2009 in Copenhagen, Denmark. COP 15 is focused primarily on establishing a new international agreement that would succeed the Kyoto Protocol or establishing a framework that will lead to such an international agreement. There are a number of uncertainties and challenges regarding these discussions, including, among other factors, burden-sharing between developing and wealthier nations, the commitments (if any) of the United States under any such agreement, whether large developing countries such as China, India and Brazil will accept emission caps, and the continued availability of international offsets under the Clean Development Mechanism of the Kyoto Protocol.

There is substantial uncertainty with respect to whether U.S. federal GHG legislation will be enacted into law, whether the EPA will regulate GHG emissions, and whether a new international agreement to succeed the Kyoto Protocol will be reached, and there is additional uncertainty regarding the final provisions and implementation of any potential U.S. federal GHG legislation, any EPA rules regulating GHG emissions and any international agreement to succeed the Kyoto Protocol. In light of these uncertainties, the Company cannot accurately predict the impact on its consolidated results of operations from potential U.S. federal GHG legislation, EPA regulation of GHG emissions or any new international agreement on such emissions, or make a reasonable estimate of the potential costs to the Company associated with any such legislation, regulation or international agreement; however, the impact from any such legislation, regulation or international agreement could have a material adverse effect on certain of our U.S. or international subsidiaries and on the Company and its consolidated results of operations.

As noted in the Company s 2008 Form 10-K and September 2009 Form 8-K, on February 6, 2009, the Acting Solicitor General of the United States filed a motion in the U.S. Supreme Court to dismiss the EPA s request for review of the D.C. Circuit Court s February 2008 decision vacating the Clean Air Mercury Rule ( CAMR ). On February 23, 2009, the U.S. Supreme Court declined to review the lower court s CAMR decision. The EPA is now expected to propose a new rule to address hazardous air pollutants ( HAPs ) from electric generation power plants, including mercury. With respect to the HAPs, the EPA issued a notice of the agency s intent to collect information so that it can develop a maximum achievable control technology standard for coal-fired power plants which, unlike CAMR, will not provide a market-based compliance option (e.g., cap-and-trade) for power plants subject to the rule. The EPA recently entered into a settlement agreement under which the EPA committed to issue a proposed HAPs rule for coal-fired power plants by March 2011 and a final rule by November 2011. The EPA has indicated that all existing coal-fired power plants will be required to comply with such standards within four years of a final rule. While the exact impact and cost of any such new federal rules cannot be established until they are promulgated, there can be no assurance that the Company s business, financial conditions or results of operations would not be materially and adversely affected by such rules.

**Guarantees, Letters of Credit and Commitments**

As of September 30, 2009, The AES Corporation had provided outstanding financial and performance related guarantees or other credit support commitments for the benefit of its subsidiaries, which were limited by the terms of the agreements to an aggregate of approximately $446 million (excluding investment commitments and those collateralized by letters of credit discussed below). The term of these credit support arrangements generally parallels the length of the related financing arrangements or transactions.

As of September 30, 2009, the Parent Company had $192 million in letters of credit outstanding under the revolving credit facility and under the senior unsecured credit facility that operate to guarantee performance of certain project development activities and subsidiary operations. During the third quarter the Company paid letter of credit fees ranging from 3.17% to 8.36% per annum on the outstanding amounts. See further discussion in Note 7 *Long-Term Debt* regarding the termination of the senior unsecured credit facility in October 2009. All remaining commitments under the senior unsecured credit facility were transferred to the senior secured credit facility.

As of September 30, 2009, The AES Corporation had $140 million of commitments to invest in subsidiaries under construction and to purchase related equipment, excluding approximately $136 million of such obligations already included in the letters of credit discussed above. The Company expects to fund these net investment commitments over time according to the following schedule: $45 million in 2009, $39 million in 2010 and $56 million in 2011. The exact payment schedule will be dictated by construction milestones.

**Litigation**

The Company is involved in certain claims, suits and legal proceedings in the normal course of business, some of which are described below. The Company has accrued for litigation and claims where it is probable that a liability has been incurred and the amount of loss can be reasonably estimated. The Company believes, based upon information currently available and taking into account established reserves for estimated liabilities and its insurance coverage, that the ultimate outcome of these proceedings and actions is unlikely to have a material adverse effect on the Company s financial statements. It is reasonably possible, however, that some matters could be decided unfavorably to the Company and could require the Company to pay damages or make expenditures in amounts that could be material but cannot be reasonably estimated as of September 30, 2009.

In 1989, Centrais Elétricas Brasileiras S.A. ( Eletrobrás ) filed suit in the Fifth District Court in the State of Rio de Janeiro against Eletropaulo Eletricidade de São Paulo S.A. ( EEDSP ) relating to the methodology for calculating monetary adjustments under the parties financing agreement. In April 1999, the Fifth District Court

found for Eletrobrás and in September 2001, Eletrobrás initiated an execution suit in the Fifth District Court to collect approximately R$970 million ($543 million) from Eletropaulo (as estimated by Eletropaulo) and a lesser amount from an unrelated company, Companhia de Transmissão de Energia Elétrica Paulista ( CTEEP ) (Eletropaulo and CTEEP were spun off from EEDSP pursuant to its privatization in 1998). In November 2002, the Fifth District Court rejected Eletropaulo s defenses in the execution suit. Eletropaulo appealed and in September 2003, the Appellate Court of the State of Rio de Janeiro ruled that Eletropaulo was not a proper party to the litigation because any alleged liability was transferred to CTEEP pursuant to the privatization. In June 2006, the Superior Court of Justice ( SCJ ) reversed the Appellate Court s decision and remanded the case to the Fifth District Court for further proceedings, holding that Eletropaulo s liability, if any, should be determined by the Fifth District Court. Eletropaulo s subsequent appeals to the Special Court (the highest court within the SCJ) and the Supreme Court of Brazil have been dismissed. Eletrobrás has requested that the amount of Eletropaulo s alleged debt be determined by an accounting expert appointed by the Fifth District Court. Eletropaulo has consented to the appointment of such an expert, subject to a reservation of rights. After the amount of the alleged debt is determined, Eletrobrás may resume the execution suit in the Fifth District Court at any time. If Eletrobrás does so, Eletropaulo will be required to provide security in the amount of its alleged liability. In that case, if Eletrobrás requests the seizure of such security and the Fifth District Court grants such request, Eletropaulo s results of operations may be materially adversely affected. In addition, in February 2008, CTEEP filed a lawsuit in the Fifth District Court against Eletrobrás and Eletropaulo seeking a declaration that CTEEP is not liable for any debt under the financing agreement. Eletropaulo believes it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In September 1999, a state appellate court in Minas Gerais, Brazil, granted a temporary injunction suspending the effectiveness of a shareholders agreement between Southern Electric Brasil Participacoes, Ltda. ( SEB ) and the state of Minas Gerais concerning CEMIG, an integrated utility in Minas Gerais. The Company s investment in CEMIG is through SEB. This shareholders agreement granted SEB certain rights and powers in respect of CEMIG ( Special Rights ). In March 2000, a lower state court in Minas Gerais held the shareholders agreement invalid where it purported to grant SEB the Special Rights and enjoined the exercise of the Special Rights. In August 2001, the state appellate court denied an appeal of the decision and extended the injunction. In October 2001, SEB filed appeals against the state appellate court s decision with the Superior Court of Justice ( SCJ ) and the Supreme Court. The state appellate court denied access of these appeals to the higher courts, and in August 2002 SEB filed interlocutory appeals against such denial with the SCJ and the Supreme Court. In December 2004, the SCJ declined to hear SEB s appeal. However, the Supreme Court is considering whether to hear SEB s appeal. SEB intends to vigorously pursue a restoration of the value of its investment in CEMIG by all legal means; however, there can be no assurances that it will be successful in its efforts. Failure to prevail in this matter may limit SEB s influence on the daily operation of CEMIG.

In August 2000, the Federal Energy Regulation Commission ( FERC ) announced an investigation into the organized California wholesale power markets in order to determine whether rates were just and reasonable. Further investigations involved alleged market manipulation. FERC requested documents from each of the AES Southland, LLC plants and AES Placerita, Inc. AES Southland and AES Placerita have cooperated fully with the FERC investigations. AES Southland was not subject to refund liability because it did not sell into the organized spot markets due to the nature of its tolling agreement. After hearings at FERC, AES Placerita was found subject to refund liability of $588,000 plus interest for spot sales to the California Power Exchange from October 2, 2000 to June 20, 2001. As FERC investigations and hearings progressed, numerous appeals on related issues were filed with the U.S. Court of Appeals for the Ninth Circuit. Over the past five years, the Ninth Circuit issued several opinions that had the potential to expand the scope of the FERC proceedings and increase refund exposure for AES Placerita and other sellers of electricity. Following remand of one of the Ninth Circuit appeals in March 2009, FERC started a new hearing process involving AES Placerita. In May 2009, AES Placerita entered into a settlement, subject to FERC approval, concerning the claims before FERC against AES Placerita relating to the California energy crisis of 2000-2001, including the California refund proceeding. Pursuant to the settlement, AES Placerita paid $6 million and assigned a receivable of $168,119 due to it from the California Power Exchange in return for a release of all claims against it at FERC by the settling parties and other

consideration. In July 2009, FERC approved the settlement as submitted. To date, in excess of 97% of the buyers in the market have elected to join the settlement. A small amount of AES Placerita s settlement payment was placed in escrow for buyers that do not join the settlement ( non-settling parties ). It is unclear whether the escrowed funds will be enough to satisfy any additional sums that might be determined to be owed to non-settling parties at the conclusion of the FERC proceedings concerning the California energy crisis. However, any such additional sums are expected to be immaterial to the Company s consolidated financial statements. In July 2009, one non-settling party, the Sacramento Municipal Utility District ( SMUD ), requested that the FERC rehear its order approving the settlement. The FERC denied SMUD s petition for rehearing in September 2009. SMUD has until November 13, 2009 to appeal the FERC s approval of the settlement.

In August 2001, the Grid Corporation of Orissa, India, now Gridco Ltd ( Gridco ), filed a petition against the Central Electricity Supply Company of Orissa Ltd. ( CESCO ), an affiliate of the Company, with the Orissa Electricity Regulatory Commission ( OERC ), alleging that CESCO had defaulted on its obligations as an OERC-licensed distribution company, that CESCO management abandoned the management of CESCO, and asking for interim measures of protection, including the appointment of an administrator to manage CESCO. Gridco, a state-owned entity, is the sole wholesale energy provider to CESCO. Pursuant to the OERC s August 2001 order, the management of CESCO was replaced with a government administrator who was appointed by the OERC. The OERC later held that the Company and other CESCO shareholders were not necessary or proper parties to the OERC proceeding. In August 2004, the OERC issued a notice to CESCO, the Company and others giving the recipients of the notice until November 2004 to show cause why CESCO s distribution license should not be revoked. In response, CESCO submitted a business plan to the OERC. In February 2005, the OERC issued an order rejecting the proposed business plan. The order also stated that the CESCO distribution license would be revoked if an acceptable business plan for CESCO was not submitted to and approved by the OERC prior to March 31, 2005. In its April 2, 2005 order, the OERC revoked the CESCO distribution license. CESCO has filed an appeal against the April 2, 2005 OERC order and that appeal remains pending in the Indian courts. In addition, Gridco asserted that a comfort letter issued by the Company in connection with the Company s indirect investment in CESCO obligates the Company to provide additional financial support to cover all of CESCO s financial obligations to Gridco. In December 2001, Gridco served a notice to arbitrate pursuant to the Indian Arbitration and Conciliation Act of 1996 on the Company, AES Orissa Distribution Private Limited ( AES ODPL ), and Jyoti Structures ( Jyoti ) pursuant to the terms of the CESCO Shareholders Agreement between Gridco, the Company, AES ODPL, Jyoti and CESCO (the CESCO arbitration ). In the arbitration, Gridco appeared to be seeking approximately $189 million in damages, plus undisclosed penalties and interest, but a detailed alleged damage analysis was not filed by Gridco. The Company counterclaimed against Gridco for damages. In June 2007, a 2-to-1 majority of the arbitral tribunal rendered its award rejecting Gridco s claims and holding that none of the respondents, the Company, AES ODPL, or Jyoti, had any liability to Gridco. The respondents counterclaims were also rejected. The Company subsequently filed an application to recover its costs of the arbitration, which is under consideration by the tribunal. In addition, in September 2007, Gridco filed a challenge of the arbitration award with the local Indian court. In June 2008, Gridco filed a separate application with the local Indian court for an order enjoining the Company from selling or otherwise transferring its shares in Orissa Power Generation Corporation Ltd s ( OPGC ), and requiring the Company to provide security in the amount of the contested damages in the CESCO arbitration until Gridco s challenge to the arbitration award is resolved. The Company believes that it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In early 2002, Gridco made an application to the OERC requesting that the OERC initiate proceedings regarding the terms of OPGC s existing Power Purchase Agreement ( PPA ) with Gridco. In response, OPGC filed a petition in the Indian courts to block any such OERC proceedings. In early 2005, the Orissa High Court upheld the OERC s jurisdiction to initiate such proceedings as requested by Gridco. OPGC appealed that High Court s decision to the Supreme Court and sought stays of both the High Court s decision and the underlying OERC proceedings regarding the PPAs terms. In April 2005, the Supreme Court granted OPGC s requests and

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ordered stays of the High Court s decision and the OERC proceedings with respect to the PPA s terms. The matter is awaiting further hearing. Unless the Supreme Court finds in favor of OPGC s appeal or otherwise prevents the OERC s proceedings regarding the PPA s terms, the OERC will likely lower the tariff payable to OPGC under the PPA, which would have an adverse impact on OPGC s financials. OPGC believes that it has meritorious claims and defenses and will assert them vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In March 2003, the office of the Federal Public Prosecutor for the State of São Paulo, Brazil ( MPF ) notified AES Eletropaulo that it had commenced an inquiry related to the Brazilian National Development Bank ( BNDES ) financings provided to AES Elpa and AES Transgás and the rationing loan provided to Eletropaulo, changes in the control of Eletropaulo, sales of assets by Eletropaulo and the quality of service provided by Eletropaulo to its customers, and requested various documents from Eletropaulo relating to these matters. In July 2004, the MPF filed a public civil lawsuit in the Federal Court of Sao Paulo ( FSCP ) alleging that BNDES violated Law 8429/92 (the Administrative Misconduct Act) and BNDES s internal rules by: (1) approving the AES Elpa and AES Transgás loans; (2) extending the payment terms on the AES Elpa and AES Transgás loans; (3) authorizing the sale of Eletropaulo s preferred shares at a stock-market auction; (4) accepting Eletropaulo s preferred shares to secure the loan provided to Eletropaulo; and (5) allowing the restructurings of Light Serviços de Eletricidade S.A. ( Light ) and Eletropaulo. The MPF also named AES Elpa and AES Transgás as defendants in the lawsuit because they allegedly benefited from BNDES s alleged violations. In May 2006, the FCSP ruled that the MPF could pursue its claims based on the first, second, and fourth alleged violations noted above. The MPF subsequently filed an interlocutory appeal with the Federal Court of Appeals ( FCA ) seeking to require the FCSP to consider all five alleged violations. Also, in July 2006, AES Elpa and AES Transgás filed an interlocutory appeal with the FCA, which was subsequently consolidated with the MPF s interlocutory appeal, seeking a transfer of venue and to enjoin the FCSP from considering any of the alleged violations. In June 2009, the FCA granted the injunction sought by AES Elpa and AES Transgás and transferred the case to the Federal Court of Rio de Janeiro. MPF likely will appeal. The MPF s lawsuit before the FCSP has been stayed pending a final decision on the interlocutory appeals. AES Elpa and AES Transgás believe they have meritorious defenses to the allegations asserted against them and will defend themselves vigorously in these proceedings; however, there can be no assurances that they will be successful in their efforts.

AES Florestal, Ltd. ( Florestal ), had been operating a pole factory and had other assets, including a wooded area known as Horto Renner, in the State of Rio Grande do Sul, Brazil (collectively, Property ). Florestal had been under the control of AES Sul ( Sul ) since October 1997, when Sul was created pursuant to a privatization by the Government of the State of Rio Grande do Sul. After it came under the control of Sul, Florestal performed an environmental audit of the entire operational cycle at the pole factory. The audit discovered 200 barrels of solid creosote waste and other contaminants at the pole factory. The audit concluded that the prior operator of the pole factory, Companhia Estadual de Energia Elétrica ( CEEE ), had been using those contaminants to treat the poles that were manufactured at the factory. Sul and Florestal subsequently took the initiative of communicating with Brazilian authorities, as well as CEEE, about the adoption of containment and remediation measures. The Public Attorney s Office has initiated a civil inquiry (Civil Inquiry n. 24/05) to investigate potential civil liability and has requested that the police station of Triunfo institute a police investigation (IP number 1041/05) to investigate potential criminal liability regarding the contamination at the pole factory. The parties filed defenses in response to the civil inquiry. The Public Attorney s Office then requested an injunction which the judge rejected on September 26, 2008. The Public Attorney s office has a right to appeal the decision. The environmental agency ( FEPAM ) has also started a procedure (Procedure n. 088200567/059) to analyze the measures that shall be taken to contain and remediate the contamination. Also, in March 2000, Sul filed suit against CEEE in the 2nd Court of Public Treasure of Porto Alegre seeking to register in Sul s name the Property that it acquired through the privatization but that remained registered in CEEE s name. During those proceedings, AES subsequently waived its claim to re-register the Property and asserted a claim to recover the amounts paid for the Property. That claim is pending. In November 2005, the 7th Court of Public Treasure of Porto Alegre ruled that the Property must be returned to CEEE. CEEE has had sole possession of Horto Renner since September 2006 and of the rest of the Property since April 2006. In February 2008, Sul

and CEEE signed a Technical Cooperation Protocol pursuant to which they requested a new deadline from FEPAM in order to present a proposal. In March 2008, the State Prosecution office filed a Public Class Action against AES Florestal, AES Sul and CEEE, requiring an injunction for the removal of the alleged sources of contamination and the payment of an indemnity in the amount of R$6 million ($3.4 million). The injunction was rejected and the case is in the evidentiary stage awaiting the judge s determination concerning the production of expert evidence. The above referenced proposal was delivered on April 8, 2008. FEPAM responding by indicating that the parties should undertake the first step of the proposal which would be to retain a contractor. In its response Sul indicated that such step should be undertaken by CEEE as the relevant environmental events resulted from CEEE s operations. It is estimated that remediation could cost approximately R$14.7 million ($8.2 million). Discussions between Sul and CEEE are ongoing.

In January 2004, the Company received notice of a Formulation of Charges filed against the Company by the Superintendence of Electricity of the Dominican Republic. In the Formulation of Charges, the Superintendence asserts that the existence of three generation companies (Empresa Generadora de Electricidad Itabo, S.A. ( Itabo ), Dominican Power Partners, and AES Andres BV) and one distribution company (Empresa Distribuidora de Electricidad del Este, S.A. ( Este )) in the Dominican Republic, violates certain cross-ownership restrictions contained in the General Electricity Law of the Dominican Republic. In February 2004, the Company filed in the First Instance Court of the National District of the Dominican Republic an action seeking injunctive relief based on several constitutional due process violations contained in the Formulation of Charges ( Constitutional Injunction ). In February 2004, the Court granted the Constitutional Injunction and ordered the immediate cessation of any effects of the Formulation of Charges, and the enactment by the Superintendence of Electricity of a special procedure to prosecute alleged antitrust complaints under the General Electricity Law. In March 2004, the Superintendence of Electricity appealed the Court s decision. In July 2004, the Company divested any interest in Este. The Superintendence of Electricity s appeal is pending. The Company believes it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In April 2004, BNDES filed a collection suit against SEB, a subsidiary of the Company, to obtain the payment of R$3.8 billion ($2.1 billion), which includes principal, interest and penalties under the loan agreement between BNDES and SEB, the proceeds of which were used by SEB to acquire shares of CEMIG. In May 2004, the 15th Federal Circuit Court ( Circuit Court ) ordered the attachment of SEB s CEMIG shares, which were given as collateral for the loan, as well as dividends paid by CEMIG to SEB. At the time of the attachment, the shares were worth approximately R$762 million ($427 million). In December 2006, SEB s defense was ruled groundless by the Circuit Court. The Federal Court of Appeals affirmed that decision in February 2009. SEB intends to file further appeals. BNDES has seized a total of approximately R$630 million ($353 million) in attached dividends to date, with the approval of the Circuit Court, and is seeking to recover additional attached dividends. Also, BNDES has filed a plea to seize the attached CEMIG shares. The Circuit Court will consider BNDES s request to seize the attached CEMIG shares after the net value of the alleged debt is recalculated in light of BNDES s seizure of dividends. SEB believes it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In July 2004, the Corporación Dominicana de Empresas Eléctricas Estatales ( CDEEE ) filed lawsuits against Itabo, an affiliate of the Company, in the First and Fifth Chambers of the Civil and Commercial Court of First Instance for the National District. CDEEE alleges in both lawsuits that Itabo spent more than was necessary to rehabilitate two generation units of an Itabo power plant and, in the Fifth Chamber lawsuit, that those funds were paid to affiliates and subsidiaries of AES Gener and Coastal Itabo, Ltd. ( Coastal ), a former shareholder of Itabo, without the required approval of Itabo s board of administration. In the First Chamber lawsuit, CDEEE seeks an accounting of Itabo s transactions relating to the rehabilitation. In November 2004, the First Chamber dismissed the case for lack of legal basis. On appeal, in October 2005 the Court of Appeals of Santo Domingo ruled in Itabo s favor, reasoning that it lacked jurisdiction over the dispute because the parties contracts mandated arbitration. The Supreme Court of Justice is considering CDEEE s appeal of the Court of Appeals

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decision. In the Fifth Chamber lawsuit, which also names Itabo s former president as a defendant, CDEEE seeks $15 million in damages and the seizure of Itabo s assets. In October 2005, the Fifth Chamber held that it lacked jurisdiction to adjudicate the dispute given the arbitration provisions in the parties contracts. The First Chamber of the Court of Appeal ratified that decision in September 2006. In a related proceeding, in May 2005, Itabo filed a lawsuit in the U.S. District Court for the Southern District of New York seeking to compel CDEEE to arbitrate its claims. The petition was denied in July 2005. Itabo s appeal of that decision to the U.S. Court of Appeals for the Second Circuit has been stayed since September 2006. Further, in September 2006, in an International Chamber of Commerce arbitration, an arbitral tribunal determined that it lacked jurisdiction to decide arbitration claims concerning these disputes. Itabo believes it has meritorious claims and defenses and will assert them vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In April 2006, a putative class action complaint was filed in the U.S. District Court for the Southern District of Mississippi ( District Court ) on behalf of certain individual plaintiffs and all residents and/or property owners in the State of Mississippi who allegedly suffered harm as a result of Hurricane Katrina, and against the Company and numerous unrelated companies, whose alleged greenhouse gas emissions allegedly increased the destructive capacity of Hurricane Katrina. The plaintiffs assert unjust enrichment, civil conspiracy/aiding and abetting, public and private nuisance, trespass, negligence, and fraudulent misrepresentation and concealment claims against the defendants. The plaintiffs seek damages relating to loss of property, loss of business, clean-up costs, personal injuries and death, but do not quantify their alleged damages. In August 2007, the District Court dismissed the case. The plaintiffs subsequently appealed to the U.S. Court of Appeals for the Fifth Circuit, which heard oral arguments in November 2008. In October 2009, the Fifth Circuit affirmed the District Court s dismissal of the plaintiffs unjust enrichment, fraudulent misrepresentation, and civil conspiracy claims. However, the Fifth Circuit reversed the District Court s dismissal of the plaintiffs public and private nuisance, trespass, and negligence claims, and remanded those claims to the District Court for further proceedings. The Company intends to seek en banc review at the Fifth Circuit. The Company believes it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In July 2007, the Competition Committee of the Ministry of Industry and Trade of the Republic of Kazakhstan (the Competition Committee ) ordered Nurenergoservice, an AES subsidiary, to pay approximately 18 billion KZT ($121 million) for alleged antimonopoly violations in 2005 through the first quarter of 2007. The Competition Committee s order was affirmed by the economic court in April 2008. Also, the economic court issued an injunction to secure Nurenergoservice s alleged liability, freezing Nurenergoservice s bank accounts and prohibiting Nurenergoservice from transferring or disposing of its property. Nurenergoservice s appeal to the court of appeals (first panel) was rejected in July 2008. In February 2009, the Antimonopoly Agency seized approximately 783 million KZT ($5 million) from a frozen Nurenergoservice bank account in partial satisfaction of Nurenergoservice s alleged damages liability. However, in October 2009, Nurenergoservice s appeal to the Kazakhstan Supreme Court was upheld. The Supreme Court annulled the decisions of the lower courts and remanded the case to the economic court for reconsideration. In separate but related proceedings, in August 2007, the Competition Committee ordered Nurenergoservice to pay approximately 1.8 billion KZT (approximately $12 million) in administrative fines for its alleged antimonopoly violations. Nurenergoservice s appeal to the administrative court of first instance was rejected in February 2009. As Nurenergoservice did not prevail in the administrative court with respect to the fines, it will have to pay the fines or risk seizure of its assets. The Compensation Committee s successor, the Antimonopoly Agency, has not indicated whether it intends to assert claims against Nurenergoservice for alleged antimonopoly violations post first quarter 2007. Nurenergoservice believes it has meritorious claims and defenses; however, there can be no assurances that it will prevail in these proceedings.

In December 2008, the Antimonopoly Agency ordered Ust-Kamenogorsk HPP ( UK HPP ), a hydroelectric plant under AES concession, to pay approximately 1.1 billion KZT ($7 million) for alleged antimonopoly violations in February through November 2007. The economic court of first instance has issued an injunction to

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secure UK HPP s alleged liability, among other things freezing UK HPP s bank accounts. Also, in March 2009, the economic court affirmed the Antimonopoly Agency s order. UK HPP s subsequent appeal to the court of appeals (first panel) was dismissed in April 2009. In June 2009, UK HPP paid the alleged damages and thus the economic court thereafter canceled the injunction on UK HPP s assets. UK HPP has filed an appeal with the Kazakhstan Supreme Court, which is pending. Furthermore, the Antimonopoly Agency has initiated administrative proceedings against UK HPP for its alleged antimonopoly violations. In May 2009, the administrative court of first instance ordered UK HPP to pay approximately 99 million KZT ($665,000) in administrative fines, which UK HPP did in June 2009. UK HPP believes it has meritorious defenses and will assert them vigorously; however, there can be no assurances that it will be successful in its efforts.

In April 2009, the Antimonopoly Agency initiated an investigation of the power sales of UK HPP and Shulbinsk HPP, another hydroelectric plant under AES concession (collectively, the Hydros ), in 2008 through February 2009. The investigation is ongoing and no order has been issued relating to it. The Hydros believe they have meritorious defenses and will assert them vigorously in any formal proceeding concerning the investigation; however, there can be no assurances that they will be successful in their efforts.

In April 2009, the Antimonopoly Agency initiated an investigation of AES Ust-Kamenogorsk TETS LLP s ( UKT ) power sales in 2008 through February 2009. With respect to UKT s 2008 sales, the Antimonopoly Agency has issued an order allegedly quantifying UKT s revenues from those sales, but the amount of damages and/or fines that UKT will have to pay, if any, for its alleged antimonopoly violations relating to the 2008 sales has not been determined and is the subject of ongoing court proceedings. As for UKT s sales in January and February 2009, the Antimonopoly Agency s investigation of those sales is temporarily suspended pending court proceedings concerning UKT s market share. If UKT fails to prove in those proceedings that it is not a dominant market entity, the Antimonopoly Agency s investigation will resume. UKT believes it has meritorious defenses and will assert them vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In September 2007, the New York Attorney General issued a subpoena to the Company seeking documents and information concerning the Company s analysis and public disclosure of the potential impacts that GHG legislation and climate change from GHG emissions might have on the Company s operations and results. The Company has produced documents and information in response to the subpoena.

In November 2007, the International Brotherhood of Electrical Workers, Local Union No. 1395, and sixteen individual retirees, (the Complainants ), filed a complaint at the Indiana Utility Regulatory Commission ( IURC ) seeking enforcement of their interpretation of the 1995 final order and associated settlement agreement resolving IPL s basic rate case. The Complainants requested that the IURC conduct an investigation of IPL s failure to fund the Voluntary Employee Beneficiary Association Trust ( VEBA Trust ) at a level of approximately $19 million per year. The VEBA Trust was spun off to an independent trustee in 2001. The complaint sought an IURC order requiring IPL to make contributions to place the VEBA Trust in the financial position in which it allegedly would have been had IPL not ceased making annual contributions to the VEBA Trust after its spin off. The complaint also sought an IURC order requiring IPL to resume making annual contributions to the VEBA Trust. IPL filed a motion to dismiss and both parties sought summary judgment in the IURC proceeding. In May 2009, the IURC issued an order granting summary judgment in favor of IPL. In June 2009, the Complainants filed an appeal of the IURC s May 2009 order with the Indiana Court of Appeals. Briefing on the appeal is now complete and oral argument is scheduled for November 30, 2009. IPL anticipates a decision on the appeal sometime in 2010. IPL believes it has meritorious defenses to the Complainants claims and it will continue to assert them vigorously in all proceedings; however, there can be no assurances that it will be successful in its efforts.

In January 2008, the Tioga Preservation Group and two individuals (collectively, TPG ) filed a land use appeal with the Tioga County Court of Common Pleas of Pennsylvania ( Common Pleas Court ) with respect to the Tioga County Planning Commission s grant to AES Armenia Mountain Wind, LLC ( Armenia Mountain )

of preliminary approval for development of a wind project. Although the appeal is against the Tioga County Planning Commission, Armenia Mountain joined as an interested party. In August 2008, the Common Pleas Court entered an Opinion and Order denying TPG s land use appeal with prejudice and affirming Armenia Mountain s preliminary approval. In September 2008, TPG filed a Notice of Appeal with the Commonwealth Court of Pennsylvania. In October 2008, the Planning Commission notified Armenia Mountain that all of the conditions to the preliminary approval had been satisfied and that Armenia Mountain was authorized to start construction of the wind project. In March 2009, the Commonwealth Court denied TPG s appeal, also affirming Armenia Mountain s preliminary approval. In April 2009, TPG filed a Petition for Allowance of Appeal with the Pennsylvania Supreme Court asking it to review the Commonwealth Court s order. In October 2009, the Pennsylvania Supreme Court denied the petition and declined to allow the appeal.

In February 2008, the Native Village of Kivalina and the City of Kivalina, Alaska, filed a complaint in the U.S. District Court for the Northern District of California against the Company and numerous unrelated companies, claiming that the defendants alleged GHG emissions are destroying the plaintiffs alleged land. The plaintiffs assert nuisance and concert of action claims against the Company and the other defendants, and a conspiracy claim against a subset of the other defendants. The plaintiffs seek to recover relocation costs, indicated in the complaint to be from $95 million to $400 million, and other alleged damages from the defendants, which are not quantified. The Company has filed a motion to dismiss the case, which the District Court granted in October 2009. The plaintiffs are expected to appeal. The Company believes it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In June 2009, the Supreme Court of Chile affirmed a January 2009 decision of the Valparaiso Court of Appeals that the environmental permit for Empresa Eléctrica Campiche s ( EEC ) thermal power plant ( Plant ) was not properly granted and illegal. Construction of the Plant has stopped as a consequence of the Supreme Court s decision. In September 2009, the Municipality of Puchuncaví issued an order to demolish the Plant on the basis of other permitting issues. In October 2009, EEC and AES Gener S.A. ( Gener ) filed a judicial claim against the Municipality of Puchuncaví before the Civil Judge of the City of Quintero, seeking to revoke the demolition order and asking for an immediate stay of said order. At the request of EEC and Gener, the Civil Judge of Quintero agreed to suspend the order until a final decision on the order is issued. EEC is working with Chilean authorities to attempt to find a solution that might allow the Plant s construction to resume. EEC and the construction contractor are disputing which of them is responsible for the cause and consequences of the environmental and other permitting issues. If EEC is unable to complete the project, AES may be required to record an impairment of the Campiche project proportional to its indirect ownership, which could have a material impact on earnings in the period in which it is recorded. Based on cash investments through September 30, 2009 and potential termination costs, AES could incur an impairment of approximately $186 million. In the event an impairment charge is recognized with regard to the project, the amount of such impairment will depend on a number of factors, including EEC s ability to recover project costs. In addition, Empresa Electrica Ventanas S.A. ( EEV ), a 270 MW gross coal plant under development in Ventanas, is reviewing the potential effects, if any, that the decision of the Supreme Court could have on the Nueva Ventanas project.

A public civil action has been asserted against Eletropaulo and Associação Desportiva Cultural Eletropaulo (the Associação ) relating to alleged environmental damage caused by construction of the Associação near Guarapiranga Reservoir. The initial decision that was upheld by the Appellate Court of the State of Sao Paulo in 2006 found that Eletropaulo should either repair the alleged environmental damage by demolishing certain construction and reforesting the area, pursuant to a project which would cost approximately $628,000, or pay an indemnification amount of approximately $5 million. Eletropaulo has appealed this decision to the Supreme Court and is awaiting a decision.

In 2007, a lower court issued a decision related to a 1993 claim that was filed by the Public Attorney s office against Eletropaulo, the São Paulo State Government, SABESP (a state owned company), CETESB (a state owned company) and DAEE (the municipal Water and Electric Energy Department), alleging that they were

liable for pollution of the Billings Reservoir as a result of pumping water from Pinheiros River into Billings Reservoir. The events in question occurred while Eletropaulo was a state owned company. An initial lower court decision in 2007 found the parties liable for the payment of approximately $230 million for remediation. Eletropaulo subsequently appealed the decision to the Appellate Court of the State of Sao Paulo which reversed the lower court decision. The Public Attorney s Office has filed appeals to both Superior Court of Justice ( SCJ ) and the Supreme Court ( SC ) and such appeals are to be answered by Eletropaulo before the end of the fourth quarter. Eletropaulo believes it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In September 2008, IPL received a CAA Section 114 information request from the EPA regarding production levels and projects implemented at IPL s generating stations. These types of information requests have been used in the past to assist EPA in determining whether a plant is in compliance with applicable standards under the CAA. The information request generally covered the time period from January 1, 2001 to the date of the information request. A subsequent related request extended the time period to cover certain operational data for the year 2000. IPL received a previous CAA Section 114 request in November 2000, seeking information about production levels and projects at IPL s generating stations dating back to January 1, 1975. In October 2009, IPL received a Notice of Violation and Finding of Violation ( NOV ) from EPA pursuant to CAA Section 113(a). The NOV alleges violations of the CAA at IPL s three coal-fired electric generating facilities dating back to 1986. The alleged violations primarily pertain to the Prevention of Significant Deterioration and New Source Review Requirements under the CAA. The letter accompanying the NOV offered IPL an opportunity to meet with EPA representatives to discuss the NOV. IPL will meet with EPA to discuss the NOV in the near future. IPL believes it has meritorious defenses to the allegations described in the NOV and will defend itself in any dispute vigorously; however, there can be no assurances that it will be successful in its efforts. At this time, it is not possible to predict the impact. If IPL s defense is not successful, however, it is possible that IPL may face fines or be required to make capital expenditures in connection with the alleged violations, which could be material to the Company s results of operations or financial position.

In November 2007, the U.S. Department of Justice ( DOJ ) notified AES Thames, LLC ( AES Thames ) that the EPA had requested that the DOJ file a federal court action against AES Thames for alleged violations of the CAA, the CWA, the Comprehensive Environmental Response, Compensation, and Liability Act ( CERCLA ) and the Emergency Planning and Community Right-to-Know Act ( EPCRA ), in particular alleging that AES Thames had violated (i) the terms of its Prevention of Significant Deterioration ( PSD ) air permits in the calculation of its steam load permit limit; and (ii) the CWA, CERCLA and EPCRA in connection with two spills of chlorinating agents that occurred in 2006. The DOJ subsequently indicated that it would like to settle this matter prior to filing a suit and negotiations are ongoing. During such discussions, the DOJ and EPA have accepted AES Thames method of operation and have asked AES Thames to seek a minor permit modification to clarify the air permit condition in a manner that is consistent with AES Thames historical method of operation. On October 21, 2008, the DOJ proposed a civil penalty of $245,000 for the alleged violations. The Company believes that it has meritorious defenses to the claims asserted against it and if a settlement cannot be achieved, the Company will defend itself vigorously in any lawsuit.

In December 2008, the National Electricity Regulatory Entity of Argentina ( ENRE ) filed a criminal action in the National Criminal and Correctional Court of Argentina against the board of directors and administrators of EDELAP. ENRE s action concerns certain bank cancellations of EDELAP debt in 2006 and 2007, which were accomplished through transactions between the banks and related AES companies. ENRE claims that EDELAP should have reflected in its accounts the alleged benefits of the transactions that were allegedly obtained by the related companies. EDELAP believes that the allegations lack merit; however, there can be no assurances that its board and administrators will prevail in the action.

In February 2009, a CAA Section 114 information request regarding Cayuga and Somerset was received. The request seeks various operating and testing data and other information regarding certain types of projects at

the Cayuga and Somerset facilities, generally for the time period from January 1, 2000 through the date of the information request. This type of information request has been used in the past to assist the EPA in determining whether a plant is in compliance with applicable standards under the CAA. Cayuga and Somerset responded to the EPA s information request in June 2009, and they are awaiting a response from the EPA regarding their submittal. At this time it is not possible to predict what impact, if any, this request may have on Cayuga and/or Somerset, their results of operation or their financial position.

On February 2, 2009, the Cayuga facility received a Notice of Violation from the New York State Department of Environmental Conservation that the facility had exceeded the permitted volume limit of coal ash that can be disposed of in the on-site landfill. Cayuga has met with and submitted a demonstration plan to the agency and discussions between the parties are ongoing. Cayuga is awaiting a response from the New York State Department of Environmental Conservation. While at this time it is not possible to predict what impact, if any, this matter may have on Cayuga, its results of operation or its financial position, based upon the discussions to date, the Company does not believe the impact will be material.

In June 2009, the Inter-American Commission on Human Rights of the Organization of American States ( IACHR ) requested that the Republic of Panama suspend the construction of AES Changuinola S.A. s hydroelectric project ( Project ) until the bodies of the Inter-American human rights system can issue a final decision on a petition (286/08) claiming that the construction violates the human rights of alleged indigenous communities. In July 2009, Panama responded by informing the IACHR that it would not suspend construction of the Project and requesting that the IACHR revoke its request. The IACHR will hear arguments by the communities and Panama on the merits of the petition on November 2, 2009. The Company cannot predict Panama s response to any determination on the merits of the petition by the bodies of the Inter-American human rights system.

On July 30, 2009, AES Energía Cartagena S.R.L. ( AES Cartagena ) received a notice from the Spanish national energy regulator, Comisión Nacional de Energía ( CNE ), stating that it intends to invoice AES Cartagena for $CO_2$ allowances previously granted to AES Cartagena for 2007, 2008 and the first half of 2009. CNE alleges that generators selling into the electricity pool offered prices that included the costs of purchasing $CO_2$ allowances to offset their emissions, despite the fact that the generators were allegedly allocated free $CO_2$ allowances to cover some or all of those emissions. CNE s notice asserts that AES Cartagena s revenues should be reduced by roughly the amount of free $CO_2$ allowances allocated to AES Cartagena for 2007, 2008 and the first half of 2009, which CNE calculates as approximately 20 million ($29.2 million) for 2007-2008 and an amount to be determined for the first half of 2009. On September 17, 2009, AES Cartagena received invoices in an amount equal to 523,548 (approximately $764,000) for 2007 and 19,907,248 ($29 million) for 2008. AES Cartagena filed an administrative appeal against both such invoices with the Spanish Ministry of Industry on October 16, 2009 and has also applied for a stay of its obligation to pay the invoices pending the hearing of that appeal. There can be no assurance that this appeal or the application for a stay will be successful. In addition, AES Cartagena is seeking an indemnity in respect of these CNE invoices and any future such invoices from GDF-Suez under its long-term energy agreement (the Energy Agreement ) with GDF-Suez, as further described below. AES Cartagena understands that CNE has sent notices to other generators, also alleging that they sold into the electricity pool at prices which reflected the cost of purchasing $CO_2$ allowances when they allegedly received free allowances. AES Cartagena does not sell electricity into the electricity pool, but instead, it provides electricity directly to GDF-Suez when requested by GFD-Suez to do so, subject to the terms of the Energy Agreement. AES Cartagena receives a fixed capacity payment from GDF-Suez under the Energy Agreement in return for keeping the plant available to run when requested. GDF-Suez then sells the electricity provided by AES Cartagena directly into the electricity pool and GDF-Suez receives all of the revenue associated with such sales into the electricity pool. Accordingly, for these and other reasons, AES Cartagena believes that GDF-Suez is contractually required to bear the costs associated with any invoices from CNE. However, GDF-Suez has disputed that it is liable under the Energy Agreement for the CNE invoices and other $CO_2$ emissions related costs. Therefore, AES Cartagena is seeking an indemnity in respect of the CNE payments and other $CO_2$ emissions-related costs from GDF-Suez. Formal dispute resolution proceedings were initiated against GDF-Suez on

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September 2, 2009 relating to, among other things, the CNE invoices and the responsibility for procuring and cost of procuring $CO_2$ emissions allowances. AES Cartagena believes it has meritorious claims and will assert them vigorously in these proceedings; however, there can be no assurances that it will be successful in its efforts.

In September 2009, the Public Defender s Office of the State of Rio Grande do Sul filed a class action against AES Sul in Brazilian state court claiming that AES Sul has been illegally passing PIS and COFINS taxes (taxes based on AES Sul s income) to consumers. AES Sul has not been officially served with the action. According to ANEEL s Order No. 93/05, the federal laws of Brazil, and the Brazilian Constitution, energy companies such as AES Sul are entitled to highlight PIS and COFINS taxes in power bills to final consumers, as the cost of those taxes is included in the energy tariffs that are applicable to final consumers. Nevertheless, if AES Sul does not prevail in the litigation and is ordered to cease recovering PIS and COFINS taxes pursuant to its energy tariff, its potential prospective losses could be approximately R$9.6 million ($5.4 million) per month, as estimated by AES Sul. In addition, if AES Sul is ordered to reimburse consumers, its potential retrospective liability could be approximately R$1.2 billion ($672 million), as estimated by AES Sul. AES Sul believes it has meritorious defenses to the claims asserted against it and will defend itself vigorously in these proceedings if it is served with the action; however, there can be no assurances that it would be successful in its efforts. Furthermore, if AES Sul does not prevail in the litigation it will seek to adjust its energy tariff to compensate it for its losses, but there can be no assurances that it would be successful in obtaining an adjusted energy tariff.

In September 2009, IPL received a letter from the staff of the IURC relevant to the IURC s periodic review of IPL s basic rates and charges which expressed concerns about IPL s level of earnings and invited IPL to provide additional information. In response, IPL provided information to the staff of the IURC. It is not possible to predict what impact, if any, the IURC s review may have on IPL.

**9. PENSION PLANS**

Total pension cost for the three and nine months ended September 30, 2009 and 2008 included the following components:

| | Three Months Ended September 30, | | | | Nine Months Ended September 30, | | | |
|---|---|---|---|---|---|---|---|---|
| | 2009 | | 2008 | | 2009 | | 2008 | |
| | U.S. | Foreign | U.S. | Foreign | U.S. | Foreign | U.S. | Foreign |
| | (in millions) | | | | | | | |
| Service cost | $ 2 | $ 4 | $ 1 | $ 3 | $ 6 | $ 10 | $ 4 | $ 10 |
| Interest cost | 8 | 123 | 8 | 121 | 25 | 334 | 24 | 365 |
| Expected return on plan assets | (7) | (100) | (8) | (108) | (20) | (271) | (25) | (328) |
| Amortization of initial net asset | - | (1) | - | - | - | (2) | - | (2) |
| Amortization of prior service cost | 1 | - | 1 | - | 3 | - | 2 | - |
| Amortization of net loss | 4 | 2 | 1 | - | 12 | 5 | 2 | 2 |
| Total pension cost | $ 8 | $ 28 | $ 3 | $ 16 | $ 26 | $ 76 | $ 7 | $ 47 |

Total employer contributions for the nine months ended September 30, 2009 for the Company s U.S. and foreign subsidiaries were $16 million and $133 million, respectively. The expected remaining scheduled annual employer contributions for 2009 are $5 million for U.S. subsidiaries and $21 million for foreign subsidiaries. As of September 30, 2009, the depreciation of the U.S. Dollar compared to the Brazilian Real ( BRL ) resulted in an increase of $18 million in the Company s estimate of total remaining expected 2009 employer contributions for foreign subsidiaries when translated into the U.S. Dollar. This increase is entirely due to the change in the exchange rate used to translate the BRL, the local currency, to a U.S. Dollar estimate of expected future contributions. The expected contributions, which will be made in BRL, remain unchanged.

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**10. COMPREHENSIVE INCOME (LOSS)**

The components of comprehensive income (loss) for the three and nine months ended September 30, 2009 and 2008 were as follows:

| | Three Months Ended September 30, 2009 | Three Months Ended September 30, 2008 | Nine Months Ended September 30, 2009 | Nine Months Ended September 30, 2008 |
|---|---|---|---|---|
| | (in millions) | | | |
| Net income | $ 440 | $ 359 | $ 1,472 | $ 1,927 |
| Change in fair value of available-for-sale securities, net of income tax (expense) benefit of $(4), $ , $(4) and $1, respectively | 6 | - | 6 | (1) |
| Foreign currency translation adjustments, net of income tax (expense) benefit of $(19), $33, $(51) and $17, respectively | 221 | (640) | 554 | (350) |
| Derivative activity: | | | | |
| Reclassification to earnings, net of income tax benefit of $12, $4, $38 and $14, respectively | 10 | - | (33) | - |
| Change in derivative fair value, net of income tax benefit (expense) of $16, $(139), $(53) and $(45), respectively | (91) | 192 | 95 | 46 |
| Total change in fair value of derivatives | (81) | 192 | 62 | 46 |
| Change in unfunded pension obligation, net of income tax (expense) benefit of $ , $(11), $(1) and $1, respectively | - | 9 | 2 | (2) |
| Other comprehensive income (loss) | 146 | (439) | 624 | (307) |
| Comprehensive income (loss) | 586 | (80) | 2,096 | 1,620 |
| Less: Comprehensive (income) loss attributable to noncontrolling interests [(1)] | (409) | 157 | (1,227) | (461) |
| Comprehensive income attributable to The AES Corporation | $ 177 | $ 77 | $ 869 | $ 1,159 |

(1) Reflects the income (loss) attributed to noncontrolling interests in the form of common securities and dividends on preferred stock of subsidiary.

The components of accumulated other comprehensive loss as of September 30, 2009 were as follows:

| | (in millions) |
|---|---|
| Foreign currency translation adjustment | $ 2,466 |
| Unrealized derivative losses | 226 |
| Unfunded pension obligation | 169 |
| Securities available for sale | (6) |
| Accumulated other comprehensive loss as of September 30, 2009 | $ 2,855 |

**11. SEGMENTS**

As further described below, beginning with the Company s Form 10-Q for the quarterly period ended March 31, 2009 filed with the SEC on May 8, 2009, the Company modified its segment reporting in accordance with the relevant guidance.

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On September 14, 2009, the Company filed the September 2009 Form 8-K to recast previously filed financial statements included in the Company s 2008 Form 10-K to reflect, among other things, the effect of changes to the Company s reportable segments for all periods presented therein.

**2009 Segment Reporting**

*Management Reporting Structure* In early 2009, we implemented certain internal organizational changes in an effort to streamline the organization. These changes affected how results are reported internally for management review. The new management reporting structure continues to be organized along our two lines of business, but there are now three regions: (1) Latin America & Africa; (2) North America and AES Wind; and (3) Europe, Middle East & Asia (collectively EMEA ), each managed by a regional president. The Company no longer has an alternative energy group. Instead, AES Wind Generation is managed with our North America region while climate solutions projects are now managed in the region in which they are located. Key climate solutions initiatives include investments in GHG initiatives, projects to create emissions offsets for the voluntary U.S. market and projects that produce certified emission reduction credits ( CERs ). Despite the management of these climate solution initiatives within the different geographic regions, these businesses do not meet the aggregation criteria to be combined into the respective region s Generation or Utilities segments and continue to be reported as part of Corporate and Other . AES Solar is accounted for using the equity method of accounting and continues to be reflected in Corporate and Other. In addition to the change in regional management structure, with the exception of AES Wind Development, the Company now manages all development efforts centrally through a development group which is reflected in Corporate and Other .

*Segment Reporting Structure* The new segment reporting structure uses the management reporting structure as its foundation. The Company s segment reporting structure continues to be organized along our two lines of business and three regions to reflect how the Company manages the business internally. The Company applied the segment reporting accounting guidance, which provides certain quantitative thresholds and aggregation criteria, and the Company concluded that it now has six reportable segments. This new segment structure was reflected in the September 2009 Form 8-K and the Forms 10-Q for the quarterly periods ended March 31 and June 30, 2009. The operating segments comprising the former Europe & Africa Generation and Utilities reportable segments are no longer managed together. Under the new management structure Africa is managed with the Latin America region and Europe is managed with the Asia region. Only Europe Generation was determined to be a reportable segment based on the Company s application of segment reporting accounting guidance. As described below, our Europe Utilities, Africa Utilities and Africa Generation operating segments are now reported within Corporate and Other because they do not meet the criteria to allow for aggregation with another operating segment or quantitative thresholds for separate disclosure.

Therefore, as a result of this analysis, the Company now reports six segments, which include:

- Latin America Generation;
- Latin America Utilities;
- North America Generation;
- North America Utilities;
- Europe Generation;
- Asia Generation.

*Corporate and Other* Corporate and Other includes the operations for the Company s Europe Utilities, Africa Utilities and Africa Generation businesses, AES Wind and climate solutions initiatives. AES Solar is

accounted for under the equity method of accounting, therefore its operating results are included in Net Equity in Earnings of Affiliates on the face of the condensed consolidated statements of operations, not in the revenue and gross margin measures for Corporate and Other reflected in this Form 10-Q. None of these operations are currently material to our presentation of reportable segments, individually or in the aggregate. Corporate and Other also includes development and operational costs related to the development group and other intercompany charges, such as self-insurance premiums, which are fully eliminated in consolidation.

The Company uses multiple measures to evaluate the performance of its segments. The GAAP measure that most closely aligns with the Company s internal performance measures is gross margin. Gross margin is defined as total revenue less operating expenses including depreciation and amortization, local fixed operating and other overhead costs. Segment revenue includes inter-segment sales related to the transfer of electricity from generation plants to utilities within the Latin America region. No inter-segment revenue relationships exist between other segments. Corporate allocations include certain management fees and self insurance activity which are reflected within segment gross margin. All intra-segment activity has been eliminated with respect to revenue and gross margin within the segment; inter-segment activity has been eliminated within the total consolidated results.

Information about the Company s operations by segment for the three and nine months ended September 30, 2009 and 2008 was as follows:

| | Total Revenue | | Inter-segment | | External Revenue | |
|---|---|---|---|---|---|---|
| **Three Months Ended September 30,** | **2009** | **2008** | **2009** | **2008** | **2009** | **2008** |
| | | | **(in millions)** | | | |
| Latin America Generation | $ 1,008 | $ 1,195 | $ (248) | $ (285) | $ 760 | $ 910 |
| Latin America Utilities | 1,672 | 1,604 | - | - | 1,672 | 1,604 |
| North America Generation | 486 | 616 | - | - | | |