

Street, Chicago, Illinois, 60611-2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 02-11764 Filed 5-9-02; 8:45 am]

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RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

- (1) *Collection title:* Availability for Work.
- (2) *Form(s) submitted:* UI-38, UI-38s, ID-8k.
- (3) *OMB Number:* 3220-0164.
- (4) *Expiration date of current OMB clearance:* 7/31/2002.
- (5) *Type of request:* Extension of a currently approved collection.
- (6) *Respondents:* Individuals or households, non-profit institutions.
- (7) *Estimated annual number of respondents:* 7,600.
- (8) *Total annual responses:* 7,600.
- (9) *Total annual reporting hours:* 1,085.
- (10) *Collection description:* Under Section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day in which the claimant is not available for work. The collection obtains information needed by the to determine whether a claimant is willing and ready to work.

FOR FURTHER INFORMATION CONTACT:

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20502.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27526]

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

May 3, 2002.

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

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 28, 2002, 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 May 28, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Reliant Energy, Inc., et al. (70-9895)

Reliant Energy, Incorporated ("REI"), a Texas public-utility holding company exempt by order under section 3(a)(2) of the Act,¹ and its wholly owned Texas subsidiary company formed for purposes of the transactions described in this filing, CenterPoint Energy, Inc. ("New REI") (together, "Applicants"), 1111 Louisiana, Houston, TX 77002, have filed an amended and restated application-declaration under sections 3(a)(1), 6, 7, 9(a), 10, 12(b), 12(c), 12(f) and 13 and rules 43, 44, 45, 46, 52, 54, 90 and 91 of the Act in connection with a corporate restructuring ("Restructuring") of REI. On November 2, 2001, the Commission issued a notice of the proposed Restructuring.² The

nature of the requested authority has now changed because New REI proposes to register as a holding company under section 5 of the Act. New REI will register following the Electric Restructuring (described and defined below).

I. Introduction

A. Background

REI is a Texas electric utility company and a combination electric and gas public-utility holding company. Through its unincorporated HL&P division (the "HL&P Division"), REI generates, purchases, transmits and distributes electricity to approximately 1.7 million customers in Texas. REI primarily serves a 5,000-square mile area on the Texas Gulf Coast, including the Houston metropolitan area. All of REI's electric generation and operating properties are located in Texas. For the year ended December 31, 2001, HL&P reported operating income of \$1.091 billion on total operating revenues of \$5.5 billion.

As an electric utility, the HL&P Division is subject to regulation by the Public Utility Commission of Texas (the "Texas Commission") and to the provisions of the Texas Act, as that term is defined below. REI is a member of the Electric Reliability Council of Texas, Inc. ("ERCOT"), which provides the function of "Independent System Operator" for its member utilities.³

REI conducts natural gas distribution operations through three unincorporated divisions of its wholly owned gas utility subsidiary, Reliant Energy Resources Inc. ("GasCo"): (1) The Entex Division, which serves approximately 1.5 million customers, located in Texas (including the Houston metropolitan area), Louisiana and Mississippi; (2) the Arkla Division, which serves approximately 716,600 customers located in Texas, Louisiana, Arkansas, and Oklahoma; and (3) the Minnegasco Division, which serves approximately 711,000 customers in Minnesota. The largest communities served by Arkla are the metropolitan areas of Little Rock, Arkansas and Shreveport, Louisiana. Minnegasco serves the Minneapolis metropolitan area.

The Entex Division is subject to regulation by the Texas Railroad Commission, the Louisiana Public Service Commission (the "Louisiana

³ ERCOT represents a bulk electric system located entirely within Texas. Because of the intrastate status of their operations, the primary regulatory authority for the HL&P Division and ERCOT is the Texas Commission, although the Federal Energy Regulatory Commission exercises limited authority.

¹ *Houston Industries, Holding Co.* Act Release No. 26744 (July 24, 1997).

² See Holding Co. Act Release No. 27462.

Commission”) and the Mississippi Public Service Commission. The Arkla Division is subject to regulation by the Texas Railroad Commission, the Louisiana Commission, the Arkansas Public Service Commission and the Corporation Commission of the State of Oklahoma. The Minnegasco Division is subject to regulation by the Minnesota Public Utilities Commission.

For the year ended December 31, 2001, the Entex, Arkla, and Minnegasco Divisions reported combined net operating income of \$158 million. At December 31, 2001, reported net property, plant and equipment were \$1.6 billion.

REI conducts its nonutility operations, including merchant power generation and energy trading and marketing, largely through its partially owned nonutility subsidiary company, Reliant Resources, Inc. (“Reliant Resources”), and its subsidiary companies. These nonutility subsidiaries include wholesale power, trading and communications operations and, since the beginning of retail electric competition in Texas in January 2002, the sale of electricity to retail customers formerly served by REI’s integrated electric-utility operations. As discussed below, New REI plans to spin off Reliant Resources soon after completion of the restructuring of the electric system (“Electric Restructuring”).

REI’s existing structure resulted from the acquisition by Houston Industries Incorporated (“Houston Industries”) of NorAm Energy Corp. (“NorAm”) in August 1997.⁴ Prior to the acquisition, Houston Industries’ principal utility operations were conducted through its electric utility subsidiary, Houston Light & Power Company (“HL&P”). NorAm engaged in gas distribution operations. In the merger, Houston Industries merged into HL&P (which then adopted the name Houston Industries Incorporated). HL&P became a division of the holding company, Houston Industries, and NorAm became a first tier, wholly owned subsidiary of the holding company.

In 1999, the name of the holding company was changed from Houston Industries to Reliant Energy, Incorporated, referred to in the application as REI, and the electric utility company became Reliant Energy HL&P, a division of REI referred to in the application as the HL&P Division. NorAm became Reliant Energy Resources Corp., referred to in the application as GasCo.

In June 1999, S.B. 7, known as the Texas Electric Choice Plan (the “Texas Act”), substantially amended the regulatory structure governing electric utilities in Texas to provide for full retail competition. Under the Texas Act, traditional vertically integrated electric utility companies are required to separate their generation, transmission and distribution, and retail activities.

On March 15, 2001, the Texas Commission approved a business separation plan (the “Business Separation Plan”) under which REI’s existing electric utility operations would be separated into three businesses: a power generation company, a transmission and distribution utility (“T&D Utility”) and a retail electric provider (“REP”).

Under the Business Separation Plan, Reliant Resources became the successor to REI as the REP to customers in the Houston metropolitan area when the Texas market opened to competition in January 2002. Reliant Resources became the REP for all of REI’s customers in the Houston metropolitan area that did not take action to select another retail electric provider.⁵

As a preliminary step toward the Restructuring, REI formed Reliant Resources as a subsidiary and transferred to it, or its subsidiaries, substantially all of REI’s nonutility operations, including merchant power generation, energy trading and marketing, and communications operations. On May 4, 2001, Reliant Resources completed an initial public offering (“IPO”) of approximately 20% of its common stock. REI expects that the IPO will be followed by a tax-free distribution of the remaining Reliant Resources common stock to the shareholders of REI or its successor (“Distribution”). As a result of the Distribution, Reliant Resources will cease to be an affiliate of New REI for purposes of the Act and will become a separate publicly traded corporation.

B. The Restructuring

The Restructuring itself will proceed in the following stages (more fully described below): the Electric Restructuring, the Distribution, the Texas Genco IPO, and the GasCo Separation.

⁵ Reliant Resources provides these services through subsidiary REPs. Applicants state that the REPs are not electric utility companies for purposes of the Act because they do not own or operate physical facilities used for the generation, transmission or distribution of electric energy for sale. Applicants state that the REPs are power marketers under rule 58(b)(1)(v) of the Act.

1. The Electric Restructuring

In the first stage, New REI will form Texas Genco Holdings, Inc. (“Texas Genco Holdings”), as a Texas indirect wholly owned limited partnership. REI will contribute its regulated assets used to generate electric power and energy for sale within Texas and the liabilities associated with those assets (“Texas Genco Assets”) to Texas Genco Holdings. Texas Genco Holdings, in turn, will contribute the Texas Genco Assets to two newly formed limited liability companies, which, in turn, will contribute the assets to a Texas limited partnership, Texas Genco LP. Texas Genco LP will be an electric utility company within the meaning of the Act. Applicants state that Texas Genco Holdings will be a Texas holding company that will qualify for exemption under section 3(a)(1) of the Act.⁶

The next steps relate to the formation of New REI as a holding company for the regulated operations. REI formed New REI as a wholly owned subsidiary.⁷ New REI, in turn, will form a special purpose wholly owned subsidiary, Utility Holding LLC, a Delaware limited liability company. Utility Holding LLC will form a special purpose wholly owned subsidiary company, MergerCo, which will merge with and into REI, with REI as the surviving entity. REI common stock will be exchanged for New REI common stock in the merger, and New REI will become the holding company for Utility Holding LLC, REI and its subsidiaries.

REI then plans to convert to a Texas limited liability company, Reliant Energy, LLC (“REI LLC” or the “T&D Utility”). The T&D Utility will retain REI’s existing transmission and distribution businesses, which will remain subject to traditional utility rate regulation. The T&D Utility will distribute the stock of all its subsidiaries to New REI, including the stock of GasCo, Texas Genco Holdings and

⁶ Applicants state that the limited liability companies, GP LLC and LP LLC, are conduit entities that will exist solely to minimize certain Texas franchise tax liability. LP LLC, a Delaware limited liability company, will acquire a 99% limited partnership interest with no voting rights in Texas Genco LP. Applicants state that, because LP LLC will not acquire 10% or more of the voting securities of Texas Genco LP, LP LLC will not be a holding company for purposes of the Act. GP LLC, a Texas limited liability company, will be a holding company because it will acquire the 1% general partnership interest in Texas Genco LP. Applicants state that GP LLC will qualify for exemption under section 3(a)(1) of the Act.

⁷ New REI was incorporated in Delaware on December 13, 2000. As part of the Restructuring, on October 9, 2001, REI reincorporated New REI as a Texas corporation.

⁴ See Houston Industries, *supra* note 1.

certain financing and other subsidiaries.⁸

Following the Electric Restructuring, New REI will register as a holding company under section 5 of the Act.

2. The Distribution

As noted above, on May 4, 2001, Reliant Resources completed an IPO of approximately 20% of its common stock. Upon completion of the Electric Restructuring and subject to board approval, market and other conditions, New REI will effect the Distribution by distributing all of the shares it owns in Reliant Resources to New REI's shareholders, effecting the separation of operations into two unaffiliated publicly traded corporations.⁹ As a result of the Distribution, Reliant Resources will cease to be an affiliate of New REI for the purposes of the Act.

Prior to the IPO of Reliant Resources' common stock, REI entered into a Master Separation Agreement and associated ancillary agreements with Reliant Resources, providing for the separation of their businesses and assets. The Master Separation Agreement also provides for cross-indemnities that are intended to place sole financial responsibility on Reliant Resources and its subsidiaries for all liabilities associated with the current and historical businesses and operations they conduct, and to place sole financial responsibility for liabilities associated with REI's other businesses with REI and its other subsidiaries. REI and Reliant Resources also agreed to assume, and be responsible for, specified liabilities associated with activities and operations of the other party and its subsidiaries, to the extent performed for, or on behalf of, their respective current or historical businesses. The Master Separation Agreement also contains indemnification provisions under which REI and Reliant Resources will each indemnify the other with respect to breaches by the indemnifying party of the Master Separation Agreement or any ancillary agreements.

⁸ The distribution of the stock of REI's subsidiaries, including GasCo and Texas Genco Holdings, will be currently taxable under Texas law. To minimize tax inefficiencies, New REI will hold its utility interests through Utility Holding LLC. Because Utility Holding LLC will be a Delaware company, it will not qualify for exemption under section 3(a)(1) of the Act. Applicants request the Commission to "look through" Utility Holding LLC for purposes of analysis under section 3(a)(1). *Compare National Grid Group plc*, Holding Co. Act Release No. 27154 (Mar. 15, 2000) (Commission disregarded intermediate holding companies for purposes of section 11(b)(2) analysis).

⁹ As of December 31, 2001, REI owns approximately 83% of Reliant Resources, due to treasury stock repurchases of \$189 million by Reliant Resources.

The Master Separation Agreement contains provisions relating to certain nuclear decommissioning assets, the exchange of information, provision of information for financial reporting purposes, dispute resolution, and provisions limiting competition between the parties in certain business activities and provisions allocating responsibility for the conduct of regulatory proceedings and limiting positions that may be taken in legislative, regulatory or court proceedings in which the interests of both parties may be affected.

The Distribution will significantly reduce the New REI system's common equity.¹⁰ Applicants believe, however, that the Distribution is both necessary and appropriate because it will have the effect of reducing the business risk profile of the regulated business. Further, Applicants state that New REI's capital structure will be improved significantly with the sale of Texas Genco and securitization of any stranded investment that is anticipated to occur in 2004. Accordingly, Applicants seek authority for the Distribution.

3. Texas Genco IPO

On or before December 31, 2002, New REI expects to conduct an initial public offering of or distribute to shareholders approximately 20% of the common stock of Texas Genco Holdings, the holding company for the Texas Genco Assets or to distribute the stock to New REI's shareholders. The creation of a minority public interest in Texas Genco Holdings will permit the use of the "partial stock valuation method" under the Texas Act for purposes of determining the stranded costs associated with REI's regulated generation assets.

Reliant Resources will hold an option to purchase all of New REI's remaining equity interest in Texas Genco LP after the Texas Genco IPO ("Texas Genco Option").¹¹ The Texas Genco Option is exercisable in January 2004; therefore,

¹⁰ New REI projects its common equity as a percentage of total capitalization ("Common Equity Percentage") to be approximately 37.1% following the Electric Restructuring but prior to the Distribution. Following the Distribution, New REI projects its Common Equity Percentage to drop to approximately 16.1% (17.2% if calculated without the effect of securitization debt). New REI projects its Common Equity Percentage for the year 2005 to be 15.9% including securitization debt and 27.0% excluding securitization debt.

¹¹ The retained equity interest will be at least 80%. The Texas Genco Option agreement provides that if Reliant Resources purchases the Texas Genco LP shares, it must also purchase all notes and other receivables from Texas Genco LP then held by New REI at their principal amounts plus accrued interest.

Reliant Resources does not seek authority at this time to exercise the option. The exercise price will be determined by a market-based formula based on the formula employed by the Texas Commission for determining stranded costs under the partial stock valuation method referenced above.

4. The GasCo Separation

The final stage of the restructuring entails the reorganization of GasCo into three separate corporations ("GasCo Separation"). Upon receipt of necessary regulatory approvals, GasCo plans to form two new subsidiary companies, Arkla, Inc. and Minnegasco, Inc., and to contribute to them the Arkla and Minnegasco assets, respectively. GasCo will then dividend the stock of Arkla, Inc. and Minnegasco, Inc. to Utility Holding LLC. GasCo, which will be renamed Entex, Inc. and reincorporated in Texas, will own the Entex assets as well as, through subsidiary companies, the natural gas pipelines and gathering business.

Applicants request the Commission to reserve jurisdiction over the acquisition by New REI of the securities of the to-be-formed gas utility subsidiaries, Entex, Inc., Arkla, Inc. and Minnegasco, Inc., pending completion of the record.¹²

New REI will not qualify for an intrastate exemption immediately after the Electric Restructuring. Pending the GasCo Separation, New REI will not satisfy the standards for exemption under section 3(a)(1) of the Act because GasCo, a material subsidiary with significant out-of-state operations, will not be "predominantly intrastate in character" and carry on its business "substantially in a single state." Upon completion of the GasCo Separation, however, Applicants anticipate that New REI and each of its material utility subsidiaries will be incorporated in Texas and will be "predominantly intrastate in character and carry on their business substantially" in Texas. Applicants contemplate that, upon completion of the GasCo separation, New REI will file a claim of exemption under rule 2 or apply for an order under section 3(a)(1) of the Act.

C. Affiliate Transactions

Because Applicants contemplate that New REI will qualify for exemption upon completion of the GasCo Separation and, further, that the

¹² New REI plans to make the acquisition through an intermediate holding company, Utility Holding LLC. Applicants request the Commission to reserve jurisdiction over the request for Utility Holding LLC to acquire the securities of Entex, Arkla and Minnegasco as part of the GasCo separation.

approvals necessary for that separation will be obtained within a year of the initial order, Applicants do not intend to form a service company. New REI requests authority to provide a variety of services to the New REI system companies, 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. Charges for all services will be on an at-cost basis, as determined under rules 90 and 91 of the Act.

II. Requested Authority

Applicants request an initial order: (1) Authorizing New REI to acquire the securities of the T&D Utility, Texas Genco, L.P., GasCo, Utility Holding LLC, Texas Genco Holdings, GP LLC and LP LLC; (2) granting Texas Genco Holdings and GP LLC an exemption under section 3(a)(1); (3) authorizing the Distribution of the voting securities of Reliant Resources by New REI to the common stock stockholders of New REI; (4) authorizing the sale or distribution of Texas Genco Holdings stock in connection with the Texas Genco IPO; (5) authorizing New REI to retain all nonutility subsidiaries of REI; (6) authorizing REI to provide goods and services to New REI system companies for a period not to exceed one year; and (7) approving the requested financings as outlined below. Applicants also request that they be exempt from the requirement to file Form U-6B-2 because the information contained in that form will be set forth in quarterly Rule 24 Certificates.

A. Financing Request

New REI, on behalf of itself and the Subsidiaries, requests authorization to engage in the following financing transactions for a period of one year from the date of the Commission's initial order ("Authorization Period").¹³

1. Parameters for Financing Authorization

The effective cost of money on debt financings will not exceed the greater of 500 basis points over the comparable

¹³ For purposes of this request, the term "Subsidiary" shall mean each directly and indirectly owned subsidiary of New REI as well as other direct or indirect subsidiaries that New REI may form after the Electric Restructuring with the approval of the Commission or in reliance on rules or statutory exemptions. The term "Intermediate Holding Company" shall mean Utility Holding, LLC, Texas Genco Holdings, Inc. and GP LLC. The term "Utility Subsidiaries" shall mean Texas Genco LP, the T&D Utility and GasCo. The term "Nonutility Subsidiary" shall mean any subsidiary company other than an Intermediate Holding Company or a Utility Subsidiary.

term London Interbank Offered Rate ("LIBOR") or market rates available at the time of issuance to similarly situated companies with comparable credit ratings for debt with similar maturities and terms.

The dividend rate on any series of preferred securities will not exceed the greater of 500 basis points over LIBOR or a rate that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

Financings will be subject to the following conditions: (1) The maturity of long-term debt will not exceed 50 years and all preferred securities will be redeemed no later than 50 years after issuance; (2) the underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security (not including any original issue discount) will not exceed 5% of the principal or total amount of the securities being issued; (3) all ratable long-term debt, preferred securities and preferred stock that is issued to third parties will, when issued, be rated investment grade by a nationally recognized statistical ratings organization ("NRSRO");¹⁴ and (4) each of the Utility Subsidiaries will maintain common stock equity as a percentage of capitalization of at least 30%.

2. Use of Proceeds

The proceeds from the sale of securities in external financing transactions will be used for general corporate purposes, including: the financing, in part, of the capital expenditures of the New REI system; the refinancing of existing obligations; the financing of working capital requirements of the New REI system; the acquisition, retirement or redemption of securities previously assumed or issued by New REI or its Subsidiaries without the need for prior Commission approval; and other lawful purposes.

3. Proposed Financing Program

The aggregate amount of financing under the authority requested by New REI, exclusive of guarantees and obligations assumed by New REI at the time of the Electric Restructuring, shall not exceed \$8 billion at any one time outstanding during the Authorization Period. The types of securities that New REI may issue are described more fully below.

The aggregate amount of external financing under the authority requested

¹⁴ New REI requests the Commission reserve jurisdiction over its issuance of any security that is rated below investment grade.

by the Subsidiaries, exclusive of guarantees and exempt financings, shall not exceed \$4 billion at any one time outstanding during the Authorization Period. The types of securities that the Subsidiaries may issue are described more fully below.

The aggregate amount of nonexempt guarantees shall not exceed \$2 billion for the New REI system at any one time outstanding during the Authorization Period.¹⁵

4. Description of Specific Types of Financing

a. New REI External Financing

Upon completion of the Electric Restructuring, New REI will have outstanding long-term debt, obligations relating to tax-exempt debt issued by governmental authorities (such as pollution control bonds) and obligations relating to trust preferred securities issued by subsidiaries. In addition, New REI will have executed bank facilities that may be utilized in the form of direct borrowings, commercial paper support or letters of credit.

New REI requests authorization to assume the debt and obligations described in the previous paragraph and to replace the bank facilities of REI subsidiaries with bank facilities of New REI at the time of the Electric Restructuring. In addition, New REI requests authority to assume obligations under certain hedging transactions to manage its risk and for other lawful purposes.

New REI also requests authority to issue and sell securities, including common stock, preferred 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. New REI also requests authorization to enter into obligations with respect to tax-exempt debt issued on behalf of New REI by governmental authorities. These obligations may relate to the refunding of outstanding tax-exempt debt or to the remarketing of tax-exempt debt. New REI seeks authorization to enter into lease arrangements, and certain hedging transactions in connection with issuances of taxable or tax-exempt securities.

(i) New REI External Financing: Common Stock

New REI is authorized under its restated articles of incorporation to

¹⁵ This limit applies to guarantees of financial obligations but not to performance guarantees entered into in the normal course of a system company's duly authorized business.

issue 1 billion shares of common stock, par value \$.01 per share, and related preferred stock purchase rights. Common stock issued by New REI after completion of the Electric Restructuring will be valued, for purposes of determining compliance with the aggregate financing limitation of \$8 billion, at its market value as of the date of issuance (or, if appropriate, at the date of a binding contract providing for the issuance).

New REI proposes, from time to time during the Authorization Period, to issue and/or acquire in open market transactions or negotiated block purchases, up to 7.5 million shares of New REI common stock for allocation under certain incentive compensation plans and certain other employee benefit plans. These acquisitions would comply with applicable law and Commission interpretations then in effect.

New REI proposes, from time to time during the Authorization Period, to issue and/or acquire in open market transactions or negotiated block purchases, up to 4 million shares of New REI common stock under the New REI Investors' Choice Program (or any similar or successor program).

New REI has established a Stockholder Rights Plan under which each share of its common stock will include one right to purchase from New REI a fraction of a share of New REI preferred stock. The rights will be issued under a rights agreement between New REI and a nationally recognized bank that will serve as the rights agent. As currently contemplated, the rights will become exercisable shortly after (i) any public announcement that a person or group of associated persons has acquired, or obtained the right to acquire, beneficial ownership of 15% or more of the outstanding shares of New REI common stock; or (ii) the start of a tender or exchange offer that would result in a person or group of associated persons becoming a 15% owner. New REI expects that the Stockholder Rights Plan will also provide for the rights to be exercisable for shares of (i) New REI common stock in the event of certain tender or exchange offers not approved by the New REI board; and (ii) the common stock of an acquiring company in the event of certain mergers, business combinations, or substantial sales or transfers of assets or earning power. The rights will attach to all certificates representing the outstanding shares of common stock and will be transferable only with these certificates. The Stockholder Rights Plan will provide for the rights to be redeemable at New REI's

option prior to their becoming exercisable and for the rights to expire at a date certain.

(ii) New REI External Financing: Preferred Securities

New REI seeks to have the flexibility to issue its authorized preferred stock or other types of preferred securities (including trust preferred securities) directly or indirectly through one or more subsidiaries, including special-purpose financing subsidiaries organized for this purpose. The proceeds of preferred securities would provide an important source of future financing for the operations of, and investments in, businesses in which New REI or its Subsidiaries are authorized to invest. Preferred stock or other types of preferred securities may be issued in one or more series with rights, preferences, and priorities as may be designated in the instrument creating each series, as determined by New REI's board of directors, or a pricing committee or other committee of the board performing similar functions. Preferred securities may be redeemable and may be perpetual in duration. Dividends or distributions on preferred securities will be made periodically and to the extent funds are legally available for this purpose, but may be made subject to terms which allow New REI to defer dividend payments for specified periods. Preferred securities may be convertible or exchangeable into shares of New REI common stock, other forms of equity or indebtedness, or into other securities or assets.

Preferred securities may be sold directly through underwriters or dealers in any manner and for purposes similar to those described for common stock above.

(iii) New REI External Financing: Long-Term Debt

Long-term debt securities could include notes or debentures under one or more indentures (each, the "New REI Indenture") or long-term indebtedness under agreements with banks or other institutional lenders directly or indirectly. Long-term debt will be unsecured. Long-term securities could also include obligations relating to the refunding or remarketing of tax-exempt debt issued on behalf of New REI by governmental authorities. Specific terms of any borrowings will be determined by New REI at the time of issuance and will comply in all regards with the parameters on financing authorization set forth above.

(iv) New REI External Financing: Short-Term Debt

New REI seeks authority to issue short-term debt securities, including, but not limited to, institutional borrowings, commercial paper and privately placed notes.

New REI 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.

New REI 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.

New REI may also set up credit lines for use in general corporate purposes. Credit lines may support commercial paper, may be utilized to obtain letters of credit or may be borrowed against, from time to time, as it is deemed appropriate or necessary.

(v) New REI External Financing: Risk Management Devices

New REI requests authority to assume and to enter into hedging arrangements intended to reduce or manage the volatility of financial or other business risks to which New REI is subject, including, but not limited to, interest rate swaps, caps, floors, collars and forward agreements or any other agreements or derivative instruments intended to reduce or manage risks to which New REI is or may become exposed ("Hedging Instruments"). The transactions would be for fixed periods and stated notional amounts. New REI may employ interest rate hedges and other 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 economic or accounting 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 fixed or determinable periods. Thus, New REI will not engage in speculative transactions. New REI will only enter into agreements with counterparties having a senior debt rating at the time

the transaction is executed of at least investment grade as published by a NRSRO ("Approved Counterparties").

In addition, New REI requests authorization to assume and to enter into hedging transactions with respect to anticipated debt offerings ("Anticipatory Hedges"), subject to certain limitations and restrictions. Anticipatory Hedges will only be entered into with Approved Counterparties, and will be used to fix and/or limit the risk associated with any issuance of securities through appropriate means, including (i) forwards and futures (a "Forward Sale"); (ii) the purchase of put options (a "Put Options Purchase"); (iii) a purchase of put options in combination with the sale of call options (a "Collar"); (iv) some combination of a Forward Sale, Put Options Purchase, Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars, appropriate for the Anticipatory Hedges; or (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"), "off-exchange" through the execution of agreements with one or more counterparties ("Off-Exchange Trades"), or a combination of On-Exchange Trades and Off-Exchange Trades. New REI or a Subsidiary will determine the optimal structure of each Anticipatory Hedge transaction at the time of execution. New REI or a Subsidiary may decide to lock in interest rates and/or limit its exposure to interest rate increases. New REI and its Subsidiaries seek authority to modify the terms and conditions of any Hedging Instruments or Anticipatory Hedges that are put in place prior to the Electric Restructuring.

New REI 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 External Financings

The Utility Subsidiaries will have outstanding long-term debt and trust preferred securities upon completion of the Electric Restructuring. In addition,

the Utility Subsidiaries will have a receivables facility and bank facilities that may be utilized in the form of direct borrowings, commercial paper support or letters of credit.

To the extent not otherwise exempted, the Subsidiaries request authority to issue and sell securities, including common equity, preferred securities (either directly or through a subsidiary), long-term and short-term debt securities and derivative instruments with respect to any of the foregoing on the same terms and conditions as discussed above for New REI, except that Subsidiary debt may be secured or unsecured. The Subsidiaries also request authorization to enter into obligations with respect to tax-exempt debt issued on behalf of a Subsidiary by governmental authorities in connection with the refunding of outstanding tax-exempt debt assumed by New REI at the time of the Electric Restructuring. The Subsidiaries also request authority to enter into hedging transactions to manage their risk in connection with the issuance of securities.

c. Guarantees, Intra-System Advances and Intra-System Money Pool

New REI requests authorization to enter into guarantees, obtain letters of credit, enter into expense agreements or otherwise provide credit support with respect to the obligations of its Subsidiaries and to enter into guarantees of non-affiliated third party obligations in the ordinary course of New REI's business ("New REI Guarantees") in an amount, together with the Subsidiary Guarantees (defined below), not to exceed \$2 billion outstanding at any one time (not taking into account obligations exempt under rule 45). Any guarantees shall also be subject to the limitations of rule 53(a)(1) or rule 58(a)(1), as applicable.

Certain of the guarantees referred to above may be in support of obligations that are not capable of exact quantification. In these cases, New REI 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 generally accepted accounting principles and/or sound financial practices.

The Utility Subsidiaries request authority to provide to other Subsidiaries guarantees and other forms

of credit support, subject to the terms and conditions outlined above.¹⁶

Each of the Intermediate Holding Companies also seeks authority to issue guarantees and other forms of credit support to direct and indirect subsidiary companies, subject to the terms and conditions outlined above.

New REI will establish and manage a centralized system of intercompany borrowings and investments ("Money Pool") which will be used as a short-term cash management system by New REI and its Subsidiaries. Participants in the Money Pool will include New REI and certain subsidiaries of New REI. New REI will not borrow from the Money Pool.

The Utility Subsidiaries may also finance their capital needs through borrowings from New REI, directly or indirectly through one or more Intermediate Holding Companies

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.

d. Changes in Capital Stock of Majority Owned Subsidiaries

Request is made for 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 New REI or other intermediate parent company. A Subsidiary would be able to change the par value, or change between par value and no-par stock, without additional Commission approval.

e. Payment of Dividends Out of Capital or Unearned Surplus

As a result of the accounting treatment for the Restructuring, New REI and the Subsidiaries are requesting authority to declare and pay dividends out of capital or unearned surplus. The dividends paid by these entities will not exceed 75% of net income, based on a rolling five-year average. Although the dividend policy of New REI has not been finally determined, it is contemplated that New REI will seek to maintain a pay-out ratio comparable to the current ration.

f. Financing Subsidiaries

New REI proposes to organize and acquire, directly or indirectly, the common stock or other equity interests of one or more subsidiaries (collectively,

¹⁶ New REI states that it is contemplated that the Nonutility Subsidiaries will rely on the exemptions provided by rules 45 and 52.

the "Financing Subsidiary") for the purpose of effecting various financing transactions from time to time through the Authorization Period involving the issuance and sale of up to an aggregate of \$1 billion (cash proceeds to New REI or the respective subsidiary company) in any combination of common stock, preferred securities, debt securities, stock purchase contracts and stock purchase units, as well as common stock issuable under stock purchase contracts and stock purchase units, all as defined below. Any security issued under the requested authority will be appropriately disclosed in the system's financial statements. No Finance 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 for New REI and its associates. In connection with these transactions, New REI 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 New REI or the Subsidiaries.

Each of New REI and the Subsidiaries also requests authorization to enter into an expense agreement with its respective financing entity, under which it would agree to pay all expenses of the entity. Any amounts issued by the financing entities 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.

REI currently has two financing subsidiaries ("FinanceCos"). The FinanceCos are Delaware limited partnerships whose limited partnership interests are wholly owned, directly or indirectly, by REI. Each of the FinanceCos has issued a series of debt, the proceeds of which have been used to purchase separate series of cumulative preference stock of REI. Dividends on the preference stock accrue based on the net interest requirements on the debt, subject to reduction of any payments previously made by REI under REI support agreements relating to each series of debt. After giving effect to this credit, REI must pay aggregate cash dividends

on the preference stock equal to the lesser of the aggregate amount of interest then payable on the debt or its excess cash flow (excess funds of REI remaining after taking into account its cash requirements and other expenditures required by sound utility financial and management practices).

g. Authority To Reorganize Nonutility Interests

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

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-11702 Filed 5-9-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-12070]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (Transfinancial Holdings, Inc., Common Stock, \$.01 par value)

May 6, 2002.

Transfinancial Holdings, Inc., a Delaware corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 12d2-2(d) thereunder,² to withdraw its Common Stock, \$.01 par value ("Security"), from listing and registration on the American Stock Exchange LLC ("Amex" or "Exchange").

The Issuer states in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Delaware, in which it was incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

On April 9, 2002, the Board of Directors of the Issuer unanimously approved a resolution to withdraw the Issuer's Security from listing on the Amex. In making the decision to withdraw the Security from listing on the Exchange, the Issuer represents that

on April 29, 2002, a certificate of dissolution was filed with the Secretary of the State Delaware. Trading of the Security on the Amex was halted on April 29, 2002. The Issuer's application relates solely to the withdrawal of the Security from listing on the Amex and registration under Section 12(b) of the Act³ and shall not affect its obligation to be registered under Section 12(g) of the Act.⁴

Any interested person may, on or before May 28, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz,

Secretary.

[FR Doc. 02-11744 Filed 5-9-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Notice

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 22471, May 3, 2002].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Wednesday, May 8, 2002, at 9:30 a.m.

CHANGE IN THE MEETING: Deletion of item.

The following item will not be considered at the open meeting scheduled for Wednesday, May 8, 2002: The Commission will not hear oral argument on an appeal by Daniel R. Lehl, et al., from the decision of an administrative law judge.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

³ 15 U.S.C. 78j(b).

⁴ 15 U.S.C. 78j(g).

⁵ 17 CFR 200.30-3(a)(1).

¹ 15 U.S.C. 78j(d).

² 17 CFR 240.12d2-2(d).