Conclusions

Kaiser has committed to perform remediation activities in accordance with an acceptable DP. NRC staff believes the DP provides adequate controls to keep potential doses to workers and the public from direct exposure, airborne material, and released effluents, ALARA.

NRC staff also believes that the remediation alternative proposed by Kaiser minimizes the potential dose to members of the public, and other environmental impacts. Potential doses to members of the public will be minimized by removing contaminated soil from Kaiser property and making the site suitable for unrestricted release. The proposed remediation alternative also minimizes the potential environmental impacts. Kaiser will excavate and dispose of soil with Th-232 concentrations greater than 1151 mBq/g (31.1 pCi/g), thereby removing a significant source of contamination from the local environment. Therefore, the potential environmental impact from the proposed action is insignificant.

List of Preparers

John Buckley, Project Manager, Division of Waste Management
J.C. Dehmel, Health Physicist, Division of Waste Management
Adrienne Lester, Environmental Scientist, Division of Waste Management

References

1. Kaiser Aluminum and Chemical Corporation, ''Decommissioning Plan,'' June 2001.
2. Kaiser Aluminum and Chemical Corporation, ''Decommissioning Plan Addendum,'' May 2002.
3. Advanced Recovery Systems/Nuclear Fuel Services, Inc., Kaiser Aluminum Specialty Products, ''Field Characterization Report,'' April 18, 1995.
4. Kaiser Aluminum and Chemical Corporation, ''Additional Site Characterization Activities,'' November 2001.
5. NRC, Branch Technical Position, ''Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations,'' 1981.

III. Finding of No Significant Impact

Pursuant to 10 CFR part 51, NRC has prepared this EA related to the approval of Kaiser's DP. On the basis of this EA, NRC staff has concluded that there are no significant environmental impacts on the quality of the human environment. Accordingly, the staff has determined that preparation of an Environmental Impact Statement is not warranted.

IV. Further Information

The licensee's request for the proposed action and other related documents to this proposed action are available for public inspection and copying for a fee at NRC's Public Document Room at NRC Headquarters, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents, along with most others referenced in the EA, are available for public review through ADAMS, the NRC's electronic reading room, at: *http://www.nrc.gov/reading-rm/adams.html.*

Any questions with respect to this action should be referred to John Buckley, Decommissioning Branch, Mailstop T–7F19, Division of Waste Management, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6607.

Dated at Rockville, Maryland, this 30th day of May, 2003.

For the Nuclear Regulatory Commission,

Daniel M. Gillen,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 03–14397 Filed 6–6–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Meeting on Planning and Procedures; Meeting

The ACNW will hold a Planning and Procedures meeting on June 24, 2003, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, June 24, 2003—8:30 a.m.–10 a.m.

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Howard J. Larson (Telephone: 301/415–6805) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: June 2, 2003.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 03–14399 Filed 6–6–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27683]

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

June 2, 2003.

Notice is hereby given that the following filings 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 June 27, 2003 to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After June 27, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

FirstEnergy Corp. et al. (70–10122)

FirstEnergy Corp. (''FirstEnergy''), a registered holding company, its utility subsidiaries: Ohio Edison Company (''Ohio Edison''), American Transmission Systems, Incorporated (''ATSI''), The Cleveland Electric Illuminating Company (''Cleveland Electric''), The Toledo Edison Company (''Toledo Edison''), Pennsylvania Power Company (''Penn Power''), Northeast Ohio Natural Gas Corp. (''NONGC''), Jersey Central Power & Light Company (''JCP&L''), Pennsylvania Electric Company (''Penelec''), Metropolitan Edison Company (''Met-Ed''), York Haven Power Company (''York Haven''), and Waverly Electric Power & Light Company (''Waverly Electric''), and their respective subsidiaries; and FirstEnergy's nonutility subsidiaries: FE Acquisition Corp. (''FE Acquisition''), FirstEnergy Properties, Inc. (''FE Properties''), FirstEnergy Facilities Services Group, LLC (''FEFSG''), FE Holdings, LLC (''FE Holdings''), FELHC, Inc. (''FELHC''), FirstEnergy Securities Transfer Company (''FirstEnergy Transfer''), FirstEnergy Nuclear Operating Company (''FENOC''), FirstEnergy Solutions Corp. (''FirstEnergy Solutions''), FirstEnergy Generation Corp. (''GenCo''), FirstEnergy Ventures Corp. (''FirstEnergy Ventures''), MARBEL Energy Corporation (''MARBEL''), Centerior Indemnity Trust (''CIT''), Centerior Service Company (''Centerior Service''), FirstEnergy Service Company (''ServeCo''), GPU Capital, Inc. (''GPU Capital''), GPU Electric, Inc. (''GPU Electric''), GPU Diversified Holdings, LLC (''GPUDH''), GPU EnerTech Holdings, Inc. (''GPU EnerTech''), GPU Power, Inc. (''GPU Power''), GPU Advanced Resources, Inc. (''GPUAR''), GPU Telcom Services, Inc. (''GPU Telcom''), GPU Nuclear, Inc. (''GPU Nuclear''), and MYR Group, Inc. (''MYR''), and their respective subsidiaries; all based at 76 South Main Street, Akron, Ohio, 44308; (collectively, ''Applicants''), have filed an application-declaration, as amended (''Application''), under sections 6(a), 7, 9(a), 10, 12, and 13(b) of the Act and rules 26(c), 42, 43, 45, 46, 53, 54, and 80–92 under the Act.

Applicants request authority to engage in various financing transactions, credit support arrangements, and other related proposals, as more fully discussed below, commencing on the effective date of an order issued in this proceeding and ending December 31, 2005 (''Authorization Period'').

I. Introduction

FirstEnergy is authorized under its Amended Articles of Incorporation to issue 375,000,000 shares of common stock, par value $.10 per share (''Common Stock''), of which 297,636,276 shares were issued and outstanding as of March 24, 2003. FirstEnergy is also authorized under its Amended Articles of Incorporation to issue 5,000,000 shares of preferred stock, par value $100 per share (''Preferred Stock''), of which none are currently issued and outstanding. In addition, at December 31, 2002, FirstEnergy had outstanding $4,300,000,000 principal amount of senior unsecured notes having various maturity dates through 2032, and $395 million of unsecured borrowings under a $500 million revolving credit facility that expires in November 2004.

FirstEnergy's senior unsecured debt is currently rated BBB-by Standard & Poor's Inc. (''S&P'') and Baa2 by Moody's Investor Service (''Moody's''). For the twelve months ended December 31, 2002, FirstEnergy had total operating revenues of $12,151,997,000, of which $9,165,805,000 (75.4%) were derived from electric utility operations and $2,986,192,000 (24.6%) from unregulated businesses. At December 31, 2002, FirstEnergy had total consolidated assets of $33,580,773,000, including net utility plant of $11,820,797,000.

FirstEnergy's electric and gas utility subsidiaries are referred to collectively as the ''Utility Subsidiaries.'' Ohio Edison, Cleveland Electric, Toledo Edison, JCP&L, Penelec, Penn Power and Met-Ed are sometimes referred to in the Application as the ''Primary Utility Subsidiaries.'' As used in this Application, the term ''Nonutility Subsidiaries'' includes the nonutility subsidiaries named above and their respective subsidiaries, as well as any other nonutility company later acquired or formed, directly or indirectly, by FirstEnergy under rule 58 or pursuant to an order of the Commission (including the order approving this Application). The Utility Subsidiaries and Nonutility Subsidiaries are referred to collectively as the ''Subsidiaries.'' FirstEnergy and the Subsidiaries are referred to collectively as the ''Applicants.''

II. Current and Requested Financing Authority

By order dated October 29, 2001, in File No. 70–9793 (Holding Co. Act Release No. 27459), as supplemented by supplemental orders dated November 8, 2001 (Holding Co. Act Release No. 27463) and December 23, 2002 (Holding Co. Act Release No. 27628) (as so supplemented, the ''Merger Order''), the Commission authorized the merger between FirstEnergy Corp. (''FirstEnergy''), and GPU, Inc. (''GPU''). The merger became effective on November 7, 2001, with FirstEnergy as the surviving entity, and FirstEnergy registered under the Act as a holding company on the same day. The Merger Order also authorized FirstEnergy and its subsidiaries to engage in a program of external financing, intrasystem financing, and other related transactions for the period through and including June 30, 2003.

In the Merger Order, the Commission authorized, through June 30, 2003, among other things:

(i) FirstEnergy to issue and sell common stock, preferred securities, long-term debt, short-term debt and other securities;

(ii) FirstEnergy to issue one purchase right (a ''Right'') together with each share of common stock issued in accordance with FirstEnergy's existing Rights Agreement (''Rights Agreement'');

(iii) FirstEnergy to issue shares of common stock under its dividend reinvestment and stock-based management incentive and employee benefit plans (''Stock Plans'');

(iv) FirstEnergy to enter into and perform interest rate hedging transactions (''Hedge Instruments'') to manage volatility of interest rates associated with its outstanding indebtedness and with respect to anticipated debt offerings (''Anticipatory Hedges'') (collectively, ''Hedging Transactions'');

(v) ATSI and NONGC to issue and sell additional debt or preferred securities on the same terms and conditions as FirstEnergy;

(vi) the Utility Subsidiaries to enter into Hedge Instruments and Anticipatory Hedges subject to the same limitations as FirstEnergy;

(vii) FirstEnergy to issue guarantees and provide other forms of credit support with respect to obligations of its Subsidiaries (''FirstEnergy Guarantees'') and Nonutility Subsidiaries (''Nonutility Subsidiary Guarantees'');

(viii) FirstEnergy to establish and fund a money pool (''Utility Money Pool'') for the Utility Subsidiaries and the Utility Subsidiaries to make borrowings and extend credit to each other through the Utility Money Pool;

(ix) FirstEnergy to establish and fund a separate money pool (''Nonutility Money Pool'') for the benefit of the Nonutility Subsidiaries;

(x) FirstEnergy and the Nonutility Subsidiaries to make loans to less than wholly-owned Nonutility Subsidiaries;

(xi) Applicants to acquire, directly or indirectly, the equity securities of one or more entities (''Financing Subsidiaries'') created specifically for the purpose of facilitating the financing of authorized and exempt activities of the Applicants and to provide guarantees and enter into expense agreements with respect to the securities or other obligations of Financing Subsidiaries;

(xii) Applicants to organize and acquire the securities of one or more first-tier subsidiary companies (''Nonutility Holding Companies'') to act as holding companies for nonutility investments and to engage in internal reorganization transactions involving transfers of nonutility assets and Nonutility Subsidiaries to Nonutility Holding Companies;

(xiii) Applicants to change the capitalization of FirstEnergy's 50% or more owned Subsidiaries;

(xiv) FirstEnergy and certain of the Utility Subsidiaries to declare and pay dividends out of capital and unearned surplus and the Nonutility Subsidiaries to declare and pay dividends out of capital and unearned surplus;

(xv) Applicants to acquire, directly or indirectly, the securities of one or more companies (''Intermediate Subsidiaries'') to acquire, hold and/or finance the acquisition of securities of or other interests in one or more exempt wholesale generators (''EWGs''), foreign utility companies (''FUCOs''), ''exempt telecommunications companies'' (''ETCs''), energy-related companies under rule 58 (''Rule 58 Subsidiaries''), and other Nonutility Subsidiaries, and such Intermediate Subsidiaries are authorized to engage in preliminary development activities and administrative activities;

(xvi) Certain Nonutility Subsidiaries (referred to as ''Energy Related Companies'') to engage in energy management and consulting activities anywhere outside the United States and energy marketing and related activities in Canada and Mexico;

(xvii) FE ServCo, GPU ServCo and the Nonutility Subsidiaries to sell goods and services to associate companies at market prices in certain specified circumstances; and

(xviii) FEFSG to provide maintenance and repair services to FirstEnergy's pre-merger Utility Subsidiaries (*i.e.*, Ohio Edison, Toledo Edison, Cleveland Electric, Penn Power, NONGC and ATSI) at market prices (the ''At-Market Service Arrangements'').

In addition, by orders dated May 21, 2001 (Holding Co. Act Release No. 27401), May 2, 2001 (Holding Co. Act Release No. 27391), December 15, 2000 (Holding Co. Act Release No. 27302), June 22, 1999 (Holding Co. Act Release No. 26544), December 22, 1997 (Holding Co. Act Release No. 26801) and July 17, 1996 (Holding Co. Act Release No. 26544) in File No. 70–7926 (collectively, the ''Prior GPU Order''), JCP&L, Met-Ed and Penelec are currently authorized to issue and sell from time to time through December 31, 2003, commercial paper and other forms of short-term indebtedness having maturities of not more than nine months, and to provide security for such indebtedness.

Applicants state that the authority sought in the Application will supersede and replace the current authorization of the Applicants under the Merger Order and Prior GPU Order to engage in the financing activities and related transaction described above.

IV. Financing Conditions

Applicants' effective cost of money on new long-term debt securities having maturities of one year or more up to fifty years (''Long-term Debt'') of any series will not exceed at the time of issuance the greater of: (1) 500 basis points over the yield to maturity of a U.S. Treasury Security having a remaining term approximately equal to the term of such series of Long-term Debt or; (2) a gross spread over a U.S. Treasury Security that is consistent with similar securities of comparable credit quality and maturities issued by other companies. Applicants' dividend or distribution rate on any series of Preferred Stock and other forms of preferred securities (including trust preferred securities) (collectively, ''Preferred Securities'') will not exceed at the time of issuance the greater of: (1) 500 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; (2) a rate that is consistent with similar securities of comparable credit quality and maturities (or perpetual preferred stock) issued by other companies. The effective cost of money on commercial paper, promissory notes and other forms of short-term indebtedness having maturities of less than one year (''Short-term Debt'') will not exceed the greater of: (1) 500 basis points over the comparable term London Interbank Offered Rate (''LIBOR''); or (2) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies. All debt issued by FirstEnergy will be unsecured. Debt issued by any Utility Subsidiary in accordance with the authorization sought in this Application may be secured or unsecured. The maturity of any series of Long-term Debt will not exceed 50 years. All series of Preferred Securities (other than Preferred Stock, which may be perpetual) will be redeemed no later than 50 years after their issuance. The underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security under the Application (not including any original issue discount) will not exceed 5% of the principal or total amount of the security being issued.

The proceeds from the sale of securities in external financing transactions will be used for general corporate purposes, including financing, in part, of the capital expenditures of FirstEnergy and its Subsidiaries, financing of working capital requirements of FirstEnergy and its Subsidiaries, the acquisition, retirement or redemption under rule 42 of securities previously issued by FirstEnergy or its Subsidiaries, and other lawful purposes, including direct or indirect investments in EWGs, FUCOs, ETCs, Rule 58 Subsidiaries, Energy Related Companies or other businesses approved by the Commission.

In addition, financings by each Applicant will be subject to the following conditions: (1) FirstEnergy will maintain common equity as a percentage of consolidated capitalization (as reflected on the balance sheets contained in its most recent Form 10-K or Form 10-Q filed with the Commission pursuant to the Securities Exchange Act of 1934 (''1934 Act''), and including short-term debt and current maturities of long-term debt) at 30% or higher at all times during the Authorization Period; (2) each Primary Utility Subsidiary will maintain common equity as a percentage of consolidated capitalization (determined in the same manner specified above) at 30% or higher during the Authorization Period.

The consequence of failing to maintain common equity of at least 30% of consolidated capitalization when required is that FirstEnergy and its Subsidiaries (or if such failure were only by a Primary Utility Subsidiary, such company) would not be authorized to issue securities in a transaction subject to Commission approval except for securities which would result in an increase in such common equity percentage. FirstEnergy requests that the Commission reserve jurisdiction over the issuance of securities in those circumstances where FirstEnergy or a

Primary Utility Subsidiary does not comply with the 30% common equity criteria, pending completion of the record upon filing of a post-effective amendment.

Applicants further represent that, except for securities issued for the purpose of funding money pool operations, no guarantees or other securities, other than Common Stock, may be issued in reliance upon the authorization granted by the Commission pursuant to this Application, unless (i) the security to be issued, if rated, is rated investment grade; (ii) all outstanding securities of the issuer that are rated are rated investment grade; and (iii) all outstanding securities of the top level registered holding company that are rated are rated investment grade. For purposes of this provision, a security will be deemed to be rated ''investment grade'' if it is rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of rule 15c3–1 under the 1934 Act. Applicants request that the Commission reserve jurisdiction over the issuance of any such securities that are rated below investment grade. Applicants further request that the Commission reserve jurisdiction over the issuance of any guarantee or other securities at any time that the conditions set forth in clauses (i) through (iii) above are not satisfied.

III. FirstEnergy External Financing

FirstEnergy requests authority to increase its capitalization by issuing and selling from time to time during the Authorization Period, directly or indirectly through one or more Financing Subsidiaries: (1) Additional Common Stock and/or options, warrants, equity-linked securities or stock purchase contracts convertible into or exercisable for Common Stock, (2) Preferred Stock (3) Long-term Debt, and (4) Short-term Debt in an aggregate amount not to exceed $4.5 billion (excluding securities issued for purposes of refunding or replacing other outstanding securities where FirstEnergy's capitalization is not increased as a result) (''External Financing Limit''), provided that the aggregate amount of Short-term Debt at any time outstanding shall not exceed $1.5 billion. All securities issued by FirstEnergy in accordance with the authorization requested herein, including, without limitation, securities issued for the purpose of refunding or retiring outstanding securities, will comply with the applicable financing parameters set forth above. In addition, FirstEnergy seeks the flexibility to enter into certain hedging transactions to manage interest rate risk associated with indebtedness.

A. Common Stock

FirstEnergy proposes to issue and sell Common Stock or options, warrants, equity-linked securities or other stock purchase rights exercisable for Common Stock. Common Stock financings may be effected in accord with underwriting agreements of a type generally standard in the industry. Public distributions may be made through private negotiation with underwriters, dealers or agents or effected through competitive bidding among underwriters. In addition, sales may be made through private placements or other non-public offerings to one or more persons. All such Common Stock sales will be at rates or prices and under conditions negotiated or based upon, or otherwise determined by, competitive capital markets.

FirstEnergy may sell Common Stock covered by this Application in any one of the following ways: (1) Through underwriters or dealers; (2) through agents; (3) directly to a limited number of purchasers or a single purchaser; or (4) directly to employees (or to trusts established for their benefit), shareholders and others through Stock Plans.

Under rule 58 and sections 32, 33 and 34 of the Act, FirstEnergy is or will be authorized to acquire securities of companies engaged in functionally related businesses, Rule 58 Subsidiaries, EWGs, FUCOs, ETCs and, to the extent approved in this proceeding, Energy Related Companies. In connection with any of these transactions, FirstEnergy may conclude that it would be advantageous for tax or other reasons to issue shares of Common Stock or options, warrants or other stock purchase rights exercisable for Common Stock as consideration for the equity securities or assets of other companies to be acquired, provided that the acquisition of any such equity securities or assets has been authorized in this proceeding or in a separate proceeding or is exempt under the Act or the rules under the Act.

Under the Merger Order, the Commission authorized FirstEnergy to implement the terms of a Rights Agreement, dated as of November 18, 1997, between FirstEnergy and The Bank of New York, as rights agent (''Rights Agreement''). Under the Rights Agreement, FirstEnergy assigned one Right for each outstanding share of Common Stock. The Rights expire on November 28, 2007. Each Right entitles the registered holder of the associated share of Common Stock to purchase from FirstEnergy one share of Common Stock at a price of $70 per share (the ''Purchase Price'') when the Rights become exercisable, subject to adjustment following certain specified takeover events such that a holder of a Right (other than any ''Acquiring Persons,'' as defined in the Rights Agreement) would have the right to receive, upon exercise thereof, shares of Common Stock having a current value equal to double the Purchase Price. FirstEnergy requests a continuation through the Authorization Period of its authority under the Merger Order to implement the Rights Agreement. Any shares of Common Stock issued upon exercise of the Rights will not be counted against the External Financing Limit.

B. Preferred Securities

Applicants request authorization during the Authorization Period to issue Preferred Stock or other types of Preferred Securities (including, without limitation, trust preferred securities or monthly income preferred securities) directly or indirectly through one or more special-purpose Financing Subsidiaries organized by FirstEnergy. Preferred Stock or other types of Preferred Securities may be issued in one or more series with such rights, preferences and priorities as may be designated in the instrument creating each such series, as determined by FirstEnergy's Board of Directors. Dividends or distributions on Preferred Securities will be made periodically and to the extent funds are legally available for such purpose, but may be made subject to terms which allow the issuer to defer dividend payments for specified periods. Preferred Securities may be convertible or exchangeable into shares of FirstEnergy Common Stock or indebtedness. Preferred Securities may be sold directly through underwriters or dealers in connection with an acquisition.

C. Long-Term Debt

Applicants request authority to issue Long-term Debt directly by FirstEnergy or indirectly through one or more Financing Subsidiaries organized by FirstEnergy in the form of bonds, notes, medium-term notes or debentures under one or more indentures (each, the ''FirstEnergy Indenture'') or long-term indebtedness under agreements with banks or other institutional lenders. Each series of Long-term Debt would have such designation, aggregate principal amount, maturity, interest rate(s) or methods of determining the same, terms of payment of interest, redemption provisions, sinking fund terms and other terms and conditions as FirstEnergy may determine at the time of issuance. Any Long-term Debt (a) may be convertible into any other securities of FirstEnergy, (b) will have maturities ranging from one to 50 years, (c) may be subject to optional and/or mandatory redemption, in whole or in part, at par or at various premiums above the principal amount thereof, (d) may be entitled to mandatory or optional sinking fund provisions, (e) may provide for reset of the coupon under a remarketing arrangement, (f) may be subject to tender or the obligation of the issuer to repurchase at the election of the holder or upon the occurrence of a specified event, (g) may be called from existing investors by a third party and (h) may be entitled to the benefit of affirmative or negative financial or other covenants.

D. Short-Term Debt

FirstEnergy seeks authority to issue additional Short-term Debt in the form of commercial paper, promissory notes and/or other forms of short-term indebtedness in an aggregate principal amount at any time outstanding not to exceed $1.5 billion.

FirstEnergy proposes to establish from time to time new committed bank lines of credit, provided that only the principal amount of any borrowings outstanding under these new committed bank lines of credit will be counted against the proposed Short-term Debt limit. Credit lines may be set up for use by FirstEnergy for general corporate purposes in addition to credit lines to support commercial paper as described in this subsection. FirstEnergy will borrow and repay under these lines of credit, from time to time, as it is deemed appropriate or necessary. All borrowings under these credit lines will mature in less than one year. FirstEnergy may also engage in other types of short-term financing, including borrowings under uncommitted lines, generally available to borrowers with comparable credit ratings as it may deem appropriate in light of its needs and market conditions at the time of issuance.

FirstEnergy may also sell commercial paper in established domestic or European commercial paper markets, from time to time, and this commercial paper would be sold to dealers at the discount rate or the coupon rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturities sold to commercial paper dealers generally. It is expected that the dealers acquiring commercial paper from FirstEnergy will reoffer such paper at a discount to corporate, institutional and, with respect to European commercial paper, individual investors. Institutional investors are expected to include commercial banks, insurance companies, pension funds, investment trusts, foundations, colleges and universities and finance companies.

E. Hedging Transactions

1. Interest Rate Hedges

FirstEnergy requests a continuation of its authority to enter into and perform Hedge Instruments in order to reduce or manage the volatility of interest rates on its or its Subsidiaries' outstanding indebtedness, including but not limited to interest rate swaps, caps, floors, collars and forward agreements or any other similar agreements. Hedge Instruments may also include issuance of 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 or Agency (*e.g.,* FNMA) obligations or LIBOR-based swap instruments. The transactions would be for fixed periods and stated notional amounts. FirstEnergy would employ Hedge Instruments as a means of prudently managing the risk associated with any of its or its Subsidiaries' outstanding debt issued under this authorization or an applicable exemption by, in effect, synthetically (i) converting variable rate debt to fixed rate debt, (ii) converting fixed rate debt to variable rate debt and (iii) limiting the impact of changes in interest rates resulting from variable rate debt. In no case will the notional principal amount of any interest rate swap exceed the greater of the value of the underlying debt instrument or the present market value of the underlying debt instrument and related interest rate exposure. Each Hedge Instrument will be entered into for a fixed or determinable period. Thus, FirstEnergy will not engage in speculative transactions. FirstEnergy will only enter into agreements with counterparties (''Approved Counterparties'') whose senior debt ratings, as published by a national recognized rating agency, are greater than or equal to ''BBB,'' or an equivalent rating.

2. Anticipatory Hedges

In addition, FirstEnergy requests authorization to enter into and perform Anticipatory Hedges with respect to its or its Subsidiaries' anticipated debt offerings, subject to certain limitations and restrictions. These Anticipatory Hedges 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 (1) a forward sale of exchange-traded Hedge Instruments (a ''Forward Sale''), (2) the purchase of put options on Hedge Instruments (a ''Put Options Purchase''), (3) a Put Options Purchase in combination with the sale of call options Hedge Instruments (a ''Zero Cost Collar''), (4) transactions involving the purchase or sale, including short sales, of Hedge Instruments, or (5) 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, 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, 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. FirstEnergy or the appropriate Subsidiary will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. FirstEnergy or the appropriate Subsidiary may decide to lock in interest rates and/or limit its exposure to interest rate increases.

FirstEnergy will comply with Statement of Financial Accounting Standards (''SFAS'') 133 (''Accounting for Derivative Instruments and Hedging Activities'') and SFAS 138 (''Accounting for Certain Derivative Instruments and Certain Hedging Activities'') or such other standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board (''FASB''). The Hedge Instruments and Anticipatory Hedges approved hereunder will qualify for hedge accounting treatment under the current FASB standards in effect and as determined at the date such Hedge Instruments or Anticipatory Hedges are entered into. FirstEnergy also requests authority to enter into Hedge Instruments and Anticipatory Hedges which do not qualify for hedge accounting treatment by the FASB, and requests that the Commission reserve jurisdiction on this request until the record is complete.

V. Utility Subsidiary Financing

JCP&L, Penn Power, Penelec, Met-Ed, ATSI and NONGC will rely on rule 52 for all securities issuances except for the issuance of short-term debt securities, which is exempt from approval in the applicable states and therefore is subject to Commission approval under the Act. As previously indicated, JCP&L, Penelec and Met-Ed are currently authorized under the Prior GPU Order to issue and sell short-term indebtedness from time to time through December 31, 2003.[1] In this proceeding, JCP&L, Penelec and Met-Ed are requesting authority to increase and extend their current authorization to issue short-term debt securities through the Authorization Period.

Specifically, JCP&L, Penn Power, Met-Ed, Penelec, ATSI and NONGC propose to issue and sell Short-term Debt in the form of commercial paper, promissory notes and/or other forms of short-term indebtedness in an aggregate principal amount at any time outstanding not to exceed (i) in the case of JCP&L and Penn Power, the limitation on short-term indebtedness contained in their respective charters ($428 million and $50 million, respectively, as of December 31, 2002), (ii) $250 million in the case of each of Penelec and Met-Ed, (iii) $500 million in the case of ATSI, and (iv) $20 million in the case of NONGC. Commercial paper may be sold to dealers in established domestic or European commercial paper markets from time to time in the manner described above. In addition, JCP&L, Penn Power, Penelec, Met-Ed, ATSI and NONGC may establish and renew from time to time committed bank lines of credit, and engage in other types of short-term financing, including borrowings under uncommitted lines, generally available to borrowers with comparable credit ratings as they deem appropriate in light of their needs and market conditions at the time of borrowing. All Short-term Debt issued by JCP&L, Penn Power, Penelec, Met-Ed, ATSI and NONGC will comply with the parameters for Short-term Debt set forth above.

To the extent not exempt under rule 52, the Utility Subsidiaries request authority to enter into and perform Hedge Instruments and Anticipatory Hedges subject to the limitations and requirements applicable to FirstEnergy described above.

[1] York Haven and Waverly Electric will continue to obtain financing through intercompany borrowings from their parent corporations or otherwise through the Utility Money Pool and likely will not engage in third-party financing.

VI. Guarantees and Intrasystem Money Pools

A. Guarantees

FirstEnergy requests a continuation of its current authorization to provide FirstEnergy Guarantees with respect to the obligations of its Subsidiaries as may be appropriate or necessary to enable the Subsidiaries to carry on in the ordinary course of their respective businesses, including guarantees of non-affiliated third-party obligations in the ordinary course of FirstEnergy's business, in an aggregate amount that together with Nonutility Subsidiary Guarantees, shall not exceed $4.0 billion (''Guarantee Limit'') outstanding at any one time, including obligations exempt under rule 45 and guarantees and other forms of credit support provided by FirstEnergy or any Nonutility Subsidiary that are outstanding on the effective date of the order issued in this proceeding. FirstEnergy requests that the Commission reserve jurisdiction over the issuance of guarantees for the benefit of non-affiliated third parties.

In addition to guarantees that may be provided by FirstEnergy, the Nonutility Subsidiaries request authority during the Authorization Period to provide to other Nonutility Subsidiaries guarantees and other forms of credit support (''Nonutility Subsidiary Guarantees''). The Nonutility Subsidiary Guarantees, together with FirstEnergy Guarantees, will not exceed the Guarantee Limit outstanding at any one time. The Nonutility Subsidiary providing any such credit support may charge its associate company a fee for each guarantee provided on its behalf determined in the same manner as specified above. Any guarantees or other credit support arrangements outstanding at the end of the Authorization Period will remain in place and expire or terminate in accordance with their terms.

B. Money Pools

FirstEnergy and the Utility Subsidiaries request authorization to continue to maintain and fund the Utility Money Pool, and the Utility Subsidiaries, to the extent not exempt by rule 52, also request authorization to make unsecured short-term borrowings from the Utility Money Pool and to contribute surplus funds to the Utility Money Pool and to lend and extend credit to (and acquire promissory notes from) one another through the Utility Money Pool. No loans through the Utility Money Pool may be made to, and no borrowings through the Utility Money Pool may be made by, FirstEnergy.

In addition, FirstEnergy and the remaining Subsidiaries, all of which are Nonutility Subsidiaries, request authorization to continue to maintain and fund the Nonutility Money Pool. Borrowings and extensions of credit under the Nonutility Money Pool by the Nonutility Subsidiaries are exempt from the prior approval requirements of the Act under rules 45(b) and 52. To the extent not exempt under rules 45(b) and 52, FirstEnergy is requesting authorization to contribute surplus funds and to lend and extend credit to (i) the Utility Subsidiaries through the Utility Money Pool and (ii) the Nonutility Subsidiaries through the Nonutility Money Pool.

Under the Utility Money Pool agreement, short-term funds are available from the following sources for short-term loans to the Utility Subsidiaries from time to time: (1) surplus funds in the treasuries of Utility Money Pool participants other than FirstEnergy; (2) surplus funds in the treasury of FirstEnergy (funds in clauses (1) and (2) being referred to as ''Internal Funds''); and (3) proceeds from bank borrowings by Utility Money Pool participants or the sale of commercial paper by FirstEnergy or the Utility Subsidiaries for loan to the Utility Money Pool (such funds being referred to as ''External Funds''). Utility Money Pool participants that borrow would borrow *pro rata* from each company that lends, in the proportion that the total amount loaned by each such lending company bears to the total amount then loaned through the Utility Money Pool. On any day when more than one fund source (*e.g.*, if there are External Funds as well as Internal Funds), with different rates of interest, is used to fund loans through the Utility Money Pool, each borrower would borrow *pro rata* from each such fund source in the Utility Money Pool in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Utility Money Pool. ATSI, NONGC, Waverly Electric and York Haven each requests authorization to borrow up to $50 million at any time outstanding under the Utility Money Pool.

If only Internal Funds make up the funds available in the Utility Money Pool, the interest rate applicable and payable to or by Utility Subsidiaries for all loans of such Internal Funds will be the greater of the 30-day LIBOR rate as quoted in *The Wall Street Journal* or the money market rate that a lending participant could have obtained if it placed its excess cash in such an investment.

If only External Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such External Funds would be equal to the lending company's cost for such External Funds (or, if more than one Utility Money Pool participant had made available External Funds on such day, the applicable interest rate would be a composite rate equal to the weighted average of the cost incurred by the respective Utility Money Pool participants for such External Funds).

In cases where both Internal Funds and External Funds are concurrently borrowed through the Utility Money Pool, the rate applicable to all loans comprised of such ''blended'' funds would be a composite rate equal to the weighted average of (a) the cost of all Internal Funds contributed by Utility Money Pool participants (as determined pursuant to the second-preceding paragraph above) and (b) the cost of all such External Funds (as determined pursuant to the immediately preceding paragraph above). In circumstances where Internal Funds and External Funds are available for loans through the Utility Money Pool, loans may be made exclusively from Internal Funds or External Funds, rather than from a ''blend'' of such funds, to the extent it is expected that such loans would result in a lower cost of borrowings.

Funds not required by the Utility Money Pool to make loans (with the exception of funds required to satisfy the Utility Money Pool's liquidity requirements) would ordinarily be invested in one or more short-term investments, including: (i) Interest-bearing accounts with banks; (ii) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (iii) obligations issued or guaranteed by any state or political subdivision thereof, provided that such obligations are rated not less than ''A'' by a nationally recognized rating agency; (iv) commercial paper rated not less than ''A–1'' or ''P–1'' or their equivalent by a nationally recognized rating agency; (v) money market funds; (vi) bank certificates of deposit; (vii) Eurodollar funds; and (viii) such other investments as are permitted by section 9(c) of the Act and rule 40 under the Act.

The Nonutility Money Pool is operated on the same terms and conditions as the Utility Money Pool, except that FirstEnergy funds made available to the two money pools are made available to the Utility Money Pool first and thereafter to the Nonutility Money Pool. Under the Nonutility Money Pool agreement, no loans may be made to, and no borrowings may be made by, FirstEnergy. All contributions to, and borrowings from, the Nonutility Money Pool are exempt pursuant to the terms of rule 52 under the Act.

Under the Merger Order, all existing Nonutility Subsidiaries of FirstEnergy and GPU at the time of the merger were authorized to participate in the Nonutility Money Pool.

VII. Other Borrowings

In the limited circumstances where the Nonutility Subsidiary making the borrowing is not wholly owned by FirstEnergy, directly or indirectly, authority is requested under the Act for FirstEnergy or a Nonutility Subsidiary, as the case may be, to make such loans to such Subsidiaries at interest rates and maturities designed to provide a return to the lending company of not less than its effective cost of capital. If these loans are made to a less than wholly-owned Nonutility Subsidiary, such company will not sell any services to any associate Nonutility Subsidiary unless such purchasing company falls within one of the categories of companies to which goods and services may be sold on a basis other than ''at cost'' as described in the Application.

VIII. Other Transactions

A. Financing Subsidiaries

FirstEnergy and the Subsidiaries request authority to acquire, directly or indirectly, the equity securities of one or more Financing Subsidiaries. Financing Subsidiaries may be corporations, trusts, partnerships or other entities created specifically for the purpose of facilitating the financing of the authorized and exempt activities (including exempt and authorized acquisitions) of FirstEnergy and the Subsidiaries through the issuance of Long-term Debt or Preferred Securities, to third parties and the transfer of the proceeds of such financings to FirstEnergy or these Subsidiaries.

FirstEnergy and, to the extent not exempt under rule 52, Subsidiaries also request authorization to issue their subordinated unsecured notes (''Subordinated Notes'') to any Financing Subsidiary to evidence the loan of financing proceeds by a Financing Subsidiary to its parent company. The principal amount, maturity and interest rate on any such Subordinated Notes will be designed to parallel the amount, maturity and interest or distribution rate on the securities issued by a Financing Subsidiary in respect of which the Subordinated Note is issued. FirstEnergy or a Subsidiary may, if required, guarantee or enter into support or expense agreements in respect of the obligations of any such Financing Subsidiaries. Subsidiaries may also provide guarantees and enter into support or expense agreements, if required, on behalf of Financing Subsidiaries. The guarantees of securities issued by Financing Subsidiaries shall not be counted against the Guarantee Limit. The amount of securities issued by any Financing Subsidiary to third parties in accordance with the authorization requested in this Application will be included in the overall external financing limitation, if any, authorized for the immediate parent company of such Financing Subsidiary. However, the amount of Subordinated Notes issued by a parent company to its Financing Subsidiary will not be counted against such external financing limitation. Securities issued by any Financing Subsidiary to third parties shall be exempt under rule 52 (and therefore reportable on Form U–6B–2) only if such securities, if issued directly by the parent company of the Financing Subsidiary, would be exempt under rule 52.

B. Nonutility Subsidiary Reorganizations

FirstEnergy requests authority, to the extent needed, to sell or otherwise transfer (i) nonutility businesses, (ii) the securities of current Subsidiaries engaged in some or all of these nonutility businesses or (iii) investments which do not involve a Subsidiary (*i.e.*, less than 10% voting interest) to a Nonutility Holding Company or a Subsidiary of Nonutility Holding Company, and, to the extent approval is required, such Nonutility Holding Company or any such Subsidiary of a Nonutility Holding Company requests authority to acquire the assets of such businesses, securities or other investment interests. Alternatively, transfers of such securities or assets may be effected by share exchanges, share distributions or dividends followed by contribution of such securities or assets to the receiving entity.[2]

Following its direct or indirect acquisition of the securities of new Nonutility Subsidiaries, FirstEnergy may determine to transfer such

[2] The transactions proposed will not involve the sale or other disposition of any utility assets of the Utility Subsidiaries and will not involve any corporate reorganization involving the Utility Subsidiaries. The approval sought also does not extend to the acquisitions of any new businesses or activities.

securities or the assets of such Nonutility Subsidiaries and/or Nonutility Subsidiaries existing as of the date of the Merger, to other direct or indirect Nonutility Subsidiaries or to liquidate or merge Nonutility Subsidiaries. FirstEnergy requests authority to engage in these transactions, to the extent that they are not exempt under the Act, through the Authorization Period.

C. Changes in Capital Stock of Majority Owned Subsidiaries

Applicants state that proposed sales of capital securities (*i.e.*, common stock or Preferred Stock) may in some cases exceed the then authorized capital stock of a Subsidiary. In addition, the Subsidiary may choose to use capital stock with no par value. Therefore, Applicants request authority to change the terms of any 50% or more owned Subsidiary's authorized capital stock capitalization or other equity interests by an amount deemed appropriate by FirstEnergy or other intermediate parent company; provided that the consents of all other shareholders have been obtained for the proposed change. This request for authorization is limited to FirstEnergy's 50% or more owned Subsidiaries and will not affect the aggregate limits or other conditions contained in this Application. A Subsidiary would be able to change the par value, or change between par value and no-par stock, or change the form of such equity from common stock to limited partnership or limited liability company interests or similar instruments, or from such instruments to common stock, without additional Commission approval. Any such action by a Utility Subsidiary would be subject to and would only be taken upon the receipt of any necessary approvals by the state commission in the state or states where the Utility Subsidiary is incorporated and doing business. FirstEnergy will be subject to all applicable laws regarding the fiduciary duty of fairness of a majority shareholder to minority shareholders in any such 50% or more owned Subsidiary and will undertake to ensure that any change implemented under this paragraph is consistent with such legal requirements.

D. Payment of Dividends

FirstEnergy also proposes, on behalf of every direct or indirect Nonutility Subsidiary, that such companies be permitted to pay dividends with respect to the securities of such companies and/or acquire, retire or redeem any securities of such companies that are held by an associate company or affiliate, from time to time, through the Authorization Period, out of capital or unearned surplus, to the extent permitted under applicable corporate law. Without further approval of the Commission, no Nonutility Subsidiary will declare or pay any dividend and/or acquire, retire or redeem any security of such company held by any associate company or affiliate out of capital or unearned surplus if that Nonutility Subsidiary derives any material part of its revenues from sales of goods, services, electricity or natural gas to any of the Utility Subsidiaries.

E. EWGs and FUCOs

Under the Merger Order, FirstEnergy was authorized to utilize the proceeds of authorized financing to increase its "aggregate investment" in EWGs and FUCOs to $5 billion, which includes FirstEnergy's and GPU's investments in EWGs and FUCOs at the time of the merger ("Current Investment") and amounts relating to certain facilities owned by Ohio Edison, Cleveland Electric, Toledo Edison, and Penn Power that may be transferred to EWGs ("GenCo Investments"). FirstEnergy committed that, during the authorization period under the Merger Order, new investments in EWGs and FUCOs would not exceed $1.5 billion and requested the Commission to reserve jurisdiction over an "aggregate investment" in EWGs and FUCOs, other than Current Investment and GenCo Investments, in an amount over $1.5 billion ("Other Investments"). FirstEnergy is requesting a continuation, without change, of these limitations through the Authorization Period as applied to utilization of proceeds of financing authorized in this proceeding. FirstEnergy requests that the Commission continue to reserve jurisdiction over Other Investments that exceed such $1.5 billion amount.

F. Stock and Incentive Plans

FirstEnergy proposes, from time to time during the Authorization Period, to issue and/or acquire in open market transactions or by some other method which complies with applicable law and Commission interpretations then in effect for the purpose of reissuance up to 30 million additional shares of Common Stock under the FirstEnergy Stock Investment Plan and other existing dividend reinvestment and stock-based management incentive and employee benefit plans ("Stock Plans") described in the Application. Any newly issued shares of Common Stock will be counted against the External Financing Limit; shares of Common Stock purchased in the open market or otherwise acquired for the purpose of reissuance under Stock Plans will not be counted against the External Financing Limit.

G. Tax Allocation Agreement

In the Merger Order, the Commission reserved jurisdiction over, among other things, a proposed tax allocation agreement ("Tax Allocation Agreement") that will allocate consolidated tax liability among FirstEnergy and its Subsidiaries.

FirstEnergy financed the cash portion of the consideration paid in connection with the merger with GPU, approximately $2.2 billion, with borrowings under a credit agreement with a group of banks (the "Bank Bridge Loan"). Amounts outstanding under the Bank Bridge Loan were to be repaid by October 1, 2002 and carried an initial interest rate of LIBOR plus 1.25% per annum. Additional funds from the Bank Bridge Loan were used to repay approximately $1.5 billion of the short-term indebtedness of GPU and its subsidiaries outstanding immediately prior to the consummation of the Merger and to repay approximately $300 million of FirstEnergy's short-term indebtedness. Subsequently, on November 15, 2001, FirstEnergy issued $4 billion aggregate principal amount of unsecured notes ("Notes") having maturities of 2006 through 2031, the proceeds of which were used to repay in full the amounts outstanding under the Bank Bridge Loan.

As used in the Application, the term "Acquisition Debt" includes that portion of the proceeds of the Notes used to repay the portions of the Bank Bridge Loan related to the $2.2 billion merger-related cash consideration and the $1.5 billion GPU-related short-term indebtedness. The term also includes indebtedness that may be incurred by FirstEnergy during the Authorization Period for the purposes of refinancing any of the foregoing indebtedness.

Applicants request that the Commission authorize FirstEnergy and its Subsidiaries to enter into and allocate consolidated income taxes in accordance with the Tax Allocation Agreement. Under the proposed Tax Allocation Agreement, the consolidated tax would be allocated among the members of the group in proportion to the separate return tax liability of each member, provided that the tax apportioned to any subsidiary company of FirstEnergy will not exceed the "separate return tax" liability of such subsidiary. The Tax Allocation Agreement further provides that FirstEnergy will retain the benefit (in the form of the reduction in consolidated tax) that is attributable to the interest expense on the Acquisition Debt, rather than reallocate that tax savings to its subsidiary companies.

H. Investments in Nonutility Subsidiaries

First Energy seeks approvals to engage in certain activities described below relating to EWGs, FUCOs, ETCs (collectively, ''Exempt Subsidiaries''), Rule 58 Subsidiaries and Energy Related Companies and make additional investments in other Nonutility Subsidiaries approved by the Commission (collectively, ''Non-Exempt Subsidiaries''). Applicants state that to the extent any of these activities described in this Application constitute the providing of goods, services or construction from one associate company to another in the FirstEnergy system which would be subject to section 13 of the Act, these goods, services or construction will be provided at-cost as defined in rules 90 and 91 unless an exemption from the at cost requirement is available under rule 90(d) or otherwise approved in the Commission's order in this proceeding.

In the future, FirstEnergy proposes to make additional investments in Energy Related Companies (which, but for non-U.S. activities, would be Rule 58 Subsidiaries) in the form of purchases of common stock and other securities, capital contributions, loans or open account advances, guarantees, or any combination of the foregoing. It is also contemplated that Energy Related Companies may issue securities from time to time under the exemption provided in rule 52 to investors other than FirstEnergy for the purpose of financing their operations. Direct or indirect investments by FirstEnergy in Energy Related Companies would be subject to the limitations applicable to investments in Rule 58 Subsidiaries. However, to the extent approved by the Commission, Energy Related Companies will not be subject to the ''U.S. only'' restriction of rule 58.

In connection with existing and future nonutility businesses, FirstEnergy will engage directly or through Subsidiaries in preliminary development activities (''Development Activities'') and administrative and management activities (''Administrative Activities'') associated with such investments. Development Activities will be limited to: due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, in connection therewith, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal ''hosts,'' fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and such other preliminary activities as may be required in connection with the purchase, acquisition or construction of facilities or the securities of other companies. FirstEnergy proposes to expend directly or through Nonutility Subsidiaries up to $300 million in the aggregate outstanding at any time during the Authorization Period on all such Development Activities. Administrative Activities will include ongoing personnel, accounting, engineering, legal, financial and other support activities necessary to manage Development Activities and investments in Subsidiaries.

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

I. Sale of Certain Goods and Services Outside the United States

FirstEnergy requests that the Commission authorize the Energy Related Companies to engage in sales of certain goods and services outside the United States. Specifically, Applicants request that the Commission: (i) Approve the sale of energy management services and consulting services anywhere outside the United States, (ii) approve the sale of energy marketing in Canada and Mexico and retain jurisdiction with respect to energy marketing elsewhere outside the United States, and (iii) retain jurisdiction over the sale of infrastructure services anywhere outside the United States. The descriptions of these activities and the terms of the requests for reservation of jurisdiction are the same as in the Merger Order.

In addition, FirstEnergy requests authority to provide through Subsidiaries other energy-related goods and services. These include incidental goods and services closely related to the consumption of energy and the maintenance of energy consuming property by customers. The need for these goods and services would arise as a result of, or evolve out of, the goods and services described above and do not differ materially from those goods and services. The proposed incidental goods and services would not involve the manufacture of energy consuming equipment but could be related to, among other things, the maintenance, financing, sale or installation of such equipment.

IX. Service Company Approvals

A. Transactions Involving Certain Categories of Nonutility Companies

The Applicants request authorization for FE ServCo, GPUS and the Nonutility Subsidiaries to enter into agreements to provide construction, goods or services to certain associate companies at fair market prices determined without regard to cost and therefore requests an exemption (to the extent that rule 90(d) of the Act does not apply) under section 13(b) from the cost standards of rules 90 and 91.

FirstEnergy requests relief, if the client company is: (1) A FUCO or an EWG that 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 that sells electricity at market-based rates which have been approved by FERC or an appropriate state public utility commission, provided that the purchaser of the EWG's electricity is not an affiliated public utility or an affiliate that re-sells such power to an affiliated public utility; (3) a QF that sells electricity exclusively at rates negotiated at arm's length to one or more industrial or commercial customers purchasing such electricity for their own use and not for resale, or to an electric utility company other than an affiliated electric utility at the purchaser's ''avoided cost'' determined under PURPA; (4) an EWG or a QF that sells electricity at rates based upon its costs of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser of the electricity is not an affiliated public utility; or (5) a Rule 58 Subsidiary or any other Nonutility Subsidiary that (a) is partially owned, provided that the ultimate purchaser of goods or services is not a Utility Subsidiary, (b) is engaged solely in the business of developing, owning, operating and/or providing services or goods to Nonutility Companies described in (1) through (4) above or (c) does not derive, directly or indirectly, any part of its income from sources within the United States and is not a public-utility company operating within the United States.

B. Continuation of Interim Exemption

Under the Merger Order, FEFSG is authorized to provide maintenance and repair services to FirstEnergy's pre-merger Utility Subsidiaries (namely, Ohio Edison, Toledo Edison, Cleveland Electric, Penn Power, NONGC and ATSI) under certain At-Market Service Arrangements. The Merger Order granted an interim exemption under section 13(b) of the Act permitting FEFSG to provide such services at market rates determined without regard to cost. This interim exemption will expire on June 30, 2003. Applicants note that several of the longer-term At-Market Service Arrangements are still in place. FEFSG therefore requests that the Commission extend such interim exemption from June 30, 2003 to December 31, 2003, and reserve jurisdiction over any further extension after December 31, 2003.

CenterPoint Energy, Inc., et al. (70–10128)

CenterPoint Energy, Inc. (''CenterPoint''), a registered holding company and its three public-utility subsidiary companies Texas Genco, LP, (''Texas Genco''), CenterPoint Energy Houston Electric, LLC (''T&D Utility'') and CenterPoint Energy Resources Corp. (''GasCo''), CenterPoint's intermediate holding companies, Utility Holding, LLC, 200 West Ninth Street Plaza, Suite 411, Wilmington, Delaware 19801, Texas Genco Holdings, Inc., Texas Genco GP, LLC and CenterPoint's nonutility subsidiary companies: CenterPoint Energy Funding Company, CenterPoint Energy Transition Bond Company, LLC, Houston Industries FinanceCo GP, LLC, Houston Industries FinanceCo LP, Reliant Energy FinanceCo II GP, LLC, Reliant Energy FinanceCo II LP, Reliant Energy FinanceCo III GP, LLC, Reliant Energy FinanceCo III LP, Reliant Energy FinanceCo IV GP, LLC, Reliant Energy FinanceCo IV LP, CenterPoint Energy Investment Management, Inc., CenterPoint Energy Management Services, Inc., CenterPoint Energy District Cooling, LLC, CenterPoint Energy Thermal Systems (Delaware), Inc., CenterPoint Energy District Cooling, L.P., CenterPoint Energy Power Systems, Inc., CenterPoint Energy Products, Inc., CenterPoint Energy Properties, Inc., CenterPoint Energy Tegco, Inc., HL&P Capital Trust I, HL&P Capital Trust II, HL&P Receivables, Inc., Houston Industries Energy (UK), Inc., NorAm Energy Corp., REI Trust, Reliant Energy Water, Inc., Texas Genco LP, LLC, Utility Rail Services, Inc., UFI Services, Inc., ALG Gas Supply Company, Allied Materials Corporation, Arkansas Louisiana Finance Corporation, Arkla Industries Inc., Arkla Products Company, Blue Jay Gas Company, CenterPoint Energy Alternative Fuels, Inc., CenterPoint Energy Consumer Group, Inc., CenterPoint Energy Field Services, Inc., CenterPoint Energy Field Services Holdings, Inc., CenterPoint Energy Gas Processing, Inc., CenterPoint Energy Gas Marketing Company, CenterPoint Energy Gas Receivables, LLC, CenterPoint Energy Gas Resources Corp., CenterPoint Energy Gas Transmission Company, CenterPoint Energy Hub Services, Inc., CenterPoint Energy—Illinois Gas Transmission Company, CenterPoint Energy Intrastate Holdings, LLC, Pine Pipeline Acquisition Company, LLC, CenterPoint Energy Marketing, Inc., CenterPoint Energy Retail Interests, Inc., CenterPoint Energy—Mississippi River Transmission Corporation, CenterPoint Energy MRT Holdings, Inc., CenterPoint Energy MRT Services Company, CenterPoint Energy Pipeline Services, Inc., CenterPoint Energy OQ, LLC, OQ Partners, a general partnership, CenterPoint Energy Trading and Transportation Group, Inc., Entex Gas Marketing Company, Entex NGV, Inc., Entex Oil & Gas Company, Industrial Gas Supply Corporation, Intex, Inc., Louisiana Unit Gas Transmission Company, Minnesota Intrastate Pipeline Company, National Furnace Company, NorAm Financing, NorAm Utility Services, Inc., Reliant Energy Funds Management, Inc., Unit Gas Transmission Company, United Gas, Inc., CenterPoint Energy International, Inc., CenterPoint Energy International Holdings, LLC, Reliant Energy El Salvador, S.A. de C.V., CenterPoint Energy International II, Inc., HIE Ford Heights, Inc., HIE Fulton, Inc., Reliant Energy India, Inc., Reliant Energy Rain, Inc., Rain Calcining Limited, CenterPoint Energy International Services, Inc., CenterPoint Energy Light, Inc., HI Energy Holdings I B.V., Reliant Energy Brasil, Ltda., Reliant Energy Brazil Ltd., HIE Brasil Rio Sul Ltda., Reliant Energy International Brasil Ltda., Reliant Energy Brazil Tiete Ltd., Reliant Energy Colombia Ltda., Reliant Energy Outsource Ltd., Venus Generation El Salvador Worldwide Electric Holdings B.V., c/o CenterPoint Energy, Inc., 1111 Louisiana, Houston, TX 77002 (together, ''Applicants''), have filed an amended and restated application-declaration under sections 6(a), 7, 9(a), 10, 12 and 13 and rules 42, 43, 44, 45, 46, 52, 53, 54, 58, 62, 90 and 91 of the Act (''Application'').[3]

Applicants request authority to engage in a variety of financing transactions, credit support arrangements, and other related proposals, as more fully described below, commencing on the effective date of an order issued under this filing and ending June 30, 2005 (''Authorization Period'').

I. Background

By order dated July 5, 2002 (Holding Co. Act Release No. 27548) (the ''July Order''), the Commission authorized the formation of CenterPoint as a new registered holding company and the distribution (''Distribution'') to shareholders of the remaining stock of Reliant Resources, Inc. (''Reliant Resources''). The Distribution, which was made on September 30, 2002, completed the separation from CenterPoint of the merchant power generation and energy trading and marketing business of Reliant Resources.

While the Distribution was necessary and appropriate both from a business perspective and in view of the policies and provisions of the Act, it did have the effect of significantly reducing CenterPoint's common equity in the short term. As the Commission has noted, however, CenterPoint's capital

[3] Texas Genco, LP, T&D Utility and GasCo shall collectively be referred to as the ''Utility Subsidiaries.'' Utility Holding, LLC, Texas Genco Holdings, Inc. and Texas Genco GP, LLC, shall collectively be referred to as the ''Intermediate Holding Companies.'' All of CenterPoint's direct and indirect subsidiaries, other than the Utility Subsidiaries and the Intermediate Holding Companies, are referred to as the ''Nonutility Subsidiaries.'' The Utility Subsidiaries, Nonutility Subsidiaries and Intermediate Holding Companies are collectively referred to as the ''Subsidiaries.''

structure will be improved significantly with the sale of Texas Genco, LP and the securitization of any stranded investment in 2004 and 2005, as contemplated by Texas law. Pending the issuance of the securitization bonds, the CenterPoint system's financing transactions will be largely limited to refinancing, replacing or extending the term of existing obligations.

II. Financing Parameters

Financing by each Applicant will be subject to the following limitations (''Financing Parameters'').

A. Interest Rates

The effective cost of money on any long-term debt financings will not exceed the greater of (i) 700 basis points over the yield to maturity of a U.S. Treasury security having a remaining term approximately equal to the term of the subject debt, or (ii) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies, of reasonably comparable credit quality, as determined by competitive capital markets.

The effective cost of money on any short-term debt financings will not exceed the greater of (i) 700 basis points over the comparable-term London Interbank Offered Rate (''LIBOR'') rates, or (ii) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies of reasonably comparable credit quality as determined by the competitive capital markets.

The dividend rate on any series of preferred stock or preferred securities will not exceed the greater of (i) 700 basis points over the yield to maturity of a U.S. Treasury security having a remaining term approximately equal to the term of the series of preferred stock or preferred or equity-linked securities or (ii) a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies, of reasonably comparable credit quality, as determined by competitive capital markets.

B. Maturity

The maturity of long-term debt will not exceed 50 years. All series of preferred stock, preferred securities and equity-linked securities (other than preferred stock, which may be perpetual) will be required to be redeemed no later than 50 years after the issuance thereof.

C. Issuance Expenses

The underwriting fees, commissions or other similar renumeration paid in connection with the non-competitive issue, sale or distribution of a security will not exceed 7% of the principal or total amount of the securities being issued;[4]

D. Use of Proceeds

The proceeds from the sale of securities in external financing transactions will be used for general corporate purposes, including: (i) the financing, in part, of the capital expenditures of the CenterPoint system; (ii) the financing of working capital requirements of the CenterPoint system; (iii) the refinancing or acquisition, retirement or redemption under rule 42 of securities previously issued by CenterPoint or its Subsidiaries or as otherwise authorized by the Commission; (iv) direct or indirect investment in companies authorized under the Act; (v) to meet unexpected contingencies, payment and timing differences, and cash requirements, and (vi) other lawful purposes.

E. Common Equity Ratio

At all times during the Authorization Period, each Utility Subsidiary will maintain common equity of at least 30% of its consolidated capitalization (common equity, preferred stock, long-term and short-term debt) as reflected in the most recent 10–K or 10–Q filed with the Commission adjusted to reflect changes in capitalization since the balance sheet date therein.[5]

F. Investment Grade Ratings

Apart from securities issued for the purpose of funding money pool operations, no guarantees or other securities (other than common stock) may be issued in reliance on the authority requested herein unless: (i) the security to be issued, if rated, is rated investment grade by at least one nationally recognized statistical rating organization as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of Rule 15c3–1 under the 1934 Act (''NRSRO''); (ii) all outstanding rated securities of the issuer are rated investment grade by at least one NRSRO; and (iii) all outstanding rated securities of the top-level registered holding company are rated investment grade by at least one NRSRO. The Applicants ask the Commission to reserve jurisdiction over the issuance of securities subject to the Investment Grade Ratings criteria where one or more of the Investment Grade Ratings criteria are not met.

III. Proposed Financing Program

A. CenterPoint External Financing

CenterPoint requests authority to issue and sell securities, including common stock, preferred stock and preferred and equity-linked securities (either directly or through a subsidiary), long-term and short-term debt securities and convertible securities and derivative instruments with respect to any of these securities.[6] CenterPoint also requests authorization to enter into obligations with respect to tax-exempt debt issued on behalf of CenterPoint by governmental authorities. These obligations may relate to the refunding of outstanding tax-exempt debt or to the remarketing of tax-exempt debt. CenterPoint seeks authorization to enter into lease arrangements, and certain hedging transactions in connection with issuances of taxable or tax-exempt securities.

CenterPoint requests authority to sell securities covered by this Application in any one of the following ways: (i) through underwriters; (ii) to initial purchasers in transactions in reliance on Rule 144A under the Securities Act of 1933 or dealers; (iii) through agents; (iv) directly to a limited number of purchasers or a single purchaser; (v) in exchange for already outstanding securities; or (vi) directly to employees (or to trusts established for their benefit), shareholders and others. If underwriters are used in the sale of the securities, such securities may be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be offered to the public either through underwriting syndicates (which may be represented by a managing underwriter or underwriters designated by CenterPoint) or directly by one or more underwriters acting alone. The securities may be sold directly by CenterPoint or through agents designated by CenterPoint from time to time. If common stock is being sold in an underwritten offering, CenterPoint may grant the underwriters a ''green shoe'' option permitting the

[4] Issuance Expenses will not count toward the effective cost of money discussed above.

[5] Upon the issuance of the securitization bonds described below, the T&D Utility may have common equity capitalization of less than 20% if the securitization debt is included. The Applicants request the Commission take into account the unique nature of securitization debt when it passes upon the request to form and capitalize special-purpose subsidiaries to issue securitization debt.

[6] Any convertible or equity-linked securities would be convertible into or linked to only securities that CenterPoint and its Subsidiaries are otherwise authorized to issue pursuant to rule or Commission order.

purchase from CenterPoint at the same price of additional shares then being offered solely for the purpose of covering over-allotments.

1. Common Stock

CenterPoint requests authority to issue 200 million additional shares of common stock (including ''Rights'') [7] and to issue warrants, options and other rights to acquire an equivalent number of shares of common stock. In addition, CenterPoint proposes, from time to time during the Authorization Period, to issue and/or acquire in open market transactions or negotiated block purchases, shares of CenterPoint common stock for allocation under incentive compensation plans and other equity compensation and employee benefit plans, and for the Investor's Choice Plan.[8] These transactions would comply with applicable law and Commission interpretations then in effect. Any newly issued shares of common stock, including shares of common stock issued upon the conversion or exercise of warrants, convertible debt or other equity-linked securities, will be counted toward the overall limit on common stock; shares of common stock purchased in the open market or otherwise acquired for the purpose of reissuance under Stock Based Plans will also be counted toward this limit.

2. Preferred Stock and Preferred and Equity-Linked Securities

CenterPoint requests Commission authority during the Authorization Period to issue preferred stock and to issue directly or indirectly through one or more financing subsidiaries (''Financing Subsidiaries'') preferred stock, preferred securities (including trust preferred securities), and equity-linked securities (including, specifically, preferred securities that are convertible, either mandatorily or at the option of the holder, into common stock or forward purchase contracts for common stock).

CenterPoint requests authority to issue preferred stock and preferred and equity-linked securities in a net incremental amount of $250 million such that the total outstanding amount of CenterPoint preferred stock and preferred and equity-linked securities will not exceed $975 million at any one time outstanding during the Authorization Period.

Preferred stock and equity-linked securities may be sold directly or indirectly to or through underwriters, initial purchasers or dealers or pursuant to a method of distribution similar to those described for common stock above.

3. Long-Term Debt

CenterPoint requests authority to issue or sell external debt securities in a net incremental amount of $500 million (including long-term and short-term debt securities) (the ''CenterPoint Additional Debt Limit'') such that the total amount of CenterPoint debt securities will not exceed $5.847 billion at any one time outstanding during the Authorization Period (''CenterPoint Aggregate Debt Limit''). Long-term debt securities may be comprised of bonds, notes, medium-term notes or debentures under one or more indentures or long-term indebtedness under agreements with banks or other institutional lenders directly or indirectly and convertible debt. Long-term debt issued under the requested authority will be unsecured. Specific terms of any borrowings will be determined by CenterPoint at the time of issuance and will comply in all regards with the parameters on financing authorization set forth above.

4. Short-Term Debt

CenterPoint seeks authority to issue short-term debt subject to the CenterPoint Additional Debt Limit to provide financing for general corporate purposes, working capital requirements and temporary financing of Subsidiary capital expenditures. Short-term debt issued by CenterPoint will be unsecured.

Types of short-term debt securities may include borrowings under one or more revolving credit facilities or bank loans, commercial paper, short-term notes, bid notes, institutional borrowings and privately placed notes. Specific terms of any short-term borrowings will be determined by CenterPoint at the time of issuance and will comply in all regards with the parameters for financing authorization set forth above. The maturity of any short-term debt issued will not exceed 364 days or, if the notional maturity is greater than 364 days, the debt security will include put options at appropriate points in time to cause the security to be accounted for as a current liability under generally accepted accounting principles (''GAAP'').

CenterPoint may sell commercial paper or privately placed notes (''commercial paper'') from time to time, in established domestic or European commercial paper markets. Commercial paper may be sold at a discount or bear interest at a rate per annum prevailing at the date of issuance for commercial paper of a similarly situated company.

CenterPoint may, without counting against the limit on parent financing set forth above, maintain back-up lines of credit in connection with one or more commercial paper programs in an aggregate amount not to exceed the amount of authorized commercial paper.

CenterPoint may sell short-term notes through one or more private placements or public offerings primarily to traditional money market investors. CenterPoint may enter into individual agreements with one or more commercial banks that may or may not be lenders under CenterPoint credit facilities. These agreements would permit CenterPoint to negotiate with one or more banks on any given day for such lender, or any affiliate or subsidiary of such lender, to purchase promissory notes directly from CenterPoint.

5. Financing Risk Management Devices

CenterPoint requests authority to enter into hedging arrangements intended to reduce or manage the volatility of financial or other business risks to which CenterPoint is subject. These arrangements may include, but are not limited to, interest rate swaps, caps, floors, collars, forward agreements, issuance of 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 or U.S. governmental agency (*e.g.* Fannie Mae) obligations or LIBOR based swap instruments (collectively referred to as ''Hedging Instruments''). The transactions would be for fixed periods and stated notional amounts, as are generally accepted as prudent in the

[7] Each share of common stock includes one right (''Right'') to purchase from CenterPoint a unit consisting of one one-thousandth of a share of CenterPoint Series A Preferred Stock at a purchase price of $42.50 per unit, subject to adjustment. The Rights are issued pursuant to the Rights Agreement dated as of January 1, 2002 between CenterPoint and JPMorgan Chase Bank (the ''Rights Agreement'').

[8] These plans include the CenterPoint Energy, Inc. Investor's Choice Plan; existing stock-related employee plans: CenterPoint Energy, Inc. Savings Plan, CenterPoint Energy, Inc. Long-Term Incentive Compensation Plan, CenterPoint Energy, Inc. 1994 Long-Term Incentive Compensation Plan, Long-Term Incentive Plan of CenterPoint Energy, Inc., CenterPoint Energy, Inc. Business Unit Performance Share Plan, CenterPoint Energy, Inc. and Subsidiaries Common Stock Participation Plan for Designated New Employees and Non-Officer Employees, and the CenterPoint Energy, Inc. Stock Plan for Outside Directors (collectively, the ''Stock Based Plans''). The requested authority relating to benefit and compensation plans is intended to apply to these plans, as they may be amended or supplemented from time to time, and similar plans or arrangements that may be adopted in the future without any additional prior Commission order.

capital markets. In no case will the notional principal amount of any interest rate hedge exceed that of the underlying debt instrument. CenterPoint will not engage in speculative transactions as that term is described in Statement of Financial Accounting Standard 133, as amended (''SFAS 133''). Transaction fees, commissions and other amounts payable to brokers in connection with an interest rate hedge will not exceed those generally obtainable in competitive markets for parties of comparable credit quality.

CenterPoint may employ interest rate derivatives as a means of prudently managing the risk associated with any of its outstanding debt issued under this authorization or an applicable exemption by, in effect, synthetically (i) converting variable rate debt to fixed-rate debt; (ii) converting fixed-rate debt to variable rate debt; (iii) limiting the impact of changes in interest rates resulting from variable rate debt; and (iv) managing other risks that may attend outstanding securities. Transactions will be entered into for a fixed or determinable period. CenterPoint will only enter into agreements with counterparties having a senior debt rating at the time the transaction is executed of at least BBB-, or its equivalent, as published by a NRSRO (''Approved Counterparties'').

In addition, CenterPoint requests authorization to enter into hedging transactions with respect to anticipated debt offerings (''Anticipatory Hedges''), subject to the limitations and restrictions expressed below. Anticipatory Hedges would only be entered into with Approved Counterparties, and would be used to fix and/or limit the risk associated with any issuance of securities through appropriate means, including (i) a forward sale of exchange-traded Hedging Instruments (a ''Forward Sale''); (ii) the purchase of put options on Hedging Instruments (a ''Put Options Purchase''); (iii) a Put Options Purchase in combination with the sale of call options Hedge Instruments (a ''Zero Cost Collar''); (iv) 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, caps and collars, appropriate for the Anticipatory Hedges; and (v) other financial derivatives or other products including Treasury rate locks, swaps, forward starting swaps, and options on the foregoing. 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 (''CBOT''), 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. CenterPoint or its applicable Subsidiary will determine the structure of each Anticipatory Hedge transaction at the time of execution. CenterPoint or a Subsidiary may decide to lock in interest rates and/or limit its exposure to interest rate increases.

Each Hedging Instrument and Anticipatory Hedge will be treated for accounting purposes as provided for under GAAP. CenterPoint and its Subsidiaries will comply with Statement of Financial Accounting Standards (''SFAS'') 133 (''Accounting for Derivatives Instruments and Hedging Activities'') and SFAS 138 (''Accounting for Certain Derivative Instruments and Certain Hedging Activities'') or other standards relating to accounting for derivative transactions as are adopted and implemented by the Financial Accounting Standards Board.

B. Subsidiary Financing

To the extent not otherwise exempted,[9] the Utility Subsidiaries and the Intermediate Holding Companies request authority to issue and sell securities, including common equity, preferred shares and preferred securities (including trust preferred securities) (either directly or through a subsidiary), long-term and short-term debt securities, including convertible debt and derivative instruments with respect to any of the foregoing on the same terms and conditions as discussed above for CenterPoint, except that Utility Subsidiary and Intermediate Holding Company debt may be secured or unsecured.[10]

Texas Genco Holdings, Inc. and Texas Genco, LP (together, the ''Texas Genco Entities'') request authority to issue or sell external debt in an aggregate amount of $250 million at any one time outstanding during the Authorization Period.

CenterPoint Energy Houston Electric, LLC (the ''T&D Utility'') requests authority to issue and sell external debt securities in a net incremental amount of $500 million such that the amount of T&D Utility external debt will not exceed $3.603 billion at any one time outstanding during the Authorization Period. The T&D Utility requests authority to issue or sell preferred stock and preferred securities (including trust preferred securities) in an amount not to exceed $250 million at any one time outstanding during the Authorization Period.

CenterPoint Energy Resources Corp. (''GasCo'') requests authority to issue or sell external debt in a net incremental amount of $500 million such that the amount of external GasCo debt will not exceed $3.187 billion at any one time outstanding during the Authorization Period. GasCo requests authority to issue or sell preferred stock and preferred securities (including trust preferred securities) in an amount not to exceed $250 million during the Authorization Period such that the amount of preferred stock and preferred securities (including trust preferred securities) will not exceed $250.4 million at any one time outstanding during the Authorization Period.

The Utility Subsidiaries and Intermediate Holding Companies also request authorization to enter into obligations with respect to new tax-exempt debt issued on behalf of a Utility Subsidiary or an Intermediate Holding Company by governmental authorities as well as obligations entered into in connection with the refunding of outstanding tax-exempt debt assumed by CenterPoint in connection with the August 31, 2002 restructuring by which CenterPoint and Utility Holding, LLC became holding companies for the Utility Subsidiaries.

The Utility Subsidiaries also request authority to enter into hedging transactions to manage their risk in connection with the issuance of securities subject to the limitations and requirements applicable to CenterPoint, provided, that the Intermediate Holding Companies will not enter into such hedging transactions.

C. Guarantees and Intra-System Advances

1. Guarantees

CenterPoint requests authorization during the Authorization Period to enter into guarantees to third parties, obtain letters of credit, enter into support or expense agreements or liquidity support agreements or otherwise provide credit support with respect to the obligations of its Subsidiaries, including performance guarantees, as may be appropriate to carry on in the ordinary course of CenterPoint or its Subsidiaries' duly-authorized utility and related businesses, and the Subsidiaries request authority to provide to their respective Subsidiaries guarantees and other forms of credit support in an aggregate amount not to

[9] The Nonutility Subsidiaries will rely on rules 45 and 52 under the Act for financings described in this section.

[10] To the extent that GasCo issues secured debt, such debt will be secured by a pledge of the stock of its nonutility subsidiary companies.

exceed $4 billion outstanding at any one time. Excluded from the CenterPoint Guarantee Limit are obligations exempt under rule 45 under the Act. Any guarantees shall also be subject to the limitations of rules 53 and 58, as applicable.

The guarantor may charge each Subsidiary a fee for any guarantee provided on its behalf that is not greater than the cost, if any, of obtaining the liquidity necessary to perform the guarantee (for example, bank line commitment fees or letter of credit fees, plus other transactional expenses) for the period of time the guarantee remains outstanding.

Certain of the guarantees referred to above may be in support of obligations that are not capable of exact quantification. In these cases, CenterPoint will determine the exposure under the guarantee by appropriate means, including estimation of exposure based on loss experience or projected potential payment amounts. As appropriate, these estimates will be made in accordance with GAAP and sound financial practices. Such estimation will be re-evaluated periodically.

2. Money Pool

CenterPoint and certain of its Subsidiaries (together, the ''Parties'') request authorization to continue to conduct the Money Pool as approved in the July Order, and the Subsidiaries, to the extent not exempted by rule 52 under the Act, also request authorization to make, from time to time, unsecured short-term borrowings from the Money Pool and to contribute surplus funds to the Money Pool and to lend and extend credit to (and acquire promissory notes from) one another through the Money Pool.[11]

CenterPoint requests authorization to contribute surplus funds and to lend and extend credit to the Utility Subsidiaries through the Money Pool. CenterPoint will not be a borrower from the Money Pool.

Under the terms of the Money Pool, each Party determines each day the amount of funds each desires to contribute to the Money Pool, and contributes such funds to the Money Pool. The determination of whether a Party has funds to contribute (either from surplus funds or from external borrowings) and the determination whether a Party shall lend such funds to the Money Pool is made by such Party's treasurer, or by a designee thereof, in such Party's sole discretion. Each Party may withdraw any of its funds at any time upon notice to CenterPoint as administrative agent of the Money Pool.

Short-term funds will be available from the following sources: (1) surplus funds in the treasuries of the Parties, and (2) proceeds from external borrowings, including bank loans, the sale of notes and/or the sale of commercial paper by the Parties, in each case to the extent permitted by applicable laws and regulatory orders.

Each borrowing Party will borrow pro rata from each fund source in the same proportion that the amount of funds provided from that fund source bears to the total amount then loaned through the Money Pool. On a day when more than one source of funds is invested in the Money Pool with different rates of interest used to fund loans through the Money Pool, each borrower will borrow pro rata from each such funding source from the Money Pool in the same proportion that the amount of funds provided by that fund source bears to the total amount of funds invested into the Money Pool. If there are insufficient funds to meet all borrowing requests, the needs of the Utility Subsidiaries will be met before loans are made to any Nonutility Subsidiaries.

The determination of whether a Party has funds to lend to the Money Pool will be made by its Treasurer, or by a designee thereof. CenterPoint, as administrator of the Money Pool, will provide each Party with a report for each business day that includes, among other things, cash activity for the day and the balance of loans outstanding. All borrowings from the Money Pool shall be authorized by the borrowing Party's treasurer, or by a designee thereof. No Party shall be required to effect a borrowing through the Money Pool if such Party determines that it can (and is authorized to) effect such borrowing more advantageously directly from banks or through the sale of its own notes or commercial paper.

Funds which are loaned by Parties and are not utilized to satisfy borrowing needs of other Parties will be invested by CenterPoint on behalf of the lending Parties in one or more short term instruments, including (i) interest-bearing deposits with banks; (ii) obligations issued or guaranteed by the U.S. government and/or its agencies; (iii) commercial paper rated not less than A–1 by Standard & Poor's and P–1 by Moody's Investors Services, Inc.; (iv) money market funds; (v) bank certificates of deposit; (vi) Eurodollar funds; (vii) repurchase agreements collateralized by securities issued or guaranteed by the U.S. government; and (viii) such other investments as are permitted by section 9(c) of the Act and rule 40.

The interest rate applicable on any day to then outstanding loans through the Money Pool, whether or not evidenced by a promissory demand note, will be the composite weighted average daily effective cost incurred by CenterPoint for external borrowings outstanding on that date. The daily effective cost shall be inclusive of interest rate swaps related to such external funds. If there are no external borrowings outstanding on that date, then the rate will be the certificate of deposit yield equivalent of the 30-day Federal Reserve ''AA'' Non-Financial Commercial Paper Composite Rate or if no composite is established for that day, then the applicable rate will be the composite for the next preceding day for which a composite is established. If the composite shall cease to exist, then the rate will be the composite which then most closely resembles the Composite and/or most closely mirrors the pricing CenterPoint would expect if it had external borrowings.

Interest income related to external investments will be calculated daily and allocated back to lending Parties on the basis of their relative contribution to the Money Pool on that date.

Each Party receiving a loan from the Money Pool shall repay the principal amount of such loan, together with all interest accrued, on demand by the administrator and in any event not later than the expiration date of the Commission authorization for the operation of the Money Pool. All loans made through the Money Pool may be prepaid by the borrower without premium or penalty.

Borrowings by the Utility Subsidiaries from the Money Pool shall not exceed the following amounts at any one time outstanding during the Authorization Period: Texas Genco LP—$600 million; T&D Utility—$600 million; GasCo—$600 million.

3. Other Intra-System Financing

The Subsidiaries may also finance their capital needs through borrowings

[11] The Parties to the Money Pool will be CenterPoint, Texas Genco Holdings, Inc., Texas Genco GP, LLC, the Utility Subsidiaries, Houston Industries FinanceCo GP, LLC, Houston Industries FinanceCo LP, Reliant Energy FinanceCo II GP, LLC, Reliant Energy FinanceCo II LP, CenterPoint Energy Properties, Inc., CenterPoint Energy International, Inc., CenterPoint Energy Products, Inc., CenterPoint Energy Management Services, Inc. and CenterPoint Energy Funding Company. CenterPoint Energy International, Inc. and CenterPoint Energy Funding Company are entities through which CenterPoint funded or acquired foreign utility companies within the meaning of section 33 of the Act and so, these companies will be investors in but not borrowers from the Money Pool. No exempt wholesale generator or foreign utility company will be a borrower from the Money Pool.

from CenterPoint, directly or indirectly through one or more Intermediate Holding Companies. Any financings by Utility Subsidiaries pursuant to this request would be counted toward the Money Pool limits above.

Each of the Intermediate Holding Companies requests authority to issue and sell securities to its respective parent companies and to acquire securities from its subsidiary companies on the same terms and conditions as specified above.

D. Changes in Capital Stock of Majority Owned Nonutility Subsidiaries

Applicants request authority to change the terms of any 50% or more owned Nonutility Subsidiary's authorized capital stock capitalization or other equity interests by an amount deemed appropriate by CenterPoint or other intermediate parent company, provided that no such action would be taken without the consents necessary under applicable law.

E. Payment of Dividends Out of Capital or Unearned Surplus

Each of the Nonutility Subsidiaries requests authority to declare and pay dividends out of capital or unearned surplus to the extent permitted by state law.

CenterPoint also requests authority to declare and pay dividends out of capital or unearned surplus in an amount up to $500 million through the Authorization Period. Such authority is required because of the accounting consequences of the Distribution. Accordingly, CenterPoint requests the Commission to reserve jurisdiction over this request. As of December 31, 2002, CenterPoint had negative retained earnings of approximately $1.1 billion. It is CenterPoint's intention to declare and pay dividends out of current earnings.

F. Financing Subsidiaries

CenterPoint and its Subsidiaries proposes to organize and acquire, directly or indirectly, the common stock or other equity interests of one or more financing subsidiaries (collectively, the ''Financing Subsidiary'') for the purpose of effecting various financing transactions from time to time through the Authorization Period.[12] Financing Subsidiaries may be corporations, trusts, partnerships or other entities created specifically for the purposes described in this Application. The amount of securities issued by the Financing Subsidiaries to third parties will count toward the respective financing limits of its immediate parent. Authorization is requested for the issuance of such securities by the Financing Subsidiaries and for the transfer of proceeds from such issuance to the respective parent companies.

CenterPoint and, to the extent such issuances are not exempt under rule 52, the Subsidiaries also request authorization to issue their subordinated unsecured notes (''Subordinated Notes'') to any Financing Subsidiary to evidence the loan of financing proceeds by a Financing Subsidiary to its parent company. The principal amount, maturity and interest rate on such Subordinated Notes will be designed to parallel the amount, maturity and interest or distribution rate on the securities issued by a Financing Subsidiary, in respect of which the Subordinated Note is issued. CenterPoint or a Subsidiary may, if required, guarantee or enter into support or expense agreements in respect of the obligations of such Financing Subsidiaries.

Any security issued to third parties under the requested authority will be appropriately disclosed in the system's financial statements. Applicants anticipate that the Financing Subsidiaries will be wholly-owned indirect subsidiaries of CenterPoint. No Financing Subsidiary shall acquire or dispose of, directly or indirectly, any interest in any utility asset, as that term is defined under the Act, without first obtaining any necessary approval.

The business of the Financing Subsidiary will be limited to effecting financing transactions that have been otherwise authorized for CenterPoint and its Subsidiaries. In connection with these transactions, CenterPoint or the Subsidiaries may enter into one or more guarantees or other credit support agreements in favor of the Financing Subsidiary.

Any Financing Subsidiary shall be organized only if, in management's opinion, the creation and utilization of the Financing Subsidiary will likely result in tax savings, increased access to capital markets and/or lower cost of capital for CenterPoint or its Subsidiaries.

Each of CenterPoint and the Subsidiaries also requests authorization to enter into an expense agreement with its respective Financing Subsidiary, under which it would agree to pay all expenses of the entity. Any amounts issued by the Financing Subsidiaries to third parties will be included in the additional external financing limitation for the immediate parent of the financing entity. However, the underlying intra-system mirror debt and parent guarantee will not be included. Applicants also seek authority for the Financing Subsidiaries to transfer the proceeds of any financing to their respective parent companies.

IV. Retention and Reorganization of Nonutility Interests

A. Retention of Nonutility Interests

In the July Order, the Commission reserved jurisdiction over the retention of CenterPoint Energy Investment Management, Inc., MRT Services Company and CenterPoint Energy Trading and Transportation Group, Inc. Applicants request that the Commission authorize the retention of these nonutility interests except with respect to the canal currently owned by MRT Services Company.

CenterPoint Energy Investment Management, Inc., a Delaware corporation that is a wholly-owned subsidiary of CenterPoint, holds shares of stock of AOL Time Warner that were received in connection with the 1995 sale of certain cable television businesses.

MRT Services Company provides marketing services in connection with CenterPoint's gas pipeline subsidiaries. It also is the lessor of real estate associated with telecommunications towers that are used to provide services to CenterPoint system. CenterPoint asks the Commission to grant it three years to divest the canal. CenterPoint further requests that any order of the Commission that requires CenterPoint to divest the canal pursuant to section 11(b)(1) of the Act make the necessary findings to enable CenterPoint to obtain the tax treatment provided by Section 1081 of the Internal Revenue Code, as amended, in connection with the ordered disposition.

CenterPoint Energy Trading and Transportation Group, Inc. provides administrative payroll services to associated pipeline companies at cost determined in accordance with rules 90 and 91. Applicants state that the subsidiary is not engaged in other businesses.

B. Authority to Restructure Nonutility Interests

CenterPoint proposes to restructure its nonutility interests from time to time as may be necessary or appropriate. CenterPoint will engage, directly or indirectly, only in businesses that are duly authorized, whether by order, rule or statute.

[12] This request is in addition to the request for authority in connection with the securitization of stranded costs *infra*. Applicants are requesting the Commission to reserve jurisdiction over that request, pending completion of the record.

V. Disposition of the Texas Genco Entities

CenterPoint intends to qualify Texas Genco, LP as an exempt wholesale generator (''EWG'') as expeditiously as possible. In the event that EWG status is not obtained in a timely fashion, CenterPoint seeks authority under section 12(d) to sell the stock and/or assets of the Texas Genco Entities to Reliant Resources.

As of December 31, 2002, Texas Genco, LP owned and operated 11 power generating stations (60 generating units) and had a 30.8% interest in the South Texas Project Electric Generating Station (''South Texas Project''), for a total net generating capacity of 14,175 MW. The South Texas Project is a nuclear generating station with two 1,250 MW nuclear generating units.

Texas Genco, LP sells electric generation capacity, energy and ancillary services in the Electric Reliability Council of Texas, Inc. (''ERCOT'') market, which is the largest power market in the State of Texas. Since January 1, 2002, Texas Genco, LP's generation business has been operated as an independent power producer, with output sold at market prices to a variety of purchasers. As authorized by this Commission under the July Order, on January 6, 2003, CenterPoint distributed to its shareholders approximately 19% of the common stock of Texas Genco Holdings, Inc.

Reliant Resources has an option that may be exercised between January 10, 2004 and January 24, 2004 to purchase all of the shares of Texas Genco Holdings, Inc. common stock then owned by CenterPoint. The exercise price under the option would equal:

- The average daily closing price per share of Texas Genco Holdings, Inc. common stock on the New York Stock Exchange for the 30 consecutive trading days with the highest average closing price for any 30-day trading period during the 120 trading days immediately preceding January 10, 2004, multiplied by the number of shares of Texas Genco Holdings, Inc. common stock then owned by CenterPoint, plus
- A control premium, up to a maximum of 10%, to the extent a control premium is included in the valuation determination made by the Texas Commission relating to the market value of Texas Genco Holdings, Inc.'s common stock equity.

The exercise price formula is based upon the generation asset valuation methodology in the Texas electric restructuring law that CenterPoint will use to calculate the market value of Texas Genco Holdings, Inc. The exercise price is also subject to adjustment based on the difference between the per share dividends Texas Genco Holdings, Inc. paid to CenterPoint during the period from the distribution date through the option closing date and Texas Genco Holdings, Inc.'s actual per share earnings during that period. To the extent Texas Genco Holdings, Inc.'s per share dividends are less than its actual per share earnings during that period, the per share option price would be increased. To the extent its per share dividends exceed its actual per share earnings, the per share option price would be reduced.

Reliant Resources has agreed that if it exercises its option, Reliant Resources would purchase from CenterPoint all notes and other payables owed by Texas Genco Holdings, Inc. to CenterPoint as of the option closing date, at their principal amount plus accrued interest. Similarly, if there are notes or payables owed to Texas Genco Holdings, Inc. by CenterPoint as of the option closing date, Reliant Resources would assume those obligations in exchange for a payment from CenterPoint of an amount equal to the principal plus accrued interest.

If Reliant Resources does not exercise the option, CenterPoint currently plans to sell or otherwise monetize its interest in the Texas Genco Entities.[13]

VI. Securitization of Stranded Costs

The Texas electric restructuring law provides for the use of special purpose entities to issue securitization bonds for the economic value of generation-related regulatory assets and stranded costs. These bonds would be amortized through non-bypassable charges to the T&D Utility's customers that are authorized by the Texas Commission. Any stranded costs not recovered through the securitization bonds would be recovered through a non-bypassable charge assessed to customers taking delivery service from the T&D Utility.

CenterPoint seeks authority to form and capitalize one or more special-purpose subsidiaries of the T&D Utility to issue in an amount of up to $6 billion, as determined by the Texas Commission, in securitization bonds in 2004 or 2005 to monetize and recover the balance of stranded costs relating to previously owned electric generation assets and other qualified costs as determined in a 2004 true-up proceeding, and, as may be required, for such subsidiaries to transfer the proceeds to the T&D Utility, Utility Holding, LLC and CenterPoint. The issuance will be done pursuant to a financing order issued by the Texas Commission. As with the debt of its existing transition bond company, the holders of the securitization bonds would not have recourse to any assets or revenues of CenterPoint or its subsidiary companies (other than those of the special purpose transition bond company), nor would the system's creditors have recourse to any assets or revenues of the entity issuing the securitization bonds (again other than those of the special purpose transition bond company). All or a portion of the proceeds from the issuance of bonds will be used to repay debt of CenterPoint and its subsidiary companies. Any issuance would be subject to the financing parameters described above. CenterPoint requests that the Commission reserve jurisdiction over this request, pending completion of the record.

[13] CenterPoint will seek such additional authority as may be required in this regard.

VII. Other Authority

In the July Order, the Commission authorized CenterPoint to provide a variety of services to its Subsidiaries in areas such as accounting, rates and regulation, internal auditing, strategic planning, external relations, legal services, risk management, marketing, financial services and information systems and technology. CenterPoint states that it intends to form a service company and is in the process of preparing the request for authorization. In the interim, CenterPoint seeks continuing authority to provide jurisdictional services and goods to its Subsidiaries through December 31, 2003. CenterPoint states that charges for all services will be on an at-cost basis, as determined under rules 90 and 91 of the Act.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47960; File No. SR–Amex–2003–17]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to ''Market at 4 p.m.'' Orders for ETFs

June 2, 2003.

On March 17, 2003, the American Stock Exchange LLC (''Amex'' or