

the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S.

Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

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

Arizona Public Service Company, et al., Docket No. STN 50-530, Palo Verde Nuclear Generating Station, Unit No. 3, Maricopa County, Arizona

Date of application for amendment: October 6, 1998

Brief description of amendment: The amendment revises TS 3.3.1, "Reactor Protective System (RPS) Instrumentation—Operation," and TS 3.3.2, "Reactor Protective System (RPS) Instrumentation—Shutdown." The proposed amendment would clarify the power level threshold at which certain RPS instrumentation trips must be enabled and may be bypassed, and would clarify that this level is a percentage of the neutron flux at rated thermal power (RTP). The bypass power level, 1E-4% RTP, would be specified as logarithmic power instead of thermal power.

Date of issuance: October 19, 1998.

Effective date: October 19, 1998.

Amendment No.: 119.

Facility Operating License No. NPF-74: The amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: Yes. October 13, 1998. Arizona Republic Newspaper (Arizona).

Comments received: No. The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Arizona and final determination of no significant hazards consideration are contained in a Safety Evaluation dated October 19, 1998.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072-3999.

NRC Project Director: William H. Bateman.

Dated at Rockville, Maryland, this 28th day of October 1998.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98-29433 Filed 11-3-98; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23511; 812-11252]

FPA Capital Fund, Inc.; Notice of Application

October 29, 1998.

AGENCY: Notice of application under section 17(b) of the Investment Company Act of 1940 ("Act") for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicant, FPA Capital Fund, Inc. ("Fund"), seeks an order to permit an in-kind redemption of shares of the Fund by an affiliated person of the Fund.

FILING DATES: The application was filed on August 6, 1998 and amended on October 20, 1998.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 23, 1998, and should be accompanied by proof of service on applicant, 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 may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 11400 West Olympic Boulevard, Los Angeles, California 90064.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Attorney-Adviser, (202) 942-0574 or Edward P. Macdonald, 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 (tel. no. 202-942-8090).

Applicant's Representation

1. The Fund, organized as a Maryland corporation, is registered under the Act as an open-end management investment company. First Pacific Advisors, Inc. ("Adviser"), registered under the Investment Advisers Act of 1940 ("Advisers Act"), is the Fund's investment adviser.

2. ICMA Retirement Trust ("Affiliated Shareholder") is a retirement trust for deferred compensation plans and qualified retirement plans established by state and local governments and their agencies and instrumentalities for their employees. The Affiliated Shareholder is not registered under the Act in reliance upon section 2(b) of the Act. The ICMA Retirement Corporation ("Retirement Corporation"), registered under the Advisers Act, serves as the investment adviser to the Affiliated Shareholder. The Affiliated Shareholder owns approximately 13.33% of the outstanding shares of the Fund.

3. The Retirement Corporation, acting in its fiduciary capacity with respect to the Affiliated Shareholder, has concluded that the assets of the Affiliated Shareholder invested in the Fund should be managed directly by the Adviser. Consequently, the Affiliated Shareholder has notified the Fund that it expects to redeem all of its shares of the Fund and place the proceeds in a separate account managed by the Retirement Corporation and subadvised by the Adviser. On August 3, 1998, the Fund's board of directors, including all of the independent directors, determined that it would be in the best interests of the Fund and its shareholders to redeem the shares of the Affiliated Shareholder in-kind.

Applicant's Legal Analysis

1. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, acting as principal, from knowingly purchasing any security from the company. Section 2(a)(3)(A) of the Act defines "affiliated person" of another person to include any person owning 5% or more of the outstanding voting securities of the other person.

2. Section 17(b) of the Act provides that, notwithstanding section 17(a) of the Act, the Commission shall exempt a

proposed transaction from section 17(a) of the Act if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Applicant states that the Affiliated Shareholder is an affiliated person of the Fund under section 2(a)(3)(A) of the Act because it owns beneficially in excess of 5% of the Fund's shares. To the extent that the proposed in-kind redemption would be considered to involve the "purchase" of the Fund's portfolio securities by the Affiliated Shareholder, applicant states that the proposed in-kind redemption would be prohibited by section 17(a)(2) of the Act.

4. Applicant submits that the terms of the proposed in-kind redemption meet the standards set forth in section 17(b) of the Act. Applicant asserts that neither the Adviser nor the Affiliated Shareholder will have any opportunity to select the specific portfolio securities to be distributed. Applicant further states that the portfolio securities to be distributed to the Affiliated Shareholder will be valued according to an objective, verifiable standard and that the in-kind redemption is consistent with the investment policies of the Fund. Applicant also states that the proposed in-kind redemption is consistent with the general purposes of the Act.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. The portfolio securities of the Fund distributed to the Affiliated Shareholder pursuant to the in-kind redemption (the "In-Kind Securities") will be limited to securities that are traded on a public securities market or for which quoted bid prices are available.

2. The In-Kind Securities will be distributed by the Fund on a pro rata basis after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; and (b) certain portfolio assets (such as futures and options contracts and repurchase agreements) that, although they may be liquid and marketable, must be traded through the marketplace or with the counterparty to the transaction in order to effect a change in beneficial ownership. Cash will be paid for that portion of the Fund's assets represented by cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements) and other assets

which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, the Fund will distribute cash in lieu of securities held in its portfolio not amounting to round lots (or which would not amount to round lots if included in the in-kind distribution), fractional shares, and accruals on such securities.

3. The In-Kind distributed to the Affiliated Shareholders will be valued in the same manner as they would be valued for purposes of computing the Fund's net asset value which, in the case of securities traded on a public securities market for which quotations are available, is their last reported sales price on the exchange on which the securities are primarily traded or at the last sales price on the national securities market, or, if the securities are not listed on an exchange or the national securities market or if there is no such reported price, the most recent bid price.

4. The Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which the proposed in-kind redemption occurs, the first two years in as easily accessible place, a written record of the redemption setting forth a description of each security distributed, the terms of the distribution, and the information or materials upon which the valuation was made.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-29511 Filed 11-3-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-23509; 812-11350]

Hilliard-Lyons Growth Fund, Inc., et al.; Notice of Application

October 28, 1998.

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

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit the implementation, without prior shareholder approval, of new investment advisory agreements (the "New Advisory Agreements"), for a period of up to 60 days following the later of the dates on which Hilliard