ABLE ENERGY INC
Form DEF 14A
July 28, 2006

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
SCHEDULE 14A
(Rule 14a-101)
Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934
(Amendment No.)

Filed by the Registrant x
Filed by a Party other than the Registrant o

Check the appropriate box:

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

ABLE ENERGY, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)
Payment of Filing Fee (Check the appropriate box):

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

(1) Title of each class of securities to which transaction applies:
Common stock, par value $0.001 per share
(2) Aggregate number of securities to which transaction applies:

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

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

o Fee paid previously with preliminary materials.

o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing:

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No:

(3) Filing party:

(4) Date Filed:

ABLE ENERGY, INC.
198 GREEN POND ROAD
ROCKAWAY, NEW JERSEY 07866
(973) 625-1012

Dear Stockholder:

We cordially invite you to attend a special meeting of stockholders to be held at 10:00 a.m. on August 29, 2006 at the offices of Able Energy, 1140 6th Avenue, Suite 1800, New York, New York 10036.

At the special meeting, you will be asked to approve, for purposes of NASD Marketplace Rule 4350(i) and Delaware Section 203 of the Delaware General Corporation Law, an issuance of our common stock which will result in the acquisition of substantially all of the assets of All American Plazas, Inc., or All American, a Pennsylvania corporation, pursuant to the Stock Purchase Agreement, dated as of June 16, 2005, by and among the shareholders of All American and us (as amended and restated into the Asset Purchase Agreement as of the same date). Our board of directors recommends the approval of this proposal.

You will also be asked to approve, for purposes of NASD Marketplace Rule 4350(i) only, the potential issuance of our common stock through the exercise of certain convertible debentures we issued in connection with a $2.5 million sale of such debentures which took place in July 12, 2005. A description of this convertible debenture financing together with the financing documents are disclosed in Form 8-K filed July 15, 2005.

In addition, you will be to approve an increase in the number of shares of common stock which we may issue from 10 million to 75 million. This increase in the number of shares of common stock is not only necessary in order to issue the shares the acquisition of the All American assets described above, but will likely also be necessary in order to provide us adequate capitalization on a going forward basis. Our board of directors recommends the approval of this proposal.

Finally, you will be asked to act on such other business as may properly come before the special meeting.

Enclosed is a notice of special meeting and proxy statement containing detailed information concerning the acquisition. Whether or not you plan to attend the special meeting, we urge you to read this material carefully. I look forward to seeing you at the meeting.

Sincerely,

Gregory D. Frost
Chief Executive Officer and Chairman of
the Board,

This proxy statement is dated August 7, 2006 and is first being mailed to our stockholders on or about August 7, 2006.

YOUR VOTE IS IMPORTANT. WHETHER YOU PLAN TO ATTEND THE SPECIAL MEETING OR NOT, PLEASE SIGN, DATE AND RETURN THE ENCLOSED PROXY CARD AS SOON AS POSSIBLE IN THE ENVELOPE PROVIDED.

ABLE ENERGY, INC.
198 GREEN POND ROAD
ROCKAWAY, NEW JERSEY 07866

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD ON August 29, 2006

TO THE STOCKHOLDERS OF ABLE ENERGY, INC.:

NOTICE IS HEREBY GIVEN that a special meeting of stockholders, including any adjournments or postponements thereof, of Able Energy, Inc., a Delaware corporation, will be held at 10:00 a.m. eastern time, on August 29, 2006, at the offices of Able Energy, 1140 6th Avenue, Suite 1800, New York, New York 10036, for the following purposes:

- to consider and vote upon a proposal, for purposes of NASD Marketplace Rule 4350 and Section 203 of the Delaware General Corporation Law to effect an issuance of our common stock which will result in the acquisition of substantially all of the assets of All American Plazas, Inc., or All American, pursuant to the Stock Purchase Agreement, dated as of June 16, 2005 (as amended and restated into the Asset Purchase Agreement as of the same date), among All American and us;

- to consider and vote upon a proposal, for purposes of NASD Marketplace Rule 4350(i) only, the potential issuance of our common stock through the exercise of certain convertible debentures and warrants we issued in connection with a $2.5 million sale of such debentures which took place in July 12, 2005;

- to consider and vote upon a proposal to increase the number of shares we are authorized to issue from 10 million to 75 million; and

- to consider and vote upon such other business as may properly come before the meeting or any adjournment or postponement thereof.

In connection with a July 12, 2005 financing transaction, we seek approval from the shareholders of an issuance of common stock which exceeds 20% of our issued and outstanding common stock as of July 11, 2005. Note that on November 16, the additional investment right described in Section 4.17 of the Securities Purchase Agreement dated July 12, 2005 was eliminated, and, in its place, investors were granted warrants to purchase shares of our common stock at an exercise price of $7.50. If fully exercised, these additional warrants granted on November 16, 2005 would aggregate 5.25 million. As of July 11, 2005, the Company's total number of issued shares of common stock was 2,449,520. Twenty percent of the Company's total outstanding shares of common stock as of such date were 489,904. We estimate the total number of shares which may be issued in connection with the July 12, 2005 financing transaction as follows: (a) upon conversion of convertible debentures, including estimated interest - 415,361 shares of common stock; (b) upon exercise of the warrants granted in connection with the original July 12, 2005 transaction - 192,308 shares of common stock; and (c) upon exercise of warrants granted in connection with the November 16, 2005 amendment - 5,250,000 shares of common stock. Thus, we are seeking the approval to issue up to an additional 5,367,765 shares of our common stock along with any other shares which we may issue as a result of any interest or anti-dilution adjustment which is also described in the Securities Purchase Agreement.

The proceeds of the July 12, 2005 financing were used for working capital purposes and to make a loan to All American Plazas, Inc. On July 27, 2005, the Company made a loan in the amount of $1,730,000 to All American. All American executed and delivered a Promissory Note for the full amount of the loan in favor of our company. Under the terms of the Promissory Note, the outstanding principal of the loan bears interest at the rate of 3.5% per annum. The maturity date of the Promissory Note has been extended to March 30, 2006 and has since been further extended, in consideration of an increase of the interest rate to 6.5% per annum, to the earlier of either the closing of the acquisition or the closing of a financing transaction relating to the conveyance of All American's real estate assets to us (see our Current Report on Form 8-K filed March 27, 2006 with the SEC).

Background relating to the acquisition of All American's assets is contained in the "Q&A" section that follows as well as throughout this proxy statement.

The board of directors has fixed the close of business on August 1, 2006 as the date for which our stockholders are entitled to receive notice of, and to vote at, the special meeting and any adjournments or postponements thereof. Only the holders of record of our common stock on that date are entitled to have their votes counted at the special meeting and any adjournments or postponements thereof.

We will not transact any other business at the special meeting, except for business properly brought before the special meeting or any adjournment or postponement by our board of directors.

Your vote is important. Please sign, date and return your proxy card as soon as possible to make sure that your shares are represented at the special meeting. If you are a stockholder of record of our common stock, you may also cast your vote in person at the special meeting. If your shares are held in an account at a brokerage firm or bank, you must instruct your broker or bank on how to vote your shares.

Our board of directors unanimously recommends that you vote "FOR" the proposal to effect an issuance of our common stock which will result in our acquisition of All American.

By Order of the Board of Directors,

Gregory D. Frost
Chief Executive Officer and Chairman of
the Board
August 7, 2006

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QUESTIONS AND ANSWERS ABOUT THE MATTERS SUBJECT TO VOTE

What is being voted on?

You are being asked to consider and vote upon a proposal, for purposes of NASD Marketplace Rule 4350 and Section 203 of the Delaware General Corporation Law, to effect an issuance of our common stock which will result in our acquisition of All American Plazas, Inc., or All American, pursuant to the Asset Purchase Agreement, dated as of June 16, 2005, by and among All American and us (which agreement was originally entered into as the Stock Purchase Agreement, but was thereafter amended and restated as such Asset Purchase Agreement). We refer to this transaction in places throughout this proxy as the "acquisition".

You will also be asked to approve, for purposes of NASD Marketplace Rule 4350(i) only, the potential issuance of our common stock through the exercise of certain convertible debentures we issued in connection with a $2.5 million sale of such debentures which took place in July 12, 2005. A description of this convertible debenture financing together with the financing documents are disclosed in the Current Report on Form 8-K filed July 15, 2005. We refer to this financing transaction in places throughout this proxy as the "financing".

In addition, you are also being asked to consider and vote upon a proposal to amend our Certificate of Incorporation to authorize 75 million shares of our common stock to be issued. Our current Certificate of Incorporation permits us to issue up to 10 million shares of common stock and 10 million shares of preferred stock. Approval of an increase in the number of shares of our common stock will be necessary to complete the acquisition since the acquisition contemplates the issuance of 11,666,667 shares of common stock. Regardless of whether or not the acquisition is completed, however, our Board of Directors believes that the benefits of providing it with the flexibility to issue shares without delay for any proper business purpose, including other potential acquisitions or as an alternative to an unsolicited business combination opposed by the Board, outweigh the possible disadvantages of dilution and that it is prudent and in the best interests of stockholders to provide the advantage of greater flexibility which will result from the such amendment. We refer to this proposal in places throughout this proxy as the "charter amendment".

Why are we proposing the acquisition and seeking approval for the financing?

We will continue to operate in the same manner following our acquisition of All American in the home heating oil and HVAC business. The Board and management of the Company believe that based upon the acquisition, we will be able to expand our distribution of home heating oil. We believe that the increased buying power resulting from the acquisition will result in our ability to negotiate more financially advantageous fuel purchase credit terms. Also we plan to utilize the All American truck stop locations as additional distribution centers to store fuel and house home heating oil delivery vehicles for the sale of its primary product. As part of the relationship established between us and All American, both companies purchase their fuel requirements primarily through TransMontaigne Product Services, Inc. In addition, both we and All American have created additional business relationships with TransMontaigne. In this regard, we have an operations subsidiary named PriceEnergy.com which has created a network of distributors with the assistance of TransMontaigne and All American to deliver fuel upon receiving orders through use of the internet.

We plan with the assistance of All American, to continue to expand our third party dealer network to enable PriceEnergy.com to deliver home heating oil throughout the United States.

As a result, we believe that the acquisition of All American will provide our stockholders with an opportunity to acquire, and participate in, a company with significant growth potential.

What vote is required to approve the financing and charter amendment?

Approval of the financing and charter amendment requires the affirmative vote of a majority of the shares entitled to vote at the special meeting.

What vote is required in order to approve the acquisition proposal?

The approval of the acquisition of All American will require the vote of 66-2/3% of our outstanding voting common stock or two-thirds of the votes cast, in person or by proxy, at the special meeting, exclusive of shares of common stock held by All American.

Why are we seeking approval for the acquisition and the financing?

As a result of being listed for trading on the Nasdaq Capital Market, issuances of our common stock are subject to the NASD Marketplace Rules, such as Rule 4350. For example, under Rule 4350(i)(1)(B) and 4350(i)(1)(D), respectively, stockholder approval must be sought when (a) the issuance or potential issuance will result in a change of control of the issuer or (b) in connection with a transaction other than a public offering involving the sale, issuance or potential issuance by the issuer of common stock (or securities convertible into or exercisable common stock) equal to 20% or more of the common stock or 20% or more of the voting power outstanding before the issuance for less than the greater of book or market value of the stock. Furthermore, under Rule 4350(i)(1)(C), stockholder approval must be sought in connection with an acquisition of the stock or assets of another company if any director, officer or substantial shareholder of the issuer has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more.

Pursuant to the asset purchase agreement relating to the acquisition, we have agreed to issue shares of our common stock in consideration for substantially all of the assets of All American. The issuance of common stock to All American may result in a violation of the foregoing provisions of Rule 4350, absent stockholder approval for such issuance and the resulting acquisition. In addition, with respect to the financing, a total of 789,970 shares of our common stock may be issued assuming full conversion of all debentures and warrants issued in connection with the financing. On July 12, 2005, the date in which we entered into the documents relating to the financing, our closing price per share of our common stock was $17.90 (which was greater than the book value of our shares). The exercise price of debentures and warrants issued in connection with the financing is less than the closing price for our shares on July 12, 2005.

The Company is subject to Section 203 of the Delaware General Corporation Law (“Section 203”), which restricts certain transactions and business combinations between a corporation and an “interested stockholder” for a period of three years from the date the stockholder becomes an interested stockholder. An “interested stockholder” is any entity (or related entities) which own 15% or more of a corporation’s outstanding voting stock. Subject to certain exceptions (which do not apply to the acquisition), unless the transaction is approved by the Board of Directors and the holders of at least 66-2/3% of the outstanding voting stock of the corporation (excluding shares held by any interested stockholder), Section 203 prohibits significant business transactions such as a merger with, disposition of assets to, or receipt of disproportionate financial benefits by the interested stockholder, or any other transaction that would increase the interested stockholder’s proportionate ownership of any class or series of a corporation’s stock.

On December 15, 2004, Timothy Harrington, our CEO at that time, sold an aggregate of 1,007,300 shares of our common stock to All American. The purchase price for the sale was $7,500,000, of which $2,750,000 was paid in cash and All American issued promissory notes in the aggregate principal amount of $4,750,000 to Mr. Harrington. As a result of Mr. Harrington’s sale, All American became an “interested stockholder” for purposes of Section 203 as described above. Additional details regarding Mr. Harrington’s sale of his common stock to All American were described in the Current Report on Form 8-K filed with the SEC on December 21, 2004. In addition, as a result of the acquisition, we estimate that All American will own approximately 12.7 million shares of our common stock (out of a total of approximately 14.7 million issued and outstanding). Thus, approval under Section 203 is required by 66-2/3% of the stockholders of the company because All American’s common stock ownership of the company will increase

from 32% as of the date hereof to approximately 85%. All of All American's shares received in connection with the acquisition will be restricted shares and not subject to any registration requirement. In addition, approximately up to 2.5 million of the 11.67 million shares of restricted common stock All American will receive in the acquisition will be escrowed and may be cancelled in the event that holder of certain convertible debentures issued by All American elect to convert their respective debentures into shares of our common stock, thus reducing All American's stock interest to approximately 68%. For additional information see "Recent Financing of All American" under the heading, "The Acquisition Proposal".

What will the name of the company be after the acquisition and financing?

Following the completion of the acquisition, the combined company's name will remain "Able Energy, Inc."

What will I receive in the acquisition or the financing?

Holders of our securities will continue to hold the Able Energy, Inc. securities they currently own, and will not receive any of the cash paid in connection with the acquisition or the financing. We are simply acquiring substantially all of the outstanding assets of All American and obtaining certain financing for working capital purposes. All American will receive all of our shares of common stock being issued by us in the acquisition.

Who will manage us upon completion of the acquisition of All American?

Upon completion of the acquisition, we will be managed by the following persons: Gregory D. Frost will be our Chief Executive Officer and Chairman; Christopher P. Westad will be our interim Chief Financial Officer and President; and Richard Mitstifer will become a director of our company and be also the Executive Vice President of our new All American Division or subsidiary.

The financing itself will not result in any changes to our management or Board of Directors other than as stated herein.

How are you paying for the acquisition?

At the closing, we will issue to All American 11,666,667 restricted shares of our common stock at $3.00 per share for an aggregate purchase price of $35,000,000. The pricing for this transaction was determined by taking the average of a 20 consecutive day closing price of a share of our common stock in February 2005. The closing price of our common stock on June 30, 2006 was $5.69 per share and the market value of the shares to be issued to All American, at the close of business on June 30, 2006, was approximately $66.38 million. The value of the shares of our common stock to be issued to All American will be subject to change with the fluctuation of the trading price of our common stock on the Nasdaq Capital Market.

The issuance will result in All American owning approximately 85% of our outstanding common stock on a post-issuance basis. Note, however, that All American has agreed to escrow up to 2.5 million shares and that one share of such escrowed common stock will be cancelled for each share of common stock which is issued pursuant to our assumption of certain All American convertible debentures. We do not intend to modify the number of shares to be issued to All American based on changes to the price of our common stock. The number of shares of our common stock to be issued to All American reflects our Board's and All American's determination of the relative long-term worth of Able Energy after the acquisition of All American's assets, which long term worth may not be reflected, or which may be inappropriately adjusted by, fluctuations in our stock price. Additionally, fluctuations in our stock price may reflect factors that are independent of the respective valuations of All American and Able Energy upon which the acquisition consideration is based.

What happens if the acquisition or the financing is not approved?

If the acquisition is not approved, then we will not be able to consummate the acquisition upon the terms currently contemplated by the asset purchase agreement. We may attempt to renegotiate the terms of the acquisition and seek stockholder approval at a later date.

If the financing is not approved, then we may restructure the financing or rescind the financing and return all funds to the current debenture and warrant holders.

When do you expect the acquisition and the financing to be completed?

It is currently anticipated that the acquisition will be completed promptly following our special meeting of stockholders on August 29, 2006. The financing transaction has been completed, subject to approval of our stockholders.

If I am not going to attend the special meeting of stockholders in person, should I return my proxy card instead?

Yes. After carefully reading and considering the information contained in this proxy statement, please complete and sign your proxy card. Then return the enclosed proxy card in the return envelope provided herewith as soon as possible, so that your shares may be represented at the special meeting.

What will happen if I abstain from voting or fail to vote?

Abstentions are treated as shares present or represented and entitled to vote at the special meeting and will have the same effect as a vote against the acquisition or financing proposals. Broker non-votes are not deemed to be present and represented and are not entitled to vote, and therefore will have no effect on the outcome of the proposal.

What do I do if I want to change my vote?

If you wish to change your vote, please send a later-dated, signed proxy card to Gregory D. Frost at Able Energy, Inc. prior to the date of the special meeting or attend the special meeting and vote in person. You also may revoke your proxy by sending a notice of revocation to Gregory D. Frost at the address of our corporate headquarters.

If my shares are held in "street name" by my broker, will my broker vote my shares for me?

No. Your broker can vote your shares only if you provide instructions on how to vote. You should instruct your broker to vote your shares in accordance with directions provided by your broker.

Do I need to turn in my old certificates?

No. If you hold your securities in certificate form, as opposed to holding them through your broker, you do not need to exchange them for new certificates. Your current certificates will represent your rights in Able Energy, Inc.

Who can help answer my questions?

If you have questions about the acquisition, you may write or call Able Energy, Inc., 198 Green Pond Road, Rockaway, New Jersey 07866, (973) 625-1012, Attention: Gregory D. Frost or Christopher Westad.

SUMMARY

This summary discusses the material items of the acquisition proposal and the financing, which are also described elsewhere in this proxy statement. You should carefully read this entire proxy statement and the other documents to which this proxy statement refers you. See "Where You Can Find More Information."

Acquisition of All American

All American Plazas, Inc.

All American, which is headquartered in Myerstown, Pennsylvania, is in the business of owning, operating and developing truck stops. Its operations include, but are not limited to, the ancillary merchandising of rights, products, and other goods and services. All American operates 11 multi-service truck stops in the United States that sell diesel fuel and related services to approximately 5,000 trucking accounts and other independent consumers. Its operations are located at primary interchanges servicing major truck routes in the northeast region of the United States, and its facilities, known as "All American Plazas," offer a broad range of products, services, and amenities, including diesel fuel, gasoline, home-style restaurants, truck washes, truck preventive maintenance centers, and retail merchandise stores that market primarily to professional truck drivers and other highway motorists.

The Acquisition

The asset purchase agreement provides for the acquisition by us of substantially all of All American's assets. We will assume all of All American's liabilities, except for its mortgage debt liabilities. The asset purchase agreement has an effective date of June 16, 2005. We will enter into a number of leases with All American for each of its 11 multi-service truck stops. All America intends that the rental payments under such leases be used to service All American's debt obligation on its properties. We will issue 11,666,667 restricted shares of our common stock, par value $.001 per share, at $3.00 per share to purchase the All American business an aggregate purchase price of $35,000,000. The closing price of our common stock on June 30, 2006 was $5.69 per share and the market value of the shares to be issued to All American, at the close of business on June 30, 2006, was approximately $66.38 million. The value of the shares of our common stock to be issued to All American will be subject to change with the fluctuation of the trading price of our common stock on the Nasdaq Capital Market. All American has agreed to escrow up to 2.5 million (but not less than 1.67 million) shares of common stock which will be cancelled on a share for share basis for each share of common stock which we issue in connection with certain convertible debenture obligations which we will assume. We do not intend to modify the number of shares to be issued to All American based on changes to the price of our common stock. The number of shares of our common stock to be issued to All American reflects our Board's and All American's determination of the relative long-term worth of Able Energy after the acquisition of All American's assets, which long term worth may not be reflected, or which may be inappropriately adjusted by, fluctuations in our stock price. Additionally, fluctuations in our stock price may reflect factors that are independent of the respective valuations of All American and Able Energy upon which the acquisition consideration is based.

All American and we plan to complete the acquisition promptly after the special meeting, provided that:

- our stockholders have approved the asset purchase agreement; and
- the other conditions specified in the asset purchase agreement have been satisfied or waived.

The asset purchase agreement is included as Annex A to this proxy statement. We encourage you to read the asset purchase agreement in its entirety. See "Asset Purchase Agreement."

The Financing

Pursuant to the terms of the Securities Purchase Agreement dated as of July 12, 2005 (the "SPA") among us and the various purchaser parties named therein, the purchasers purchased debentures in the aggregate amount of $2.5 Million Dollars evidenced by a Variable Rate Convertible Debenture also dated July 12, 2005 (the "Debentures"). The Debentures are scheduled to be repaid within two years from the date of issuance, subject to the occurrence of an event of default, with interest payable at the rate per annum equal to the LIBOR for the applicable interest period, plus 4% payable on a quarterly basis on April 1st, July 1st, October 1st and January 1st, beginning on the first such date after the date of issuance of the Debentures. The Debentures may be converted at the option of the various purchasers into shares of our common stock at a conversion price of $6.50 per share. In addition, the purchasers shall have the right to receive five (5) year warrants to purchase 192,308 of common stock at an exercise price of $7.15 per share. Pursuant to the SPA, we shall also have an optional redemption right (which right shall be mandatory upon the occurrence of an event of default) to repurchase all of the Debentures for 125% of the face amount of the Debentures plus all accrued and outstanding interest and expenses, as well as a right to repurchase all of the Debentures in the event of the consummation of a new financing in which we sell securities at a purchase price that is below the conversion price of $6.50 per share. The conversion price for the Debentures may be adjusted for various customary events effecting the capitalization of the Company such as stock splits.

On November 16, 2005, certain rights of the Purchasers to make additional investments in us were removed and replaced with warrants to purchase our common stock. Under the terms of such November 16, 2005 amendment,

up to 5,250,000 shares of common stock may be obtained by the Purchasers upon the exercise of such warrants. Such warrants have an exercise price of $7.50 per share.

Pursuant to the Registration Rights Agreement among the parties, the Purchasers shall have demand registration rights with respect to all shares of our common stock obtained by them through the conversion of the Debentures, and we filed an effective Registration Statement on Form S-1/A on December 20, 2005 registering the resale of such common stock obtain upon conversion of such debentures and a portion of the warrants described above.

The proceeds of the July 12, 2005 financing were used for working capital purposes and to make a loan to All American Plazas, Inc. On July 27, 2005, the Company made a loan in the amount of $1,730,000 to All American. All American executed and delivered a Promissory Note for the full amount of the loan in favor of our company. Under the terms of the Promissory Note, the outstanding principal of the loan bears interest at the rate of 3.5% per annum. The maturity date of the Promissory Note has been extended to March 30, 2006 which has since been further extended to the earlier of either the closing of the acquisition or the closing of a financing transaction relating to the conveyance of All American’s real estate assets to the Company.

The documents relating to the financing are attached as exhibits to the Current Reports on Form 8-K, filed July 15, 2005 and November 18, 2005 with the SEC. We recommend that you review these documents.

The Charter Amendment

Our Certificate of Incorporation, as amended, currently authorizes the issuance of up to 20,000,000 shares of stock of which the total number of shares of common stock that are authorized to be issued is 10,000,000. Our Board has approved, subject to stockholder approval, an amendment to our charter to increase the number of authorized shares of stock to 85,000,000, of which the total number of shares of common stock that are authorized to be issued is 75,000,000. The additional authorized shares of common stock, if and when issued, would have the same rights and privileges as the shares of common stock previously authorized. A copy of the proposed amendment to our charter is attached to this proxy statement as Annex C.

As of August 1, 2006, there were 3,128,923 shares of our common stock outstanding.

In the event that the acquisition is approved by the appropriate vote of the stockholders, additional shares of our common stock will be issued to All American as described in this proxy statement. The additional shares of common stock authorized by the charter amendment could also be issued at the direction of our Board from time to time for any proper corporate purpose, including, without limitation, the acquisition of other businesses, the raising of additional capital for use in the Company's business, and a split of or dividend on then outstanding shares or in connection with any employee stock plan or program. The holders of shares of common stock do not presently have preemptive rights to subscribe for any of our securities, and holders of common stock will not have any such rights to subscribe for the additional common stock proposed to be authorized. Any future issuances of authorized shares of common stock may be authorized by the Board without further action by the stockholders.

Although our Board will issue common stock only when required or when the Board considers such issuance to be in our best interests, the issuance of additional common stock may, among other things, have a dilutive effect on the earnings per share (if any) and on the equity and voting rights of stockholders. Furthermore, since Delaware law requires the vote of a majority of shares of each class of stock in order to approve certain mergers and reorganizations, the proposed amendment could permit the Board to issue shares to persons supportive of management's position. Such persons might then be in a position to vote to prevent a proposed business combination that is deemed unacceptable to the Board, although perceived to be desirable by some stockholders, including, potentially, a majority of stockholders. This could provide management with a means to block any majority vote which might be necessary to effect a business combination in accordance with applicable law, and could enhance the ability of our Directors to retain their positions. Additionally, the presence of such additional authorized but unissued shares of Common Stock could discourage unsolicited business combination transactions that might otherwise be desirable to stockholders.

Except for (i) shares which may be issued in connection with the acquisition, (ii) shares of common stock reserved for issuance under our stock option plans, (iii) shares of common stock which we would be required to issue upon the exercise of outstanding warrants (including warrants in connection with the financing, if approved by the stockholders) and (iv) shares of common stock that may be issuable upon the conversion of senior notes for which the Company has issued a notice under SEC Rule 135c on March 24, 2006, the Board has no current plans to issue additional shares of common stock. However, our Board believes that the benefits of providing it with the flexibility to issue shares without delay for any proper business purpose, including as an alternative to an unsolicited business combination opposed by the Board, outweigh the possible disadvantages of dilution and discouraging unsolicited business combination proposals and that it is prudent and in the best interests of stockholders to provide the advantage of greater flexibility which will result from the charter amendment. The issuance of the shares of common stock upon the conversion of the senior notes is expected to be subject to stockholder approval under Nasdaq Marketplace Rules.

Accordingly, the Board has voted unanimously "FOR" the adoption of the Charter Amendment and has submitted this proposal to you for consideration and vote.

Special Meeting of Our Stockholders

Date, time and place. The special meeting of our stockholders will be held at 10:00 a.m., eastern time, on August 29, 2006, at Able Energy, Inc., 1140 6th Avenue, Suite 1801, New York, NY to vote on the proposal to approve the acquisition proposal.

Approval of All American's Stockholders

All American will concurrently solicit the approval of its shareholders to consummate the transactions contemplated in the Asset Purchase Agreement.

Voting Power; Record Date

You will be entitled to vote or direct votes to be cast at the special meeting if you owned shares of our common stock as of the close of business on August 1, 2006, which is the record date for the special meeting. You will have one vote for each share of common stock you owned at the close of business on the record date.

Vote Required to Approve the Acquisition Proposal and the Financing

The approval of the issuance of our common stock which will result in the acquisition of the All American assets will require the affirmative vote of at two-thirds of the eligible votes cast, in person or by proxy, at the special meeting of those stockholders. All American currently owns approximately 32% of our common stock which, according to Section 203 of the Delaware General Corporation Law, a company which owns greater than 15% of a company is an "interested stockholder". For the purposes of the acquisition, All American is an "interested stockholder" and, hence, ineligible to vote in favor of the acquisition.

The approval or ratification by the stockholders of the financing relating to our issuance of certain debentures and warrants will require the affirmative vote of a majority of the votes cast, in person or by proxy, at the special meeting of the stockholders.

Appraisal or Dissenters Rights

No appraisal rights are available under the Delaware General Corporation Law for our stockholders in connection with the acquisition proposal.

Proxies

Proxies may be solicited by mail, telephone or in person.

If you grant a proxy, you may still vote your shares in person if you revoke your proxy before the special meeting.

Costs of Solicitation of Proxies

The cost of soliciting proxies, including expenses in connection with preparing and mailing this proxy statement, will be borne by us. In addition, we will reimburse brokerage firms and other persons representing beneficial owners of our common stock for their expenses in forwarding proxy material to such beneficial owners. Solicitation of proxies by mail may be supplemented by telephone, telegram, telex and personal solicitation by our directors, officers or employees. No additional compensation will be paid for such solicitation.

This proxy statement and the accompanying proxy are being mailed on or about August 7, 2006 to all stockholders entitled to notice of, and to vote at, the special meeting.

Stock Ownership

Of the 3,128,923 outstanding shares of our common stock, our officers and directors, who directly own an aggregate of approximately 1.0% of our outstanding shares of common stock, have agreed to vote such shares in favor of the acquisition proposal.

Our Board of Directors' Recommendation

After careful consideration, our board of directors has determined unanimously that both the acquisition proposal and the financing are fair to, and in the best interests of our stockholders.

In reaching its decision relating to the acquisition, the board considered the opinion of Ehrenkrantz King Nussbaum Inc., that, as of the date of its opinion, and based on conditions that existed as of that date, upon and subject to the considerations described in its opinion and based upon such other matters as Ehrenkrantz King Nussbaum Inc. considered relevant, the consideration to be provided by us in connection with the All American acquisition is fair to our current stockholders from a financial point of view. See "Fairness Opinion."

With respect to the financing, our board also considered two alternative proposals regarding similar financing which were offered by other parties and accessed the Company's ability to service such debt or convert such debt into equity and determined after consideration in several meetings that the terms of the financing were the most favorable terms to the Company.

Our board also considered certain operational difficulties which may arise from the acquisition. For example, our current business does not involve the operation or management of trucking plazas, so significant administrative expenses may be incurred to integrate the operating businesses of the combined companies. In addition, our current business is cyclical in nature (cold weather months are historically the peak business months for the home heating oil business), whereas the truck plaza operation and management business is year-around, and therefore integration of the two businesses may require a period of administrative and managerial adjustment for a year-around operation. We currently offer one primary product in a largely discrete geographic market, while All American operates over a more widespread geographic region and offers various product lines. Hence, additional administrative costs may be required to expand our business in order to take full advantage of higher distribution volume offered by the acquisition. After consideration of these factors, our board determined that the advantages offered by the acquisition were greater than one-time or short-term transition expenses.

Accordingly, our board has unanimously approved and declared advisable the acquisition and unanimously recommends that you vote or instruct your vote to be cast "FOR" the approval of the acquisition proposal.

Interests of Our Directors and Officers in the Acquisition or Financing

When you consider the recommendation of our board of directors that you vote in favor of adoption of the acquisition proposal, you should keep in mind that certain of our directors and officers have interests in the acquisition that are different from, or additional to, your interest as a stockholder.

Frank Nocito, our Vice President, Business Development, has an interest in All American. Since 2004, Mr. Nocito has been Vice President of All American. In 2003, Mr. Nocito, as Vice President of All American Industries Corp., a nominee holding company created for purposes of such acquisition, acquired all of the issued and outstanding stock of All American. In 2004, Mr. Nocito and his wife, Sharon Chelednik, created, for the benefit of their family members, including seven children, the Chelednik Family Trust, and all the issued and outstanding stock of All American was transferred to this Trust. In addition, pursuant to an agreement between Gregory Frost, our CEO and Chairman, and this Trust, Mr. Frost, through Crystal Heights, LLC, an entity controlled by Mr. Frost, is also the beneficial holder of 15.05% of the outstanding common stock of All American. Mr. Frost and Jonathan Austern are co-trustees of the Chelednik Family Trust.

It is anticipated that our current board of directors will remain on the board following the acquisition. In addition, Richard A. Mitstifer, who is currently the President of All American, will join of our board of directors after the acquisition, and become an officer of the Company i.e. Executive Vice President of the new All American division or subsidiary, and Christopher Westad will be our President.

Interests of Directors and Officers of All American in the Acquisition or Financing

You should understand that some of the current directors and officers of All American have interests in the acquisition that are different from, or in addition to, your interest as a stockholder. In particular, Richard A. Mitstifer, who is currently the President of All American, will become our Executive Vice President of our All American division or subsidiary. Gregory D. Frost, our CEO, currently holds a 15% interest in All American. Also, Sharon Chelednik, All American's Vice Chairman of the board of directors, could be deemed to be a majority shareholder of All American through the Chelednik Family Trust, so it is possible that potential conflicts of interest may arise with respect to her obligations as both a director and shareholder of All American. Note, however, that in response to certain regulatory questions relating to the acquisition, both All American and the Chelednik Family Trust have agreed to a voting lock-up of any shares they receive in the acquisition with respect to any matters relating to Board membership until such time as All American and the Chelednik Family Trust no longer hold a majority of our issued and outstanding shares of common stock.

Conditions to the Completion of the Acquisition

The obligations of All American and us to complete the acquisition are subject to the satisfaction or waiver of specified conditions before completion of the acquisition, including the following:

Conditions to our obligations:

- receipt of stockholder approval from our stockholders;
- the accuracy of the representations and warranties made by All American in the asset purchase agreement as of the closing date and the absence of material adverse changes to the assets, liabilities, business, finances or operations of All American prior to the closing;
- the performance of and compliance with all of the covenants made, and obligations to be performed, by All American pursuant to the asset purchase agreement at or prior to the closing, including the delivery of certain required documents;
- the requisite third-party consents shall have been obtained; and
- the absence of claims by third parties regarding the ownership of a material portion of the assets being acquired (other than as disclosed in the asset purchase agreement) or the entitlement to a portion of the purchase price.

Conditions to the obligations of All American:

The obligation of All American to complete the acquisition is further subject to the following conditions:

- the accuracy of the representations and warranties made by us in the asset purchase agreement as of the closing date and the absence of material adverse changes to our assets, liabilities, business, finances or operations taken as a whole prior to the closing;
- receipt of stockholder approval from All American's shareholders;
- the performance of and compliance with all of the covenants made, and obligations to be performed, by us pursuant to the asset purchase agreement

at or prior to the closing, including the delivery of certain required documents;

- the requisite third-party consents shall have been obtained; and
- the absence of any injunction or other order that prohibits the sale of a material portion of the assets being acquired by us.

Termination, Amendment and Waiver

The asset purchase agreement may be terminated at any time prior to the completion of the acquisition, whether before or after receipt of the approval of our stockholders, by mutual written consent of us and All American.

In addition, either All American or we may terminate the asset purchase agreement if:

- a material breach of any representation, warranty or obligation contained in the asset purchase agreement exists that may not be cured within 30 days written notice of such breach; or

- any condition contained in the asset purchase agreement has not been fulfilled.

If permitted under applicable law, either All American or we may waive conditions for our own respective benefit and consummate the acquisition even though one or more of these conditions have not been met. We cannot assure you that all of the conditions will be satisfied or waived or that the acquisition will occur. In the event we waive a material condition to the closing on the part of All American's obligations, we will amend the proxy statement accordingly and resolicit proxies under such amended proxy statement.

Regulatory Matters

The acquisition and the transactions contemplated by the asset purchase agreement are not subject to any federal or state regulatory requirement or approval.

SELECTED FINANCIAL INFORMATION

We are providing the following financial information to assist you in your analysis of the financial aspects of the acquisition. The All American historical information is derived from the audited financial statements of All American as of and for each of the years ended September 30, 2005, 2004, 2003, 2002 and 2001and its unaudited financial statements for the six month period ended March 31, 2006. Our historical information is derived from our unaudited financial statements for the nine month period ended March 31, 2006 and our audited financial statements as of June 30, 2005, 2004, 2003, 2002 and 2001. The information is only a summary and should be read in conjunction with each company's historical consolidated financial statements and related notes contained elsewhere herein. The historical results included below and elsewhere in this proxy statement are not indicative of the future performance of either All American or us.

		Able Energy Inc. and Subsidiaries				
		For the fiscal year ended June 30,				
Results from Continuing Operations	**Nine Month Period Ended March 31, 2006**	**2005**	**2004**	**2003**	**2002**	**2001**
Net Sales	$61,736,954	$61,964,825	$42,882,327	$43,409,488	$24,851,039	$18,189,597
Operating Income	(1,812,990)	(1,142,598)	(1,971,745)	328,463	(1,852,533)	(717,763)
Income (loss) from continuing operations	(4,763,555)	(2,110,257)	(2,700,102)	53,322	(1,947,539)	(725,223)
Depreciation and Amortization	974,457	1,183,144	1,152,906	1,070,046	1,027,144	1,183,144
Income (loss) per share	(1.76)	(.99)	(1.34)	.03	(.97)	(.36)
Book Value per share	1.59	0.84	1.69	1.73	1.62	2.38
Weighted Average Number of Shares Outstanding - Basic	2,700,748	2,140,813	2,013,250	2,012,708	2,001,332	2,140,813
		As of the year ended June 30,				
Balance Sheet Data	**As of December 31, 2005**	**2005**	**2004**	**2003**	**2002**	**2001**
Total Assets	$15,523,171	$12,754,560	$12,443,695	$12,612,582	$10,477,891	$11,756,530
Long Term Obligations	3,927,360	4,146,095				