exceeding 10% of the total amount distributed for the year. Rule 19b–1(f) permits one additional long-term capital gains distribution to be made to avoid the excise tax under section 4982 of the Code.

2. Applicants assert that the limitation on the number of net long-term capital gains distributions in rule 19b–1 prohibits the Fund from including available net long-term capital gains in certain of its fixed quarterly distributions. As a result, applicants state that the Fund must fund these quarterly distributions. As a result, applicants state that the Fund must fund these quarterly distributions with returns of capital (to the extent net investment income and net realized short-term capital gains are insufficient to cover a quarterly distribution). Applicants further assert that, in order to distribute all of the Fund's long-term capital gains within the limits on the number of long-term capital gains distributions in rule 19b–1, the Fund may be required to make certain of its quarterly distributions in excess of the total annual amount called for by the Distribution Policy. Alternatively, applicants state that the Fund may be forced to retain long-term capital gains and pay the applicable taxes. Applicants assert that the application of rule 19b–1 to the Fund's Distribution Policy may create pressure on the investment adviser to limit the realization of long-term capital gains based on considerations unrelated to investment goals.

3. Applicants submit that the requested exemption from section 19(b) of the Act and rule 19b–1 under the Act would be in the best interests of the Fund and its shareholders. One of the concerns leading to the adoption of section 19(b) and rule 19b–1 was that shareholders might be unable to distinguish between frequent distributions of capital gains and dividends from investment income. Applicants state that the Fund's Distribution Policy will be clearly disclosed to shareholders in the Fund's quarterly and annual reports. Applicants state that, in accordance with rule 19a–1 under the Act, a separate statement showing the source of the distribution will accompany each distribution (or the confirmation of reinvestment under the Fund's dividend reinvestment plan). In addition, a statement showing the amount and source of each quarterly distribution during the year will be included with the Fund's IRS Form 1099–DIV report sent to each shareholder who received distributions during the year (including shareholders who have sold shares during the year). Applicants believe that the Fund's shareholders will fully understand that their distributions are not tied to the Fund's net investment income and realized capital gains and do not represent yield or investment return.

4. Applicants state that another concern underlying section 19(b) and rule 19b–1 is that frequent capital gains distributions could facilitate improper distribution practices including, in particular, the practice of urging an investor to purchase shares of a fund on the basis of an upcoming dividend (''selling the dividend''), when the dividend results in an immediate corresponding reduction in NAV and is, in effect, a return of the investor's capital. Applicants submit that this concern does not arise with regard to closed-end management investment companies, such as the Fund, which do not continuously distribute their shares.

5. The Fund may make transferable rights offerings in the future to its shareholders to subscribe for additional shares. Applicants contend that in the case of a rights offering by the Fund, shares would be offered during the one-month interval which would occur immediately after payment of a quarterly dividend. Thus, applicants argue that the concern about selling the dividend will not arise. Applicants also state that they will comply with the condition to the requested order with regard to any rights offering.

6. Section 6(c) of the Act provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. For the reasons stated above, applicants believe that the requested relief satisfies this standard.

Applicants' Condition

Applicants agree that the order granting the requested relief shall terminate upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by the Fund of its common shares other than: (i) a rights offering to shareholders of the Fund, provided that: (a) such offering does not include the payment of solicitation fees to brokers in excess of 3% of the subscription price per share or the payment of any other commissions or underwriting fees in connection with the offering or exercise of the rights,[1] (b) the rights will not be exercisable between a date a dividend to the Fund's shareholders is declared and the record date of such dividend, (c) the Fund has not engaged in more than one rights offering during any given calendar year, and (d) the subscription price for a share in such rights offering is not more than $0.50 per share below the closing market or bid price, as the case may be, on the pricing date for the rights offering; or (ii) an offering in connection with a merger, consolidation, acquisition, or reorganization of the Fund; unless the Fund has received from the staff of the SEC written assurance that the order will remain in effect.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 98–6527 Filed 3–12–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26838]

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

March 6, 1998.

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

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 30, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the

[1] Holders of rights who do not wish to exercise any or all of their rights may instruct the Fund's subscription agent to sell their unexercised rights. Such shareholders would be responsible for paying all brokerage commissions incurred by the subscription agent in selling the unexercised rights.

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

LG&E Energy Corp. (70–9259)

LG&E Energy Corp. (''LG&E Energy''), 220 West Main Street, P.O. Box 3230, Louisville, Kentucky 40232, a Kentucky corporation and an electric and gas public utility holding company currently exempt under section 3(a)(1) from registration and from all other provisions of the Act except section 9(a)(2), has filed an application for an order under sections 9(a)(2) and 10 of the Act authorizing the proposed merger of KU Energy Corporation (''KU Energy''), a Kentucky corporation and a public utility holding company currently exempt from section 3(a)(1) from registration and from all other provisions of the Act except section 9(a)(2),[1] with and into LG&E Energy, with LG&E Energy emerging as the surviving entity (''Transaction''). LG&E Energy also requests an order under section 3(a)(1) exempting it from all provisions of the Act, except section 9(a)(2), following consummation of the proposed Transaction.

LG&E Energy's principal subsidiary, LG&E, is a Kentucky public utility company that owns and operates a combined electric and gas operation. LG&E is engaged primarily in the generation, transmission, and distribution of electricity to approximately 351,000 customers in Louisville and adjacent areas in Kentucky.[2] LG&E also purchases, distributes, and sells natural gas to approximately 277,000 customers within this service area and in limited additional areas. Included within LG&E's service area is the Fort Knox Military Reservation, to which LG&E transports gas and provides electric service, but which maintains its own distribution systems. Retail sales rates, services and other aspects of LG&E's electric and gas retail operations are subject to the jurisdiction of the Kentucky Public Service Commission (''Kentucky Commission''). The Kentucky Commission also possesses regulatory authority over aspects of LG&E's financial activities including security issuances, property transfers when the asset value is in excess of $100,000, and mergers with other utilities. Wholesale rates for electric energy sold in interstate commerce, wheeling rates for energy transmission in interstate commerce, and certain other activities of LG&E (including its hydro-electric facilities) are subject to the jurisdiction of the Federal Energy Regulatory Commission (''FERC'').

LG&E owes 4.9% of the common stock of Ohio Valley Electric Corporation (''OVEC''), an electric utility company under the Act which has one wholly owned subsidiary, Indiana-Kentucky Electric Corp. (''IKEC''). OVEC and IKEC were organized to supply the entire power requirements of the U.S. Department of Energy's gaseous diffusion plant in Pike County, Ohio, north of Portsmouth. OVEC owns a 1,075 Megawatt (''Mw'') generating station near Cheshire, Ohio and IKEC owns a 1,290 Mw generating station at Madison, Indiana. All of the electricity sold by OVEC and IKEC is sold either to the U.S. Department of Energy or to the owners (or their subsidiaries, all of which are utility companies) of the stock of OVEC. OVEC and IKEC do not sell electricity to private consumers and do not have any securities outstanding in the hands of the public. For each of the three years in the period ended December 31, 1996, LG&E derived less than 0.16% of its net income from its share of the earnings of OVEC.

In addition, LG&E Energy and certain nonutility associates have entered into a Joint Plan of Reorganization (''Joint Plan'') with Big Rivers Electric Corporation (''Big Rivers''), an electric cooperative with generating facilities in Kentucky currently operating under Chapter 11 of the U.S. Bankruptcy Code. The Joint Plan will allow Big Rivers to emerge from bankruptcy as a financially viable utility capable of fulfilling its responsibilities toward its member cooperatives at rates that are materially lower than those in effect today. The Joint Plan includes a series of agreements among Big Rivers and LG&E Energy and its nonutility associates. Throughout the approximately 25-year term of these agreements, Big Rivers will continue to own all the generating facilities to which it currently has title, and will continue to own and operate all its transmission facilities and to meet the electricity requirements of its member cooperatives. Under the Joint Plan, Big Rivers will sell certain inventory and personal property to a wholly owned indirect subsidiary of LG&E Energy, Western Kentucky Leasing Corp. Another indirect wholly owned subsidiary of LG&E Energy, Western Kentucky Energy Corp. (''WKEC''), will conduct day-to-day operation of the facilities. LG&E Energy states that it is expected that WKEC will qualify as an exempt wholesale generator (''EWG''), as defined under section 32 of the Act. After the required regulatory approvals are received, WKEC will lease the facilities from Big Rivers, will own the electrical output of the facilities, and will sell to LG&E Energy's energy marketing subsidiary the net output of the facilities, some of which LG&E Energy's energy marketing subsidiary is obligated to resell to Big Rivers.

Prior to obtaining the necessary regulatory approvals, Big Rivers will subcontract with another indirect wholly owned subsidiary of LG&E Energy for the day-to-day operation of another facility which is owned by the City of Henderson, Kentucky. LG&E Energy's operation of this facility is the subject of a separate no-action letter under the act requesting confirmation that this LG&E Energy subsidiary is not an electric utility company under the Act. After the necessary regulatory approvals are obtained, this subsidiary will take assignment of Big Rivers' responsibilities under the current Big Rivers' agreements with the City of Henderson and will take title to a portion of the electrical output of the facility (to the extent the output of the facility is not committed to the City of Henderson to meet the requirements of its residents). In summary, LG&E Energy states that Big Rivers' generation facilities will be dispatched separately from those of LG&E and Kentucky Utilities, and, for purposes of the Act, Big Rivers' transmission facilities will not be owned, leased, or controlled by LG&E or Kentucky Utilities.

LG&E Energy is also engaged in a number of other business activities through two other directly owned subsidiaries, LG&E Energy Foundation, Inc. (''LG&E Energy Foundation'') and LG&E Capital Corp. (''LG&E Capital''). LG&E Energy Foundation is a tax-exempt charitable foundation that makes charitable contributions to qualified entities. LG&E Capital, through various subsidiaries and joint ventures, is involved in numerous nonutility, energy-related businesses. Through its subsidiaries, LG&E Capital has interests in and operates electric power plants in several states, Argentina and Spain. Each of these facilities is a qualifying cogeneration facility (''QF'') under the Public Utility Regulatory Policies Act of 1978, an EWG, or a foreign utility company (''FUCO'') under section 33 of

[1] KU Energy's exemption was granted by order of the Commission. *See KU Energy Corporation*, Holding Co. Act Release No. 25409 (Nov. 13, 1991).

[2] LG&E's service area covers approximately 700 square miles in 17 counties in Kentucky and has an estimated population of 800,000.

the Act. LG&E Capital also has interest in and operates two natural gas distribution companies in the Mendoza and Cordoba provinces in Argentina, both of which are FUCOs. LG&E Capital is activity involved through various subsidiaries in energy marketing and trading. With respect to natural gas, LG&E Capital also is involved through subsidiaries in the gathering, processing, storage, and transportation of natural gas.

For the year ended December 31, 1996, LG&E Energy's operating revenues on a consolidated basis were approximately $3.589 billion, of which $607 million were attributable to the sales of electricity, $214 million were attributable to sales of natural gas, and $2.768 billion were attributable to nonutility activities. Consolidated assets of LG&E Energy and its subsidiaries at December 31, 1996 were approximately $3.012 billion, of which approximately $1.449 billion consisted of net electric utility property, plant and equipment, $237 million consisted of net gas utility property, plant, and equipment. As of September 30, 1997, LG&E Energy had 66,525,636 issued and outstanding shares of common stock (''LG&E Energy Common Stock''). LG&E Energy has no preferred stock outstanding.

KU Energy's principal subsidiary, Kentucky Utilities, is a Kentucky electric utility company and an exempt holding company [3] that produces, transmits, and sells electric energy to about 432,900 customers in over 600 communities and adjacent suburban and rural areas in 77 counties in central, southeastern, and western Kentucky, and to about 28,800 customers in 5 counties in southwestern Virginia.[4] In Virginia, Kentucky Utilities operates under the name Old Dominion Power Company. Kentucky Utilities also sells electric energy at wholesale for resale in 12 municipalities in Kentucky. The territory served includes most of the Bluegrass Region of central Kentucky and parts of the coal mining areas in southeastern and western Kentucky and southwestern Virginia. Kentucky Utilities is subject to the jurisdiction of the Kentucky Commission and the Virginia State Corporation Commission as to retail rates and service, accounts, issuance of securities, and in other respects. The FERC has jurisdiction under the Federal Power Act over certain of the electric utility facilities and operations, wholesale sale of power, and related transactions and accounting practices of Kentucky Utilities, and in certain other respects as provided in the Federal Power Act. By reason of owning and operating a small amount of electric utility property in one county in Tennessee (having a gross book value of about $226,000), Kentucky Utilities may also be subject to the jurisdiction of the Tennessee Regulatory Authority as to retail rates, accounts, issuance of securities, and in other respects.

Kentucky Utilities owns 2.5% of the common stock of OVEC. Kentucky Utilities also owns 20% of Electric Energy, Inc. (''EEI''), an electric utility company under the Act. EEI was formed in the early 1950s to provide electric energy to a uranium enrichment plant located near Paducah, Kentucky. The enrichment plant was originally operated by the Atomic Energy Commission and the Department of Energy and is operated today by the United States Enrichment Corporation. EEI owns the Joppa Plant, a 1,015 Mw coal-fired electric generating plant located near Joppa, Illinois, and six 161 kilovolts transmission lines which transmit power from the Joppa Plant to the Paducah enrichment plant. EEI's common stock is held by Kentucky Utilities and three other utility companies. EEI sells its excess electricity to its sponsoring utilities for resale. The uranium enrichment facility is EEI's only end-user customer. For each of the three years in the period ended December 31, 1996, KU Energy derived less than 3.4% of its net income from its share of the earnings of EEI and OVEC.

In addition to Kentucky Utilities, KU Energy has one other subsidiary, KU Capital Corporation (''KU Capital''). KU Capital is KU Energy's vehicle for investments in various nonutility energy-related ventures. These activities have consisted of investing as an equity participant in leases of eight combustion turbine generating units to other utilities and investing in limited partnership interests in various independent projects that are either QFs or EWGs.

For the year ended December 31, 1996, KU Energy's operating revenues on a consolidated basis were approximately $716 million, of which approximately $712 million were attributable to its electric utility operations, and approximately $4 million were attributable to its nonutility operations. Consolidated assets of KU Energy and its subsidiaries at December 31, 1996 were approximately $1.7 billion of which approximately $1.5 billion consisted of net electric utility property, and $55 million consisted of nonutility assets. As of September 30, 1997, KU Energy had 37,817,878 outstanding shares of common stock (''KU Energy Common Stock''). KU Energy has no shares of preferred stock outstanding.

The merger agreement provides for KU Energy to be merged with and into LG&E Energy, with LG&E Energy as the surviving corporation. Under the merger agreement, upon completion of the Transaction, each issued and outstanding share of KU Energy Common Stock (except shares held by KU Energy shareholders who perfect dissenters' rights), together with associated stock purchase rights, will be canceled and converted into 1.67 shares of LG&E Energy Common Stock, together with associated stock purchase rights. Each issued and outstanding share of LG&E Energy Common Stock (except shares held by LG&E Energy shareholders who perfect dissenters' rights), together with associated stock purchase rights, will remain outstanding, unchanged, as one share of LG&E Energy Common Stock. The Transaction is expected to qualify as a tax-free reorganization under section 368(a) of the Internal Revenue Code of 1986, as amended, and to be treated as a ''pooling of interests'' for accounting purposes.

As a result of the Transaction, LG&E Energy will be a public-utility holding company as defined in section 2(a)(7) of the Act with ownership of two public-utility companies, LG&E and Kentucky Utilities, and indirect ownership, through Kentucky Utilities, of 20% of one other public-utility company, EEI. LG&E states that following consummation of the Transaction, it will be entitled to an exemption from all provisions of the Act except section 9(a)(2) because it and each of its public-utility subsidiaries from which it derives a material part of its income will be predominantly intrastate in character and will carry on their utility businesses substantially within the state of Kentucky.[5]

[3] Kentucky Utilities is a public utility holding company exempt from all provisions of the Act except section 9(a)(2) pursuant to section 3(a)(2) and order of the Commission. *See KU Energy Corporation*, Holding Co. Act Release No. 25409 (Nov. 13, 1991).

[4] The territory served by Kentucky Utilities has an aggregate population estimated at about one million. The largest city served is Lexington, Kentucky. The population of the metropolitan Lexington area is estimated at about 225,000. The populations of the next ten largest cities served at retail range from about 21,000 to 9,000.

[5] LG&E states that LG&E Energy and each of its material public utility subsidiaries will be Kentucky corporations operating primarily in Kentucky. Neither OVEC nor IKEC will be a subsidiary of LG&E Energy for purposes of the Act following the Transaction because LG&E Energy's total indirect ownership of OVEC will be only 7.4%. Although EEI will be a subsidiary of LG&E Energy for purposes of the Act following the Transaction and is not a Kentucky corporation, LG&E Energy states that EEI will not be a material public utility

Continued

BL Holding Corp. (70–9157)

BL Holding Corp. (''BL Holding'') One MetroTech Center, Brooklyn, New York 11201, a to-be-formed New York public utility holding company has filed an application for an order under sections 9(a)(2) and 10 of the Act authorizing its proposed acquisitions of KeySpan Energy Corporation (''KeySpan''), a New York public utility holding company claiming an exemption from registration under section 3(a)(1) under rule 2 from all provisions of the Act except section 9(a)(2), and KeySpan's wholly owned gas utility subsidiary, The Brooklyn Union Gas Company (''Brooklyn Union'') [6] and Long Island Lighting Company (''LILCO''),[7] a New York electric and gas public utility company and/or certain of LILCO's assets as described below.[8] BL Holding also requests an order under section 3(a)(1) declaring it exempt from all provisions of the Act except section 9(a)(2), following consummation of the proposed transactions.

BL Holding proposes three alternative transactions. The first proposal, defined as the ''Combination,'' involves the acquisition by BL Holding of all of the issued and outstanding common stock of (1) KeySpan and its utility subsidiary, Brooklyn Union and (2) LILCO.

The second proposal, or ''Modified Combination,'' involves the acquisition by BL Holding of the issued and outstanding common stock of KeySpan and the equity interests in one or more to-be-formed wholly owned subsidiaries (''Transferee Subsidiary''). The Transferee Subsidiaries will acquire certain assets of LILCO (''Transferred Assets''), if a proposed merger of LILCO into a subsidiary of the Long Island Power Authority (''LIPA''), a corporate municipal instrumentality and a political subdivision of the State of New York, occurs.[9]

The third proposal, ''LIPA Transaction,'' involves the acquisition by BL Holding of the equity interests of the Transferee Subsidiaries and the subsequent transfer of the Transferred Assets without giving effect to the acquisition of the common stock of KeySpan. The three proposals, the Combination, the Modified Combination and the LIPA Transaction are referred to collectively as the ''Transactions.'' Any one of these alternative Transactions may occur.

The Combination

Under the Combination, BL Holding would own and, through LILCO and Brooklyn Union, operate the existing gas and electric utility systems owned by LILCO and the existing gas utility system owned by Brooklyn Union. The Exchange and Merger Agreement provides that, following its adoption by the shareholders of both LILCO and Brooklyn Union (each of which occurred on August 7, 1997) and the satisfaction or waiver of the other conditions to the combination, including obtaining the requisite regulatory approvals, the outstanding shares of LILCO common stock (''LILCO Common Stock'') will be exchanged for newly issued shares of BL Holding common stock, par value $0.01 per share (''BL Common Stock''), in a share exchange (''Share Exchange''). In addition, the outstanding shares of KeySpan common stock will be converted into the right to receive newly issued shares of BL Common Stock.

Upon the consummation of the Share Exchange, each issued and outstanding share of LILCO Common Stock, other than shares held by dissenting shareholders, will be exchanged for 0.803 shares of BL Common Stock. Thus, BL Holding will become the owner of each share of LILCO Common Stock and each share of LILCO Common Stock will be deemed to have been exchanged for that fraction of a share of BL Common Stock.

In addition, each issued and outstanding share of preferred stock of LILCO will be unchanged as a result of the Share Exchange and will remain outstanding thereafter provided that the transactions contemplated by the LIPA Agreement are not consummated.

Upon the consummation of the Combination, each issued and outstanding share of KeySpan common stock, other than dissenting shares, will be converted into the right to receive one share of BL Common Stock and KeySpan will become a wholly owned subsidiary of BL Holding (''KeySpan Merger'').

The Modified Combination

If the LIPA Transaction is consummated before or contemporaneously with the Combination, KeySpan and certain assets of LILCO will be combined under the Modified Combination. Instead of consummating the Share Exchange, the transactions contemplated by the Exchange and Merger Agreement and the LIPA Agreement will be consummated in the following way.

In exchange for the designated number of shares of BL Common Stock (''Designated Number'') and up to $75 million face amount of BL Holding preferred stock (''Private Placement Preferred Stock''), LILCO will transfer the Transferred Assets to the subsidiaries of BL Holding, as KeySpan and LILCO direct. The Designated Number will be the number of shares of BL Common Stock representing the net fair market value of the Transferred Assets, as will be determined in good faith by KeySpan and LILCO, less the face amount of the BL Holding preferred stock.

LIPA Sub [10] will merge with and into LILCO and the transactions

subsidiary of LG&E Energy for purposes of section 3(a)(1). KU Energy has not in the past derived a material part of its income from EEI (less than 3.5% in each of the last three years) and, on a pro forma basis following the Transaction, EEI will constitute an even smaller part of LG&E Energy's income on a percentage basis.

[6] Brooklyn Union distributes natural gas at retail in the Boroughs of Brooklyn and Staten Island and two-thirds of the Borough of Queens, all in the City of New York. Brooklyn Union's service territory is approximately 187 square miles. The population of the territory served is approximately four million persons. As of September 30, 1997, Brooklyn Union had approximately 1.128 million active meters, of which approximately 1.09 million were residential.

[7] LILCO supplies electric and gas service in Nassau and Suffolk Counties on Long Island, New York, and to the Rockaway Peninsula in the Borough of Queens in the City of New York. LILCO's service territory covers an area of approximately 1,230 square miles, and is contiguous to the service territory of Brooklyn Union. The population of the service area is approximately 2.7 million persons, including approximately 98,000 persons who reside in the Borough of Queens within the City of New York. LILCO serves approximately one million electric customers, of which 921,000 are residential. LILCO receives approximately 49% of its electric revenues from residential customers, 48% from commercial/industrial customers and 3% from sales to other utilities and public authorities. LILCO also serves approximately 460,000 gas customers, 412,000 of which are residential, accounting for 61% of the gas revenues, with the balance of the gas revenues made up by the commercial/industrial customers and off-system sales.

[8] The Amended and Restated Agreement and Plan of Exchange and Merger dated as of June 26, 1997 was originally between Brooklyn Union and LILCO. On September 29, 1997, Brooklyn Union engaged in a binding share exchange with its subsidiary KeySpan, with the result that Brooklyn Union became a wholly owned subsidiary of KeySpan. This agreement is called the amended by the Amendment, Assignment and Assumption Agreement among Brooklyn Union, LILCO and KeySpan, dated as of September 29, 1997 and KeySpan was substituted for Brooklyn Union in the original agreement ''Exchange and Merger Agreement.''

[9] BL Holding, LILCO, LIPA, and to-be-formed subsidiary of LIPA entered into an Agreement and Plan of Merger, dated as of June 26, 1997, ''LIPA Agreement.'' Under the LIPA Agreement, LIPA would acquire certain assets of LILCO through a stock transaction including the electric transmission and distribution system, the 18% interest in the Nine Mile Point 2 nuclear power station in upstate New York and the electric regulatory assets (as well as certain current assets related to LILCO's electric business). LIPA would also assume certain of LILCO's current liabilities, long-term debt obligations and preferred stock.

[10] Under the LIPA Agreement, LILCO will merge with LIPA Acquisition Corporation, a New York

contemplated by the LIPA Agreement will be consummated. The cash merger consideration will be paid to an exchange agent as agent for the holders of LILCO Common Stock to subscribe for and purchase from BL Holding a number of shares of BL Common Stock, which number of shares, when added to the Designated Number, will represent the number of shares of LILCO Common Stock issued and outstanding immediately prior to the consummation of the KeySpan Merger, other than LILCO dissenting shares, multiplied by 0.880. The KeySpan Merger will then be consummated promptly.

Also under the Modified Combination, BL Holding would own and, through KeySpan and one or more Transferee Subsidiaries, operate each of the existing gas utility systems as well as the non-nuclear generating facilities currently owned by LILCO and, through one or more other Transferee Subsidiaries, would provide a comprehensive set of operational and management services to LIPA to assist LIPA in the operation of the electric system (which would continue to be owned by LILCO as a wholly owned subsidiary of LIPA).

The LIPA Transaction

Under the LIPA Transaction, BL Holding would own and, through the Transferee Subsidiaries, operate the gas utility system and non-nuclear generating facilities currently owned by LILCO and provide electric system operational and management services to LIPA.

Before the closing of the LIPA Transaction (''LIPA Closing''), BL Holding will form the Transferee Subsidiaries which will enter into certain agreements in connection with the LIPA Transaction, which are referred to as the ''Basic Agreements.'' Under the Basic Agreements, one or more of the Transferee Subsidiaries will provide: (1) certain management services on behalf of LIPA with respect to the operation and maintenance of the electric transmission and distribution system to be transferred to LIPA as part of the LIPA Transaction; (2) electric capacity and energy to LIPA from the generating plants that are among the Transferred Assets; and (3) energy management services to purchase fuel and electric capacity and energy and manage the scheduling and sale of electric capacity and energy on behalf of LIPA. Certain schedules to the LIPA Agreement set out the principles and procedures to be used to decide which LILCO assets and properties will be part of the Transferred Assets and which will remain with LILCO as a subsidiary of LIPA. Generally, the Transferred Assets will consist of all those assets currently owned and employed by LILCO in the conduct of its gas distribution business, LILCO's non-nuclear electric generating assets located on Long Island, and certain common assets used by LILCO in the operation and management of LILCO's existing gas distribution, electric generation and electric transmission and distribution system.

Immediately prior to the LIPA Closing, LILCO will transfer the Transferred Assets to the Transferee Subsidiaries in exchange for the (1) Designated Number of shares of BL Common Stock and (2) Private Placement Preferred Stock. LILCO will be obligated to sell the Private Placement Preferred Stock immediately prior to the LIPA Closing. It is anticipated that the Private Placement Preferred Stock will: (1) have a final maturity date more than five years after the LIPA Closing; (2) be nonvoting (except as a result of BL Holding's failure to pay dividends for a specified period of time); (3) be nonconvertible; and (4) have other terms and conditions to be determined at the time of sale.

At the LIPA Closing, the shares of capital stock of LILCO will be treated as follows:

(1) Common and preferred shares held in treasury will be canceled and retired. (''Canceled Shares'').

(2) Each issued and outstanding share of LILCO Common Stock, other than Canceled Shares and shares of LILCO Common Stock held by any dissenting shareholder, will be canceled and converted into the right to receive: (a) an amount in cash equal to the cash merger consideration divided by the number of shares of LILCO Common Stock outstanding; and (b) a pro rata distribution of BL Common Stock received by LILCO in exchange for the Transferred Assets.

(3) Each holder of shares of LILCO Common Stock, other than shares held by any dissenting sharesholders, will be deemed to have appointed an exchange agent as its agent to receive the cash otherwise due the holder and to use the cash to subscribe for shares of BL Common Stock. The total number of shares of BL Common Stock distributable to holders of LILCO Common Stock in respect of each share of LILCO Common Stock will include the number of distributable shares of BL Common Stock received by LILCO in exchange for the Transferred Assets, as well as the number of shares distributable from the purchase by the exchange agent of additional shares of BL Common Stock out of the cash purchase price and, in the aggregate, will equal: (a) 0.880 shares of Company Common Stock for each share of LILCO Common Stock (other than the dissenting shares) if the Combination is consummated concurrently with the LIPA Transaction; or (b) one share of BL Common Stock for each share of LILCO Common Stock (other than the dissenting shares) if the Combination is not consummated concurrently with the LIPA Transaction.

(4) If the Combination has been consummated prior to the LIPA Closing, then (a) no shares of BL Common Stock or Private Placement Preferred Stock will be delivered in exchange for the Transferred Assets, and BL Holding and/or one or more of its subsidiaries, as the holders of all then outstanding LILCO Common Stock, will receive all of the cash merger consideration, and (b) an additional 0.077 shares of BL Common Stock will be distributed to the record holders of LILCO Common Stock as of the effective time of the Combination in respect of each share of LILCO Common Stock.

(5) Each issued and outstanding share of Series AA Preferred Stock of LILCO, other than Canceled Shares and shares of the preferred stock held by any dissenting shareholder, will be canceled and converted into the right to receive one fully paid and nonassessable share of preferred stock of BL Holding with identical rights (including dividend rates) and designations to the Series AA Preferred Stock.

(6) Each issued and outstanding share of LILCO Preferred Stock that is subject to optional redemption by LILCO at or before the closing date, other than Canceled Shares, will be redeemed for cash by LILCO not later than the closing date in accordance with the terms applicable to the shares.

(7) Each issued and outstanding share of LILCO Preferred Stock, other than Canceled Shares, dissenting Preferred Shares, shares of Series AA Preferred Stock and redeemable preferred stock (collectively, ''Non-redeemable Preferred Stock''), will be canceled and converted into the right to receive cash in the amount of the sum of (a) the Make-Whole Amount,[11] and (b) accrued

corporation to be formed as a wholly owned subsidiary of LIPA (''LIPA Sub''). LIPA Sub will be merged with and into LILCO, which will be the surviving corporation, for aggregate cash merger consideration of $2.4975 billion (subject to adjustment), LILCO's Series AA Preferred Stock will be exchanged for Series AA preferred stock of BL Holding and each outstanding share of the LILCO Series CC Preferred Stock, Series GG Preferred Stock, Series QQ Preferred Stock and Series UU Preferred Stock (except for shares whose holders perfect their rights to obtain judicial appraisal) will be canceled and converted into the right to receive cash in the applicable amounts described in the LIPA Agreement. Immediately prior to the consummation of the LIPA Transaction, LILCO will transfer to BL Holding, or one or more of BL Holding's wholly owned subsidiaries, all of the Transferred Assets.

[11] The Make-Whole Amount means, with respect to the shares, an amount equal to the present value of (a) the face or liquidation preference amount of the share, and (b) the remaining dividend payments due on the share between the LIPA closing date and the applicable redemption date computed using a discount rate equal to the applicable Fair Market Rate divided by 0.95.

Fair Market Rate is defined as the Generic General Obligation Fair Market Yield for Baa rated Low/Medium Coupon General Municipal

Continued

but unpaid dividends in respect of the sahres through the closing date.

The amount by which the aggregate amount payable exceeds 100% of the aggregate face or liquidation preference amounts for all shares of Non-redeemable Preferred Stock shall be paid by the Company to LILCO promptly after the LIPA Closing. The cash merger consideration is based upon the assumption that the total long-term indebtedness of LILCO on the LIPA Closing Date will not exceed $3.576 billion (''Retained Debt Amount'').

The Retained Debt Amount will be adjusted based upon LILCO's net book value, as reflected on LILCO's audited consolidated balance sheet as of the date, as follows. The Retained Debt Amount will be either (1) increased by the amount, if any, by which the net book value of the Retained Assets exceeds $2.5008 billion or (2) decreased by the amount, if any, by which the net book value of the Retained Assets is less than $2.5008 billion.

As of the LIPA Closing Date, BL Holding will, and will cause each of the Transferee Subsidiaries to, execute and deliver promissory notes (''Promissory Notes'') on the following terms: (1) The aggregate principal amount will be equal to the excess, if any, of the indebtedness of LILCO outstanding on the LIPA Closing Date over the Retained Debt Amount; and (2) The rates and maturities will correspond to each portion of debt underlying the indebtedness of LILCO on the LIPA Closing Date; provided, however, that the interest and principal payment dates will be adjusted to require payment by BL Holding 30 days prior to the corresponding payment dates on the underlying debt.

LILCO currently has a series of 7.3% Debentures due July 15, 1999, with an approximate aggregate principal amount currently outstanding of $397 million, and a series of 8.20% Debentures due March 15, 2023, with an approximate aggregate principal amount currently outstanding of $270 million. Subject to obtaining all required consents, BL Holding will assume these obligations as of the LIPA Closing Date under an exchange offer to be registered on Form S–4 with the Commission.

Obligations at the time of the computation as reported on Bloomberg, with a maturity most nearly equal to the period between cancellation and final redemption of the series of Non-redeemable Preferred Stock. The period between cancellation and redemption refers to the period between the closing date of the LIPA Transaction (''LIPA Closing Date''): (a) August 1, 2002, with respect to the Series CC Preferred Stock; (b) March 1, 1999, with respect to the Series GG Preferred Stock; (c) May 1, 2001, with respect to the Series QQ Preferred Stock; and (d) October 16, 2018, with respect to the Series UU Preferred Stock.

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

Johathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IA–1705]

Notice of Intention to Cancel Registrations of Certain Investment Advisers

March 9, 1998

Notice is given that the Securities and Exchange Commission intends to issue orders, pursuant to section 203(h) of the Investment Advisers Act of 1940 (''Advisers Act''), cancelling the registrations of those investment advisers whose names appear in the attached Appendix.

FOR FURTHER INFORMATION CONTACT: Catherine M. Saadeh, Staff Attorney, at (202) 942–0650, Task Force on Investment Adviser Regulation, Division of Investment Management, Stop 5–6, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Background

On October 11, 1996, President Clinton signed into law the National Securities Markets Improvement Act of 1996 (''Improvement Act'').[1] Title III of the Improvement Act, the Investment Advisers Supervision Coordination Act (''Coordination Act''), amended the Advisers Act to reallocate federal and state responsibilities for the regulation of the approximately 23,350 investment advisers registered with the Commission at the time the legislation was signed. Under new section 203A(a) of the Advisers Act,[2] an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business is prohibited from registering with the Commission unless the adviser (i) has assets under management of not less than $25 million (or such higher amount as the Commission, by rule, deems appropriate), or (ii) is an adviser to an investment company registered under the Investment Company Act of 1940.[3]

[1] Pub. L. No. 104–290, 110 Stat. 3416 (1996) (codified in scattered sections of the United States Code).

[2] 15 U.S.C. 80b–3a(a).

[3] The Commission was given authority in section 203A(c) of the Advisers Act to exempt investment advisers, by rule or order, from the prohibition on Commission registration if the prohibition would be ''unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes'' of section 203A. 15 U.S.C. 80b–3a(c). Under its authority, the Commission adopted rule 203A–2 under the Advisers Act, which permits nationally recognized statistical rating organizations and certain pension consultants, affiliated investment advisers, and newly formed investment advisers to register with the Commission even if they otherwise would not meet the criteria for registration in section 203A(a). 17 CFR 275.203A–2.

The Coordination Act also amended section 203(h) of the Advisers Act to authorize the Commission to cancel the registration of any investment adviser that no longer meets the criteria for registration.[4] As amended, section 203(h) provides, in pertinent part, that if the Commission finds that any person registered with the Commission as an investment adviser is no longer in existence, is not engaged in business as an investment adviser, or is prohibited from registering as an investment adviser under section 203A, the Commission shall, by order, cancel the registration of such person. The Coordination Act became effective on July 8, 1997.[5]

To implement the division of regulatory responsibility mandated by the Coordination Act, the Commission adopted Form ADV-T.[6] Form ADV-T required investment advisers to declare by July 8, 1997 whether they would continue to be eligible for Commission registration under the new regulatory scheme. For advisers that indicated that they were no longer eligible for Commission registration, filing of Form ADV-T served as such advisers' request for withdrawal from registration.[7] In the release adopting Form ADV-T and other rules to implement the Coordination Act, the Commission stated that advisers that did not return Form ADV-T would be subject to having their registrations cancelled pursuant to section 203(h).[8]

In May 1997, the Commission mailed copies of Form ADV-T to all investment advisers then registered with the Commission.[9] In October 1997, the

[4] 15 U.S.C. 80b–3(h).

[5] *See* section 308(a) of the Coordination Act. The effective date of the Coordination Act was originally April 9, 1997. On March 31, 1997, President Clinton signed into law Pub. L. No. 105–8, which postponed the effective date of the Coordination Act to July 8, 1997. *See* 111 Stat. 15 (1997).

[6] *See* Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)] (''Adopting Release'').

[7] *See* rule 203A–5(c) [17 CFR 275.203A–5(c)]; Instruction 6 to Form ADV-T.

[8] *See* Adopting Release, *supra* note , at text accompanying notes 17 and 23. The instructions to Form ADV-T contained a similar statement. *See* Instruction 1(f) to Form ADV-T.

[9] The Commission mailed the Form ADV-Ts to the address provided by each investment adviser on