

# SECURITIES AND EXCHANGE COMMISSION

## FORM U-1/A

Application or declaration under the act 1935 [amend]

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### FILER

#### **EASTERN UTILITIES ASSOCIATES**

CIK: **31224** | IRS No.: **041271872** | State of Incorporation: **MA** | Fiscal Year End: **1231**  
Type: **U-1/A** | Act: **35** | File No.: **070-08283** | Film No.: **94501833**  
SIC: **4911** Electric services

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

AMENDMENT NO. 4

TO

FORM U-1

APPLICATION-DECLARATION WITH RESPECT TO

PARTICIPATION BY

EUA ENERGY INVESTMENT CORPORATION

IN A JOINT VENTURE TO COMMERCIALIZE

AN ENERGY RELATED COMPUTER SOFTWARE AND HARDWARE SYSTEM

UNDER

THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

EUA ENERGY INVESTMENT CORPORATION

P.O. Box 2333, Boston, Massachusetts 02107

(Name of companies filing this statement  
and address of principal executive office)

EASTERN UTILITIES ASSOCIATES

(Name of top registered holding company  
parent of applicant or declarant)

CLIFFORD J. HEBERT, JR., TREASURER

EASTERN UTILITIES ASSOCIATES

P.O. Box 2333, Boston, Massachusetts 02107

(Name and address of agent for service)

The Commission is requested to mail signed copies  
of all orders, notices and communications to:

ARTHUR I. ANDERSON, ESQ.  
McDermott, Will & Emery  
75 State Street

This Amendment No. 4 hereby amends Items 1 and 6 of the Application-Declaration on Form U-1 of EUA Energy Investment Corporation, as previously amended by Amendments No. 1, 2 and 3 thereto, as follows:

ITEM 1. DESCRIPTION OF THE PROPOSED TRANSACTIONS.

Part III of Item 1 is hereby amended and restated in its entirety as follows:

III. Analysis.

A. Energy Industry. EEIC's proposed investment in the Joint Venture is a logical extension of the EEIC authorized activities per the Commission's Order of December 4, 1987. In said Order, EEIC was authorized to "conduct certain energy or energy conservation research and to invest, directly or indirectly, up to \$2,000,000 in the aggregate on such activities." The research and development of the Computer System is "energy research" as authorized under the prior Order. Moreover, the business plan of TransCapacity L.P. seeks to exploit the changes in the natural gas industry which were effected by Federal Energy Regulatory Commission Order Number 636. In effect, Order 636 deregulated the interstate pipeline transmission of natural gas so as to enable producers and consumers free access to the interstate gas pipeline transmission system. The FERC Order Number 636 Series (636, 636-A and 636-B) manifests the federal government's intention to "deregulate" the sale of natural gas, primarily by putting the regulated pipelines into the status of common carriers, while maintaining jurisdiction over gas transportation. The 636 Series has created a "commodity" known as a "capacity right". A capacity right is the ability to move a fixed amount of natural gas from Point A to Point B utilizing the interstate gas pipeline transmission system. Order 636 makes this right transferable. It is the newly granted transferability which makes capacity rights commodities. The 636 Series also requires pipelines to establish electronic bulletin boards ("EBB") for the trading and brokering of contracts for firm transportation and storage capacity rights. Information regarding capacity rights is of vital economic importance to all energy industry participants and to a new group of natural gas shippers, all of which will receive information regarding capacity and capacity rights via the Registry, which has been formed and is establishing a national, central database of information concerning capacity rights. Cross-industry Working Groups include significant representation by electric utilities as well as by natural gas utilities, and are working (i) to develop an industry-wide system for standardizing, presenting and managing information flow and (ii) to provide uniform access to such information in order to ensure a viable secondary market. Edison Electric Institute has participated in such activities from the start and, in fact, chairs "Working Group Number 4", which is responsible for developing recommendations with respect to standardized communications protocols. The Computer System will provide products and/or services that distribute information from the Registry Database on gas pipeline capacity rights to third parties, and to Applicant's affiliates, via electronic or

digital means or media. In this regard, TransCapacity L.P. will provide information and related services of value in establishing a market for capacity rights, but will not take positions in nor will it speculate in any manner in such market. The actual use, trading and brokering of available capacity in natural gas pipelines will be achieved by the end users themselves, without need for middleman intervention by EEIC.

### Capacity Release and Electric Generation

Capacity management will be especially important in the Northeast, where gas is an important part of the fuel mix for future generation projects and where many of these generation projects will provide dual fuel flexibility. In the northeast, local gas distribution companies ("LDCs") have a peak day delivery in the winter which is 8 times the average day in August. Electric generators have the ability to make economically advantageous fuel switches using alternate fuels in the winter months when gas residential use is at its peak and switching to gas in the summer when both demand and prices for gas are lower. In much the same way electric generators can also make economically advantageous use of capacity rights. Even though it may only be needed for a percentage of the year, those who own the capacity right pay the pipeline for it 12 months a year. If the capacity right owned by an electric generator is not being used, the pipeline company can resell the capacity to a third party with no benefit from this transaction going to the electric generator. There is therefore, a definite economic incentive for electric generators to enter the capacity release market. As capacity release becomes a tradeable commodity, electric generators will be entering the market as both buyers and sellers.

### Capacity Release and Pipeline EBBs

In dealing with a new and more competitive environment, competition by its very nature will require market participants to react quickly. In order to effectively utilize capacity release an electric generator must have (a) a complete and working understanding of the pipeline's capacity release rules, (b) a complete and working understanding of the pipeline electronic bulletin board ("EBB") and (c) constant monitoring of the EBB. Dealing with pipeline EBBs will be a major issue for electric generators interested in reacting quickly to changes in the market. Problems with pipeline EBBs include the following:

- 1) Dealing with multiple pipeline EBBs creates multiple procedures for the same transaction.
- 2) Pipeline bulletin boards and tariffs for the various pipelines are all slightly different and most are not user friendly.
- 3) Monitoring multiple EBBs requires significant time, effort and manpower.

Need for a Computer System to Access Database of Capacity Rights

FERC Order 636 requires that all interstate pipelines must maintain electronic bulletin boards and that they provide non-discriminatory and timely access to information about pipeline capacity availability and services. EBBs are an essential part of the process in providing the information necessary for the competitive processes within the marketplace to work. In order for FERC Order 636 to work, all market participants must have unconstrained access to the information necessary to compete fairly and effectively for gas supplies and capacity rights.

The Computer System is designed to help companies manage capacity internally and identify alternatives for acquisition or trading externally by allowing access to a unified data base of capacity rights through user friendly software. The Computer System helps insure open access to a central repository of capacity ownership information, i.e. who owns a particular firm capacity right at any point in time and will help provide potential shippers and capacity releasers with data regarding all capacity rights both transportation and storage on all open access pipelines in both a user friendly manner and on a cost-effective basis.

B. Impact On New England and NEPOOL. One of the key objectives in FERC's Order 636 is to ensure that interstate natural gas services support expanded use of natural gas for electric generators to obtain firm gas supply for gas fired generation. The ability of TransCapacity L.P. to facilitate implementation of FERC's Order 636 will directly benefit New England, the EUA System and the other members of NEPOOL. The current NEPOOL forecast estimates that the amount of gas fired generation as a percentage of total generation fuel mix will increase from 4% in 1992 to 15% by 2002. This corresponds with national figures supplied by the North American Reliability Council that 70% of the 67.1 gigawatts of capacity that electric utilities plan to build between now and 2002 will be gas fired. More specifically, 29% of the EUA System generation fuel mix currently is gas fired. (See Exhibit G attached hereto for projected usage.) This includes generating units that it owns or with which it has contractual commitments, such as Ocean State Power. In addition to these sources, Canal Unit #2, a 584 MW oil fired unit in which Montaup has a 50% ownership interest, is in the process of converting to gas which will incrementally increase the gas component in the EUA System fuel mix by 14%. Finally, Montaup is evaluating the feasibility of converting its Somerset Station units from coal to gas fired generation in order to meet environmental compliance requirements. The ability of EUA to secure natural gas at competitive prices is an integral part of EUA's planned future generation supply mix.

C. Importance of National Market. The business of TransCapacity L.P. can only be effective, and can only benefit NEPOOL and the EUA System, if the information contained in the Registry Database is national in scope. The Act imposes no restrictions on sources of a registered holding company system's raw resources. The critical issues with respect to the procurement of fuel are not geographic in origin, except as they relate to fluctuations in local supply and transportation costs. It is more critical that end users of fuel, including registered holding company systems, maintain flexibility and maximized options for the purchase, storage and delivery of fuel supplies. Assuming that the

Registry Database must collect data national in scope in order to service customers in New England, the incremental costs of extending use of the Registry Database to customers outside of New England would be negligible.

D. Impact on Electric Public Utility Holding Company Systems. EEIC anticipates the need for the EUA System to be able to plan for its system companies' fuel needs. Changes in the natural gas market affect EUA system companies' ability to control costs, secure sufficient fuel supply, and use increased flexibility in taking advantage of fuel-switchable capacities within the EUA System. Such concerns have long been acknowledged by the Commission, as evidenced by Arkansas Power and Light, Release No. 35-17400 (December 17, 1971), discussed in detail in Paragraph E below. In Central and South West Corporation, Release No. 35-14555 (December 28, 1961) (also discussed in Paragraph E below), the Commission acknowledged that circumstances affecting a non-electric utility corporation engaged in the purchase, transmission and sale of natural gas to an electric utility to supply such electric utility's steam electric generating plants with boiler fuel on a long term basis could adversely affect the supply of low cost fuel available to the electric utility. Therefore, the Commission authorized the electric utility company to invest in the common stock of the non-electric utility company in order to stabilize the non-electric utility company and prevent such adverse results.

E. Additional Precedents. The Commission has previously authorized subsidiaries of registered public utility holding company systems to invest in energy-related computer software development and commercialization. The software and computer systems described in various SEC releases discussed below encompass many purposes including: communications, load management, energy use optimization, and non-energy related applications. The nexus between the purposes of the computer software and systems and the efficient supply of electric energy satisfy the Act's functional relationship requirements of Section 11.

(1) In a release concerning the Southern Company (HCAR-23440 (1984)), the Commission approved the acquisition of approximately 28 percent of the common stock of a computer software and hardware company. The subject company, Integrated Communication Systems, Inc., developed a system of two-way communications over local telephone lines to provide a wide range of energy-related services targeting the residential and small commercial customer markets. Similarly, in American Electric Power Company, Inc. (HCAR-24295 (1987)), that registered holding company was authorized to purchase a portion of the common stock of the same Integrated Communications Systems, Inc.

(2) The Commission authorized CNG Energy Company, a subsidiary of Consolidated Natural Gas Company, to purchase the exclusive marketing rights in the United States and Canada for a computer-aided, radio-dispatched system from a non-associate company. This dispatch ("CARD") Computer System is energy-related by virtue of the fact that it facilitates the dispatching of customer service orders and messages by replacing voice communication with digital communication. (HCAR-23963 (1985)).

(3) Applicable precedent can also be found in a series of Commission

Orders relating to electric generation fuel transportation and supply issues. In the Arkansas Power and Light Company Order (HCAR-17400 (1971)), the Commission authorized the predecessor of Entergy Corporation, Middle South Utilities, to form a subsidiary, System Fuels, Inc., to procure fuel supplies for Entergy System generation. The subject subsidiary engages in natural gas exploration, production and delivery as a supplement to system purchases of natural gas from non-affiliates, and was authorized to develop and implement delivery programs to assure adequate fuel both in terms of quantity and price, and to enable advance planning by the joint owner-utility operating companies. The Commission authorized System Fuels to sell natural gas fuel by-products (which are not functionally related to the business of an electric utility company) and surpluses to non-affiliated companies, without geographic restriction.

(4) A similar fact pattern and Commission approval can be found in the application of Central & Southwest Corporation (C&SW) to acquire the Transok Pipeline Company (HCAR-14555 (1961)). In that Order, the Commission authorized the acquisition of Transok, a company engaged in the purchase, transmission and sale of natural gas. In 1991, Transok was authorized to acquire an additional pipeline company, TEX-CON Oil and Gas Company, which included an additional pipeline network and gas processing plants. This acquisition nearly doubled Transok's assets throughput and gas-marketing capabilities. Transok, in 1992, also purchased eleven additional gas-gathering systems from Reliance Pipeline Company, which further expanded Transok's transmission and gathering lines. Also in 1992, Transok formed a natural gas drilling partnership with Apache Corporation, which further expanded C&SW's presence in the natural gas industry. Given that Energy and Central & Southwest are primarily electric registered holding companies, the preceding Orders establish that such primarily electric registered holding companies can engage in activities which are natural gas related provided that the overall System is benefitted. Both Entergy and Central & Southwest received authorization without geographic restriction to sell surplus gas to non-affiliates and to provide natural gas-related services to non-affiliates. The primary rationale is that the continued supply of low-cost natural gas fuel to their systems clearly passes functional relationship tests of the Act. In the same way, EEIC's participation in TransCapacity L.P. addresses the functional relationship test in that TransCapacity L.P. will facilitate the continued availability to NEPOOL of firm gas supply through a more efficient market.

(5) There is also a growing body of precedents by the Commission for the provision of consulting services by a registered holding company subsidiary to non-associated companies at market prices. See, e.g., Entergy Corporation, Release No. 35-25848 (July 8, 1993); Jersey Central Power & Light Co., Release No. 35-24348 (March 18, 1987) (see footnote 24 for string cite of "consulting company" cases). Descriptions contained in the aforementioned releases of permitted ongoing consulting, investment and development activities include preliminary development of alternative energy and energy efficiency programs, and consulting with respect to marketing, management, operations, technology, training and other expertise developed by such utility holding company systems. In the case of Entergy Enterprises, Inc. (formerly Electec Corp.), a subsidiary of Entergy Corp., permitted consulting activities specifically included

expertise in the areas of fuel procurement, delivery and storage. Furthermore, in the cases of businesses which evolved originally in connection with a system's utility business needs, the Commission has permitted investments even where the functional relationship is somewhat attenuated, provided that the investment is relatively small in relation to the total assets of the system and the investment is likely to bring potential benefits to consumers and/or investors. See, e.g., Jersey Central Power & Light Company, Release No. 35-24348 (March 18, 1987), (citing American Electric Power Company, Release No. 35-24295 (January 8, 1987) and Southern Company Releases No. 35-23888 (October 31, 1985) and 35-23440 (October 1, 1984)).

(6) An analogous fact pattern to transactions contemplated by this Application-Declaration can also be found in the application of GPU Nuclear Corporation ("GPU Nuclear") to license to non-affiliates a data base to be used to process transient nuclear workers for access to nuclear worksites (HCAR - 25401 (1991)). The Commission's order on that application placed no geographical limitations on the scope of the data base licensing activity undertaken by GPU Nuclear.

(7) Based on the foregoing Commission precedents, the Applicant respectfully asserts that the provision of services to affiliates and non-affiliates within New England which enable said affiliates and non-affiliates to optimize the supply and cost of natural gas for electric generation is functionally related to the activities of the Applicant's System. This is especially important to New England in that natural gas appears to be the fuel of choice for new electric generation capacity, re-powerings of existing generating stations and the lessening of environmental impacts associated with the burning of oil and coal. TransCapacity L.P. will timely supply services to affiliates and non-affiliates in New England that will be in the public interest and satisfy both Section 11(b)(1)'s functional relationship requirement and Section 10(c)(2)'s integration requirements. Furthermore, the Applicant, on behalf of EUA, believes that its proposed participation in the TransCapacity Limited Partnership fits within both the letter and the spirit of consulting services and systems-related activities such as those previously authorized by the Commission. The database to be established by the TransCapacity Limited Partnership will require only a limited investment by EUA (with respect to EUA's total assets) and will enable the development of a methodology for information management useful both to EUA directly and industry-wide. When the database is operational, the service provided to end users will be informational only, which comports with consulting activities as defined in the Commission's precedent orders. As discussed in Paragraph C above, to benefit the NEPOOL utilities, the information maintained by the Registry Database must be national in scope. For reasons similar to those underlying the Arkansas Power and Light Company Order (HCAR-17400 (1971)) discussed in Paragraph E.(3) above, and because the incremental costs of extending the use of the Registry Database without geographic limitation to non-affiliated customers is marginal, the Applicant believes that the services provided by TransCapacity L.P. should not be limited by geographic restrictions. Furthermore, the EUA System is likely to recoup its costs and investment in the TransCapacity Limited Partnership database through increases in its flexibility and advance planning capability for the EUA System's fuel

needs, leading ultimately to benefits for the EUA System consumers.

E. Requests For Authority for Financing The Joint Venture. The Applicants requests Commission authorization through December 31, 1996 for EEIC to contribute the Computer System to TransCapacity L.P. in consideration for the receipt of the general partnership interest in TransCapacity L.P. described above. In addition, the Applicants request approval through December 31, 1996 to make additional capital contributions of up to \$1,000,000 in TransCapacity L.P. The Applicants further request authorization to make open account advances or loans to TransCapacity L.P. in an aggregate amount not to exceed \$2 million. Each such open account advance or loan will be due and payable no later than five years after the Conversion Date (defined above) and will bear interest at a rate of Prime plus six percent (6%) if made prior to the Conversion Date and at a rate of Prime plus two percent (2%) if made on or after the Conversion Date. The Applicants will request further authorization to make any such open account advances or loans after the second anniversary of the Conversion Date.

F. Services Provided By System Companies. TransCapacity L.P. will have its own employees, including Lander and Loewen, and others as necessary. The Applicants do not intend to supply any employees of the Applicants' System to TransCapacity L.P. in the near future. Any activities that EEIC needs to perform under the TLP Partnership Agreement would be accomplished by employees of EUA Service. In accordance with the provisions of the TLP Partnership Agreement, TransCapacity L.P. will reimburse EEIC for its costs and expenses of performing its duties as Managing General Partner under the TLP Partnership Agreement. Limited services will be performed by EUA Service employees to allow EEIC to perform its duties as managing general partner including attending TransCapacity partnership meetings, approving an annual budget and business plan, and in general monitoring the financial results of the partnership. Accounting services performed by EUA Service employees would be limited to accounting for EEIC's partnership income and responsibilities associated with being the Tax matters partner. Financial services would include SEC and other government agency filings. EUA Service employees would also expend a minimum amount of time and effort on records management primarily for internal monitoring purposes. In accordance with Rules 86, 87, 90 and 91 promulgated under the Act, TransCapacity L.P. will reimburse EUA Service at cost for all services performed on behalf of TransCapacity L.P. by EUA Service. No employees of the Applicants' retail electric utilities will be assigned to any activities involving TransCapacity L.P. The Applicants do not anticipate the need to hire any additional personnel in connection with EEIC's participation in TransCapacity L.P.

G. Use of the TransCapacity L.P. Database and Registry Services by EUA System Companies. Reimbursement to TransCapacity L.P. for all uses of its Database and Registry services by EUA and EUA's affiliates and associated companies shall be limited to TransCapacity L.P.'s cost, as adjusted by subtracting TransCapacity L.P.'s additional cost of borrowing with respect to funds borrowed from EEIC at greater than EEIC's own cost of borrowed funds.

H. Quarterly Reports to be filed with the Commission. EEIC will file

quarterly reports with the Commission within sixty (60) days of the end of each calendar quarter. These reports will include the following information:

- (1) A description of TransCapacity L.P. activities;
- (2) A statement of the amount of funds invested and open account advances made by EEIC in and to TransCapacity L.P. during the quarter and cumulative to date;
- (3) A description of the services provided by EUA Service, if any, during the quarter and the type and number of personnel assigned by EUA Service to achieve the reported activities;
- (4) Financial statements including a balance sheet of TransCapacity L.P. as of the quarterly reporting date, an income statement for the quarter reporting, and a statement of cash flow;
- (5) Listing of total number transactions processed by TransCapacity L.P. during the quarter and the number of those transactions processed for customers located in New England; and
- (6) Listing of total number of customers of TransCapacity L.P. as of the end of the quarter and the number of those customers located in New England.

ITEM 3. APPLICABLE STATUTORY PROVISIONS.

Item 3 is hereby amended and restated in its entirety to read as follows:

The sections of the Act and rules or exemptions thereunder that the Applicant considers applicable to the transactions for the basis for exemption therefrom are set forth below:

Purchase of general partnership interest in TransCapacity L.P.	Sections 9(a) and 10.
Issuance of Notes by TransCapacity L.P. to EEIC to evidence repayment of obligations.	Sections 6 and 7.
Capital contributions and loans or open account advances by EEIC to TransCapacity L.P.	Section 12(b); Rule 45(a).
Provision of services and goods by EEIC and EUA Service to TransCapacity L.P. and by TransCapacity L.P. to the EUA System companies.	Section 13(b); Rules 86, 87, 90, and 91.

ITEM 6. EXHIBITS AND FINANCIAL STATEMENTS

Item 6 paragraph (b) is hereby amended and restated in its entirety as

follows:

- (b) Financial Statements
- \* Denotes Filed herewith

Financial Statements of EEIC as of 9/30/93 - see  
Certificate of Notification Pursuant to Rule 24 dated  
November 18, 1993, (File No. 70-7426)

\* Supplemental Notes to 9/30/93 Financial Statements

\* Financial Statements of TransCapacity L.P. as of  
9/30/93

SIGNATURE

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, the undersigned Applicant has duly caused this statement to be signed on its behalf by the undersigned duly authorized individual.

EASTERN UTILITIES ASSOCIATES

BY: /s/ Clifford J. Hebert, Jr.

\_\_\_\_\_  
Clifford J. Hebert, Jr.  
Treasurer

EUA ENERGY INVESTMENT CORPORATION

/s/ Clifford J. Hebert, Jr.  
By: \_\_\_\_\_

Clifford J. Hebert, Jr.  
Treasurer

Date: January 19, 1994

## Notes to EUA Energy Investment Corporation Financial Statements

## Note 1: EEIC's TransCapacity Related Expenses

All charges associated with EEIC's obligation under the R&D Agreement executed with TransCapacity L.P. were expensed in 1993. Beginning in April 1993, \$740,393 in R&D costs were expensed through September 1993. An accrued expense of \$1,300,000 was booked in September 1993 to account for the remaining R&D costs to be paid by year end 1993. The accrual is represented on the balance sheet as a miscellaneous current liability.

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&lt;CAPTION&gt;

A. TransCapacity Charges Through September 1993	
<S>	<C>
EUA Service Corporation Labor & Overhead	\$ 42,990
Legal Expenses	147,403
TransCapacity R&D Costs	550,000
	<hr/>
Subtotal	\$ 740,393
Accrued TransCapacity R&D Costs	1,300,000
	<hr/>
Total TransCapacity Charges	\$2,040,393
	=====

&lt;/TABLE&gt;

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Exhibit (b)

B. Change in EEIC Operating Expenses Fiscal YTD	
September 30, 1993 vs. September 30, 1992	
<S>	<C>
Fiscal YTD EEIC Operating Expenses 9/30/93	\$2,078,872
Fiscal YTD EEIC Operating Expenses 9/30/92	28,135
	<hr/>
Difference	\$2,050,737
	=====

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<TABLE>  
<CAPTION>

Exhibit (b)

TRANS CAPACITY LIMITED PARTNERSHIP  
CONDENSED INCOME STATEMENT  
For Fiscal Year to Date September 30, 1993  
(Unaudited)  
(In Thousands of Dollars)

<S>	<C>
Operating Income	\$44
Operating Expenses:	
Operating Expenses	181
Depreciation and Amortization	3
Taxes-Other	117
Total Operating Expenses	301
Operating Income	(257)
Interest Charges	1
Net Income After Interest Charges	(259)
Net Income	(259)

</TABLE>

<TABLE>  
<CAPTION>

Exhibit (b)

TRANS CAPACITY LIMITED PARTNERSHIP  
CONDENSED BALANCE SHEET  
September 30, 1993  
(Unaudited)  
(In Thousands of Dollars)

<CAPTION>

ASSETS	
<S>	<C>
Property and Other Equipment	\$73
Current Assets:	
Cash and Temporary Cash Investments	158
Accounts Receivable	111
Prepayments and Other Assets	5
Unamt Development & Organization Costs	31
Total Current Assets	305
TOTAL ASSETS	\$377

<CAPTION>

LIABILITIES	
<S>	<C>
Partnership Equity Accounts	\$493
Current Earnings	(259)
Total Equity	234
Long Term Liabilities	67
Total Capitalization	302
Current Liabilities:	
Accounts Payable	37
Interest Accrued	1
Other Accrued Expenses	30
Misc Current Liabilities	8
Total Current Liabilities	76
TOTAL LIABILITIES AND CAPITALIZATION	\$377

</TABLE>