

## Form 8-K for NEW CENTURY ENERGY CORP.

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7-Nov-2005

### Change in Assets, Financial Obligation Matter, Non Reliance on Prev Fina

#### ITEM 2.01. COMPLETION OF ACQUISITION OR DISPOSITION OF ASSETS.

On November 1, 2005, New Century Energy Corp. (the "Company," "we," "us"), entered into a Purchase and Sale Agreement ("Agreement") with Mr. Gerald W. Green, the "Seller." Pursuant to the Agreement, we agreed to purchase certain interests in and to certain oil and gas leases which are located within and adjacent to the Lindholm-Hanson Gas Unit in the Wishbone Field in McMullen County, Texas, located 80 miles south of San Antonio, Texas (the "Unit"), for \$1,890,000, which we intend to fund from our current cash flows and operations. The interests purchased total a 1.75% working interest and a 1.3125% net revenue interest in the leases (the "Interest"). Assuming we are able to close the purchase of the Interest, our total ownership of interests within the Lindholm-Hanson Gas Unit will total a 15.20% working interest and a 12.2140% net revenue interest and our total ownership of the Lindholm fee #1 well, which is outside of the Unit will include a 12.10% working interest and an 8.9820% net revenue interest.

The effective date of the sale of the Seller's Interest is October 1, 2005 (the "Effective Date"). The closing date for the purchase was November 22, 2005, but was subsequently extended to January 3, 2006, through an Amendment to Purchase and Sale Agreement dated November 2, 2005 (the "Amendment" and the "Closing"). The Amendment also provided that we would equally share the net revenue of the Interest with the Seller for the month of October 2005; provided that we would wire Seller a deposit in the amount of 10% of the purchase price of the Interest, which deposit is refundable to us only in the event that Seller does not have clear title to the Interest at the time of closing; that we will be responsible for all Approval for Expenditures ("AFE") on the new proposed Lindholm-Hanson #9 well, which is planned to spud within thirty days of the Amendment; that any monies paid by Seller in connection with the #9 well prior to October 1, 2005, will be repaid to Seller by us; that we will be responsible for all AFE charges from the date of the Amendment for the workover on the #4 well; and that Seller shall be refunded for all unused and prepaid expenses with U.S. Enercorp, Ltd. for drilling the #11 and Fee #1 wells.

At the Closing, the Seller shall pay us the aggregate amount of the proceeds actually received by Seller and attributable to production during the period between the Effective Date and the Closing (the "Adjustment Period") of (i) the proceeds from the sale of oil, gas and hydrocarbons net of gathering processing and transportation costs, and any production, severance, sales or excise and similar taxes not reimbursed to Seller by the purchaser of production, and (ii) other proceeds earned with respect to the purchased leases during the Adjustment Period. Additionally, Seller shall pay us all ad valorem taxes prorated to Seller and assumed by us and an amount equal to all costs attributable to the ownership and operation of the purchased leases which are paid by Seller and incurred at or after the Effective Date.

Additionally, under the Agreement, we agreed to assume all duties and obligations of the Seller, express and implied, with respect to the purchased Interest, including those arising under any lease, contract, agreement, document, permit, applicable law, statute or rule, regulation, or order of any governmental authority and defend, indemnify and hold Seller harmless from and pay or reimburse Seller for any and all claims in connection with the duties and obligations of Seller in connection with the ownership of the Interest, before or after the Effective Date, except (a) to the extent any such claim has been asserted against Seller prior to the Effective Date, (b) as set forth in the Agreement, or (c) any claim that is expressly assumed by Seller.

We also agreed to defend, indemnify and hold Seller harmless from and pay or reimburse Seller for any and all claims for damage to the environment, environmental cleanup, remediation or compliance, or for any other relief, arising directly or indirectly from or incident to the use, occupation, operation, maintenance or abandonment of any of the Interest, or condition of the Interest, whether latent or patent, including without limitation, contamination of the property or premises with Naturally Occurring Radioactive Materials ("NORM"), whether such claim was caused by Seller's negligence or strict liability, whether in law or equity, excluding Seller, Seller's agents, employees or contracts gross negligence or willful misconduct.

The Agreement called for certain assets to be excluded from the sale of the leases including:

A) All minute books, tax returns, partnership documents of Seller and their business records not related to the purchased interests;

B) All records that were (i) proprietary in nature, (ii) covered by the attorney-client privilege or work product doctrine, (iii) not readily severable from Seller's general records, or (iv) required by applicable law to be retained by Seller;

C) All rights and claims arising, occurring, or existing in Seller prior to the Effective Date including, but not limited to, any and all contract rights, claims penalties, receivables, revenues, recoupment . . .

#### **ITEM 2.03. CREATION OF A DIRECT FINANCIAL OBLIGATION OR AN OBLIGATION UNDER AN OFF-BALANCE SHEET ARRANGEMENT OF A REGISTRANT.**

Effective November 1, 2005, we entered into the Purchase and Sale Agreement with the Seller, as described above, and agreed to pay the Seller an aggregate of \$1,890,000, of which we have already paid \$189,000 (or 10%) as a deposit, for the Interest (described above) on the Closing date, January 2, 2006 (pursuant to extension in the Amendment), as described in greater detail above under "Item 1.01 Entry Into A Material Definitive Agreement."

#### **ITEM 4.02. NON-RELIANCE ON PREVIOUSLY ISSUED FINANCIAL STATEMENTS OR A RELATED AUDIT REPORT OR COMPLETED INTERIM REVIEW.**

On November 3, 2005, we concluded that the Company's unaudited consolidated balance sheet as of June 30, 2005, which is included in the Company's Form 10-QSB for that period, can no longer be relied upon. In connection with the initial filing of a Registration Statement on Form SB-2 ("Form SB-2") on August 5, 2005, and in the customary course of SEC review of the Form SB-2 and other prior Company filings, the SEC issued a comment letter (the "Comment Letter") to the Company dated October 19, 2005. The Comment Letter included comments indicating that the Company's accounting for the secured convertible debt ("Convertible Note") was not in accordance with U.S. generally accepted accounting principles. Specifically, the Convertible Note was deemed to not meet the definition of a "conventional convertible note," and therefore, embedded derivatives included therein such as the Convertible Note feature, stock warrants and stock options issued to the lender, and certain other provisions, should have been accounted for as derivative liabilities and not initially recorded as beneficial conversion features within stockholders' equity. The Company is currently preparing its formal response to the SEC, and will amend its 2005 second quarter Form 10-QSB and Form SB-2, to reflect the revised accounting. At this date, management believes there will not be a material effect on the Company's consolidated results of operations for the three and six months ended June 30, 2005.

We have discussed the above matter with our current independent registered accountants pursuant to Item 402(a).

The SEC has also reviewed and commented on the Company's audited financial statements for the year ended December 31, 2004. As such the Company has also been in discussions with its former independent accountants, who audited its December 31, 2004 financial statements and although the Company has not determined the materiality of the modifications which will be made to the Company's December 31, 2004 audited financials, it has determined that changes to such financials will be required. The Company plans to file an amended report on Form 10-KSB, to reflect such modifications to the December 31, 2004 audited financials, when such modifications are finalized.

#### **ITEM 8.01. OTHER EVENTS.**

On November 4, 2005, we entered into an Amendment Agreement with Laurus Master Fund, Ltd. ("Laurus"), whereby Laurus agreed to extend the date which we were required to have our Form SB-2 Registration Statement declared effective, without being in default. In connection with the Registration Rights agreement, entered into on June 30, 2005, we agreed to register the shares of common stock underlying Laurus' Note, Warrant and Option on a registration statement on Form SB-2, which registration statement was to be declared effective by one hundred and twenty (120) days from the date of the closing of the Securities Purchase Agreement, or October 28, 2005, which date, pursuant to the Amendment Agreement was extended to December 12, 2005 (the Securities Purchase Agreement, Note, Warrant, Option and Registration Rights Agreement are described in greater detail in our Report on Form 8-K filed with the Commission on July 8, 2005).

In connection with the Amendment Agreement, we agreed to reaffirm all covenants, representations and warranties made in the June 30, 2005 closing documents (described in greater detail below) and September 19, 2005 closing documents (described in greater detail in our Report on Form 8-K filed with the Commission on September 21, 2005) and the Registration Rights Agreement, to the extent the same are not amended hereby and agree that all such covenants, representations and warranties shall be deemed to have been remade as of the effective date of the Amendment Agreement.

On June 30, 2005, we entered into a Securities Purchase Agreement with Laurus, whereby we sold a Secured Convertible Term Note in the principal amount of fifteen million dollars (\$15,000,000)(the "Note"), which is convertible into an aggregate of 24,193,548 shares of the Company's common stock ("Common Stock") at a conversion price of \$0.62 per share; issued Laurus a warrant to purchase up to 7,258,065 shares of Common Stock at \$.80 per share (the "Warrant"); issued an option to Laurus to purchase up to 10,222,784 shares of the Company's Common Stock representing 20% of the Company's stock on a fully-diluted basis (prior to the issuance of shares in connection with the Purchase and Sale Agreement, described below), for \$0.001 per share (the "Option"), of which Laurus has previously exercised a portion of its Option to purchase 3,675,000 shares for an aggregate of \$3,675 on June 30, 2005; and entered into a Master Security Agreement, Registration Rights Agreement, Stock Pledge Agreement and Funds Escrow Agreement with Laurus and Century Resources, Inc., the Company's wholly owned subsidiary, entered into a Subsidiary Guaranty with Laurus.

#### **ITEM 9.01. FINANCIAL STATEMENTS AND EXHIBITS.**

(A) FINANCIAL STATEMENTS OF THE LINDOLM-HANSON GAS UNIT ACQUISITION To be provided by a subsequent amendment to this Form 8-K.

(B) PRO FORMA FINANCIAL INFORMATION:

To be provided by a subsequent amendment to this Form 8-K.

EXHIBITS:

- 10.1(1) Securities Purchase Agreement
- 10.2(1) Secured Convertible Term Note
- 10.3(1) Common Stock Purchase Warrant
- 10.4(1) Master Security Agreement
- 10.5(1) Registration Rights Agreement
- 10.6(1) Option Agreement
- 10.7(2) September 2, 2005 Purchase and Sale Agreement
- 10.8(3) Securities Purchase Agreement
- 10.9(3) Secured Term Note
- 10.10(3) Reaffirmation and Ratification Agreement
- 10.11(3) Funds Escrow Agreement
- 10.12(3) Mortgage, Deed of Trust, Security Agreement,  
Financing  
Statement and Assignment of Production in Wharton  
County,  
Texas
- 10.13(3) Mortgage, Deed of Trust, Security Agreement,  
Financing  
Statement and Assignment of Production in McMullen  
County,  
Texas
- 10.14(3) Mortgage, Deed of Trust, Security Agreement,  
Financing  
Statement and Assignment of Production in Matagorda  
County,  
Texas

10.15\* Purchase and Sale Agreement dated November 1, 2005 and exhibits

10.16\* Amendment to Purchase and Sale Agreement dated November 2, 2005

10.17\* Amendment Agreement to June 2005 Securities Purchase Agreement

(1) Filed as exhibits to our Report on Form 8-K filed with the Commission on July 8, 2005, and incorporated herein by reference.

(2) Filed as exhibit 10.1 to our Report on Form 8-K filed with the Commission on September 7, 2005, and incorporated herein by reference.

(3) Filed as exhibits to our Report on Form 8-K filed with the Commission on September 21, 2005, and incorporated herein by reference.

\* Attached hereto.