8. Applicants represent that the Merger is consistent with the policy of each Separate Account as set forth in its registration statement. The policy of each Separate Account is to invest in the Funds. As noted above, the Merger will result in no change to any Fund underlying the Glenbrook Separate Accounts. Each sub-account of the Separate Accounts will continue to invest in the same Fund as that sub-account invested in prior to the Merger. Accordingly, the assets underlying the Contracts will continue to be invested in accordance with the policies recited in the Separate Accounts' respective registration statements.

Conclusion

For the reasons summarized above, Applicants assert that the terms of the Merger, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of the Glenbrook Separate Accounts as recited in their registration statements, are consistent with the general purposes of the Act, and therefore meet the conditions for exemptive relief established by Section 17(b).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–3334 Filed 11–24–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27912]

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

November 19, 2004.

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 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 amendment(s) 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 application(s) and/or declaration(s) should submit their views in writing by December 13, 2004, 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 the 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 December 13, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Dominion Resources, Inc., et al. (70–10246)

Dominion Resources, Inc. (''DRI''), a registered holding company; Consolidated Natural Gas Company (''CNG''), a direct subsidiary of DRI and also a registered holding company, both of 120 Tredegar Street, Richmond, VA 23219; their public utility subsidiaries: Virginia Electric and Power Company (''Virginia Power''), P.O. Box 26666, 17th Floor, Richmond, VA, The Peoples Natural Gas Company (''Peoples''), 625 Liberty Avenue, Pittsburgh, PA 15222, The East Ohio Gas Company (''East Ohio''), 1201 E. 55th Street, Cleveland, OH 44103, and Hope Gas, Inc. (''Hope''), 445 West Main Street, Clarksburg, WV 26301; and the nonutility subsidiaries (as defined below) (collectively, the ''Applicants'') [1] have filed an application-declaration (''Application'') under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 12(f), 32, 33 and 34 of the Act and rules 43, 45, 46, 53 and 54 under the Act.

DRI's utility subsidiaries are: (1) Virginia Power, a regulated public utility engaged in the generation, transmission and distribution of electric energy in Virginia and northeastern North Carolina; (2) Peoples, a regulated public utility engaged in the distribution of natural gas in Pennsylvania; (3) East Ohio, a regulated public utility engaged in the distribution of natural gas in Ohio; and (4) Hope, a regulated public utility engaged in the distribution of natural gas in West Virginia (collectively, the ''Utility Subsidiaries''). Virginia Power is a direct subsidiary of DRI. Peoples, East Ohio and Hope are each direct subsidiaries of CNG.

DRI's nonutility activities are conducted through its nonutility subsidiaries (the ''Nonutility Subsidiaries''): (1) Dominion Energy, Inc. (''DEI'') which, through its direct and indirect subsidiaries (together with DEI, the ''DEI Companies''), is active in the competitive electric power generation business and in the development, exploration and operation of natural gas and oil reserve; [2] (2) direct and indirect subsidiaries of Virginia Power, which are engaged in fuel procurement for Virginia Power and other DEI subsidiaries, energy marketing and nuclear consulting services; and (3) direct and indirect subsidiaries of CNG which are engaged in all phases of the natural gas business other than retail distribution including transmission, storage and exploration and production. DRI and all of its subsidiaries are referred to as the ''DRI System.'' [3]

Requested Authorization

A. Summary of Transactions

By prior orders, the Applicants have been authorized to engage in various financing transactions, a money pool and a tax allocation agreement.[4] Applicants request authority to engage in the transactions set forth below during the period from the effective date of the order issued in this filing through the period ending December 31, 2007 (''Authorization Period''). This authority would replace and supersede all of the Applicants' current authorization under the prior orders. In particular, Applicants request:

(1) For DRI to increase its capitalization in the aggregate amount of $8.0 billion over and above its capitalization as of June 30, 2004, other than for refunding or replacing securities where capitalization either is not increased (or is increased solely by operation of call premiums, make whole premiums, or other offering expenses, collectively, ''Offering Expenses''), through the issuance and/or sale by DRI of common stock (including forward

[1] The addresses for these companies are shown on Exhibit J–1 of the Application.

[2] DEI also owns Dominion Wholesale, Inc., which provides inventory services to the DEI Companies and other subsidiaries of DRI. *See* HCAR No. 27772 (December 12, 2003).

[3] DRI has another nonutility subsidiary, Dominion Capital, Inc. (''DCI'' and, together with its subsidiaries, the ''DCI Companies''), which in the past, operated as a diversified financial services company with several operating subsidiaries in the commercial lending, merchant banking and residential lending businesses. Pursuant to an order dated January 28, 2003, HCAR No. 27644, DRI is obligated to dispose of its interest in the DCI Companies (other than certain interests in specified independent power projects) by December 31, 2006

[4] *See* HCAR No. 27112, December 15, 1999 (the ''Initial Financing Order''), HCAR No. 27406, May 24, 2001 (the ''Second Financing Order''), HCAR No. 27814, March 15, 2004 (the ''Third Financing Order''), HCAR No. 27634, January 3, 2003 (the ''Money Pool Order'') and HCAR No. 27845, May 13, 2004 (the ''Tax Allocation Order'').

sales), preferred securities, equity-linked securities, and long-term debt, whether directly or through one or more financing conduits;

(2) For DRI to issue short term debt, including, but not limited to the issuance of commercial paper or letters of credit in an aggregate amount up to $12.5 billion principal amount outstanding at any one time, provided, however, the authority in this subparagraph (2) will be reduced by the amount of securities issued and outstanding pursuant to the authority requested in subparagraph (1) above. This short-term debt authorization would enable DRI to support the DRI Money Pool and other short-term financing needs, which vary significantly during a calendar period and are not permanent capital increases;

(3) For DRI to provide guarantees, intra-system advances and other credit support for all of its subsidiaries, as described below, in an aggregate amount not to exceed $10 billion at any time outstanding; [5]

(4) For DRI to issue up to 50 million shares of stock for its direct stock purchase and dividend reinvestment plan, incentive compensation plans and other employee benefit plans as described below (these issuances to be excluded from the increase to DRI's capitalization described in subparagraph 1 above);

(5) For DRI to continue to operate the DRI Money Pool as described below;

(6) For CNG to increase its capitalization in the aggregate amount of $6.0 billion over and above its capitalization as of June 30, 2004, other than through refunding or replacing securities where capitalization is either not increased (or is increased solely by Offering Expenses) through the issuance and/or sale of common stock (including forward sales), preferred securities, equity-linked securities, and long-term debt, whether directly or through one or more financing conduits;

(7) For CNG to issue short-term debt, including, but not limited to, the issuance of commercial paper or letters of credit, in an aggregate amount of up to $9.25 billion principal amount outstanding at any one time, provided, however, the authority in this subparagraph (7) will be reduced by the amount of the securities issued and outstanding pursuant to the authority requested in subparagraph (6) above. This short-term debt authorization would enable CNG to support its short-term financing needs which vary significantly during a calendar year and are not permanent capital increases;

(8) For CNG to provide guarantees, intra-system advances and other credit support for all of its subsidiaries in an aggregate amount not to exceed $5.0 billion at any time outstanding;

(9) For DRI and CNG to use financing conduits or subsidiaries to issue or sell debt or equity securities on DRI's or CNG's behalf either by DRI or CNG owning these conduits or subsidiaries or guaranteeing the obligations of these conduits or subsidiaries as described below;

(10) For DRI and CNG to enter into transactions to manage interest rate credit and equity price risk with regard to the issuance of securities as described below;

(11) For DRI and CNG to use up to $300 million of the financing for development costs related to investments in Exempt Subsidiaries and Non-Exempt Subsidiaries as defined below;

(12) For the Utility Subsidiaries to issue short-term debt securities (including commercial paper) not to exceed the following amounts outstanding at any one time:

Utility subsidiary	Short-term debt amount
Virginia Power	$2.25 billion.
Peoples	$100 million.
East Ohio	$100 million.
Hope	$100 million.

(13) For the Utility Subsidiaries to enter into transactions to manage interest rate, credit and equity price risk with regard to the issuance of securities as described below;

(14) For the Nonutility Subsidiaries to pay dividends out of capital or unearned surplus;

(15) For DRI and CNG to change the capital stock of subsidiaries;

(16) For DRI and CNG to refund or replace existing securities where capitalization is not increased (or is increased solely by Offering Expenses) from that in place at June 30, 2004, all subject to the financing parameters set forth below;

(17) For DRI to manage and develop DRI system nonutility real estate as described below;

(18) For DRI and its subsidiaries to continue to operate under the terms of the Tax Allocation Agreement;

(19) For DRI to make investments in Exempt Wholesale Generators (''EWG'') and Foreign Utility Companies (''FUCO'') up to an aggregate investment of 100% of consolidated retained earning plus $8 billion; and

(20) For the issuance of intra-system advances and guarantees by DRI and/or CNG to or on behalf of its subsidiaries, by the Nonutility Subsidiaries to or on behalf of other Nonutility Subsidiaries and by the Utility Subsidiaries to or on behalf of the Utility Subsidiary's direct or indirect subsidiaries and others.

B. Parameters for Financing Authorization

The following general terms would be applicable as appropriate to the financing transactions requested to be authorized in the Application:

(1) *Common Equity Ratio.* DRI and CNG state that at all times during the Authorization Period, DRI, CNG and each of the Utility Subsidiaries would maintain common equity (as reflected in the most recent Form 10–K and Form 10–Q filed with the Commission) of at least 30% of its consolidated capitalization (common equity, preferred stock and long-term and short-term debt); provided that DRI and CNG would in any event be authorized to issue common stock to the extent otherwise authorized in this Application.

(2) *Investment Grade Ratings.* DRI, CNG and the Utility Subsidiaries would not issue any guarantees or other securities, other than common stock, member interests or securities issued for the purpose of funding money pool operations, unless: (i) The securities, if rated, are rated at least investment grade, (ii) all outstanding securities of the issuer that are rated, are rated investment grade, and (iii) all securities of DRI and CNG that are rated, are rated investment grade. For purposes of this provision, a security would be deemed to be rated investment grade if it is rated investment grade by at least one nationally recognized statistical rating organization, as defined in rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934, as amended (''Securities Exchange Act''). Applicants further request that the Commission reserve jurisdiction over the issuance of any of these securities at any time that the conditions set forth above are not satisfied.

(3) *Effective Cost of Money on Financings.* The effective cost of capital for long-term debt, short-term debt, preferred securities and equity linked securities would not exceed competitive market rates available at the time of issuance for securities having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality; provided that in no event would the

[5] Pursuant to the prior orders, DRI continues to maintain guarantee and credit support arrangements for the DCI Companies. However, DRI is disposing of its interest in the DCI Companies and these arrangements will diminish and terminate when the disposition process is completed.

effective cost of capital on (i) any long-term debt securities exceed 500 basis points over comparable term U.S. Treasury securities (''Treasury Security''); or (ii) any short-term debt securities exceed 500 basis points over the comparable term London Interbank Offered Rate (''LIBOR''). The dividend and distribution rate on any series of preferred securities or equity linked securities will not exceed at the time of issuance 700 basis points over a Treasury Security.

(4) *Maturity.* The final maturity of any long-term debt securities would not exceed 50 years. Preferred securities and equity linked securities would be redeemed no later than 50 years after issuance, except for preferred securities or equity-linked securities that are perpetual in duration.

(5) *Issuance Expenses.* The underwriting fees and commissions paid in connection with the issue, sale or distribution of securities pursuant to this Application would not exceed 7% of the principal or face amount of the securities being issued or gross proceeds of the financing.

(6) *Use of Proceeds.* The proceeds from the sale of securities issued by Applicants pursuant to this Application would be used for any lawful purposes, including: (i) The financing of the capital expenditures of the DRI System; (ii) the financing of working capital requirements of the DRI System; (iii) direct or indirect investment in companies or assets the acquisition of which are either exempt under the Act or by Commission Rule or have been authorized by the Commission; and (iv) general corporate purposes.

C. Description of Specific Types of Financing

(1) Equity Securities

(a) *Common Stock (including Equity-Linked Securities).* From time to time during the Authorization Period, subject to the limits and conditions specified in this Application, DRI seeks authority to issue and sell up to $8 billion additional shares of its common stock (i) through solicitations of proposals from underwriters or dealers, (ii) through negotiated transactions with underwriters or dealers, (iii) directly to a limited number of purchasers or to a single purchaser, and/or (iv) through agents. The price applicable to additional shares sold in any transaction would be based on several factors, including the current market price of the common stock and prevailing capital market conditions. Additionally, DRI may seek to enter into derivative transactions (including the writing of options) to sell securities to third parties. These transactions could occur in connection with forward sales of DRI's common stock.

DRI also seeks authority to issue and sell from time to time equity linked securities, including but not limited to contracts obligating holders to purchase from DRI and/or DRI to sell to the holders, a number of shares specified directly or by formula at an aggregate offering price either fixed at the time the Stock Purchase Contracts (''Stock Purchase Contracts'') are issued or determined by reference to a specific formula set forth in the Stock Purchase Contracts. The Stock Purchase Contracts may be issued separately or as part of units (''Stock Purchase Units'') consisting of a stock purchase contract and debt and/or preferred securities of DRI and/or debt obligations of non-affiliates, including U.S. Treasury securities, securing holders' obligations to purchase the common stock of DRI under the Stock Purchase Contracts. The Stock Purchase Contracts may require holders to secure their obligations in a specified manner.

DRI may also issue common stock as consideration, in whole or in part, for acquisitions of securities of businesses or the assets of these businesses, the acquisition of which (a) is exempt under the Act or by Commission rule or (b) has been authorized by prior Commission order issued to DRI, subject in either case to applicable limitations on total investments in any of these businesses. All common stock sales would be with terms and conditions, at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

From time to time during the Authorization Period, subject to the limits and conditions specified in this Application, CNG seeks authority to issue up to $6 billion additional shares of its common stock to DRI. The consideration for the stock would be based on the book value of the stock determined as of the quarter end immediately preceding the issuance.

(b) *Preferred Securities.* Subject to the limits and conditions specified in this Application, each of DRI and CNG also seeks authority to issue and sell preferred securities in one or more series. Preferred securities of any series (a) would have a specified par or stated value or liquidation value per security, (b) would carry a right to periodic cash dividends and/or other distributions, subject among other things, to funds being legally available, (c) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above the par or stated liquidation value, (d) may be convertible or exchangeable into common stock of DRI, (e) and may bear other further rights, including voting, preemptive or other rights, and other terms and conditions, as set forth in the applicable certificate of designation, purchase agreement and/or similar instruments governing the issuance and sale of the series of preferred securities.

Preferred securities may be issued in private or public transactions. With respect to private transactions, preferred securities of any series may be issued and sold directly to one or more purchasers in privately negotiated transactions or to one or more investment banking or underwriting firms or other entities who would resell the preferred securities without registration under the Securities Act of 1933, as amended (the ''Securities Act'') in reliance upon one or more applicable exemptions from registration. From time to time each of DRI and CNG may also issue and sell preferred securities of one or more series to the public either (i) through underwriters selected by negotiation or competitive bidding or (ii) through selling agents acting either as agent or as principal for resale to the public either directly or through dealers.

The liquidation preference, dividend or distribution rates, redemption provisions, voting rights, conversion or exchange rights, and other terms and conditions of a particular series of preferred securities, as well as any associated placement, underwriting, structuring or selling agent fees, commissions and discounts, if any, would be established by negotiation or competitive bidding and reflected in the applicable certificate of designation, purchase agreement or underwriting agreement, and other relevant instruments setting forth the terms.

(2) Debt Securities

(a) *Short-Term Notes.* Subject to the limits and conditions in this Application, each of DRI and CNG seeks authorization to make unsecured short-term borrowings from banks or other financial institutions, and when combined with issuance of common stock, preferred securities, equity-linked securities and long-term debt not to exceed $12.5 billion with respect to DRI and $9.25 billion with respect to CNG. The borrowings would be unsecured and evidenced by (1) ''transactional'' promissory notes to be dated the date of the borrowings and to mature not more than one year after the date thereof or (2) ''grid'' promissory notes evidencing all outstanding borrowings from the respective lender, to be dated as of the date of the first borrowing evidenced

thereby, with each borrowing maturing not more than one year thereafter. The notes may or may not be prepayable, in whole or in part, with or without a premium in the event of prepayment. Each of DRI and CNG states that, at any given time, some or all of its outstanding short-term notes would be issuable in connection with the establishment of back-up credit facilities to support its commercial paper program but that these credit facilities would not be drawn upon and no borrowings would occur under these facilities, except in certain limited circumstances at which time obligations under the related commercial paper would be paid. Thus, short-term notes issued in connection with the establishment of commercial paper back-up facilities backstop and duplicate commercial paper issuances and should not be deemed to be borrowings under DRI's or CNG's, as applicable, financing authorization unless and until an actual borrowing occurs under the related credit facility. Any other result would ''double count'' DRI's and CNG's, as applicable, actual financial obligation. Additionally, with respect to any ''grid'' notes issued by DRI or CNG, as applicable, only the amount actually outstanding at any given time shall be considered a borrowing.

(b) *Commercial Paper.* Subject to the limits and conditions in this Application, each of DRI and CNG also seeks authority to issue and sell commercial paper through one or more dealers or agents or directly to purchasers.

Each of DRI and CNG proposes to issue and sell the commercial paper at market rates with varying maturities not to exceed 270 days. The commercial paper would be in the form of book-entry unsecured promissory notes with varying denominations of not less than $1,000 each. In commercial paper sales effected on a discount basis, no commission or fee would be payable; however, the purchasing dealer would re-offer the commercial paper at a rate less than the rate offered to the DRI or CNG, as applicable. The discount rate to dealers would not exceed the maximum market clearing discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and the same maturity. The purchasing dealer would re-offer the commercial paper in a manner as not to constitute a public offering within the meaning of the Securities Act.

(c) *Long-Term Notes.* Subject to the limits and conditions in this Application, each of the DRI and CNG also seeks authority to issue and sell unsecured long-term debt securities (''Notes'') in one or more series.

Notes of any series may be either senior or subordinated obligations of DRI or CNG, as applicable. Notes of any series (a) would have maturities of greater than one year, (b) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above the principal amount, (c) may be entitled to mandatory or optional sinking fund provisions, and (d) may be convertible or exchangeable into common stock of DRI or CNG, as applicable. Interest accruing on Notes of any series may be fixed or floating or ''multi-modal'' (where the interest is periodically reset, alternating between fixed and floating interest rates for each reset period, with all accrued and unpaid interest together with interest becoming due and payable at the end of each reset period, or at maturity). Notes may be issued under one or more indentures to be entered into between DRI or CNG, as applicable, and financial institutions acting as trustee(s); supplemental indentures may be executed in respect of separate offerings of one or more series of Notes.

Notes may be issued in private or public transactions. With respect to the former, Notes of any series may be issued and sold directly to one or more purchasers in privately negotiated transactions or to one or more investment banking or underwriting firms or other entities who would resell the Notes without registration under the Securities Act in reliance upon one or more applicable exemptions from registration. From time to time each of DRI and CNG may also issue and sell Notes of one or more series to the public either (i) through underwriters selected by negotiation or competitive bidding or (ii) through selling agents acting either as agent or as principal for resale to the public either directly or through dealers.

The maturity dates, interest rates, redemption and sinking fund provisions, and conversion features, if any, with respect to the Notes of a particular series, as well as any associated placement, underwriting, structuring or selling agent fees, commissions and discounts, if any, would be established by negotiation or competitive bidding and reflected in the applicable purchase agreement or underwriting agreement setting forth the terms.

(3) Financing Conduits

In addition to issuing any of the foregoing debt or equity securities directly, DRI and CNG request approval to form one or more entities for the primary purpose of issuing and selling any of the foregoing securities, lending, dividending or otherwise transferring the proceeds to DRI or CNG, as applicable, or an entity designated by DRI or CNG, and engaging in incidental transactions, subject to the limits and conditions of this Application.

The proposed entities would comprise one or more financing entities (each, a ''Financing Entity'') and one or more special-purpose entities (each, a ''Special-Purpose Entity,'' and together with Financing Entities, ''Financing Conduits''). In either case the entities' businesses may include issuing and selling securities on behalf of, or to benefit, DRI or CNG. Any securities issued by the Financing Conduits may be guaranteed by DRI and/or CNG, either directly or indirectly.

DRI or CNG would acquire a portion of the outstanding shares of common stock or other equity, membership or controlling interests of the Financing Entity for an amount not less than the minimum required by applicable law. A primary function of the Financing Entity would be effecting financing transactions with third parties for the benefit of DRI or CNG and their respective subsidiaries. As an alternative in a particular instance to DRI or CNG directly issuing debt or equity securities, or through a Special-Purpose Entity, DRI or CNG may determine to use a Financing Entity as the nominal issuer of the particular debt or equity security. In that circumstance, the participating Applicant may provide a guarantee or other credit support with respect to the securities issued by the Financing Entity, the proceeds of which would be lent, dividended or otherwise transferred to the applicable Applicant or an entity designated by the Applicant.

One of the primary strategic reasons behind the use of a Financing Entity would be to segregate financings for the different businesses conducted by DRI or CNG, distinguishing between securities issued by the DRI or CNG to finance their investments in nonutility businesses from those issued to finance their investments in the core utility business. A separate Financing Entity may be used by DRI or CNG with respect to different types of nonutility businesses. DRI or CNG would use Special-Purpose Entities in connection with certain financing structures for issuing debt, preferred, equity-linked or equity securities, in order to achieve a lower cost of capital, or incrementally greater financial flexibility or other benefits, than would otherwise be the case.

(4) Interest Rate, Credit and Equity Price Risk Management

In connection with the issuance and sale of securities, each of DRI, CNG and the Utility Subsidiaries requests authority to manage equity price (with regard to DRI common stock), credit and interest rate risk through the entering into, purchasing and selling of various risk management instruments commonly used in today's capital markets, such as interest rate, credit and equity swaps, caps, collars, floors, options, forwards, futures, forward issuance agreements, call spread options, the sale and/or purchase of various call or put options or warrants and similar products designed to manage market, price, rate or credit risks (collectively ''Hedging Instruments'').

Each of DRI, CNG, and the Utility Subsidiaries, as applicable, would enter into Hedging Instruments (either directly or indirectly through subsidiaries) pursuant to agreements with counterparties that are rated at least investment grade, *i.e.*, who, at the date of execution of the agreement with DRI, CNG, or a Utility Subsidiary, are rated (or have a parent issuing a guaranty that is rated) at least investment grade by at least one nationally recognized statistical rating organization, as defined in rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act (''Authorized Counterparties''). The derivative transactions would be for fixed periods and the notional principal amount would not exceed the principal amount of the underlying security except to the extent necessary to adjust for differing price movements between the underlying and hedged securities or to allow for the fees related to the transaction. None of DRI, CNG or the Utility Subsidiaries would engage in ''leveraged'' or ''speculative'' derivative transactions pursuant to the authority granted under this Application.

In addition, each of DRI, CNG and the Utility Subsidiaries requests authorization to enter into interest rate and credit hedging transactions with respect to anticipated debt offerings (the ''Anticipatory Hedges''), subject to certain limitations and restrictions. The Anticipatory Hedges would only be entered into with Authorized Counterparties, and would be utilized to fix and/or limit the interest rate risk associated with any new issuance through (i) a forward sale of exchange-traded Hedging Instruments (a ''Forward Sale''), (ii) the purchase of put options on Hedge Instruments (a ''Put Options Purchase''), (iii) a Put Options Purchase in combination with the sale of call options Hedging Instruments (a ''Zero Cost Collar''), (iv) transactions involving the purchase or sale, including short sales, of Hedging Instruments, or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, structured notes, caps and collars, appropriate for the Anticipatory Hedges. Anticipatory Hedges may be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade or New York Mercantile Exchange, the opening of over-the-counter positions with one or more counterparties (''Off-Exchange Trades'') or a combination of On-Exchange Trades and Off-Exchange Trades. DRI, CNG, or the Utility Subsidiary would determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. DRI, CNG or the Utility Subsidiary may decide to lock in interest rates and/or limit its exposure to interest rate increases.

Fees and commissions charged or required in connection with any interest rate, credit or equity price risk management agreement would not exceed the then current market level.

DRI and CNG represent that each would comply with Statement of Financial Accounting Standards 133 (''SFAS''), SFAS 138 or other standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board (''FASB''). DRI and CNG state that Hedge Instruments and Anticipatory Hedges would qualify for hedge accounting treatment under the current FASB standards in effect and as determined at the date Hedging Instruments or Anticipatory Hedges are entered into.

(5) Guarantees

From time to time through the Authorization Period, DRI requests authority to guarantee, issue and/or obtain letters of credit, enter into financing arrangements and otherwise provide credit support (each, a ''DRI Guarantee'') in respect of the debt or other securities or obligations of any or all of DRI's subsidiary or associate companies (including any formed or acquired at any time during the Authorization Period), and otherwise to further the business of DRI, provided that the total amount of Guarantees at any time outstanding does not exceed $10 billion (the ''DRI Guarantee Limit''), and provided further, that (i) any DRI Guarantees of EWGs and FUCOs shall also be subject to DRI's limitation on investment in EWGs and FUCOs; (ii) any Guarantees of energy-related companies within the meaning of Rule 58 (''Rule 58 Companies'') shall also be subject to the aggregate investment limit of Rule 58; and (iii) any security guaranteed by DRI shall itself be in compliance with the financing parameters authorized in this Application or be exempt. The terms and conditions of any DRI Guarantees, and the underlying liabilities covered, would be established at arm's-length based upon market conditions.

From time to time through the Authorization Period, CNG requests authority to guarantee, issue and/or obtain letters of credit, enter into financing arrangements and otherwise provide credit support (each, a ''CNG Guarantee'', and together with DRI Guarantees, collectively the ''Guarantees'' and individually, a ''Guarantee'') in respect of the debt or other securities or obligations of any or all of CNG's subsidiary or associate companies (including any formed or acquired at any time during the Authorization Period), and otherwise to further the business of CNG, up to $5 billion (the ''CNG Guarantee Limit'') on the same terms and conditions as specified above for DRI.

DRI and CNG may charge a fee to its subsidiaries for each Guarantee provided on their behalf that is not greater than cost, if any, of obtaining from any unrelated third party the liquidity necessary to perform the guarantee for the period of time the Guarantee remains outstanding.

In the event that DRI or CNG issues any debt or equity securities authorized in this Application by means of any Financing Conduits, DRI or CNG may provide a Guarantee in respect of the payment and other obligations of the Financing Conduits under the securities issued by it. Given that any securities nominally issued by any Financing Conduits are in substance securities issued by DRI or CNG itself, any securities issued by Financing Conduits would count dollar-for-dollar against DRI's or CNG's financing authority. However, DRI and CNG submit that any Guarantees of securities of Financing Conduits should be excluded entirely from the DRI or CNG Guarantee Limit, as applicable, since inclusion would amount to ''double counting,'' in effect penalizing DRI or CNG for using Financing Conduits.

As stated above, DRI and CNG request the authority to extend its credit through entry into performance guarantees that will be a part of the definition of ''Guarantee''. Such performance Guarantees may be in

support of the obligations of affiliates undertaking the development or operation of projects authorized under the Act. However, performance Guarantees and certain other Guarantees may be in support of obligations that are not capable of exact quantification. In such cases, DRI and CNG state that each will determine the exposure under such Guarantees for purposes of measuring compliance with the DRI Guarantee Limit or CNG Guarantee Limit, as applicable, by appropriate means, including estimation of exposure based on loss experience or projected potential payment amounts. If appropriate, DRI and CNG state that these estimates will be made in accordance with generally accepted accounting practices.

DRI and CNG also request authority to guarantee the obligations of unrelated third parties (''Third Party Guarantees''). From time to time, it is appropriate for DRI or CNG or one of their subsidiaries to guarantee, as part of their normal business activities, the obligations of a third party with whom DRI or CNG or their subsidiary has a business relationship. For example, a subsidiary of DRI or CNG may enter into a joint venture to construct certain power generation assets where such subsidiary manages the power generation assets on behalf of the joint venture and DRI or CNG would guarantee the performance of such subsidiary. Third Party Guarantees will be Guarantees only of long- or short-term indebtedness or Guarantees of performance of contractual obligations of such third parties with whom DRI or CNG or their subsidiary has, or had, a business relationship.

D. DRI Money Pool

DRI, CNG and the subsidiaries listed on Exhibit B–2 to the Application (the ''Participants'') request authorization to operate in a system money pool (the ''DRI Money Pool''). The DRI Money Pool would be operated in the same manner as previously authorized by the Commission. The only change to be made to the DRI Money Pool is the list of Participants.[6]

DRI, CNG and the Participants would invest their surplus funds in the DRI Money Pool, and the Participants would borrow funds from the DRI Money Pool, provided that, with respect to each of the CNG utility companies (The East Ohio Gas Company, Hope Gas, Inc. and The Peoples Natural Gas Company), outstanding borrowings from the DRI Money Pool shall not exceed $750 million at any one time.

DRI and CNG would not borrow from the DRI Money Pool, but may be the ultimate providers of funds to the DRI Money Pool as needed. DRI and/or CNG would obtain the funds to invest in the DRI Money Pool (i) from internally generated funds, (ii) under the prior orders, and/or (iii) any other current financing authorizations or exemptions that may be available to DRI or CNG. Dominion Resources Services, Inc. (''DRI Services'') would administer the DRI Money Pool on an ''at cost'' basis. In providing funds to DRI Money Pool Participants, DRI and CNG would give preference to the needs of the Utility Subsidiaries that are Participants. DRI would report any default under any external loan agreement within ten (10) days of the occurrence in a filing with the Commission. The filing would describe how the default under the loan agreement would affect preceding representations of preference to the needs of the Utility Subsidiary Participants.

Funds in the DRI Money Pool would be held in two separate accounts—one for public utility company participants (''Account A'') and another for the Participants which are not public utility companies (''Account B''). Account A funds would not be loaned to non-public utility company Participants. Account B funds may be loaned to public utility company Participants provided that the interest charged is not greater than the cost of borrowing the funds to DRI or CNG, as applicable. A list of the Account A and Account B participants is filed as Exhibit B–2 to the Application. Participants that are EWGs, FUCOs, or exempt telecommunication companies (''ETC'') shall be permitted to loan funds to Account A or Account B, but shall not be permitted to borrow funds from either Account A or Account B.

For each of Account A and Account B Participants, respectively, DRI Services would maintain a record reflecting the Participant's daily balance. The record would indicate the amount of the Participant's lending, investment or borrowing balance, as the case may be, as well as the Participant's share of interest and investment income and interest owed, if any.

The purpose of the DRI Money Pool is to provide the Participants with internal and external funds and to invest surplus funds of DRI and the Participants in short-term money market instruments. The DRI Money Pool would offer the Participants lower short-term borrowing costs due to the elimination of banking fees, a mechanism to earn a higher return on interest from surplus funds that are loaned to other Participants, and decreased reliance on external funding sources.

Proceeds of any short-term borrowings from the DRI Money Pool by the Participants may be used (i) for the interim financing of construction and capital expenditure programs, (ii) for working capital needs, (iii) for the repayment or refinancing of debt, (iv) to meet unexpected contingencies, payment and timing differences and cash requirements, (v) to otherwise finance the borrower's own business, and (vi) for other lawful general purposes.

The daily interest rate on loans from the DRI Money Pool and on all deposits of cash in the DRI Money Pool would equal the effective weighted average rate of interest on DRI's outstanding commercial paper and/or revolving credit borrowings. If no DRI borrowings are outstanding on the date of any outstanding loan, then the interest rate would be the Federal Funds' effective rate of interest as quoted daily by the Federal Reserve Bank of New York. The rate to be used for weekends and holidays would be the rate on the prior business day. Funds not required by the DRI Money Pool to make loans to Participants or to repay borrowings incurred to provide funds to Participants would ordinarily be invested in one or more short-term investments including: (i) Obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities; (ii) commercial paper; (iii) certificates of deposit; (iv) bankers' acceptances; (v) repurchase agreements; (vi) tax exempt notes; and (vii) other investments that are permitted by Section 9(c) of the Act and Rule 40 promulgated under the Act. The interest income and investment income earned on loans and investments of surplus funds would be allocated among the Participants in the DRI Money Pool in accordance with the proportion each Participant's contribution of funds bears to the total amount of funds in the DRI Money Pool.

Each Participant receiving a loan through the DRI Money Pool would be required to repay the principal amount of the loan, together with all accrued

[6] The following Participants have been deleted from the DRI Money Pool agreement from the original Money Pool Order: Elwood II Holding, LLC, Elwood III Holdings, LLC, Kincaid Generation, LLC, Dominion Metering Services, Inc., and CNG Pipeline Company. No new Participants have been added to Account A of the DRI Money Pool. The following Participants have been added to Account B of the DRI Money Pool: NE Hub Partners L.L.C., Farmington Properties, Inc., Dominion Capital, Inc., Dominion Technical Solutions, Inc., Virginia Power Nuclear Services, Inc., Virginia Power Energy Marketing, Inc., Virginia Power Services Energy Corp., Inc., CNG Coal Company, Dominion Member Services, Inc., Tioga Properties, LLC, Dominion Cove Point, Inc., and Dominion South Pipeline, LP.

interest, on demand. Interest on outstanding loans would be paid to the DRI Money Pool monthly. All loans made through the DRI Money Pool could be repaid by the borrower without premium or penalty.

All terms and conditions governing the operations of, and the participation by DRI, CNG and the Participants in, the DRI Money Pool are contained in a written agreement in the form as provided in Exhibit B–1 attached to the Application. DRI states that such agreement will be the same as approved in the Money Pool Order, with the inclusion of the restrictions on borrowing for EWGS, FUCOs and ETC as set forth above.

E. Investments in Nonutility Subsidiaries

DRI and CNG request authority to engage in certain activities described below relating to EWGs, FUCOs, ETCs, and Rule 58 Companies (collectively, ''Exempt Subsidiaries'') and other nonutility subsidiaries approved by the Commission (collectively, ''Non-Exempt Subsidiaries''). To the extent any of these activities described in this Application constitute the providing of goods, services or construction from one associate company to another in the DRI system which would be subject to section 13 of the Act, these goods, services or construction would be provided at cost as defined in rules 90 and 91 unless an exemption from the at cost requirement is available under the Act or otherwise approved in the Commission's order in this matter.

DRI and CNG request authority to make additional investments in Exempt Subsidiaries and Non-Exempt Subsidiaries in the form of purchases of common stock and other securities, capital contributions, loans or open account advances, guarantees, or any combination of the foregoing. Direct or indirect investments by DRI and CNG in Exempt Subsidiaries and Non-Exempt Subsidiaries would be subject to the limitations applicable to investments for the subsidiaries.

In connection with existing and future nonutility businesses, DRI and CNG would engage directly or through subsidiaries in preliminary development activities (''Development Activities'') and administrative and management activities (''Administrative Activities'') associated with the investments. Development Activities would be limited to: due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal ''hosts,'' fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and other preliminary activities as may be required in connection with the purchase, acquisition or construction of facilities or the securities of other companies. DRI and CNG propose to expend directly or through Exempt Subsidiaries or Non-Exempt Subsidiaries up to $300 million in the aggregate outstanding at any time during the Authorization Period on all the Development Activities. Amounts expended in the development of projects that result in an investment in an Exempt Subsidiary or a Non-Exempt Subsidiary would not count against the limitation on expenditures for Development Activities. Administrative Activities would include ongoing personnel, accounting, engineering, legal, financial and other support activities necessary to manage Development Activities and investments in subsidiaries.

DRI and CNG request authority to acquire directly or indirectly the securities of one or more corporations, trusts, partnerships, limited liability companies or other entities (collectively, ''Intermediate Subsidiaries''), which would be organized exclusively for the purpose of acquiring, holding and/or financing the acquisition of the securities of or other interest in one or more Exempt Subsidiaries or Non-Exempt Subsidiaries, provided that Intermediate Subsidiaries may also engage in Development Activities and Administrative Activities (collectively, the ''Activities''). To the extent the transactions are not exempt from the Act or otherwise authorized or permitted by rule, regulation or order of the Commission, DRI and CNG request authority for Intermediate Subsidiaries to engage in the Activities described above. To the extent that DRI and CNG provide funds directly or indirectly to an Intermediate Subsidiary which are used for the purpose of making an investment in any Exempt Subsidiary or Non-Exempt Subsidiary, the amount of the funds would be included in DRI's ''aggregate investment'' in these entities, as calculated in accordance with rule 53 or rule 58, as applicable.

F. Direct Investment, Incentive Compensation Plans and Other Employee Benefit Plans

DRI requests authority, from time to time during the Authorization Period, to issue and/or acquire in open market transactions or by some other method which complies with applicable law and Commission interpretations then in effect up to 50 million shares of DRI common stock under DRI's direct stock purchase and dividend reinvestment plan, certain incentive compensation plans and certain other employee benefit plans described below.

(1) Dominion Direct Investment

DRI maintains Dominion Direct Investment (''Dominion Direct''), a direct stock purchase plan with a dividend reinvestment feature. The purpose of Dominion Direct is to provide eligible participants with a convenient and economical way to purchase DRI common stock and to increase ownership in DRI by reinvesting dividends and/or making optional monthly investments. Current shareholders of DRI and new investors residing in the U.S. who would like to become DRI shareholders are eligible to participate. Foreign citizens are eligible to participate as long as their participation would not violate any laws in their home countries.

At DRI's discretion, shares of DRI common stock purchased under Dominion Direct would be either newly issued or purchased on the open market by an independent agent selected by the Dominion Direct administrator. The decision whether shares are to be purchased directly from DRI or in the open market would be based on DRI's need for common equity and other factors considered relevant by DRI. Any determination by DRI to change the manner in which shares would be purchased for Dominion Direct, and the implementation of any change, would comply with applicable law and Commission interpretations then in effect.

Net proceeds from the sale of newly issued shares of DRI common stock would be added to the general corporate funds of DRI and would be used to meet its capital requirements and the capital requirements of its subsidiaries. DRI would not receive any proceeds from shares acquired in the open market.

(2) Incentive Compensation Plans

DRI currently maintains the DRI Incentive Compensation Plan (the ''DRI Incentive Compensation Plan'') in which employees of DRI's subsidiaries and employees and certain outside directors of DRI participate.

The DRI Incentive Compensation Plan is administered by a committee comprised of DRI outside directors. All employees of DRI and its subsidiaries are eligible to receive incentive awards under the DRI Incentive Compensation Plan if the committee determines that the employee has contributed, or can be expected to contribute, significantly to his or her employer. The committee has the power and complete discretion to select eligible employees and outside directors to receive awards, the type of awards granted and the terms and conditions of the awards.

As of June 30, 2004 there were 7,953,009 shares available under the DRI Incentive Compensation Plan and the annual limit of awards to any one individual is 1.5 million shares.

The following types of awards may be granted under the DRI Incentive Compensation Plan: Performance grants; restricted stock; goal-based stock; stock options; and stock appreciation rights.

Performance Grants. Performance grants are subject to the achievement of pre-established performance goals comprised of objective and quantifiable performance criteria. The committee sets target and maximum amounts payable under each performance grant. The employee receives appropriate payments at the end of the performance period if the performance goals (and other terms and conditions of the award) were met. The actual payments under a performance grant can be cash, DRI common stock, or both. Performance grants are administered to comply with Section 162(m) of the Internal Revenue Code of 1986, as amended (the ''Code'').

The aggregate maximum cash amount payable pursuant to a performance grant to any employee in any year cannot exceed 0.5% of DRI's consolidated operating income, before taxes and interest. The committee must make performance grants prior to the 90th day of the period for which the performance grants relates or the completion of 25% of the period.

Restricted Stock Awards. Restricted stock awards consist of shares of DRI common stock which are subject to certain terms and conditions. Recipients are not able to sell or transfer restricted stock until the restrictions stated in the award agreement have been met. The restricted stock is forfeited if the applicable terms and conditions are not met.

Goal-Based Stock Awards. Goal-based stock is DRI common stock subject to performance goals. The stock is not issued to the employee until the committee certifies that the performance goals (and any other terms and conditions) have been met.

Stock Options and Stock Appreciation Rights. Stock options may be granted to eligible employees subject to terms and conditions established by the committee. The exercise price of an option must be at least 100% of the fair market value of DRI common stock on the date that the option is granted. Options may be either incentive stock options or nonqualified stock options. Stock appreciation rights may be granted on all or any part of an option, and are subject to the terms and conditions established by the committee. Stock appreciation rights also may be granted separately. A stock appreciation right entitles the employee to receive an amount equal to the excess of (i) the fair market value on the date of exercise of stock covered by the surrendered stock appreciation right over (ii) the exercise price of the stock on the date the stock appreciation right was granted. The award can be paid in stock or cash, or both.

When granting incentive awards, the committee can allow the awards to become fully exercisable upon a change in control. Employees cannot sell, transfer or pledge their interest in performance grants and goal-based stock awards. Employees cannot sell, transfer or pledge shares of restricted stock until the stock becomes unrestricted. Options and stock appreciation rights may be transferred by a participant according to the terms and conditions for the awards.

The DRI board of directors can amend or terminate the DRI Incentive Compensation Plan; however, shareholder approval is required of amendments that would (i) increase the number of shares of DRI common stock that is reserved and available for issuance under the DRI Incentive Compensation Plan; (ii) materially change or impact which employees are eligible to participate in the DRI Incentive Compensation Plan; or (iii) materially change the benefits that eligible employees may receive under the DRI Incentive Compensation Plan. Notwithstanding the foregoing, the DRI board can amend the DRI Incentive Compensation Plan as necessary and without shareholder approval to ensure that the DRI Incentive Compensation Plan continues to comply with Section 162(m) of the Code and Rule 16b-3. The DRI Incentive Compensation Plan would terminate at the close of business on December 31, 2006 unless the DRI board of directors terminates the DRI Incentive Compensation Plan prior to that date.

(3) Other Benefit Plans

In addition to the plans described above, DRI has plans that provide for the issuance of shares of common stock. For example, DRI maintains the DRI Hourly Employee Savings Plan, the Dominon Salaried Savings Plan and certain CNG employee savings plans (the ''DRI 401(k) Plans''). The DRI 401(k) Plans allow participating employees to elect to defer a portion of their compensation and have the funds invested in designated investment media selected by participants, including a common stock fund of the sponsoring company.

G. Payment of Dividends Out of Capital or Unearned Surplus by Nonutility Subsidiaries

DRI and CNG seek authority, on behalf of every direct or indirect Nonutility Subsidiary, that the companies be permitted to pay dividends with respect to the securities of the companies and/or acquire, retire or redeem any securities of the companies that are held by an associated company or affiliate, from time to time, through the Authorization Period, out of capital or unearned surplus, to the extent permitted under applicable corporate law, provided that no Nonutility Subsidiary would declare or pay any dividend out of capital or unearned surplus unless it: (i) Has received excess cash as a result of the sale of its assets, (ii) has engaged in a restructuring or reorganization; and/or (iii) is returning capital to an associate company. Further, no Nonutility Subsidiary that derives any material part of its revenues from the sale of goods, services or electricity to Utility Subsidiaries would declare or pay any dividend out or capital or unearned surplus. DRI and CNG request that the Commission reserve jurisdiction over the payment of such dividends out of capital or unearned surplus when any of these conditions are not met.

H. Changes in Capital Stock of Subsidiaries

The portion of an individual subsidiary's aggregate financing to be effected through the sale of stock to DRI or other immediate parent company during the Authorization Period pursuant to Rule 52 and/or pursuant to an order issued in this proceeding cannot be ascertained at this time. It may happen that the proposed sale of capital securities may in some cases exceed the then-authorized capital stock of the subsidiary. In addition, the subsidiary may choose to use capital stock with no par value or receive a

capital contribution without issuing capital stock. Also, a wholly-owned subsidiary may wish to engage in a reverse stock split to reduce franchise taxes. As needed to accommodate these proposed transactions, Applicants request authority to change the terms of any wholly-owned subsidiary's authorized capital stock capitalization by an amount deemed appropriate by DRI or other intermediate parent company in the instant case. A subsidiary would be able to change the par value, or change between par value and no-par stock, without additional Commission approval. Any action by a Utility Subsidiary would be subject to and would only be taken upon the receipt of any necessary approvals by the state commission(s) in the state or states in which the Utility Subsidiary is incorporated and doing business. DRI states that in the event that proxy solicitations are necessary with respect to any change to a subsidiary's corporate structure or internal corporate reorganizations, DRI would seek the necessary Commission approvals, under section 6(a)(2) and 12(e) of the Act, through the appropriate filling of a declaration.

I. Investment and Development of Nonutility Real Property

DRI, on behalf of itself and its subsidiaries, requests authorization to lease, sell or otherwise grant third persons access to or rights in excess or unwanted real estate and to permit the extraction or harvesting of mineral or other resources contained on or in that real estate.

DRI also requests authority to either designate an already existing nonutility subsidiary or form one or more new nonutility subsidiaries in which the real-estate activities of the DRI System would be centralized, so that it could act as agent for DRI System companies for these activities, manage the real estate portfolio of DRI and its associate companies, market excess or unwanted real estate and facilitate the development of nonutility property on or in DRI System real estate. The net proceeds realized from any sale or from development of nonutility property would be credited to the company that owns the subject asset. Services performed for associate companies would be provided at cost in compliance with Rules 90 and 91. No DRI company would acquire any real estate in connection with its activities pursuant to this authorization.

J. Tax Allocation Agreement

DRI also requests approval to continue to operate under an agreement dated May 13, 2004 for the allocation of consolidated income tax among DRI and its subsidiaries (''Tax Allocation Agreement''). DRI requires the continuation of the Tax Allocation Agreement for the retention by DRI of certain payments for tax losses incurred from time to time, rather than the allocation of those losses to subsidiaries without payment as would otherwise be required by Rule 45(c)(5). As a result of its financing, DRI would be creating tax credits that are non-recourse to the subsidiaries. DRI states that the Tax Allocation Agreement is the same as approved by the Tax Allocation Order.

K. EWG/FUCO Investment Limit

Under a prior order,[7] the Commission authorized DRI to make investments in EWGs and FUCOs up to an aggregate investment (as defined in Rule 53) of 100% of consolidated retained earnings plus $4.5 billion. DRI now requests that the Commission authorize DRI to make investments in EWGs and FUCOs up to an aggregate investment of 100% of consolidated retained earnings plus $8 billion.

Southwestern Electric Power Company et al. (70–10252)

Southwestern Electric Power Company, a Delaware corporation (''SWEPCO''), an indirect public utility subsidiary of American Electric Power Company, Inc. (''AEP''), a registered public utility holding company under the Public Utility Holding Company Act of 1935, as amended (''Act''), and Dolet Hills Lignite Company, LLC, a Delaware limited liability company (''Dolet Hills''), a wholly-owned nonutility subsidiary of SWEPCO, all at 1 Riverside Plaza, Columbus, Ohio 43215, have filed a declaration under section 12(c) of the Act and rules 46 and 54 under the Act.

By order dated July 1, 2004, HCAR No. 27872, the Commission granted the direct and indirect nonutility subsidiaries of AEP authority to pay dividends out of capital or unearned surplus to the fullest extent of the law, providing however that without further approval of the Commission, no nonutility subsidiary would declare or pay any dividend out of capital or unearned surplus if the nonutility subsidiary derived any material part of its revenues from the sale of goods, services or electricity to any public utility subsidiary of its parent.

Dolet Hills is a mining company which provides lignite to the Dolet Hills Power Plant (the ''Plant''), a 650-megawatt lignite fired generating plant located in north Louisiana. The Plant is jointly owned by SWEPCO, the nonaffiliate plant operator, Cleco Power LLC, and two other nonaffiliated minority owners. Because Dolet Hillsderives a material part of its revenue from the sale of lignite to its parent SWEPCO, the Commission's approval is required for Dolet Hills to pay dividends out of capital to SWEPCO.

Dolet Hills proposes that its Board of Managers declare and pay dividends out of its capital surplus over time in an amount up to the full amount of $4,712,000, when cash is available. As of June 30, 2004, Dolet Hills has paid in capital of $4,712,000.

The Delaware Limited Liability Company Act (Title 6, Chapter 18, Section 607) provides that: ''A limited liability company shall not make a distribution to a member to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specified property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited liability company only to the extent that the fair value of that property exceeds that liability.''

SWEPCO is entitled to earn a specified rate of return on its capital contributions to Dolet Hills. [Louisiana Order No. U–21453, U–20925(SC), and U–2092(SC)(Subdocket G)] This return is factored in to the cost of the lignite sold to the Plant. If the Commission authorizes Dolet Hills to pay the requested dividends out of capital, SWEPCO's total capital investment in Dolet Hills will be reduced by the amount of those dividends. The effect of this reduction in SWEPCO's capital investment will be to reduce the cost of the lignite provided to the Plant.

Dolet Hills is therefore seeking authorization from the Commission to pay SWEPCO dividends in an amount up to the full amount of its capital surplus on its common stock to the full extent of the Delaware Limited Liability Company Act.

[7] See HCAR No. 27485 (December 28, 2001).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4–3335 Filed 11–24–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27914]

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

November 19, 2004.

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 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 amendment(s) 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 application(s) and/or declaration(s) should submit their views in writing by December 13, 2004, 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 the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should 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 December 13, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Xcel Energy Inc., et al. (70–10229)

Xcel Energy Inc. (''Xcel Energy''), a registered public-utility holding company under the Act, and Xcel Energy Services, Inc. (''Xcel Energy Services''), a wholly owned subsidiary services company, both located at 800 Nicollet Mall, Minneapolis, MN 55402, and Public Service Company of Colorado (''PSCo''), one of Xcel Energy's wholly owned utility companies, 1225 17th Street, Denver, CO 80202 (collectively, ''Applicants''), have filed an application-declaration, as amended (''Application''), with the Commission under sections 9(a)(1), 10 and 12(d) of the Act and rules 44 and 54.

Xcel Energy proposes to sell one of its wholly owned public-utility company subsidiaries, Cheyenne Light, Fuel & Power Company (''Cheyenne''), to Black Hills Corporation (''Black Hills''), a public-utility holding company exempt from registration under section 3(a)(1) of the Act by rule 2.[1] Cheyenne is an electric- and gas-utility company, operating in and around Cheyenne, Wyoming, and serving approximately 38,000 electric and 31,000 natural gas customers.[2] It is subject to the jurisdiction of the Wyoming Public Service Commission (''Wyoming Commission'') and the Federal Energy Regulatory Commission (''FERC'').[3]

Xcel Energy directly owns five utility subsidiaries, serving electric or natural gas customers in 11 states: Cheyenne, Northern States Power Company, Northern States Power Company, PSCo and Southwestern Public Service Co. The proposed buyer of Cheyenne, Black Hills, is headquartered in Rapid City, South Dakota. Its sole public-utility company subsidiary, Black Hills Power, Inc., has customers in eleven counties in western South Dakota, eastern Wyoming and southwestern Montana. Its nonutility subsidiaries are engaged in other energy-related and telecommunications activities.

Xcel Energy states that its agreement to sell Cheyenne to Black Hills was the result of an auction in which Black Hills was the successful bidder. On January 13, 2004, Xcel Energy and Black Hills entered into a stock purchase agreement in which Xcel Energy agreed to sell and transfer to Black Hills, and Black Hills agreed to purchase from Xcel Energy, all of the common stock of Cheyenne. The purchase price that Black Hills agreed to pay for Cheyenne's stock is the sum of (i) $82,000,000 in cash, (ii) minus the principal amount of indebtedness and all accrued and unpaid interest owed by Cheyenne on Cheyenne's bond issuance (as of the closing date on the sale),[4] (iii) plus or minus any adjustments due under the working capital and the capital expenditure adjustments provided for in the agreement.

Xcel Energy, Xcel Energy Services and PSCo also request authority to enter into a transition services agreement with Black Hills under which they will provide certain services to Cheyenne, including certain (i) operational services, (ii) corporate services, (iii) information services, and (iv) other services, for a period not to exceed 6 months (9 months for operational services), with a possible extension period of 3 months.

Black Hills Corporation, et al. (70–10255)

Black Hills Corporation (''Black Hills''), a South Dakota holding company exempt from registration under section 3(a)(1) of the Act by rule 2, and its subsidiaries, including Black Hills Power, Inc. (''Black Hills Power'' or ''Utility Subsidiary''), its electric public-utility subsidiary (collectively, ''Subsidiaries''), all located at 625 Ninth Street, Rapid City, SD 57701 (together, ''Applicants''), have filed an application-declaration, as amended (''Application'') with the Commission under sections 6, 7, 9, 10, 11, 12(b) and (c) and 13(b) of the Act and rules 43, 45, 54 and 88 through 92 of the Act.

Black Hills seeks to purchase Cheyenne Light, Fuel & Power Company (''Cheyenne''), an electric- and gas-utility company subsidiary of Xcel Energy Inc. (''Xcel Energy''), a registered holding company, (''Acquisition'') and requests certain related authorizations.[5] Cheyenne is a retail utility serving customers located in Wyoming exclusively. Cheyenne would be Black Hills' second public-utility company subsidiary upon completion of the Acquisition (together with Black Hills Power, ''Utility Subsidiaries'').[6]

---

[1] Black Hills has stated its intention to register as a public-utility holding company under section 5 of the Act upon receipt of Commission financing and other related authorizations (for which it has filed and which are currently pending). *See* Black Hills Corporation, *et al.*, Holding Co. Act Release No. 27907 (November 1, 2004).

[2] Cheyenne had revenues of approximately $97 million as of December 31, 2003, with net income of approximately $2.1 million. Cheyenne was incorporated in 1900 under the laws of Wyoming and was acquired in October 1923 by PSCo.

[3] The Wyoming Commission's jurisdiction extends to Cheyenne's facilities, rates, services, accounts and issuance of securities. The FERC's jurisdiction extends to Cheyenne's accounting practices, transmission and sales of electricity in interstate commerce.

[4] The bonds were issued under an indenture dated March 1, 1948, as amended, between Cheyenne and U.S. National Bank of Denver. As of March 31, 2004, about $25 million in principal was outstanding.

[5] Xcel Energy has filed an application with the Commission for authorization to sell Cheyenne to Black Hills. *See* SEC File No. 70–10229 (May 14, 2004). Xcel Energy has also requested authority to enter into a transition services agreement with Black Hills, for a brief period, to provide Cheyenne with certain continued operational and administrative services immediately following the Acquisition to assure the transition of Cheyenne.

[6] Black Hills intends to register as a holding company under section 5 of the Act upon receipt of Commission authorizations (for which it has filed and which are currently pending) enabling it and its Subsidiaries and businesses to operate and engage in various financing and investment activities, intrasystem services and other related

Continued