

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27540]

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

June 14, 2002.

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 July 9, 2002, to the Secretary, Securities and Exchange Commission, Washington, D.C. 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 July 9, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company Inc., et al. (70-9785)

American Electric Power Company Inc. ("AEP"), Central and South West Corporation ("CSW"), both registered holding companies, American Electric Power Service Corporation ("AEPSC"), and Columbus Southern Power Company ("CSP"), all located at 1 Riverside Plaza, Columbus, Ohio 43215; Central Power and Light Company ("CPL"), 539 North Carancahua Street, Corpus Christi, Texas 78401-2802; Ohio Power Company ("OPCO"), 301 Cleveland Avenue S.W., Canton, Ohio 44702; Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71156-0001; and West Texas Utilities Company ("WTU"), 301 Cypress Street, Abilene, Texas 78601-5820, (collectively, "Applicants"), have filed an application-declaration ("Application")

under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 12(d), 13(b), and 32 of the Act and rules 43, 44, 45, 46, 54, 90 and 91 under the Act.

Applicants seek authority to restructure the AEP system and to carry out transactions associated with that restructuring. The restructuring of the AEP system is prompted by restructuring of the electric industry in Texas and Ohio. The Application requests authority to create and capitalize certain entities and transfer generating and distribution/transmission assets. Applicants also make a number of financing requests associated with the restructuring.

AEP holds vertically integrated electric utility companies with retail utility operations in 11 states—Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia. These states have reached different decisions about when and how to restructure electric industries. Texas and Ohio have opted to deregulate generation, require separation of the generation and energy delivery functions and eliminate the concept of native load retail service in favor of free and open competition for retail customers. Both states have approved restructuring plans. To comply, AEP's utility companies operating in Texas and Ohio will separate their assets between Power Generating Company ("PGC") affiliates that will sell power and energy at wholesale and Energy Delivery Company ("EDC") affiliates that will own transmission and local distribution facilities, transport energy and perform metering functions.

In connection with this restructuring, AEP proposes to realign certain of its utility and nonutility businesses under three first tier subsidiaries: CSW, Enterprises and AEPSC. CSW will become the regulated holding company ("Reg Holdco") and will serve as an intermediate holding company for the EDC affiliates and certain other AEP utility subsidiary companies that are not required to restructure, including vertically integrated companies. Enterprises will be an intermediate holding company for AEP's nonutility businesses and the PGC subsidiaries. Under Enterprises will be Wholesale Holdco, which will hold Domestic Holdco. Domestic Holdco will hold the PGC affiliates. AEPSC will continue to provide services to the AEP system companies, such as centralized and regionalized management and support for generation subsidiaries.

The Ohio statute that provides for competitive retail electric service, referred to as S.B.3, directs vertically

integrated electric utilities that offer retail electric service to separate their generating and other competitive operations (such as marketing, and brokering) and related assets from their transmission and distribution operations and assets.

The Texas statute, referred to as S.B. 7, requires vertically integrated electric utilities to separate ownership of their generating and other power supply assets from ownership of their transmission and distribution assets. Under S.B. 7, vertically integrated utilities are generally obligated to disaggregate into at least three separate corporate units: (1) A PGC that will sell power and energy at wholesale; (2) an EDC that will own transmission and local distribution facilities and perform metering functions but cannot own power supply facilities or sell electricity; and (3) a retail electric provider ("REP") that will sell electricity to retail customers.

Transfer of Assets Proposals

To comply with restructuring plans in Texas and Ohio, Applicants seek authority for CPL, CSP, OPCO, SWEPCO¹ and WTU ("Operating Companies") to transfer assets as required by each state. Assets to be transferred will be generating facilities, step-up transformers, circuit breakers, interconnection facilities, related facilities and other assets associated with generating units that CPL and WTU will transfer to PGC companies as well as transmission lines, transmission facilities, distribution lines and distribution facilities that CSP, OPCO and SWEPCO² will transfer to EDC companies. Assets remaining after these transfers will be transmission/distribution assets held by CPL EDC and WTU EDC and generation assets held by CSP PGC, OPCO PGC and SWEPCO PGC.

Specifically, the transfer requests are as follows:

(i) CPL to transfer or contribute a total of 100% of its ownership interests in its

¹ Applicants request that the Commission reserve jurisdiction over all transfers and other authority requested in the Application relating to SWEPCO, SWEPCO EDC and SWEPCO Transco (a to-be-formed EDC which will hold the Texas transmission assets and related liabilities of SWEPCO).

² SWEPCO will retain title to its generating assets because it provides bundled retail electric service in Louisiana, which to date has not adopted retail competition legislation, and in Arkansas, where SWEPCO is not obligated to separate ownership of its generating assets from its transmission and distribution assets. In order to comply with S.B. 7, however, SWEPCO will contribute its transmission and distribution assets in Texas and related business operations to SWEPCO EDC, a wholly owned subsidiary of AEP.

generation assets (estimated net book value at December 31, 2001, \$2,412 million) and related liabilities (estimated book value at December 31, 2001, \$1,074 million) to CPL PGC at their net book value at the transfer date and for CPL PGC to transfer or contribute a total of 100% of its ownership interests in such generation assets and related liabilities to CPL PGC LP at the same book value.³

(ii) WTU to transfer or contribute a total of 100% of its ownership interests in its generation assets (estimated net book value at December 31, 2001, \$394 million) and related liabilities (estimated book value at December 31, 2001, \$208 million) to WTU PGC at their net book value at the transfer date and for WTU PGC to transfer or contribute a total of 100% of its ownership interests in such generation assets and related liabilities to WTU PGC LP at the same book value (see Exhibits B-3 and B-6).⁴

(iii) OPCO to transfer or contribute a total of 100% of its ownership interests in its transmission and distribution assets (estimated net book value at December 31, 2001, \$2,263 million) and related liabilities (estimated book value at December 31, 2001, \$816 million) to OPCO EDC at their book value at the transfer date.⁵

(iv) CSP to transfer or contribute a total of 100% of its ownership interests in its transmission and distribution assets (estimated net book value at December 31, 2001, \$1,515 million) and related liabilities (estimated book value at December 31, 2001, \$474 million) to CSP EDC at their book value at the transfer date.⁶

(v) SWEPCO to transfer or contribute a total of 100% of its ownership interests in (i) its distribution assets and related liabilities located in Texas to SWEPCO EDC and (ii) the undivided interest in a load-based allocation of all of SWEPCO's transmission assets and related liabilities ("Texas Transmission Assets and Related Liabilities") to SWEPCO Transco (a to-be-formed EDC)

at their book value on the transfer date (the value of assets and liabilities to be transferred and retained have not yet been determined).

(vi) After the transfers are executed, AEP seeks approval for:

(a) CPL EDC to dividend CPL PGC's common stock or limited liability interest to CSW, which will dividend the stock to AEP, which will contribute the stock or limited liability interest to Wholesale Holdco, which will contribute the stock or limited liability interest to Domestic Holdco.

(b) WTU EDC to dividend WTU PGC's common stock or limited liability interest to CSW, which will dividend the stock to AEP, which will contribute the stock or limited liability interest to Enterprises, which will contribute the stock or limited liability interest to Wholesale Holdco, which will contribute the stock to Domestic Holdco.

(c) OPCO PGC to dividend OPCO EDC's common stock or limited liability interest to AEP, which will contribute the stock or limited liability interest to Reg Holdco.

(d) OPCO EDC to merge with and into OPCO EDC LLC so that following the merger OPCO EDC will be a single member limited liability company all of whose limited liability interest is held by Reg Holdco.

(e) CSP PGC to dividend CSP EDC's common stock or limited liability interest to AEP, which will contribute the stock or limited liability interest to Reg Holdco.

(f) SWEPCO to dividend the common stock or limited liability interest of SWEPCO EDC to CSW.

(vii) Upon completion of these transactions, Reg Holdco will hold CPL EDC, WTU EDC, SWEPCO, SWEPCO EDC, OPCO EDC and CSP EDC, and, indirectly, SWEPCO Transco, each of which will own transmission and distribution assets and related liabilities (other than SWEPCO which will continue to be a vertically integrated utility with respect to its operations located outside of Texas). Domestic Holdco will hold, among other things, CPL PGC, WTU PGC, OPCO PGC and CSP PGC, each of which will own, directly or indirectly, generation assets and related liabilities and, upon all necessary state and federal regulatory approval, will be exempt wholesale generators ("EWGs"), as defined in section 32 of the Act.

(viii) Subject to any required state approval, AEP seeks authorization to contribute the stock of the AEP Generating Company, Appalachian Power Company, Indiana Michigan

Power Company, Kentucky Power Company, Kingsport Power Company and Wheeling Power Company ("Vertically Integrated Companies"), all currently owned by AEP, to Reg Holdco and for Reg Holdco to acquire the stock of the Vertically-Integrated Companies.

Formation and Capitalization of Entities

Applicants seek authority to form and capitalize Enterprises as a first tier wholly owned corporation or limited liability company, Wholesale Holdco as a wholly owned subsidiary corporation or limited liability company of Enterprises, and Domestic Holdco as a wholly owned subsidiary corporation or limited liability company of Wholesale Holdco. AEP, Enterprises and Wholesale Holdco, respectively, propose to make an initial capital contribution to Enterprises, Wholesale Holdco and Domestic Holdco, respectively, in an amount to be determined, in exchange for all of the commons stock of, or limited liability interest in, Enterprises, Wholesale Holdco and Domestic Holdco. AEP, Enterprises and Wholesale Holdco seek authority for Enterprises, Wholesale Holdco and Domestic Holdco to issue, and for AEP, Enterprises and Wholesale Holdco, respectively, to acquire all of the common stock of or limited liability interest in Enterprises, Wholesale Holdco and Domestic Holdco, respectively.

Applicants also seek authority to form and capitalize the EDC and PGC entities to which and through which the generation and the transmission/distribution assets will be transferred. CPL will form and capitalize CPL PGC to hold the generation assets and related liabilities of CPL; WTU will form and capitalize WTU PGC to hold the generation assets and related liabilities of WTU; CPL PGC will form and capitalize CPL PGC LLC, which would serve as the general partner of CPL PGC LP; (4) CPL PGC and CPL PGC LLC will form and capitalize CPL PGC LP to hold the generation assets and related liabilities of CPL PGC; WTU PGC will form and capitalize WTU PGC LLC, to serve as the general partner of WTU PGC LP; WTU PGC and WTU PGC LLC will form and capitalize WTU PGC LP to hold the generation assets and related liabilities of WTU PGC; OPCO will form and capitalize OPCO EDC to hold the transmission and distribution assets and related liabilities of OPCO; CSP will form and capitalize CSP EDC to hold the transmission and distribution assets and related liabilities of CSP; SWEPCO will form and capitalize SWEPCO EDC to hold its distribution assets and related liabilities in Texas and SWEPCO Transco to hold the Texas Transmission

³ CPL will retain its transmission and distribution assets (estimated net book value at December 31, 2001, \$2,703 million) and related liabilities (estimated book value at December 31, 2001, \$2,203 million).

⁴ WTU will retain its transmission and distribution assets (estimated net book value at December 31, 2001, \$629 million) and related liabilities (estimated book value at December 31, 2001, \$376 million).

⁵ OPCO will retain its generation assets (estimated net book value at December 31, 2001, \$2,814 million) and related liabilities (estimated book value at December 31, 2001, \$2,252 million).

⁶ CSP will retain its generation assets (estimated net book value at December 31, 2001, \$1,680 million) and related liabilities (estimated book value at December 31, 2001, \$1,320 million).

Assets and Related Liabilities; and Reg Holdco will form and capitalize OPCO EDC LLC for the purpose of merging OPCO EDC with and into Reg Holdco.

To capitalize the PGC and EDC subsidiaries, Applicants seek the following authority:

(i) CPL to acquire all of the common stock of, or limited liability interest in, CPL PGC in exchange for transferring its generation assets (including its interest in the South Texas Project nuclear generating station) and related liabilities to CPL PGC and for CPL PGC to issue, and for CPL to acquire, all of the common stock of, or limited liability interest in, CPL PGC.

(ii) CPL PGC to acquire all of the membership interests of CPL PGC LLC in exchange for sufficient capitalization for CPL PGC LLC to act as general partner of CPL PGC LP and for CPL PGC LLC to issue, and for CPL PGC to acquire, all of the membership interests of CPL PGC LLC.

(iii) CPL PGC to acquire all of the limited partnership interest of CPL PGC LP in exchange for transferring its generation assets and related liabilities to CPL PGC LP, for CPL PGC LLC to acquire the general partnership interest of CPL PGC LP, for CPL PGC LP to issue, and for CPL PGC to acquire, all of the limited partnership interest of CPL PGC LP and for CPL PGC LP to issue, and for CPL PGC LLC to acquire, the general partnership interest of CPL PGC LP.

(iv) WTU to acquire all of the common stock of, or limited liability interest in, WTU PGC in exchange for transferring its generation assets and related liabilities to WTU PGC and for WTU PGC to issue, and for WTU to acquire, all of the common stock of, or limited liability interest in, WTU PGC.

(v) WTU PGC to acquire all of the membership interests of WTU PGC LLC in exchange for sufficient capitalization for WTU PGC LLC to act as general partner of WTU PGC LP and for WTU PGC LLC to issue, and for WTU PGC to acquire, all of the membership interests of WTU PGC LLC.

(vi) WTU PGC to acquire all of the limited partnership interest of WTU PGC LP in exchange for transferring its generation assets and related liabilities to WTU PGC LP, for WTU PGC LLC to acquire the general partnership interest of WTU PGC LP, for WTU PGC LP to issue, and for WTU PGC to acquire, all of the limited partnership interest of WTU PGC LP and for WTU PGC LP to issue, and for WTU PGC LLC to acquire, the general partnership interest of WTU PGC LP.

(vii) OPCO to acquire all of the common stock of, or limited liability interest in, OPCO EDC in exchange for

transferring its transmission and distribution assets and related liabilities to OPCO EDC and for OPCO EDC to issue, and for OPCO to acquire, all of the common stock of, or limited liability interest in, OPCO EDC.

(viii) CSP to acquire all of the common stock of, or limited liability interest in, CSP EDC in exchange for transferring its transmission and distribution assets and related liabilities to CSP EDC and for CSP EDC to issue, and for CSP to acquire, all of the common stock of, or limited liability interest in, CSP EDC.

(ix) SWEPCO to acquire all of the common stock of, or limited liability interests in, SWEPCO EDC in exchange for transferring its distribution assets and related liabilities located in Texas to SWEPCO EDC and to acquire all of the common stock of, or limited liability interests in SWEPCO Transco in exchange for transferring the Texas Transmission Assets and Related Liabilities to SWEPCO Transco, and for SWEPCO EDC and SWEPCO Transco, respectively, to issue and SWEPCO to acquire all of the common stock of or limited liability interest in SWEPCO EDC and SWEPCO Transco.

(x) Reg Holdco to acquire all of the limited liability interest in OPCO EDC LLC and for OPCO EDC LLC to issue all of its limited liability interest to Reg Holdco.

Other Proposals

AEP is seeking EWG status for the PGC affiliates. If EWG status is not immediately obtained, Enterprises, Wholesale Holdco and Domestic Holdco ("Enterprise Holding Companies") will register under the Act. Accordingly, for a period of 12 months beginning with the date of the order in this filing, the Enterprise Holding Companies seek a waiver from the otherwise applicable requirement to file Form U5B while EWG certification is sought for the generating assets they will hold. Applicants also request authority under section 12(d) of the Act to divest to third parties the generating capability of CPL's Lon Hill Units 1-4, Nueces Bay plant, and Joslin Unit 1 if EWG status is not obtained in time for CPL to meet the deadline to divest these generating assets. If divestment of these units is made to nonaffiliated purchasers, divestment will be at fair market value.

In addition to the foregoing affiliate transfers, CPL, SWEPCO and WTU seek authority to sell certain utility assets to non-affiliates as required by S.B.7. The statute states that each electric utility "shall separate from its regulated utility activities its customer energy services business activities that are otherwise

also already widely available in the competitive market." Rules promulgated in connection with this provision define "competitive energy services" as non-roadway lights and distribution facilities, including distribution transformers, conductors, and associated distribution equipment beyond the customer's primary metering point as well as substation facilities dedicated to serving individual customers. CPL, SWEPCO and WTU have offered customers the option to purchase such facilities, provide their own facilities or convert their service to secondary metering. Should a customer elect to purchase the facilities, CPL, SWEPCO and WTU request authority to sell these assets.

AEP also seeks authority to restructure within or to the Enterprises chain of entities its nonutility holdings (including utility holdings that are not subject to state regulation) from time to time as may be necessary or appropriate. This restructuring might involve the acquisition of new special purpose subsidiaries to acquire and hold direct or indirect interests in any or all of the AEP system's existing or future authorized nonutility businesses or it might involve the creation, capitalization and acquisition of a subsidiary to hold non-utility interests or the transfer of existing subsidiaries or portions of existing businesses among AEP associates or the reincorporation of existing subsidiaries in a different state.

AEPSC seeks authority to render services to any direct or indirect subsidiary of any Applicant to be formed as requested in this Application in accordance with the existing AEP service agreement and in compliance with "at cost" provisions of Rules 90 and 91 of the Act. Also requested is authority for Operating Companies to enter into operating agreements with respective subsidiaries for the period following receipt of respective state regulatory approvals of relevant portions of the AEP restructuring proposed in this filing but prior to actual restructuring as proposed.

Authority is also requested to establish services entities. AEP proposes to organize a specialized service company ("GenServCo") for dispatch, wholesale trading and fuel procurement of generation assets not subject to state regulation and other energy-related services. Affiliate companies will reimburse GenServCo for its services on a full cost basis in accordance with the Act. Applicants request that the Commission reserve jurisdiction on approval of GenServCo until completion of the record. In addition, a division may be established under AEPSC to

comply with a code of conduct established in connection with S.B. 7 which prohibits PGCs and EDCs in Texas from sharing the services of a single service provider for services such as engineering, purchasing of electric transmission, transmission and distribution system operations and marketing services.

CPL EDC, CPL PGC, CPL PGC LLC, CPL PGC LP, CSP EDC, CSP PGC, Domestic Holdco, Enterprises, OPCO EDC, OPCO PGC, Reg Holdco, SWEPCO EDC, SWEPCO Transco, Wholesale Holdco, WTU EDC, WTU PGC, WTU PGC LLC and WTU PGC LP ("Finance Applicants") and, following the transactions for which authority is sought in this Application, any subsidiary controlled by a Finance Applicant, requests authorization under Section 13(b) of the 1935 Act to provide services and sell goods to the nonutility associate companies described below at fair market prices determined without regard to cost and requests an exemption under Section 13(b) of the 1935 Act from the cost standards of Rules 90 and 91, as applicable to these transactions, in any case in which the nonutility subsidiary purchasing these goods or services is:

1. A FUCO or foreign EWG which derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States.

2. An EWG which sells electricity at market-based rates which have been approved by the FERC, provided that the purchaser is not a public utility company in the AEP system;

3. A "qualifying facility" ("QF") within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA"), that sells electricity exclusively at rates negotiated at arms' length to one or more industrial or commercial customers purchasing the electricity for their own use and not directly for resale and/or to an electric utility company other than a public utility in the AEP system at the purchaser's "avoided cost" as determined in accordance with PURPA regulations;

4. A domestic EWG or QF that sells electricity at rates based upon its cost of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser is not a public utility company in the AEP System;

5. A subsidiary engaged in Rule 58 activities or any other nonutility subsidiary that: (1) is partially owned by a member of the AEP system, (2) is engaged solely in the business of developing, owning, operating and/or

providing services or goods to the nonutility subsidiaries described in clauses 1 through 4 immediately above, or (3) does not derive any part of its income from a public-utility company within the AEP system.

Financing Requests

Applicants make a number of financing requests in connection with the restructuring for a period up to June 30, 2005.

AEP requests authority to:

- (1) Issue guarantees (including guarantees for debt), obtain letters of credit, enter into support or expense agreements or otherwise provide credit support to Finance Applicants and enter into guarantees of nonaffiliated third parties' obligations in an amount not to exceed \$15 billion outstanding at any one time (such guarantees issued by AEP will be subject to rule 58(a)(1) and rule 53 limitations in effect for AEP).

- (2) Acquire the debt or other securities of Enterprises, Wholesale Holdco, Domestic Holdco and Reg Holdco for the purpose of lending to them.

- (3) Invest in the EWGS to be held by CPL PGC, CPL PGC LLC, CPL PGC LP, CSP, OPCO, WTU PGC, WTU PGC LLC and WTU PGC LP ("Enterprises Subsidiaries"), the entities holding the generation assets to be transferred by this Application, up to the aggregate of the equity accounts of the Enterprises Subsidiaries, which was approximately \$2.4 billion as of December 31, 2001, plus up to an aggregate of \$1.5 billion of related guarantees and credit support for the benefit of the Enterprises Subsidiaries. This Application contemplates that (i) generation assets currently owned by WTU and CPL ("Generation Assets") will be transferred to Texas PGC subsidiaries ("Texas PGCs"), (ii) upon transfer of the transmission and distribution assets and related liabilities, OPCO and CSP will be PGCs ("Ohio PGCs"), which with the Texas PGCs are also the Enterprises Subsidiaries, and (iii) the Enterprises Subsidiaries will be held by a direct or indirect subsidiary of Enterprises. The Enterprises Subsidiaries will be public utility companies within the meaning of the Act until such time as the Federal Energy Regulatory Commission grants them EWG status. The Generation Assets will be transferred to the Texas PGCs at book value as required by Texas state law. The fair market value of the Generation Assets is not known at this time. Applicants propose that once EWG status is obtained for the Enterprises Subsidiaries, the aggregate investment in them will be \$3.911 billion consisting of (i) \$2.411 billion, as

of December 31, 2001, which is the aggregate of the equity accounts of the Enterprises Subsidiaries as projected in Exhibit B-2 and which amount reflects the equity investment of AEP in the Enterprises Subsidiaries and, therefore, is recourse to AEP ("Recourse Amounts"), and (ii) \$1.5 billion of related guarantees and other credit support by AEP for the benefit of these subsidiaries. If AEP subsequently determines to retain the Texas PGCs, the fair market value of the Generation Assets will be substituted for the Texas PGC portion of the Recourse Amounts in the \$3.911 billion aggregate investment amount. AEP is currently authorized by order to engage in EWG and FUCO financings in an amount equal to 100 percent of consolidated retained earnings as defined in rule 53(a)(1). That amount was \$3.308 billion as of March 31, 2002. Current investment in these entities is \$2.970 billion.

Financing requests by other entities:

The following entities seek authority to issue securities to non-affiliated and affiliated entities in aggregate principal amounts (not including the refunding of outstanding securities) as follows: (1) each Enterprises Holding Company up to \$5 billion; (2) CPL PGC, CPL PGC LP, and CPL PGC LLC up to \$1 billion; (3) CSP PGC up to \$500 million; (4) OPCO PGC up to \$1 billion; (5) WTU PGC, WTU PGC LP, and WTU PGC LLC up to \$250 million; (6) Reg Holdco up to \$10 billion; (7) CPL EDC up to \$1 billion; (8) SWEPCO EDC up to \$500 million; (9) SWEPCO Transco up to \$500 million; (10) WTU EDC up to \$500 million.

Each Enterprise Holding Company proposes to: (1) issue guarantees and extend credit support to Enterprises subsidiaries, any finance subsidiary owned by it, any other Enterprises Holding Company, any direct or indirect subsidiary of any Enterprises Holding Company or any nonaffiliate in accordance with the parameters set forth in the Application in an aggregate amount not to exceed \$10 billion; (2) enter into hedging transactions; (3) acquire the debt or other securities of any Enterprises subsidiary or other Enterprises holding company for the purpose of lending to them.

Authority is sought for Reg Holdco to acquire the debt or other securities of any affiliated public utility company whose common equity is owned directly or indirectly by Reg Holdco for the purpose of lending to it; to enter into hedging transactions; to issue guarantees and extend credit support to CPL EDC, CSP EDC, OPCO EDC, SWEPCO EDC, SWEPCO Transco and

WTU EDC ("Regulated Subsidiaries") and to any finance subsidiary owned by it or any non-affiliate in accordance with the parameters set forth in the Application in an aggregate amount not to exceed \$10 billion; and to borrow from the AEP money pool, subject to the terms of previous money pool orders (HCAR No. 27186, June 14, 2000, and HCAR No. 26697, March 28, 1997, HCAR No. 26854, April 3, 1998), (collectively, "Money Pool Orders"), and to issue short-term debt up to \$3 billion by participating in the money pool or otherwise in accordance with the parameters set forth in the Application.

The Enterprises Subsidiaries and the Regulated Subsidiaries seek authority to issue guarantees and extend credit support in the amounts of financing authority stated above to any subsidiary owned by it or any non-affiliate, and, in the case of the Enterprises Subsidiaries, to any other subsidiary of Enterprises. Enterprises Subsidiaries and Regulated Subsidiaries also seek authority to enter into hedging transactions. Regulated Subsidiaries also seek authority to participate in the authorized AEP money pool as set forth in the Money Pool Orders and to issue short-term debt by participating in the money pool or otherwise in accordance with the parameters set forth in the Application up to the following amounts: CPL EDC, \$200 million; CSP EDC, \$175 million; OPCO EDC, \$250 million; SWEPCO EDC, \$100 million; SWEPCO Transco, \$100 million; WTU EDC, \$75 million.

Each Finance Applicant requests authority to organize and acquire all of the common stock or other equity interests in one or more financing subsidiaries for the purpose of effecting any financing requested in the Application and authority for any financing subsidiary so organized to effect any transaction for which a Finance Applicant has received authorization in this filing.

Request To Pay Dividends Out of Capital or Unearned Surplus

The Operating Companies and Reg Holdco request authority to pay dividends from paid-in capital in projected amounts for the purpose of placing the PGCs under Enterprises and the EDCs under Reg Holdco. After the transactions set forth in the Application and through June 30, 2004, each Utility Subsidiary and Reg Holdco requests authority to pay dividends in an aggregate amount up to but not exceeding the retained earnings of the respective Operating Company associated with CPL EDC, CPL PGC, CPL PGC LLC, CPL PGC LP, CSP EDC,

CSP PGC, OPCO EDC, OPCO PGC, SWEPCO, SWEPCO EDC, SWEPCO Transco, WTU EDC, WTU PGC, WTU PGC LLC AND WTU PGC LP ("Utility Subsidiaries") (or, in the case of Reg Holdco, of Reg Holdco) immediately preceding the transactions set forth in the Application.

By way of example, as of December 31, 2001, CSP had retained earnings of approximately \$176 million. The Application seeks authority for CSP to form, capitalize and transfer its transmission and distribution assets and liabilities to CSP EDC (after which CSP will be CSP PGC). Because no retained earnings can be transferred to CSP EDC and because the retained earnings of CSP PGC will be eliminated when it dividends CSP EDC to AEP, neither CSP EDC nor CSP PGC will have any retained earnings as a result of the proposed transactions. Accordingly, granting the authority requested here would permit CSP EDC and CSP PGC to dividend an amount (when added to amounts already dividended by either) equal to \$176 million through June 30, 2004, assuming the proposed transactions had occurred on December 31, 2001, which amount would be increased by any retained earnings of either (such increases applying only to the company earning them).

For extraordinary reasons related to the adoption of utility restructuring legislation in Texas and Ohio, the Operating Companies and Reg Holdco will each be declaring and distributing significant portions of their respective assets (the equity interest each Operating Company owns in the subsidiaries created by each and the equity interest in the Texas PGCs owned by Reg Holdco) to their respective immediate parents as more fully described in the Application. The following, each contemplated by the proposed transactions, result in separate but related entries on the equity account of each entity involved: (i) The direct or indirect contribution by AEP of additional paid-in capital to the Operating Companies in amounts such that: (a) Assuming the elimination of retained earnings, sufficient paid-in capital is available to effect the dividend, and, (b) following the distribution of the newly capitalized subsidiaries, the equity portion of consolidated capitalization of each entity declaring a dividend is no less than 30%, and (ii) the distribution by the Operating Companies (and, with respect to the Texas PGCs, by Reg Holdco) of the common stock or limited liability interests of the newly capitalized subsidiaries to their ultimate parent, AEP. Subsequent contributions

of common stock or limited liability interests of the newly capitalized subsidiaries or common stock of applicable Operating Companies and vertically-integrated companies in order to achieve the proposed corporate structure are not expected to impact the equity account of any entity involved.

The distribution of the common stock or limited liability interest of each subsidiary will result in a debit in the equity account of each entity declaring the dividend in an amount equal to the value of the common stock or limited liability interest of the applicable subsidiary, *i.e.*, the value of the utility assets and liabilities contributed to such subsidiary. Generally speaking, there are three components to the equity account of a corporation: stated capital (common stock), paid-in capital and retained earnings. Under general corporate principles, no dividend may exceed the aggregate amount of paid-in capital and retained earnings.

There are two constraints on the distribution by the Operating Companies (and, with respect to the Texas PGCs, by Reg Holdco) of the common stock or limited liability interest of their respective newly capitalized subsidiaries: (i) Unless expressly approved by the Commission, the amount of any dividend may not exceed the amount of retained earnings of the entity declaring the dividend, and, (ii) consistent with Commission policy, following the dividend, the equity portion of each entity declaring a dividend may not be less than 30%. Currently, in all but one Operating Company and Reg Holdco the amount of the dividend, *i.e.*, the value of the common stock or limited liability interest of the applicable subsidiary, is greater than the retained earnings of the entity declaring the dividend. Accordingly, in order to effect the proposed transactions, each Operating Company requests authority to pay dividends out of paid-in capital.

Except for one Operating Company and Reg Holdco, the distribution of the subsidiaries to AEP will (i) eliminate the retained earnings component of the equity account of each Operating Company, and (ii) reduce, in varying degrees, or eliminate the paid-in capital component of the equity account of each Operating Company. These reductions in the equity account of each entity declaring a dividend might otherwise cause the equity portion of the consolidated capitalization of the entity declaring the dividend to fall below 30%. Therefore, in order to effect the dividend out of paid-in capital and maintain a 30% equity ratio, AEP, directly or indirectly, will contribute

sufficient capital into each entity declaring a dividend prior to such dividend in the amount needed to increase the paid-in capital component of the equity account to a level where the equity portion of the consolidated capitalization of each entity declaring a dividend will be no less than 30%. AEP uses the equity method of accounting; the retained earnings and equity account of AEP will not be impacted by these dividends or by any of the subsequent contributions of common stock or limited liability interests of the newly capitalized subsidiaries or common stock of applicable Operating Companies and vertically-integrated companies contemplated by the proposed transactions.

In addition to the foregoing dividends, Reg Holdco will borrow, directly or indirectly, an amount projected to be approximately \$1.4 billion and authority is sought for Reg Holdco to dividend the cash proceeds, from paid-in capital, to AEP. AEP will contribute the cash proceeds of this dividend to CSP and OPCO to permit them to pay down existing indebtedness as contemplated by the proposed transaction. CSP EDC will borrow an amount projected to be approximately \$600 million from Reg Holdco and authority is sought for CSP EDC to dividend the cash proceeds of such borrowing, from paid-in capital, to Reg Holdco. OPCO EDC will also borrow an amount projected to be approximately \$800 million from Reg Holdco and authority is sought for OPCO EDC to dividend the cash proceeds of such borrowing, from paid-in capital, to Reg Holdco. Such borrowings, dividends, contributions and retirements of indebtedness are necessary to achieve the appropriate capitalization and equity ratio for each entity involved.

Through a series of internal transactions which will be recorded on the books of the AEP affiliates involved as corresponding dividends and contributions of capital, CPL and WTU will transfer certain of their pollution control bonds to Wholesale Holdco via Reg Holdco, AEP and Enterprises. Such transfers are necessary to prevent pollution control bonds remaining on the books of CPL and WTU following the transfer by each of their respective generation assets and related liabilities to CPL PGC and WTU PGC, respectively. Moreover, indebtedness cannot be transferred to CPL PGC and WTU PGC without incurring substantial tax liability when those entities are dividend to Reg Holdco and AEP and contributed to Domestic Holdco. Authority is requested to make the necessary dividends from paid-in

capital to transfer such pollution control bonds from CPL and WTU to Wholesale Holdco.

These distributions will also result, on a pro forma basis, in unusual reductions in, and/or elimination of, the retained earnings of the Operating Companies, Wholesale Holdco and Reg Holdco, which may make it difficult in some cases for each to continue to pay dividends at historical levels without such dividends being paid from paid-in capital. Accordingly, until June 30, 2004 each Utility Subsidiary, Enterprise Holding Company and Reg Holdco requests authority to pay dividends out of paid-in capital up to an amount not to exceed the aggregate retained earnings (immediately prior to the proposed transactions) of the Operating Companies and Reg Holdco. The effect of this limit shall be to preserve for a short interval the historical retained earnings of each Operating Company or Reg Holdco, as applicable, to permit its respective post-transaction successors to pay dividends without increasing the amount of dividends any could have paid, but for the proposed transactions. Each Utility Subsidiary and Reg Holdco shall pay dividends out of paid-in capital only if its common equity is at least 30% of its consolidated capitalization.

Financing Parameters

Applicants state that for any requested transaction the effective cost of money on unsecured, long-term, debt borrowings authorized by order in this application-declaration will not exceed the greater of (i) 500 basis points over the comparable term U.S. Treasury securities or (ii) a gross spread over U.S. Treasuries that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The effective cost of money on short-term debt borrowings authorized under this Application will not exceed the greater of (i) 350 basis points over the comparable term London Interbank Offered Rate ("LIBOR") or (ii) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The dividend rate on any series of preferred securities will not exceed the greater of (a) 700 basis points over the yield to maturity of a U.S. Treasury security having a remaining term equal to the term of such series of preferred securities or (b) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

Applicants state that the maturities on unsecured indebtedness will not exceed

50 years, that all preferred securities will be redeemed no later than 50 years after issuance, and that underwriting fees and similar remuneration paid in connection with the issue or sale of securities authorized by this filing will be less than 5% of the principal or amount of the security being issued. AEP and the Finance Applicants state that each will maintain common equity of at least 30% of consolidated capitalization as defined by the Application and they will not publicly issue any secured or unsecured indebtedness or preferred securities unless they maintain at least an investment grade corporate or senior unsecured debt rating by at least one nationally recognized rating agency. Applicants have excluded CPL's securitization debt from the calculation of indebtedness and total capitalization. Applicants request that the Commission reserve jurisdiction over CPL's exclusion of securitization debt from its calculation of consolidated capitalization until such time that its common equity would otherwise be less than 30 percent of its consolidated capitalization with the inclusion of the securitization debt.

Proceeds of the financing requests will be used for capital expenditures of the AEP system; working capital for the system; acquisition, retirement or redemption of securities previously issued by AEP subsidiaries; investment by Enterprises Holding Companies in companies authorized by prior Commission order, including energy-related companies as defined in Rule 58 of the Act, EWGs, Foreign Utility Companies as described in section 33 of the Act, exempt telecommunications companies, and other approved subsidiaries; and other lawful purposes.

With regard to requests to engage in hedging activities, Applicants state that interest rate hedging transactions with respect to existing indebtedness ("Interest Rate Hedges"), subject to certain limitations and restrictions, would be entered into in order to reduce or manage interest rate cost or risk. Interest Rate Hedges would only be entered into with counterparties ("Approved Counterparties") whose senior debt ratings, or whose parent companies' senior debt ratings, as published by Standard and Poor's Ratings Group, are equal to or greater than BBB, or an equivalent rating from Moody's Investors' Service or Fitch Investor Service. Interest Rate Hedges will involve the use of financial instruments and derivatives commonly used in today's capital markets, such as interest rate swaps, options, caps, collars, floors, and structured notes (i.e.,

a debt instrument in which the principal and/or interest payments are indirectly linked to the value of an underlying asset or index), or transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations. The transactions would be for fixed periods and stated notional amounts. In no case will the notional principal amount of any interest rate swap exceed that of the underlying debt instrument and related interest rate exposure. Applicants will not engage in speculative transactions. Fees, commissions and other amounts payable to the counterparty or exchange (excluding, however, the swap or option payments) in connection with an Interest Rate Hedge will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

In addition, interest rate hedging transactions with respect to anticipated debt offerings (the "Anticipatory Hedges"), subject to certain limitations and restrictions would only be entered into with Approved 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 U.S. Treasury futures contracts, U.S. Treasury obligations and/or a forward swap (each a "Forward Sale"); (ii) the purchase of put options on U.S. Treasury obligations (a "Put Options Purchase"); (iii) a Put Options Purchase in combination with the sale of call options on U.S. Treasury obligations (a "Zero Cost Collar"); (iv) transactions involving the purchase or sale, including short sales, of U.S. Treasury obligations; or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, options, 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 the Chicago 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. Each Applicant will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. Applicants may decide to lock in interest rates and/or limit its exposure to interest rate increases. Applicants represent that each Interest Rate Hedge and Anticipatory Hedge will be treated for

accounting purposes under generally accepted accounting principles. Applicants will comply with the then existing financial disclosure requirements of the Financial Accounting Standards Board associated with hedging transactions.

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

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 02-15709 Filed 6-20-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25613; 812-12490]

One Group Mutual Funds, et al.; Notice of Application

June 14, 2002.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under (i) section 6(c) of the Investment Company Act of 1940 (the "Act") granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(j) of the Act granting an exemption from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions.

Summary of Application: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

Applicants: One Group Mutual Funds (the "Trust"), Banc One Investment Advisors Corporation (the "Investment Manager"), One Group Administrative Services, Inc. (the "Administrator"), and all other registered open-end investment companies and series thereof that are part of the same group of investment companies (as defined in section 12(d)(1)(G) of the Act) as the Trust and that are advised by the Investment Manager or a person controlling, controlled by, or under common control with the Investment Manager (together with the Trust and its series, the "Funds").¹

¹ All existing investment companies that currently intend to rely on the order are named as applicants, and any other existing or future investment companies that subsequently rely on the order will comply with the terms and conditions of the application.

FILING DATES: The application was filed on March 23, 2001, and amended on June 4, 2002, and June 10, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 9, 2002, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549-0609; Applicants: c/o Bank One Corporation, 1111 Polaris Parkway, Suite 4P, Columbus, OH 43271-0152, Attn: Michael V. Wible, Esq.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942-0582, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549-0102 (tel. (202) 942-8090).

Applicants' Representations

1. The Trust is registered under the Act as an open-end management investment company and is organized as a Massachusetts business trust. Currently, the Trust is comprised of forty-eight Funds. The Investment Manager is registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). Each Fund has entered into an investment advisory agreement with the Investment Manager. The Administrator serves as administrator for the Funds. Both the Investment Manager and the Administrator are wholly owned indirect subsidiaries of Bank One Corporation, a bank holding company incorporated in the state of Delaware.

2. Some Funds may lend money to banks or other entities by entering into repurchase agreements or purchasing other short-term instruments. Other Funds may borrow money from the same or similar banks for temporary