

For the Nuclear Regulatory Commission.  
**Clare Kasputys,**  
*Deputy Director, Program Management,  
 Policy Development & Analysis Staff, Office  
 of Nuclear Regulatory Research.*  
 [FR Doc. 00-26884 Filed 10-18-00; 8:45 am]  
 BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27247]

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

October 12, 2000.

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

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 6, 2000, 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 November 6, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### **PowerGen US Holdings Limited, et al., (70-0763)**

PowerGen US Holdings Limited ("US Holdings") and PowerGen UK plc ("PGUK" and together, "Applicants"), both subsidiaries of PowerGen plc ("PowerGen"), a public limited company organized under the laws of England and Wales, all located at 53 New Broad Street, London EC2M 1SL, United Kingdom, have filed a declaration under sections 6(a), 7 and 12(b) of the Act and rules 45 and 54 under the Act.

In a separate application-declaration in file number 70-9761 ("9671 Application"), PowerGen proposed to acquire LG&E Energy Corp. ("LG&E Energy"), a utility holding company exempt by order<sup>1</sup> under section 3(a) from all provisions of the Act, except section 9(a), and all of LG&E Energy's subsidiaries (together "LG&E Energy Group") ("Merger"). In the 9671 Application, PowerGen has stated that intermediate companies will be used in the chain of ownership of the LG&E Energy Group ("Intermediate Companies"), including US Holdings, primarily for the purpose of creating an economically efficient and viable structure for the Merger and the ongoing operations of PowerGen and the LG&E Energy Group. Following consummation of the Merger, PowerGen and each of the Intermediate Companies intend to register under section 5 of the Act as public utility holding companies.

PowerGen presently intends to finance the acquisition of the LG&E Energy Group from, among other things, borrowings under a fully committed bank facility that PowerGen and US Holdings established on February 27, 2000 ("Credit Facility"). The credit facility provides for up to \$4 billion in borrowings by PowerGen, US Holdings and other wholly owned subsidiaries of US Holdings as approved in writing by the banks. Applicants intend for US Holdings to be the only borrower under the Credit Facility, with a guarantee from PowerGen. The Credit Facility was established both to fund the acquisition and, if necessary, to provide funding and accommodate working capital needs of the Intermediate Companies and the LG&E Energy Group.

Applicants state that PowerGen intends to reduce indebtedness under the Credit Facility by, among other things, application of available cash or the proceeds of asset sales by PGUK and its subsidiaries, or by the issuance of debt securities or other instruments by PowerGen or its subsidiaries prior to, at or after the Merger. The Credit Facility agreement generally requires that at least 50% of the proceeds from those sales in excess of \$100 million be applied to repay amounts owing under the Credit Facility.

Applicants state that, due to a United Kingdom law restricting dividend payments, the use of loans from PGUK to US Holdings is the most efficient and fastest way to move excess funds from PGUK to US Holdings. Accordingly, Applicants propose for PGUK, or an intermediate parent company of PGUK

that PowerGen intends to establish over PGUK, PowerGen Group Holdings ("UK Holdings"), to lend to US Holdings the net proceeds of asset disposals and other excess capital at PGUK. US Holdings will use the loans to repay amounts owed under the Credit Facility or, to the extent permitted by the Credit Facility, for other corporate purposes.

Loans by PGUK, or UK Holdings, to US Holdings will be either (a) interest free, in the case of loans of funds consisting of the proceeds of asset sales or (b) equal to the lender's cost of capital, if the funds lent to US Holdings were obtained from borrowings from a third-party. In addition, the loans to US Holdings will mature in 50 years and will have no amortization obligations.

Applicants state that to the extent that the funds from the loans are used to pay down the amounts owing under the Credit Facility, the amount of these funds will not count towards the long-term debt financing limitation proposed in the 9671 Application. If loan proceeds are not used to pay down the amounts owing under the Credit Facility, the amount of these proceeds will count towards the long-term debt limitation.

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

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 00-26799 Filed 10-18-00; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24687; 812-12158]

### **American Water Capital Corp.; Notice of Application**

October 12, 2000.

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

**ACTION:** Notice of an application under section 6(c) of the Investment Company Act of 1940 (the "Act") granting an exemption from all provisions of the Act.

**SUMMARY OF THE APPLICATION:** Applicant seeks an order exempting it from all provisions of the Act in connection with the offer and sale of applicant's securities to raise funds for the business operations of its parent and certain subsidiaries thereof.

**Filing Dates:** The application was filed on June 30, 2000 and amended on October 5, 2000.

**Hearing or Notification of Hearing:** An order granting the application will be

<sup>1</sup> See *LG&E Energy Corp.*, Holding Co. Act Release No. 26886 (Apr. 30, 1998).

issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 6, 2000, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESS:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609. Applicant, 1025 Laurel Oak Road, Voorhees, NJ 08043.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Mann, Senior Counsel, at (202) 942-0582, or Nadya B. Roytblat, Assistant Director, at (202) 942-0564, (Division of Investment Management, Office of Investment Company Regulation).

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

### **Applicant's Representations**

1. Applicant is a Delaware corporation and a wholly-owned finance subsidiary of American Water Works Company, Inc. ("AWW"). AWW, a Delaware corporation, is a public utility holding company exempt from the Public Utility Holding Company Act of 1940. The core business of AWW is the ownership of common stock of utility companies providing water service. AWW's 25 utility subsidiaries provide water and/or wastewater service to approximately nine million people in 22 states. With the exception of the Michigan-American Water Company, the utility companies function under economic regulations prescribed by state regulatory commissions. In addition to its regulated utility subsidiaries, some subsidiaries of AWW engage in non-regulated businesses. However, only AWW, the regulated utility subsidiaries and entities wholly-controlled by these regulated utility subsidiaries borrow from Applicant. The term "Subsidiaries" as used in the application means the water and wastewater utility subsidiaries and entities wholly-owned directly or indirectly by such utilities.

2. Applicant's primary function will be to lend funds to AWW and its Subsidiaries and provide cash management through cash sweeps and management of excess cash. Applicant will obtain its funds primarily by borrowing from two sources: (i) it will arrange for a syndicated bank credit line to provide short-term loans with a maturity of one year or less; and (ii) it will register its own debt securities for sale to the public by filing a shelf registration of these securities with the Commission. Applicant is also considering instituting a commercial paper program in combination with the syndicated bank credit line. Applicant will invest in or lend at least 85% of the cash or cash equivalents raised by it through offerings of debt securities to AWW and the Subsidiaries as soon as practicable, and in no event later than six months, after its receipt of such cash or cash equivalents.

3. Applicant will comply with all of the provisions of rule 3a-5 under the Act, discussed below, except that AWW will not directly guarantee the debt securities issued by Applicant. Instead of an unconditional guarantee, AWW will use a support agreement ("Support Agreement") that will be the functional equivalent of an unconditional guarantee.

4. Because applicant's securities are not beneficially owned by more than 100 persons and applicant is not making and does not propose to make a public offering of its securities, applicant is not an "investment company" by virtue of the exemption contained in section 3(c)(1) of the Act. Applicant is applying for an exemption because it may in the future engage in a public offering or an offering exempt from the registration requirements of the Securities Act of 1933 ("1933 Act") which may result in applicant's securities being beneficially held by more than 100 persons. Applicant, therefore, requests an order under section 6(c) of the Act exempting it from all provisions of the Act.

### **Applicant's Legal Analysis**

1. Section 6(c) of the Act permits the Commission to grant an exemption from the provisions of the Act if, and to the extent that, such exemption is necessary and appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

2. Rule 3a-5 under the Act provides an exemption from the definition of an investment company for certain companies organized primarily to finance the business operations of their parent companies or companies

controlled by their parent companies. Rule 3a-5 requires, among other things, that any debt securities issued to the public be unconditionally guaranteed by the parent company as to the payment of principal, interest, and premium. Applicant states that it meets all the requirements of rule 3a-5 except that AWW will not directly guarantee the debt securities issued by Applicant.

3. Applicant states that a state's public utility commission usually determines a Subsidiary's return on capital by considering the capital structure of the Subsidiary without regard to the capital structure of AWW. AWW has avoided interdependent financial relationships such as loans and guarantees that tend to make interdependent the capital structure of AWW and the Subsidiaries in order to maintain a capital structure that is consistent with this regulatory approach. Applicant states that AWW determined to enter into the Support Agreement in lieu of an unconditional guarantee in order to maintain this separation in capital structure between it and its Subsidiaries. Applicant believes that the Support Agreement provides a functional equivalent of an unconditional guarantee of Applicant's securities because it grants holders of Applicant's securities the right to proceed directly against AWW in the event Applicant fails to pay when due principal, interest, and premium, if any, owed by it on such securities.

### **Applicant's Conditions**

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

1. Applicant will meet all of the requirements of rule 3a-5 except for the unconditional guarantee requirement. In lieu of an unconditional guarantee, Applicant has entered into, and will keep in force (except as contemplated below), the Support Agreement, which is and shall continue to be the functional equivalent of an unconditional guarantee. The Support Agreement provides, and will continue to provide, as follows:

a. AWW owns and shall continue to own all of the outstanding voting stock of Applicant;

b. AWW will provide to Applicant funds (as capital, or if AWW and Applicant agree, as a subordinated loan) as required if Applicant is unable to make timely payment of interest, principal or premium, if any, on any debt issued by Applicant;

c. AWW will cause Applicant to have at all times a positive tangible net worth (net assets less intangible assets, if any), as determined in accordance with

generally accepted accounting principles; and

d. If Applicant fails or refuses to take timely action to enforce its rights under the Support Agreement or if Applicant defaults in the timely payment of interest, principal or premium, any lender may proceed directly against AWW to enforce Applicant's rights under the Support Agreement or to obtain payment of such defaulted interest, principal or premium.

2. The Support Agreement may be modified or amended in a manner that adversely affects the rights of creditors of Applicant only if such modification or amendment occurs after all debt securities theretofore issued by Applicant are irrevocably paid in full and all commitments to acquire Applicant's debt securities are terminated, unless all creditors consent in advance and in writing to such modification or amendment. No modification or amendment to the Support Agreement relating to the four provisions set forth in condition 1, above, (other than to increase the required level of Applicant's positive tangible net worth) shall be made unless: (i) All creditors consent in advance and in writing to such modification or amendment and (ii) Applicant applies to the Commission for an amended order relating to such modification or amendment, and the Commission grants such amended order. The Support Agreement may be terminated only after (1) all debt securities issued by Applicant are irrevocably paid in full and all commitments to acquire Applicant's debt securities are terminated and (2) Applicant applies to the Commission for an amended order relating to such termination, and the Commission grants such amended order.

3. If Applicant initiates a non-public or public offering of securities, it will consist of short-term, intermediate-term or long-term debt securities to be offered and sold either in transactions exempt from the registration requirements of the 1933 Act or in public offerings of securities registered under the 1933 Act. No future public offering will involve voting securities of Applicant.

4. In the case of an offering of debt securities not requiring registration under the 1933 Act, Applicant will provide each offeree with disclosure materials that will include a description of the business of AWW and its subsidiaries and other data of the character customarily supplied in such offerings, or will otherwise comply with the disclosure requirements of Regulation D under the 1933 Act. In the event of a subsequent offering, these

materials will be updated at the time thereof (by supplementing the disclosure materials or by incorporating by reference filings under the Securities Exchange Act of 1934) to reflect material changes in the financial condition of AWW and its subsidiaries, taken as a whole.

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

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 00-26798 Filed 10-18-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-24686; 812-12178]

### The Latin American Investment Fund, Inc., et al.; Notice of Application

October 12, 2000.

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

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

**SUMMARY OF APPLICATION:** Applicants request an order to permit the Latin America Equity Fund, Inc. ("LAQ") to merge into the Latin America Investment Fund, Inc. ("LAM"). Because of certain affiliations, applicants may not rely on rule 17a-8 under the Act.

*Applicants:* LAM, LAQ, and Credit Suisse Asset Management, LLC ("CSAM").

*Filing Dates:* The application was filed on July 17, 2000 and amended on August 14, 2000 and October 12, 2000.

*Hearing or Notification of Hearing:* An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 2, 2000 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street,

NW., Washington, DC 20549-0609. Applicants, 466 Lexington Avenue, New York, New York, 10017.

**FOR FURTHER INFORMATION CONTACT:** Julia Kim Gilmer, Senior Counsel, at (202) 942-0528, or Michael W. Mundt, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

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

### Applicants' Representations

1. LAM and LAQ (each, a "Fund," and collectively, the "Funds") are Maryland corporations registered under the Act as closed-end management investment companies. CSAM, an indirect wholly-owned subsidiary of Credit Suisse Group, is registered as an investment adviser under the Investment Advisers Act of 1940 and serves as investment adviser to the Funds. As of June 7, 2000, the President and Fellows of Harvard College ("Harvard") owned more than 5% of the outstanding voting securities of each of the Funds.

2. On July 24, 2000, the Board of Directors of both Funds, including the directors who are not "interested persons," as defined in section 2(a)(19) of the Act ("Disinterested Directors"), unanimously approved a Merger Agreement and Plan of Reorganization (the "Plan") between the Funds. Under the Plan, LAQ will merge into LAM, and LAM will succeed to all of the assets and liabilities of LAQ by operation of Maryland state law (the "Merger"). Each share of common stock of LAQ will be converted into an equivalent dollar amount of full shares of common stock of LAM, based on the net asset value per share of each Fund calculated at 4:00 p.m. on the business day preceding the effective date of the Merger. LAM will purchase any interests that would result in fractional shares at the proportionate amount of the current net asset value of the shares and remit the cash proceeds to former LAQ shareholders. The value of the assets of the Funds will be determined in accordance with the valuation procedures set forth in LAM's registration statement, which are the same as LAQ's valuation procedures. Applicants state that the application of LAM's valuation procedures to LAQ's assets and liabilities was approved by the Board of Directors of each Fund and will not result in any difference in the