

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 8, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 13th day of October, 1999.

For the Nuclear Regulatory Commission.

**Nageswaran Kalyanam,**

*Project Manager, Section 2, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 99–27209 Filed 10–18–99; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27086]

### Filings Under the Public Utility Holding Company Act of 1935, as Amended (“Act”)

October 12, 1999.

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 under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their view in writing by November 12, 1999, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, 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 should identify specifically the issues of

facts 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 November 12, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### The National Grid Group plc, et al. (70–9519)

The National Grid Group plc (“National Grid”), a public limited company incorporated under the laws of England and Wales, located at National Grid House, Kirby Corner Road, Coventry CV4 8JY, United Kingdom; National Grid (US) Holdings Limited, National Grid (US) Investments, National Grid (Ireland) 1 Limited, National Grid (Ireland) 2 Limited, National Grid General Partnership, and NGG Holdings, Inc. (“Holdings”), also located at National Grid House, Kirby Corner Road, Coventry CV4 8JY, United Kingdom, each of which is a subsidiary of National Grid (except for National Grid, collectively “Intermediate Companies”);<sup>1</sup> New England Electric System (“NEES”), a registered holding company; NEES’ subsidiaries (“NEES Subsidiaries”), New England Power Company, Massachusetts Electric Company, The Narragansett Electric Company, Granite State Electric Company, Nantucket Electric Company, New England Electric Transmission Corporation, New England Hydro-Transmission Corporation, New England Hydro-Transmission Electric Company, Inc., Vermont Yankee Nuclear Power Corporation, New England Hydro Finance Company, Inc., NEES Global, Inc., NEES Energy, Inc., All Energy Marketing Company, L.L.C., Texas Liquids, L.L.C., Texas-Ohio Gas, Inc., Granite State Energy, Inc., New England Power Service Company, Metro West Realty, L.L.C., 25 Research Drive, L.L.C., New England Energy, Inc., and Nexus Energy Software, Inc all located at 25 Westborough Drive, Westborough, Massachusetts 01582, (collectively, “Applicants”) have filed a joint application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 32 and 33 of the Act and rules 42, 43, 45, 46, and 54 under the Act.

National Grid, the Intermediate Companies, and NEES have filed an application-declaration (file no 70–9473) under the Act, requesting authority for the proposed acquisition by National Grid of all of the voting

securities of NEES, and NGG’s consequent indirect acquisition of the voting securities of the NEES Subsidiaries (“Merger”), as well as for certain related transactions (the “Merger Filing”).<sup>2</sup> As discussed more fully below, NEES and its subsidiaries, together with National Grid and the Intermediate Companies, now request authority to engage in a variety of financing transactions subsequent to the Merger.<sup>3</sup> In summary, NEES and its subsidiaries seek authority to extend, through May 31, 2003 (“Authorization Period”), the existing authority granted in certain Commission financing orders more particularly described below. In addition, Applicants seek authority for the following transactions through the Authorization Period: (a) external financings by National Grid; (b) intrasystem financings by the Intermediate Companies, NEES and the NEES Subsidiaries (“U.S. Subsidiaries”); (c) the payment by the NEES Subsidiaries of dividends out of capital or unearned surplus; (d) increases in the number of shares authorized by any U.S. Subsidiary with respect to any capital security<sup>4</sup> of the company, as well as alteration of the terms of any capital security, without further Commission authorization; (e) the formation of financing entities and the issuance by those entities of securities authorized to be issued and sold under the authority requested in this filing; and (f) the execution of a system tax allocation agreement.

Applicants state that the proceeds from the sale of securities in external financing transactions will be used for the acquisition, retirement or redemption of securities issued by National Grid or the U.S. Subsidiaries, without the need for prior Commission approval, and for necessary and urgent general and corporate purposes, including: (a) extension or renewal of Merger-Related Debt (as defined below),

<sup>2</sup> Immediately after the Merger, NEES will have been merged with and into NGG Holdings, LLC, with NEES as the surviving entity and then merged again into another to-be-formed LLC (which survives) which in turn will have been merged into NGG Holdings, Inc. with NGG Holdings, Inc. as the surviving entity. The term “NEES” refers to both NEES and NGG Holdings, Inc. as the surviving entity.

<sup>3</sup> In addition, NEES and Eastern Utilities Associates (“EUA”) have filed an application-declaration (file no. 70–9537) for NEES to acquire all of the outstanding common stock of EUA, including the indirect acquisition of EUA’s utility and nonutility subsidiaries. The consummation of the merger between NEES and EUA (“NEES/EUA Merger”) is not conditioned on, and is proceeding independently from, the closing of the Merger.

<sup>4</sup> Capital securities includes common stock, preferred stock, other preferred securities, options and/or warrants convertible into common or preferred stock, rights, and similar securities.

<sup>1</sup> National Grid’s other operations have been segregated under a newly-formed first-tier subsidiary company, National Grid Holdings Ltd., which will be a foreign utility company within the meaning of Section 33 of the Act.

(b) the financing, in part, of the capital expenditures of the National Grid system, (c) the financing of working capital requirements of the National Grid system, and (d) other lawful general corporate purposes. The proceeds of external financings will be allocated to companies in the National Grid System in various ways through the proposed intrasystem financing discussed below.

In addition, National Grid seeks authority to finance exempt wholesale generator ("EWG") and foreign utility company ("FUCO") investments and operations in an aggregate outstanding amount of up to fifty percent of its consolidated retained earnings at any one time during the Authorization Period. Further, National Grid seeks authority to use its ordinary shares (or associated American Depositary Shares ("ADSs") or American Depositary Receipts ("ADRs")) as consideration for acquisitions that are otherwise authorized under the Act and to provide shares for various award and shareholder investment programs.

Specifically, Applicants seek authority for the following:

#### 1. National Grid External Financing

National Grid proposes to issue equity and debt securities, in amounts that, except as noted below, would not aggregate more than \$4.0 billion outstanding at any time during the Authorization Period ("Aggregate Limitation"). These securities could include, but would not necessarily be limited to, ordinary shares, preferred shares, options, warrants, long- and short-term debt (including commercial paper), convertible securities, subordinated debt, bank borrowings and securities with call or put options. In addition, National Grid may also enter into currency and interest rate swaps as described below. In addition to the Aggregate Limitation, aggregate outstanding amounts of securities issued by National Grid would be subject to the limits for each type of security described below.<sup>5</sup>

Debt incurred to finance the Merger ("Merger-Related Debt") would be included in the Aggregate Limitation. Specifically, National Grid has entered into a fully committed bank facility with six banks providing for, among other things, up to \$2.750 billion in borrowings, in order to fund the acquisition and to provide other working capital needs for National Grid.

<sup>5</sup> Further, Applicants have proposed that certain other conditions be imposed in the requested order, relating to, among other things, the capitalization and liquidity of National Grid and certain U.S. Subsidiaries.

Drawings under this facility will have a maturity of three to five years.

#### a. Ordinary Shares

##### (1) General

National Grid's common equity consists of ordinary shares, with a par value of 11<sup>13</sup>/<sub>17</sub> pence each, that are listed on the London Stock Exchange. National Grid currently has a small number of ADSs in the U.S. which trade as ADRs. Prior to the consummation of the Merger, National Grid intends to establish a sponsored ADR program in the U.S. under which ADRs will be listed on a national stock exchange and registered under the Securities Act of 1933, as amended. As a result, National Grid will register under the Securities Exchange Act of 1934, as amended, and file the periodic disclosure reports required of a foreign issuer with the Commission. The request contained in this application with respect to ordinary shares refers to the issuance of ordinary shares directly or through the ADR program and, for purposes of this request, the ADSs and ADRs are not considered separate securities from the underlying ordinary shares. National Grid requests authority to issue up to \$500 million in equity<sup>6</sup> through the Authorization Period ("Equity Limitation").<sup>7</sup>

National Grid seeks authority to use its ordinary shares (or associated ADSs or ADRs) as consideration for acquisitions that are otherwise authorized under the Act. Among other things, transactions may involve the exchange of parent company equity securities for securities of the company being acquired in order to provide the seller with certain tax advantages. The National Grid ordinary shares to be exchanged may, among other things, be purchased on the open market under rule 42 or may be original issue. For purposes of the Aggregate Limitation, National Grid ordinary shares used to fund an acquisition of a company through the exchange of National Grid equity for securities being acquired, would be valued at market value based upon the closing price on the London

<sup>6</sup> This would include stock options or warrants that NGG may issue from time to time.

<sup>7</sup> National Grid currently has \$754 million (translated at the Noon Buying Rate on March 31, 1999 of \$1.61 for one pound) in aggregate principal amount outstanding of 4.25% exchangeable bonds that mature in 2008. These bonds are exchangeable on or prior to February 8, 2008, at the option of the holder, into common stock of National Grid. Should bondholders exchange their bonds prior to maturity, National Grid may issue up to 110 million additional shares of common stock. This would not be included in the Aggregate Limitation or the Equity Limitation.

Stock Exchange on the day before closing of the sale or issuance.

#### (2) Employee Benefit Plans

In addition to other general corporate purposes, the ordinary shares will be used to fund employee benefit plans. In addition to existing plans,<sup>8</sup> National Grid intends to issue ordinary shares to U.S. employees, following consummation of the Merger, through the introduction of the National Grid U.S. Employee Stock Purchase Plan (the "U.S. Plan"). The U.S. Plan, which is designed to qualify under Section 423 of the U.S. Internal Revenue Code of 1986, will enable U.S. employees to receive awards of National Grid shares. Following consummation of the Merger, National Grid may wish to adopt other plans to give investment opportunities, to provide retirement benefits, to facilitate deferral of compensation opportunities, and to motivate and retain key executives and other employees ("New Plans"). National Grid requests authority to issue ordinary shares to employees under the existing plans, the U.S. Plan and such additional plans (collectively, "Plans") that may be developed for the purposes stated above. All shares issued under the Plans will be subject to the Equity Limitation. Securities issued by National Grid under the Plans will be valued, if ordinary shares, at market value based on the closing price on the London Stock Exchange on the day before the award. Securities issued by National Grid to a plan that are not ordinary shares will be valued based on a reasonable and consistent method applied at the time of the award.

<sup>8</sup> National Grid currently maintains three employee benefit plans under which its employees may acquire equity interests in the company as part of their compensation. The first is the National Grid 1990 Savings Related Share Option Scheme, under which National Grid offers staff who take out special savings contracts the opportunity to purchase National Grid shares at a discount. The second is The National Grid Executive Share Option Scheme 1990 which is an executive share option plan for its senior executives. Share options have been granted to over 120 senior executives under this plan to a maximum aggregate level of four times base salary for executive directors and lower levels for other participants. Under the plan, options may be exercised after they have been held for a minimum period of three years provided that financial performance targets have been achieved. The third plan, The National Grid Share Match Plan 1996, requires executive directors of NGG to invest 25% of their annual bonuses, net of income tax, in NGG shares. Provided these shares are held for a minimum of three years, the company will provide additional shares equal to the pre-tax equivalent of the investment by the director. A small number of other senior executives may also, but are not required to, participate in the share match.

## b. Preferred Securities

National Grid proposes to issue preferred securities from time to time during the Authorization Period. The aggregate outstanding amount of preferred securities would not exceed \$100 million. Any issuance of preferred securities would have dividend rates or methods of determining dividend rates, redemption provisions, conversion or put terms and other terms and conditions as National Grid may determine at the time of issuance; provided, however, that the dividend rate on any preferred security of National Grid, when issued, will not exceed 500 basis points over that for comparable term U.S. treasury securities or government benchmark for the currency in which the preferred security is denominated.

## c. Debt

National Grid proposes to issue debt securities during the Authorization Period. These securities may include bank debt obligations, commercial paper, and convertible and nonconvertible bonds. Subject to the following conditions, any issuance of debt securities would have the designation, aggregate principal amount, maturity, interest rate(s) or method of determining interest rate(s), terms of payment of interest, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms and other terms and conditions as are deemed appropriate at the time of issuance. In addition to the Aggregate Limitation, aggregate outstanding amounts during the Authorization Period of any type of debt securities issued by National Grid would be further subject to the specific limitation described below:

Type of debt	Amount (billion)
Bank Debt .....	\$3.0
Commercial Paper .....	3.0
Convertible Bonds .....	1.0
Nonconvertible Bonds .....	3.0

The interest rate on debt financing of National Grid will not exceed 300 basis points over that for comparable term U.S. treasury securities or government benchmark for the currency in which the debt is denominated. The maturity of any debt security will not exceed fifty years.

Parent-level debt may be issued for the acquisition, retirement or redemption of securities issued by National Grid or the U.S. Subsidiaries, and for necessary and urgent general and corporate purposes, including the

servicing of the Merger-Related Debt, the financing of capital expenditures, the financing of working capital requirements, and other lawful general corporate purposes.

## d. Interest Rate Management Devices

In order to protect the National Grid System from adverse interest rate movements, the interest rate on the debt portfolio is managed through the use of fixed-rate debt, combined with interest rate swaps, options and option-related instruments with a view to maintaining a significant proportion of fixed rates over the medium term. National Grid states that these transactions will meet the criteria established by the Financial Accounting Standards Board in order to qualify for hedge accounting treatment or will so qualify under generally accepted accounting principles in the United Kingdom.

## e. Guarantees

National Grid requests authorization to enter into guarantees, obtain letters of credit, enter into guaranty-type expense agreements or other credit support arrangements ("Guarantees") with respect to the obligations of the U.S. Subsidiary Companies as may be appropriate to enable these system companies to carry on their respective authorized or permitted businesses. This credit support may be in the form of committed bank lines of credit. Guarantees entered into by National Grid would not be subject to the Aggregate Limitation, but instead would be subject to a separate \$2 billion limit ("NGG Guarantee Limitation"), based on the amount at risk.

## 2. U.S. Subsidiary Financings

### a. Existing Financing Authority

NEES and certain of its subsidiaries are currently authorized under various Commission orders to engage in certain financing transactions ("Existing Financing Authority"). Applicants request that the Commission extend the term of the Existing Financing Authority through the Authorization Period. The orders are described below.

By order dated October 29, 1997 (HCAR No. 26768), the Commission authorized Massachusetts Electric Company, Nantucket Electric Company, Narragansett Electric Company, New England Hydro-Transmission Electric Co., Inc., New England Power Company and New England Power Service Company (collectively, the "Borrowing Companies") to participate in the NEES money pool ("Money Pool") and to issue and sell commercial paper and

short-term, all through October 31, 2001. The Borrowing Companies were authorized to borrow money and/or issue commercial paper up to the following amounts: \$150 million for Massachusetts Electric Company, \$5 million for Nantucket Electric Company, \$100 million for Narragansett Electric Company, 25 million for New England Hydro-Transmission Electric Co., Inc., \$375 million for New England Power Company and \$12 million for New England Power Service Company. By order dated June 2, 1998 (HCAR No. 26881), the Commission increased the limits on short-term borrowings by New England Power Company from \$375 million to \$750 million.

By order dated October 9, 1996 (HCAR No. 26589), the Commission authorized NEES to issue and sell short-term notes in a principal amount of up to \$100 million at any one time outstanding through October 31, 2001. This authority was amended by order dated December 10, 1997 (HCAR No. 26793), which authorized NEES to borrow up to \$500 million. By orders dated March 25, 1998 and November 18, 1998 (HCAR Nos. 26849 and 26942), NEES was also authorized to issue up to two million shares of its common stock, through December 31, 2002, which would be used to acquire the stock or assets of one or more "energy-related companies," within the meaning of rule 58.

In addition to the request for an extension through the Authorization Period of the authority granted in these orders, Applicants request an extension through the Authorization Period of the authority granted in two other orders. Under one order, dated January 27, 1999 (HCAR No. 26969), NEES was authorized to invest up to \$50 million in one or more new special purpose subsidiaries that will acquire interests in office and warehouse space that would be leased to associate companies. Further, New England Power Company was authorized by order dated September 25, 1998 (HCAR No. 26918), to repurchase up to five million shares of its common stock from NEES through December 31, 2000.

### b. Intrasystem Non-Money Pool Financing

Each of the Intermediate Companies and NEES request authority to issue and sell securities to, and to acquire securities from, its immediate parent and subsidiary companies, respectively. In addition, each of the Intermediate Companies and NEES request authority to provide Guaranties to its direct and indirect subsidiaries. In no case would NEES or any Intermediate Company

borrow, or receive any extension of credit or indemnity from any of its subsidiaries. Securities issuances by NEES will be limited to issuances permitted by the Existing Financing Authority, as such authority may be extended through the Authorization Period by the order requested in this filing. Guaranties issued by NEES on behalf of a NEES subsidiary would not in the aggregate exceed \$500 million ("NEES Guarantee Limitation"), based on the amount at risk. Further, each NEES nonutility subsidiary requests authority to provide Guaranties on behalf of any other NEES nonutility subsidiary, to the extent not exempt under rule 45.

#### c. Money Pool

National Grid requests authority to substitute Holdings, the successor to NEES, as an investor in the Money Pool. In addition, Applicants request authority for National Grid, any Intermediate Company, and any newly formed or acquired or current nonparticipating NEES Subsidiary to participate in the Money Pool as lenders only.

#### 3. Payment of Dividends Out of Capital or Unearned Surplus

National Grid and NEES will account for the Merger using the purchase method of accounting. Under this method of accounting, the Merger will give rise to a substantial level of goodwill which, in accordance with the Commission's Staff Accounting Bulletin No. 54, Topic 5J ("Staff Accounting Bulletin"), will be "pushed down" to the NEES Subsidiaries and reflected as additional paid-in-capital in their financial statements. In addition, as a result of the push down of the goodwill, the retained earnings of NEES and the NEES Subsidiaries will be effectively reset to zero as if they were new companies, with the balance being reflected in paid-in capital. Accordingly, Applicants request authorization to pay dividends out of the additional paid-in-capital account up to the amount of NEES Subsidiaries' aggregate retained earnings just prior to the Merger and out of earnings before the amortization of the goodwill after the Merger.

#### 4. Approval of New Tax Allocation Agreement

Applicants request approval of an agreement for the allocation of consolidated tax among National Grid General Partnership and the NEES Group post-Merger (the "Tax Allocation Agreement"). Approval is necessary because the Tax Allocation Agreement

provides for the retention by National Grid General Partnership of certain payments for tax losses that it has incurred solely in connection with acquisition-related debt, rather than the allocation of these losses to subsidiary companies without payment as would otherwise be required by rule 45(c)(5).

#### 5. Changes in Capital Stock of Subsidiaries

Applicants state that the portion of an individual U.S. Subsidiary's aggregate financing to be effected through the sale of equity securities to its immediate parent during the Authorization Period may in some cases exceed the then authorized capital stock of the U.S. Subsidiary. In addition, the U.S. Subsidiary may choose to use other forms of capital securities.<sup>9</sup> Each U.S. Subsidiary requests authority to increase the amount or change the terms of any of its authorized capital securities, without additional Commission approval, as needed to accommodate the sale of additional equity.<sup>10</sup> The terms that may be changed include dividend rates, conversion rates and dates, and expiration dates. These proposed changes to the terms of and increases in the amounts of capital securities affect only the manner in which financing is conducted by the U.S. Subsidiaries and will not alter the terms of limits proposed in the application or those of the Existing Financing Authority.

#### 6. Financing Entities

Applicants seek authority for National Grid and the U.S. Subsidiary Companies to organize and acquire interests in new corporations, trusts, partnerships or other entities ("Financing Entities") created for the purpose of facilitating financings through their issuance to third parties of securities authorized under this filing or issued under an applicable exemption. Applicants also request authority for these financing entities to issue these securities to third parties in the event these issuances are not exempt under rule 52. In addition, Applicants request authority for the financing entities to transfer the proceeds of the financing to National Grid or any of the U.S. Subsidiaries. Applicants also request authority for the parent of a financing entity to provide

<sup>9</sup> As noted above, these securities include common stock, preferred stock, other preferred securities, options and/or warrants convertible into common or preferred stock, rights, and similar securities.

<sup>10</sup> Applicants request that the Commission reserve jurisdiction over changes to the capital stock of any U.S. Subsidiary that is not wholly-owned directly or indirectly by National Grid.

Guarantees with respect to that financing entity's obligations in connection with the securities it issues. Any amounts issued by such financing entities to third parties under this authorization will be included in the Aggregate Limitation. However, the underlying debt incurred to transfer the proceeds of those securities would not be included in the Aggregate Limitation and the parent Guarantee of those securities would not be included in the NGG Guarantee Limitation of the NEES Guarantee Limitation.

#### 7. EWG/FUCO-related Financing

As a general matter, National Grid intends to fund its FUCO activities at the level of its first-tier subsidiary, National Grid Holdings Ltd ("UK Holdings"), under which National Grid subsidiaries other than the U.S. Subsidiaries will be segregated.<sup>11</sup> However, under certain circumstances, it may be desirable from time to time for National Grid to provide some investment capital or credit support for FUCO acquisitions or operations. To that end, National Grid is seeking authority to finance EWG and FUCO investments and operations in an aggregate amount of up to fifty percent of its consolidated retained earnings at any one time outstanding during the Authorization Period.<sup>12</sup>

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

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 99-27184 Filed 10-18-99; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 3138]

### Office of the Deputy Assistant Secretary for Energy, Sanctions, and Commodities; Receipt of Application for a Presidential Permit for Pipeline Facilities To Be Constructed and Maintained on the Border of the United States

**AGENCY:** Department of State.

**SUMMARY:** The Department of State has received an application from City of Sumas, Washington requesting a Presidential permit, pursuant to Executive Order 11423 of August 16,

<sup>11</sup> In the Merger Filing, National Grid and NEES have asked that National Grid's investments in UK Holdings, which will claim status as a FUCO under rule 53, not be counted in the determination of "aggregate investment" as defined in the rule.

<sup>12</sup> Applicants state that National Grid cannot fully comply with some of the technical requirements of rule 53(a).