

substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. All Contract owners will be permitted to allocate purchase payments to and transfer contract values or accumulation values among and between the same number of investment subdivisions or sub-accounts as they could before the proposed substitutions.

5. Applicants also request an order pursuant to Section 17(b) of the 1940 Act exempting them and GEIF, GNA Trust and VIT from the provisions of Section 17(a) to the extent necessary to permit GNA to carry out certain of the substitutions of securities by redeeming securities issued by GNA Trust and VIT in-kind and using the redemption proceeds to purchase securities issued by GEIF. Section 17(a)(1) of the 1940 Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person, acting as principals, from knowingly selling any security or other property to that company. Section 17(a)(2) of the 1940 Act generally prohibits the persons described above, acting as principal, from knowingly purchasing any security or other property from the registered investment company.

6. Section 2(a)(3) of the 1940 Act defines the term "affiliated person of another person" in relevant part as:

(A) any person directly, or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person.

7. Applicants have concluded, as more fully described in the application, that GEIF, GNA Trust and VIT and the Funds of each may be affiliated persons of each other or affiliated persons of affiliated persons of each other. Each also may be an affiliated person of GNA or an affiliated person of an affiliated person of GNA. The proposed substitutions by GNA, which may entail the indirect purchase of shares of GEIF Funds with portfolio securities of GNA Trust and VIT Funds and the indirect sale of portfolio securities of such Funds for shares of GEIF Funds, therefore may also entail the purchase or sale of such securities by each of the Funds involved, acting as principal, to one of the other Funds and therefore may be in contravention of Section 17(a). In addition, the participation of GNA in such purchase and sale transactions

could be viewed as entailing the purchase of such securities from Funds of GNA Trust and VIT and the sale of such securities to Funds of GEIF by GNA, acting as principal, and therefore may be in contravention of Section 17(a).

8. Section 17(b) of the 1940 Act provides that the Commission may, upon application, grant an order exempting any transaction from the prohibitions of Section 17(a) if the evidence establishes that: (a) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

9. Applicants submit that the terms of the proposed substitutions by GNA, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned.

Applicants state that the transactions will not cause owners' interests under a Contract to be diluted. Applicants also state that the transactions will conform with all but one of the conditions enumerated in Rule 17a-7. The proposed transactions will take place at relative net asset value with no change in the amount of any Contract owner's contract or accumulation value or death benefit or in the dollar value of his or her investment in any of the Accounts. Even though GNA, GEIF, GNA Trust and VIT may not rely on Rule 17a-7, Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons. Each transaction will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a-7, and (2) the net asset value per share of each Fund involved valued in accordance with the procedures disclosed in the respective management company's registration statement and as required by Rule 22c-1 under the 1940 Act.

10. Applicants also submit that the proposed substitutions by GNA are consistent with the policies of (1) GEIF and of its Income Fund, Premier Growth Fund, Value Equity Fund, International Equity Fund, U.S. Equity Fund and

Money Market Fund; (2) GNA Trust and its Adjustable Rate Portfolio, Government Portfolio, Growth Portfolio and Value Portfolio; and (3) VIT and its Fixed Income Portfolio, International Equity Portfolio, U.S. Equity Portfolio, and Money Market Portfolio as recited in the current registration statements and reports filed under the 1940 Act.

11. Applicants submit that the proposed substitutions are consistent with the general purposes of the 1940 Act. The proposed transactions do not present any of the conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the terms of the proposed substitutions and related transactions meet the standards set forth in Sections 26(b) and 17(b) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-30572 Filed 11-20-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26778]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

November 14, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 8, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the

request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

GPU, Inc., et al. (70-7926)

GPU, Inc. ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and Jersey Central Power & Light Company ("JCP&L"), Metropolitan Edison Company ("Met-Ed"), and Pennsylvania Electric Company ("Penelec"), 2800 Pottsville Pike, Reading, Pennsylvania 19640, each an electric public utility subsidiary of GPU, have filed a post-effective amendment to their declaration under sections 6(a), 7, 32 and 33 of the Act and rules 53 and 54 under the Act.

By order dated October 26, 1994 (HCAR No. 26150) ("Order") and supplemental order dated July 17, 1996 (HCAR No. 26544) ("Supplemental Order"), the Commission, among other things, authorized, through December 31, 1997: (1) GPU, JCP&L, Met-Ed, and Penelec ("Declarants") to issue, sell and renew their respective unsecured promissory notes ("Unsecured Promissory Notes"), maturing not more than nine months after issuance, to various commercial banks under loan participation arrangements and informal lines of credit ("Lines of Credit") in amounts up to the limitations on short-term indebtedness contained in their respective charters ("Charter Limits") and, in the case of GPU, up to \$250 million; (2) JCP&L, Met-Ed and Penelec to issue and sell their unsecured short-term promissory notes as commercial paper ("Commercial Paper") in amounts up to their Charter Limits; and (3) the Declarants to issue, sell and renew unsecured promissory notes to lenders other than commercial banks, insurance companies or similar institutions ("Other Short-Term Debt") in amounts up to their Charter Limits and, in the case of GPU, up to \$250 million. Borrowings under Lines of Credit, Commercial Paper and Other Short-Term Debt are collectively referred to as "Short-Term Borrowings."

Declarants request that the period during which they may issue, sell and renew Short-Term Borrowings be extended to December 31, 2000. In all other respects, the transactions remain as described in the Order and the Supplemental Order.

The proceeds from the borrowings will be used by the Declarants to finance

their businesses, including, in the case of GPU, to finance the acquisition of exempt wholesale generators, as defined in section 32 of the Act, and foreign utility companies, as defined in section 33 of the Act.

Central and South West Corporation, et al. (70-9107)

Central and South West Corporation ("CSW"), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a registered holding company, and its electric public-utility subsidiary companies, Central Power and Light Company ("CPL"), 539 North Carancahua Street, Corpus Christi, Texas 78401-2802, Public Service Company of Oklahoma ("PSO"), 212 East Sixth Street, Tulsa, Oklahoma 74119-1212, Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71156-0001, and West Texas Utilities Company ("WTU"), 301 Cypress Street, Abilene, Texas 79601-5820, and Central and South West Services, Inc. ("CSW Services"), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a service company subsidiary of CSW (all companies collectively, "Applicants") have filed an application-declaration ("Application") under sections 6(a), 7, 9(a), 10, 12(b) and 12(e) of the Act and rules 43, 45, 54, 62 and 65 under the Act.

The Applicants seek authorization to engage in various financing and related transactions ("Financing Plan"), effective through December 31, 2002 ("Authorization Period"). As described more fully below, the Applicants seek authority for: (i) External financings by CPL, PSO, SWEPCO, WTU and CSW Services ("Subsidiaries") and CSW; (ii) CSW to acquire common stock from the Subsidiaries; (iii) the Subsidiaries to repurchase their common stock from CSW; (iv) credit enhancement for their securities, including guarantees; (v) the Subsidiaries to guarantee the securities of their subsidiary financing entities; (vi) CSW and the Subsidiaries to repurchase their securities by means of tender offers; (vii) the issuance of other types of securities not exempt under rules 45 and 52; (viii) the Subsidiaries to organize new entities for facilitating certain types of financings and for the financing entities to issue securities to third parties; and (ix) increasing their authorized capital, amending their articles of incorporation, and soliciting proxies through a proxy statement requesting shareholder approval of any amendment to their articles of incorporation, subject to a reservation of jurisdiction pending completion of the record. The Applicants request

authority to engage in financing transactions for which the specific terms and conditions are not currently known, subject to certain conditions concerning the financial condition of the Applicants.

Financings by each Applicant will be subject to the following limitations: (i) The issuance of common stock by CSW will not exceed \$250 million; (ii) external financings by the Subsidiaries, other than the refunding of outstanding securities which will not be limited, will not exceed the following amounts—(a) CPL—\$500 million, (b) PSO—\$250 million, (c) SWEPCO—\$300 million, (d) WTU—\$150 million, and (e) CSW Services—\$100 million; (iii) the issuance of common stock by the Subsidiaries to CSW will not exceed the following amounts—(a) CPO—\$200 million, (b) PSO—\$100 million, (c) SWEPCO—\$100 million, and (d) WTU—\$50 million; (iv) repurchases by the Subsidiaries of their common stock from CSW will not exceed the following amounts—(a) CPL—\$1 billion, (b) PSO—\$150 million, (c) SWEPCO—\$200 million, and (d) WTU—\$100 million; and (v) credit enhancement and guarantees will only be provided in connection with a financing that satisfies the requirements set forth in an order authorizing this Application.

1. External Financings by CSW

CSW requests authorization to issue common stock, including issuances of common stock upon the exercise of convertible debt or pursuant to rights, options, warrants and similar securities. CSW also requests authorization to purchase common stock from the Subsidiaries and to sell common stock back to the Subsidiaries. The only financing authority requested by CSW in the Application is to issue common stock.

CSW seeks authority to issue common stock in any of the following ways: (i) Through underwriters or dealers; (ii) directly to a limited number of purchasers or to a single purchaser, or (iii) through agents or dealers. If underwriters are used in the sale of the securities, these securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be offered to the public either through underwriting syndicates (which may be represented by managing underwriters) or directly by one or more underwriters acting alone. The securities may be sold directly by CSW or through agents

designated from time to time. If dealers are used in the sale of any securities, these securities will be sold to the dealers as principal. Any dealers may then resell these securities to the public at varying prices to be determined by the dealer at the time of resale.

If the common stock is being sold by CSW in an underwritten offering, CSW may grant the underwriters a "green shoe" option permitting the purchase from CSW of additional equity securities (an additional 15% under present guidelines) at the same price as the original equity securities then being offered, solely for the purpose of covering over-allotments.

2. External Financing by the Subsidiaries

The Subsidiaries seek authority to obtain funds externally through: sales for preferred stock, including the sale of tax-advantaged preferred securities; short-term debt financing; long-term debt financing, such as first mortgage bonds, pollution control revenue bonds, notes (secured and unsecured) and debentures; medium-term notes; other forms of indebtedness; and borrowings under credit agreements ("Credit Agreements"). The Subsidiaries also request authorization to issue common stock to CSW.

The Subsidiaries propose to borrow from banks or other lending institutions from time to time through the end of the Authorization Period. The borrowings will be evidenced by promissory notes issued to the lender, to be dated as of the date of the first borrowing, with each borrowing maturing in not more than 50 years. Notes may or many not be prepayable, in whole or in part, with or without a premium in the event of prepayment.

The Subsidiaries seek authority to issue external financing in any of the following ways: (i) Through underwriters or dealers; (ii) directly to a limited number of purchasers or to a single purchaser, or (iii) through agents or dealers. If underwriters are used in the sale of the securities, these securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be offered to the public either through underwriting syndicates (which may be represented by managing underwriters) or directly by one or more underwriters acting, alone. The securities may be sold directly by the Subsidiaries or through agents designated from time to time. If dealers are used in the sale of any

securities, these securities will be sold to the dealers as principal. Any dealers may then resell these securities to the public at varying prices to be determined by the dealer at the time of resale.

If debt securities are being sold, they may be sold under "delayed delivery contracts" which permit the underwriters to locate buyers who will agree to buy the debt at the same price but at a later date than the date of the closing of the sale to the underwriters. Debt securities may also be sold through the use of medium-term note and similar programs, including in transactions covered by the rule 144A under the Securities Act of 1933. Pollution control revenue bonds may be sold either currently or in forward refunding where the price of the securities is established currently for delivery at a future date.

3. Acquisition of Securities

CSW requests authorization to purchase common stock from the Subsidiaries. In addition, the Subsidiaries request authorization to repurchase their common stock from CSW.

4. Credit Enhancement

Applicants may obtain credit enhancement for the securities covered by this Application, which could include insurance, a letter of credit or a liquidity facility. The Applicants anticipate they may be required to provide credit enhancement if they were to issue floating rate securities, whereas credit enhancement would be a purely economic decision for fixed rate securities. The Applicants anticipate that even though they would be required to pay a premium or fee to obtain the credit enhancement, they would realize a net benefit through a reduced interest rate on the new securities. Applicants will obtain credit enhancement only if it is economically beneficial to do so.

If insurance is obtained, the Applicants may be required to enter into an agreement with the insurer and an escrow agent under which the Applicants would be obligated to make payments of certain amounts into an escrow fund upon a failure to maintain certain financial ratios and on the occurrence of certain other events. Amounts held in an escrow fund would be payable to the insurer as an indemnity for any amounts paid by the insurer for principal or interest on the new securities.

5. Financing Entities

The Subsidiaries seek authority to organize new corporations, trusts, partnership or other entities to be created for the purpose of facilitating certain types of financing such as the issuance of tax advantaged preferred securities. The financing entities may issue these securities to third parties. In addition, authority is requested for (i) the Subsidiaries' issuance of debentures or other evidences of indebtedness to a financing entity in return for the proceeds of the financing and (ii) the acquisition by a Subsidiary of voting interests or equity securities issued by the financing entity to establish the Subsidiary's ownership of the financing entity (the equity portion of the entity generally being created through a capital contribution or the purchase of equity securities, such as shares of stock or partnership interests, involving an amount usually ranging from 1 to 25 percent of the capitalization of the financing entity). The Subsidiaries also request authorization to enter into expense agreements with their respective financing entities, under which they would agree to pay all expenses of the financing entity.

6. Guarantees

Aside from any guaranty provided by any instrument acquired and/or issued for credit enhancement, the Subsidiaries may also guarantee (i) payment of interest, dividends or distributions on the securities issued by their subsidiary financing entities if and to the extent these financing entities declare dividends or distributions or pay interest out of funds legally available therefor; (ii) payments to the holders of the securities issued by financing entities of amounts due upon liquidation of these financing entities or redemption of their securities; and (iii) certain additional amounts that may be payable on these securities.

7. Refinancings/Tender Offers

In connection with any refinancing by CSW or a Subsidiary under an order in this filing, CSW and the Subsidiaries may determine to acquire outstanding securities ("Outstanding Securities") through tender offers to the holders of the Outstanding Securities. Tender offers may be conditioned upon receipt of a certain percentage of the Outstanding Securities. The tender offer price would be based on a number of factors, including the coupon rate of the Outstanding Securities, the date of expiration of the refunding protection of the Outstanding Securities, the date of expiration of the refunding protection of

the Outstanding Securities, the redemption price on the expiration date and the then current market rates for similar securities, all of which are relevant to the decision of an informed holder as to whether to hold or sell Outstanding Securities. Holders of Outstanding Securities may be offered a fixed price for their Outstanding Securities, or the tender offer may be a "fixed spread" offer where the Applicants will offer a price based upon a fixed spread over comparable U.S. Treasury securities. Any tender offer will be conducted in accordance with standard market practice, *i.e.*, the length of time the offer will be held open, the method of solicitation, etc., at the time of the tender offer.

The Applicants would, in connection with any tender offer, retain one or more investment banking firms experienced in these matters to act as tender agent and dealer-manager. The dealer-manager will act as the Applicants' agent in disseminating the tender offer and receiving responses thereto. As a dealer-manager, the investment banking firm will not itself become obligated to purchase or sell any of the Outstanding Securities. The dealer-manager's fee will be determined following negotiation and investigation of fees in similar transactions and will include reasonable out-of-pocket expenses and attorney's fees. It is expected that the Applicants will be required, as is customary, to indemnify the dealer-manager for certain liabilities. The Applicants may also retain a depository to hold the tendered Outstanding Securities pending the purchase thereof and/or an information agent to assist in the tender offer.

8. Other Securities

The Applicants also propose to issue other types of securities within the parameters of this Application during the period ending December 31, 2002. The Applicants request that the Commission reserve jurisdiction over the issuance of additional types of securities. The Applicants also undertake to file a post-effective amendment in this proceeding which will describe the general terms of each security and request a supplemental order of the Commission authorizing their issuance. The Applicants request that each supplemental order be issued by the Commission without further public notice.

9. Charter Amendments

The Applicants propose that they be allowed to (i) increase their authorized capital as deemed necessary and appropriate by CSW for proper

corporate purposes, (ii) amend their articles of incorporation, and (iii) solicit proxies through a proxy statement, filed under and meeting the standards of the Securities Exchange Act of 1934, requesting shareholder approval of any amendment to their articles of incorporation.

Proxy solicitation material relating to amendments to the articles of incorporation will meet the requirements of Schedule 14A under the Securities Exchange Act of 1934, and will, to the extent required, be reviewed for compliance with this regulation by the Commission before the proxy material is sent to shareholders. The Applicants request reservation of jurisdiction over any order to solicit proxies and the implementation of amendments to the articles of incorporation pending completion of the record. The Applicants further request that any supplemental order authorizing amendments to the articles of incorporation be issued by the Commission without further public notice.

The authorization requested by the Applicants will be subject to the following conditions: (i) For financings at the Subsidiary level only, the Subsidiaries seeking to issue securities or enter into Credit Agreements will maintain long-term debt ratings which are investment grade as established by a nationally recognized statistical rating organization (as this term is used in rule 15c3-1(c)(2)(vi)(F) under the 1934 Act); (ii) the effective cost of money on debt securities will not exceed the greater of (a) 300 basis points over comparable term U.S. Treasury securities, or (b) a gross spread over comparable term U.S. Treasury securities which is consistent with comparable investment grade securities; (iii) the effective cost of money for borrowings under Credit Agreements will not exceed the greater of (a) the prime rate plus 300 basis points, or (b) the rate of interest for comparable investment grade credits prevailing in the market on the date of borrowing; (iv) the effective cost of money on preferred stock and other fixed income oriented securities will not exceed the greater of (a) 500 basis points over 30 year term U.S. Treasury securities, or (b) a gross spread over 30 year term U.S. Treasury securities which is consistent with comparable investment grade securities; (v) the underwriting fees, commissions, or other similar expenses paid in connection with the issue, sale or distribution of a security under an order for this filing will not exceed 5% of the principal or total amount of the financing; (vi) the aggregate amount of

outstanding external financing, other than the refunding of outstanding securities which will not be limited, will not exceed \$2 billion; and (vii) proceeds of the proposed financing may not be used to invest in an exempt wholesale generator, as defined under section 32 of the Act, or a foreign utility company, as defined under section 33 of the Act. Any deviation from these conditions would require further Commission approval.

The Applicants request authorization to deviate from the Commission's *Statement of Policy Regarding First Mortgage Bonds*, HCAR No. 13105 (Feb. 16, 1956), as amended by HCAR No. 16369 (May 8, 1969), and *Statement of Policy Regarding Preferred Stock*, HCAR No. 13106 (Feb. 16, 1956), as amended by HCAR No. 16758 (June 22, 1970), as applicable, where they apply to the proposed financings.

The Applicants are proposing that the authorization to engage in external financing requested in this filing supersede all relevant prior authorizations (the "Prior Authorizations").¹ If this proposal is approved, the Applicants would engage in long-term financing in the context of their needs and financial market conditions at the time of issuance, subject to the terms and conditions set forth in this notice and in any order in this file, and without reference to the terms and restrictions set forth in the Prior Authorizations. Any long-term debt or other security would have the designations, aggregate principal amount, maturity, interest rate(s) or methods of determining the same, interest payment terms, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms and other terms and conditions as the Applicants may at the time of issuance determine, unless this Application specifically provides otherwise.

New England Electric System (70-9109)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

NEES requests authority through December 31, 2002 to issue short-term notes to banks ("Notes") and/or commercial paper to dealers ("CP") up

¹ Holding Co. Act Release Nos. 26703 (Apr. 10, 1997), 26548 (July 30, 1996), 26531 (June 12, 1996), 26390 (Oct. 13, 1995), 26340 (July 26, 1995), 26309 (June 15, 1995), 26045 (May 2, 1994), 26019 (Apr. 6, 1994), and 25928 (Nov. 19, 1993).

to an aggregate amount of \$500 million outstanding at any one time.²

NEES proposes to enter into a credit agreement ("Credit Agreement") with Merrill Lynch Capital Corporation ("MLCC"), as arranger and syndication agent. The Credit Agreement provides for a revolving facility of \$500 million which reduces to \$400 million after three years and to \$300 million after four years. Under the Credit Agreement, NEES would borrow at one of three types of interest rates.³ Under the Credit Agreement, NEES is required to pay a facility fee quarterly in arrears to each bank that makes a commitment to loan funds to NEES.⁴

NEES also proposes to make arrangements with certain banks for short-term lines of credit, for various purposes, to be evidenced by notes payable maturing in less than one year from the date of issuance, and at rates that will not exceed on a daily basis the greater of the bank's base or prime lending rate, or the rate published daily as the high federal funds published in the Wall Street Journal.

NEES also proposes to issue and sell CP directly to one or more nationally recognized commercial paper dealers ("CP Dealers"). Initially the CP Dealer will be CS First Boston Corporation and/or Merrill Lynch Money Markets Incorporated. NEES states that the

commercial paper so issued and sold will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days, with no payment rights until maturity. The CP will be in denominations of not less than \$50,000, and will be at an interest rate generally not exceeding the base lending rate at BankBoston.⁵

NEES states that it may use the proceeds from the authorized transactions, subject to meeting margin requirements, to facilitate a share buy back of its subsidiaries' shares (not to exceed five million shares) after their anticipated sale of their non-nuclear generation business to U.S. Generating Company in the near future. In addition, NEES states that it may need to make investments in anticipation of receipt of the sale proceeds in order prudently to re-deploy funds obtained through the sale. NEES further states that it may also need to use such proceeds to make contributions to NEP, pending consummation of the sale. NEES also plans to use proceeds for other general corporate purposes.

NGE Resources, Inc. (70-9111)

NGE Resources, Inc. ("NGE"), a New York corporation not currently subject to the Act, located at One Commerce Plaza, Suite 2006A, Albany, New York 12260, has filed an application under sections 3(a)(1), 9(a)(2) and 10 of the Act.

NGE is a subsidiary of New York State Electric & Gas Corporation ("NYSEG"), a public utility company also not currently subject to the Act. NYSEG is engaged in generating, purchasing, transmitting and distributing electricity, and purchasing, transporting and distributing natural gas in the central, eastern and western parts of the state of New York.⁶

⁵ NEES states, however, that the effective interest cost of such paper is based on the supply of, and demand for, that and similar paper at the time of sale. Specifically, NEES notes that on several previous occasions short-term money markets have become very volatile during brief periods of extraordinary demand, and the interest costs of commercial paper have exceeded bank base rates. Because such volatile market conditions usually exist for brief periods, it is not anticipated that any sale of commercial paper with interest costs in excess of bank base rates would have a significant marginal impact on the annual interest cost of NEES. Therefore, NEES states that while it anticipates that the effective annual cost of borrowing through commercial paper will not exceed the annual base rate borrowing from BankBoston, in order to obtain maximum flexibility during the periods described above, it may issue commercial paper with a maturity of not more than 90 days with an effective cost in excess of the then-existing lending rate.

⁶ In addition, NYSEG has two direct nonutility subsidiaries. These are Somerset Railroad Corporation, which owns a rail line used to transport coal and other materials to one of

In summary, NGE seeks authority to acquire all of the outstanding common stock of NYSEG and of a wholly owned subsidiary of NYSEG ("Genco") organized to own all or a part of NYSEG's coal-fired generating assets ("Generation Assets"). In addition, NGE seeks an order under section 3(a)(1) of the Act exempting NGE from all provisions of the Act, except section 9(a)(2).

On May 20, 1996 the New York Public Service Commission ("PSC") issued an order establishing certain electricity industry restructuring goals for the state of New York. In response, NYSEG filed a petition on December 19, 1996 with the PSC requesting authority to form a holding company over NYSEG and to separate the Generating Assets from its other businesses regulated by the PSC.

Under a proposed plan of exchange, all outstanding NGE common stock will be canceled and all of the NYSEG common stock will be exchanged on a share-for-share basis for NGE common stock ("Share Exchange"), subject to appraisal rights. Each person who owned NYSEG common stock immediately prior to the Share Exchange (other than those who exercise their appraisal rights) will immediately after the Share Exchange own a corresponding number of shares and percentage of the outstanding NGE common stock. In addition, NGE will own all of the outstanding shares of NYSEG Common Stock.⁷

NGE also seeks authority to acquire all of the outstanding common stock of Genco, which will become an electric utility company as a consequence of the transfer to it of the Generation Assets by NYSEG. NYSEG may temporarily become a holding company under the Act if the Generation Assets are transferred to Genco prior to the acquisition of Genco by NGE. In this case, NYSEG will claim an exemption from the Act under sections 3(a)(1) or 3(a)(2) of the Act.

The Share Exchange will not affect shares of NYSEG's Serial Preferred Stock ("NYSEG Preferred Stock"), which will remain securities of NYSEG after the Share Exchange. Those shares of NYSEG Preferred Stock that were

NYSEG's generating plants, and NGE Enterprises, Inc. ("Enterprises"). Enterprises owns interests in various companies engaged in power marketing, environmental and conservation engineering and consulting, energy-related financial services, energy usage information services, demand-side management services, utility-related software development, and energy management services.

⁷ Following the consummation of the proposed transactions, one of NYSEG's two direct nonutility subsidiaries, Somerset Railroad Corporation, will be a direct subsidiary of Genco and the other, NGE Enterprises, Inc., will be a direct subsidiary of NGE.

² By Commission Order dated October 9, 1996 (HCAR No. 26589), NEES was authorized to issue and sell short-term promissory notes to banks up to a maximum aggregate principal amount outstanding at any time not exceeding \$100 million. This borrowing authority expires October 31, 1998. The authority requested in this filing is intended to supersede such existing authorization.

³ 1. At a periodic fixed Eurodollar rate with maturities of 1, 2, 3 or 6 months at the then applicable LIBOR plus a margin (based on NEES' subsidiaries' senior debt ratings), payable at the end of each interest period or quarterly for interest periods longer than 3 months.

2. At the highest of the following base rates: (a) BankBoston base rate, (b) 1/2 of 1% per annum above the latest three week moving average of secondary market offering rates in the United States for three-month certificates of deposit of major U.S. money market banks adjusted to the nearest 1/4 of 1 percent; and (c) 1/2 of 1% per annum above the federal funds rate. These would be payable quarterly in arrears and would be calculated on the basis of a 365/366 day year.

3. At a rate obtained through competitive bids. NEES may request competitive bids for an aggregate outstanding amount not to exceed \$100 million.

⁴ The annual amount of the facility fee is determined by multiplying (i) the particular bank's commitment amount and (ii) the Applicable percentage (defined below). The Applicable Percentage varies between 0.065% and 0.200%, depending on the lowest debt rating of NEES' electric utility subsidiaries (Massachusetts Electric Company, The Narragansett Electric Company, and New England Power Company ("NEP")) senior secured debt. If NEP does not have secured debt, then the rating for its senior debt will apply. Based on current ratings, the Applicable percentage would be 0.105%.

issued and outstanding immediately prior to the Share Exchange will have the same preferences, designations, relative rights, privileges and powers, and will be subject to the same restrictions, limitations and qualifications, as were applicable prior to the Share Exchange. Other than the release of the Generation Assets from the lien of NYSEG's first mortgage bond indenture, the proposed transactions will not result in any change in the outstanding indebtedness of NYSEG, which will continue to be obligations of NYSEG after the Share Exchange.

NGE asserts that it will satisfy the requirements for an exemption under section 3(a)(1). It states that it, NYSEG and Genco are organized and carry on their business substantially in New York State.

Monongahela Power Company, et al. (70-9115)

Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, The Potomac Edison Company ("Potomac Edison"), 10435 Downsview Pike, Hagerstown, Maryland 21740, and West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, each an electric utility subsidiary of Allegheny Energy, Inc., a registered holding company, have filed a declaration under sections 6(a) and 7 of the Act and rule 54 under the Act.

Monongahela, Potomac Edison, and West Penn ("Declarants") propose to enter into an agreement with The County Commission of Pleasants County, West Virginia ("County Commission") under which, through December 31, 2002, Declarants will issue notes to support the contemporaneous issuance of pollution control revenue bonds by the County Commission.

The County Commission proposes to issue \$92.5 million aggregate principal amount in three new series of long-term bonds ("Series D Bonds"). The proceeds from the Series D Bonds will be used to refund the County Commission's Series A Bonds presently outstanding. The Series A Bonds were issued for the tax exempt financing of certain air and water pollution control equipment and facilities at the Declarants' Pleasants Power Station located in Pleasants County, West Virginia.

The Series D Bonds will be issued under a supplemental trust indenture with a corporate trustee, approved by the Declarants, and sold at a time, interest rate, and price approved by the Declarants. The interest rate for the Series D Bonds will not exceed the

interest rate of the corresponding series of Series A Bonds presently outstanding. The Series D Bonds will mature no later than the year 2020.

Each Declarant will deliver concurrently with the issuance of the Series D Bonds its non-negotiable Pollution Control Note ("Notes") corresponding to the Series D Bonds in respect of principal amount, interest rate and redemption provisions (which may include a special right of the holder to require the redemption or repurchase of the Series D Bond at stated intervals) and having installments of principal corresponding to any mandatory sinking fund payments and stated maturities. The Notes will be secured by a second lien on the Facilities and certain other properties, under the Deed of Trust and Security Agreement dated November 1, 1977, as supplemented by a First Supplement thereto dated August 1, 1978 as to West Penn and Potomac Edison and a First Supplemental thereto dated February 1, 1979 as to Monongahela, delivered by the Declarants to the trustee creating a mortgage and security interest in the Facilities and certain other property (subject to the lien securing each Declarant's first mortgage bonds). Payment on the Notes will be made to the Trustee under the Third Supplemental Indentures to be entered into between the Declarants and the Trustee and will be applied by the Trustee to pay the maturing principal and redemption price of and interest and other costs on the Series D Bonds as the same become due. Each Declarant also proposes to pay any trustees' fees or other expenses incurred by the County Commission.

The Columbia Gas System, Inc., et al. (70-9129)

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, its service company subsidiary, Columbia Gas System Service Corporation, its liquefied natural gas subsidiary, Columbia LNG Corporation, its trading subsidiary, Columbia Atlantic Trading Corporation, Columbia's energy services and marketing subsidiaries, Columbia Energy Services Corporation ("Columbia Energy"), Columbia Assurance Agency, Inc., Columbia Energy marketing Corporation, Columbia Power Marketing Corporation, and Columbia Service Partners, Inc., all located at 12355 Sunrise Valley Drive, Suite 300, Reston, Virginia 20191-3458; Columbia's four distribution subsidiaries, Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of

Maryland, Inc. (collectively, "Utility subsidiaries"), and Columbia's service company subsidiary, Commonwealth Gas Service, Inc., all located at 200 Civic Center Drive, Columbus, Ohio 43215; Columbia's two transmission subsidiaries, Columbia Gas Transmission Corporation, located at 12801 Fairlakes Parkway, Fairfax, Virginia 22030-0146, and Columbia Gulf Transmission Company, located at 2603 Augusta, Suite 125, Houston, Texas 77057; Columbia's exploration and production subsidiary, Columbia Natural Resources, Inc. ("CNR"), CNR's subsidiaries, Alamco, Inc., Alamco-Delaware, Inc. and Hawg Hauling & Disposal, Inc., all located at 900 Pennsylvania Avenue, Charleston, West Virginia 25302; Columbia's propane distribution subsidiary, Columbia Propane Corporation, located at 9200 Arboretum Parkway, Suite 140, Richmond, Virginia 23236; Columbia's network services subsidiary, Columbia Network Services Corporation ("CNS") and CNS' subsidiary, CNS Microwave, Inc., both located at 1600 Dublin Road, Columbus, Ohio 43215-1082; and Columbia's other subsidiaries, Tristar Ventures Corporation, Tristar Capital Corporation, Tristar Pedrick Limited Corporation, Tristar Pedrick General Corporation, Tristar Binghamton Limited Corporation, Tristar Binghamton General Corporation, Tristar Vineland Limited Corporation, Tristar Vineland General Corporation, Tristar Rumford Limited Corporation, Tristar Georgetown Limited Corporation, Tristar Georgetown General Corporation, Tristar Fuel Cells Corporation, TVC Nine Corporation, TVC Ten Corporation and Tristar System, Inc., all located at 205 Van Buren, Herndon, Virginia 22070 (collectively, the "System"), have filed an application-declaration under sections 6, 7, 9 and 10 of the Act and rules 53 and 54 under the Act.

Columbia requests Commission approval to update and expand its existing short-term financing authority. By Commission order dated December 23, 1996 (HCAR No. 26634) (the "Omnibus Financing Order"), Columbia was authorized to engaged in a wide range of financing transactions through December 31, 2001, including short-term financing in an amount not to exceed \$1 billion outstanding at any one time, subject to certain conditions and parameters. Columbia wishes to expand the foregoing order and specifically requests authorization to increase the System's short-term financing authority to an amount not to exceed \$2 billion outstanding at any one time through

December 31, 2003. The short-term financing could include a revolving credit agreement, the issuance of commercial paper, bid notes issued to individual banks, which are participants in the revolving credit agreement, bank borrowing, or medium-term notes issued under its Indenture dated November 28, 1995, between Columbia and marine Midland Bank, Trustee, as amended.

Columbia and the Utility Subsidiaries also request authorization for the Utility Subsidiaries to issue to Columbia, and for Columbia to acquire from the utility Subsidiaries, short-term securities through December 31, 2003.

The authorization Columbia requests is subject to the general conditions for financing contained in the Omnibus Financing Order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39327; File No. SR-BSE-97-7]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. to Extend a Pilot Program Relating to Market-On-Close Orders

November 14, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 5, 1997,³ the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange has requested accelerated approval for the proposal, as amended. This order approves the Exchange's proposal, as amended, on an accelerated basis, and

solicits comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend its pilot program for the handling of Market-on-Close ("MOC") orders through October 31, 1998.⁴ The Exchange's pilot program procedures mirror the procedures in place on the primary markets, including the New York Stock Exchange, Inc. ("NYSE"), in order to ensure equal treatment of MOC orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the Exchange's pilot program⁵ for the handling of MOC orders on expiration days,⁶ non-expiration days, and when NYSE Rule 80A is in effect. The pilot program, as previously approved by the Commission,⁷ mirrors the procedures of the primary markets (including the NYSE) so that the Exchange does not become a haven for MOC orders for pilot stocks that are prohibited on the primary markets. In this way, all orders sent to the Exchange will receive equal treatment to orders sent to the primary

markets. The term "pilot stocks" refers to the list of stocks designated by the NYSE as pilot stocks for purposes of its auxiliary closing procedures.

On non-expiration days, these procedures include: (a) Providing a 3:50 p.m. deadline for the entry of all MOC orders in all stocks; (b) prohibiting the cancellation or reduction of any MOC order in any stock after 3:50 p.m.; (c) publishing order imbalances of 50,000 shares or more as soon as practicable after 3:50 p.m. in the pilot stocks, stocks being added to or dropped from an index, and in any other stock with the approval of a floor official; and (d) limiting the entry of MOC orders after 3:50 p.m. to offsetting published imbalances. With respect to item (b) above, the Exchange will permit cancellations of MOC orders after 3:50 p.m. in those instances where legitimate error has been made.

If an MOC index arbitrage order to buy (sell), to establish or increase a position (to eliminate or reduce a position), is entered and NYSE Rule 80A subsequently goes into effect because of significant upward (downward) market movement, the MOC order must be canceled regardless of the time NYSE Rule 80A goes into effect. If NYSE Rule 80A goes into effect prior to 3:50 p.m., the MOC order may be re-entered with the instruction "buy minus" ("sell plus"). If NYSE Rule 80A goes into effect after 3:50 p.m. and there is a published imbalance in the subject stock, the MOC order may be re-entered with the instruction "buy minus" ("sell plus") to offset the imbalance.

On expiration days, the pilot procedures include: (a) Providing a 3:40 p.m. deadline for the entry of all MOC orders in all stocks; (b) prohibiting the cancellation or reduction of any MOC order in any stock after 3:40 p.m.; (c) publishing order imbalances of 50,000 shares or more as soon as practicable after 3:40 p.m. in the pilot stocks, stocks being added to or dropped from an index and, upon the request of a specialist, any other stock with the approval of a floor official; and (d) limiting the entry of MOC orders after 3:40 p.m. to offsetting published imbalances. With respect to item (b) above, the Exchange will permit cancellations of MOC orders after 3:40 p.m. in those instances where a legitimate error has been made.

If an MOC index arbitrage order to buy (sell), to establish or increase a position (to eliminate or reduce a position), is entered and NYSE Rule 80A subsequently goes into effect because of significant upward (downward) market movement, the MOC order must be canceled regardless

¹ 15 U.S.C. 78s(b)(1) (1988).

² 17 CFR 240.19b-4.

³ On November 10, 1997, the Exchange submitted an amendment to the filing, clarifying that the requested extension of the pilot was through October 31, 1998. See letter from Karen Aluisse, Exchange to Mike Walinskas, Commission, dated November 10, 1997 ("Amendment No. 1").

⁴ See Amendment No. 1, *infra* note 3.

⁵ The pilot program has not been altered since its initial approval by the Commission. Phone conversation between Karen Aluisse, Exchange and Janice Mitnick, Commission on November 10, 1997. See Release No. 34-37478 (July 25, 1996), 61 FR 40268 (August 1, 1996) (approving SR-BSE-96-8 relating to the Exchange's MOC pilot program).

⁶ The term "expiration days" refers to both: (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures, and options on stock index futures expire or settle concurrently and (2) the trading day on which end of calendar quarter index options expire.

⁷ See Release No. 34-37478 (July 25, 1996), 61 FR 40268 (August 1, 1996), *infra* note 5.