

Capital Management L.P., investment adviser to each applicant.

Filing Dates: The applications were filed on August 20, 2004, and amended on September 24, 2004.

Applicants' Address: 1345 Avenue of the Americas, New York, NY 10105.

Babson-Stewart Ivory International Fund, Inc. [File No. 811-5386]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 31, 2004, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of \$33,571 incurred in connection with the liquidation were paid by applicant's investment adviser, Voyageur Asset Management Inc.

Filing Dates: The application was filed on June 24, 2004, and amended on September 28, 2004.

Applicant's Address: 100 South Fifth St., Suite 2300, Minneapolis, MN 55402.

Pioneer Indo-Asia Fund [File No. 811-8468]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 28, 2001, applicant transferred its assets to Pioneer Emerging Markets Fund, based on net asset value. Expenses of \$98,592 incurred in connection with the reorganization were paid by Pioneer Investment Management, Inc., investment adviser to applicant and the acquiring fund.

Filing Dates: The application was filed on July 23, 2002, and amended on October 7, 2004.

Applicant's Address: 60 State St., Boston, MA 02109.

Pioneer Global Value Fund [File No. 811-10425]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on June 12, 2003, and amended on September 29, 2004.

Applicant's Address: 60 State St., Boston, MA 02109.

Separate Account VA G of Transamerica Occidental Life Insurance Company [File No. 811-10051]

Summary: Applicant has decided to abandon its registration as an investment company and seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on September 12, 2003.

Applicant's Address: 4333 Edgewood Road NE, Cedar Rapids, Iowa 52499-0001

Separate Account VA H of Transamerica Occidental Life Insurance Company [File No. 811-10049]

Summary: Applicant has decided to abandon its registration as an investment company and seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on September 12, 2003.

Applicant's Address: 4333 Edgewood Road NE, Cedar Rapids, Iowa 52499-0001

Anchor Pathway Fund [File No. 811-5157]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant's board of directors approved the liquidation of the Applicant on June 15, 2004, and all of Applicant's assets were distributed in kind to its sole shareholder, Variable Separate Account of AIG SunAmerica Life Assurance Company on June 16, 2004. Any expenses incurred in connection with the liquidation were paid by AIG SunAmerica Life Assurance Company.

Filing Date: The application was filed on June 18, 2004, and amended on October 12, 2004.

Applicant's Address: 1 SunAmerica Center, Los Angeles, CA 90067-6022.

Galaxy VIP Fund [File No. 811-06726]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 7 and April 14, 2003, in connection with a merger, Applicant made distributions to its shareholders based on net asset value, and pro rata based on share ownership. Liberty Variable Investment Trust and SteinRoe Variable Investment Trust are the names of the funds surviving the merger. Columbia Management Group, Inc., the parent company of Columbia Management Advisors, Inc., Galaxy VIP Fund's investment adviser, paid the expenses incurred in connection with the merger, in the amount of \$5800.

Filing Dates: The application was filed on August 3, 2004, and an amended application was filed on October 8, 2004.

Applicant's Address: One Financial Center, Boston, MA 02111.

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

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E4-3003 Filed 11-3-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27905]

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

October 28, 2004.

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 22, 2004, 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 22, 2004, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

AGL Resources, Inc. et al. (70-10243)

AGL Resources Inc. ("AGL Resources"), a registered public utility holding company, AGL Resources' subsidiary service company, AGL Services Company ("AGL Services"), both of Ten Peachtree Place Suite 1000, Atlanta, GA 30309, AGL Resources' gas utility subsidiaries, Atlanta Gas Light Company ("AGLC"), Ten Peachtree Place Suite 1000, Atlanta, GA 30309, Chattanooga Gas Company ("CGC"), 6125 Preservation Drive Chattanooga, Tennessee 37416 and Virginia Natural

Gas, Inc. ("VNG"), 5100 East Virginia Beach Boulevard Norfolk, Virginia 23502; NUI Corporation ("NUI"), a New Jersey corporation and currently a public utility holding company claiming exemption under section 3(a)(1) of the Act by rule 2 under the Act; NUI's two gas public utility subsidiaries ("NUI Utility Subsidiaries"), NUI Utilities, Inc. ("NUI Utilities") and Virginia Gas Distribution Company ("VGDC"); and NUI's direct and indirect nonutility subsidiaries ("NUI Nonutilities" and together with the NUI Utility Subsidiaries, "NUI Subsidiaries") NUI Capital Corp. ("NUI Capital"), Utility Business Services, Inc. ("UBS") Virginia Gas Company ("VGC"), Virginia Gas Storage Company, Virginia Gas Pipeline Company ("VGPC"), NUI Saltville Storage, Inc. ("NUISS"), NUI Storage, Inc. ("NUI Storage"), NUI Service, Inc.; NUI Energy, Inc. ("NUI Energy"), NUI Energy Brokers, Inc. ("NUI Energy Brokers"), NUI Energy Solutions, Inc., OAS Group, Inc. ("OAS"), NUI Sales Management, Inc., TIC Enterprises, LLC ("TIC"), NUI Richton Storage, Inc., Richton Gas Storage Company, LLC; NUI/Caritrade International LLC, NUI Hungary, Inc., and NUI International, Inc., all at 550 Route 202-206 Box 760, Bedminster, NJ 07921-0760 (collectively with AGL Resources, AGL Services, AGLC, CGC and VNG, "Applicants"), request authority under sections 3(a)(1), 5, 6(a), 7, 9(a), 10, 11, 12(b), 12(c) and 13(b) of the Act and rules 16, 43, 45, 46, 54 and 88, 90 and 91 under the Act.

AGL proposes to acquire all of the issued and outstanding common stock of NUI and indirectly acquire the NUI Subsidiaries. Applicants also propose that NUI and the NUI Subsidiaries engage in certain financings and other transactions.

I. Description of the Parties

A. AGL Resources and Its Subsidiaries

1. AGL Resources

Applicants state that AGL Resources is a corporation organized under the laws of Georgia, and is an Atlanta-based energy services holding company. AGL Resources owns three gas public utility subsidiary companies: AGLC, CGC, and VNG which serve more than 1.8 million customers in three states (collectively, "AGL Resources Utilities").

Applicants state that AGL Resources' common stock has a five dollar par value and as of June 30, 2004, AGL Resources had 64,923,654 shares of common stock issued and outstanding. As of and for the six months ended June 30, 2004, AGL Resources had total assets of \$4.01 billion, net utility plant

assets of \$2.26 billion, total operating revenues of \$945 million, operating income of \$186 million and net income of \$87 million.

(a) AGL Resources' Utilities

(1) AGLC.—Applicants state that AGLC is a natural gas local distribution utility with distribution systems and related facilities serving 237 cities throughout Georgia, including Atlanta, Athens, Augusta, Brunswick, Macon, Rome, Savannah and Valdosta. AGLC also has approximately 6.0 billion cubic feet, or Bcf, of liquefied natural gas ("LNG") storage capacity in three LNG plants to supplement the supply of natural gas during peak usage periods. The Georgia Public Service Commission ("GPSC") regulates AGLC with respect to rates, maintenance of accounting records and various other service and safety matters. Applicants state that as of and for the six months ended June 30, 2004, AGLC had total assets of \$2.41 billion, total operating revenues of \$308 million and net income of \$76 million. AGLC owns all of the outstanding stock of AGL Rome Holdings, Inc. ("Rome Holdings"). AGL Rome Holdings, Inc. owned property associated with a former manufactured gas plant in Rome, Georgia, but sold that property in December 2003.

(b) CGC

Applicants state that CGC is a natural gas local distribution utility with distribution systems and related facilities serving twelve cities and surrounding areas, including the Chattanooga and Cleveland areas of Tennessee. CGC also has approximately 1.2 Bcf of LNG storage capacity in its LNG plant. The Tennessee Regulatory Authority ("TRA") regulates CGC with respect to rates, maintenance of accounting records and various other service and safety matters. As of and for the six months ended June 30, 2004, CGC had total assets of \$147 million, total operating revenues of \$55 million and net income of \$7.0 million.

(1) VNG.—Applicants state that VNG is a natural gas local distribution utility with distribution systems and related facilities serving eight cities in the Hampton Roads region of southeastern Virginia. VNG owns and operates approximately 155 miles of a separate high-pressure pipeline that provides delivery of gas to customers under firm transportation agreements within the state of Virginia. VNG also has approximately 5.0 million gallons of propane storage capacity in its two propane facilities to supplement the supply of natural gas during peak usage periods. The Virginia State Corporation

Commission ("VSCC") regulates VNG with respect to rates, maintenance of accounting records and various other service and safety matters. Applicants state that as of and for the six months ended June 30, 2004, VNG had total assets of \$736 million, total operating revenues of \$210 million and net income of \$21 million.

B. AGL Nonutilities

AGL Resources also holds direct and indirect interests in nonutility companies ("AGL Nonutilities" and together with the AGL Utilities, "AGL Subsidiaries") whose retention has been authorized by order dated October 5, 2000 (HCAR No. 27243), ("AGL Merger Order").

C. NUI

1. Utility Subsidiaries

Applicants state that NUI has two public utility subsidiary companies, NUI Utilities and VGDC. Through its subsidiaries, NUI operates natural gas distribution systems and natural gas storage and pipeline businesses.

(a) NUI Utilities

Applicants state that NUI Utilities distributes natural gas to approximately 371,000 customers in New Jersey, Florida and Maryland through its three regulated utility divisions, Elizabethtown Gas Company ("Elizabethtown Gas"), City Gas Company of Florida ("City Gas") and Elkton Gas. Each division is subject to regulation by the public service commission in the states where it operates. Applicants state that, during fiscal year 2003, the operating revenues associated with the provision of distribution services by NUI Utilities' regulated utility divisions was approximately \$484.8 million, representing 95% of the total operating revenues of NUI. Of this amount, 85% was generated by utility operations in New Jersey, where approximately 71% of NUI Utilities' customers are located. Total utility gas volumes sold or transported by such utility operations amounted to 63.7 Bcf, of which 87% was sold or transported in New Jersey.

Applicants state that NUI Utilities distributes gas through approximately 6,200 miles of steel, cast iron and plastic mains. The company has physical interconnections with five interstate pipelines in New Jersey and a single interstate pipeline in both Maryland and Florida. Common interstate pipelines along the company's operating system provide the company with the flexibility to manage pipeline capacity and supply, thereby optimizing system utilization.

Applicants state that, through its Elizabethtown Gas and City Gas divisions, NUI Utilities also has an appliance service, sales, leasing and financing businesses in New Jersey and Florida. The appliance group generated operating revenues of \$11.4 million in fiscal year 2003 and had operating margins of \$3.2 million in the same period.

(b) VGDC

VGDC is an indirect wholly owned public utility subsidiary of NUI and a direct subsidiary of VGC, a holding company for certain utility and nonutility businesses. VGDC distributes gas to approximately 275 customers in Virginia. During fiscal year 2003, VGDC sold approximately 200.785 Mcf of gas, of which 4% was sold to residential customers and 96% to commercial and industrial customers.

2. Nonutility Subsidiaries

(a) NUI Capital Corp.

Applicants state that the NUI Nonutilities' businesses are carried out primarily by NUI Capital and its subsidiaries. NUI Capital's only remaining non-regulated subsidiary with substantial continuing operations is UBS, a billing and customer information systems and services subsidiary. Applicants state that NUI's other non-regulated subsidiaries are winding down their operations. These subsidiaries include: NUI Energy, an energy retailer; NUI Energy Brokers, NUI's wholesale energy trading and portfolio management subsidiary; OAS, the company's digital mapping operation; and TIC, a sales outsourcing subsidiary that sold wireless and network telephone services.

Applicants state that UBS is a wholly owned subsidiary of NUI Capital. UBS provides outsourced customer information systems and services to NUI Utilities as well as investor-owned and municipal water/wastewater utilities. UBS offers customer and utility operations information systems and services, including account management, reporting, bill printing and mailing, and payment processing services. UBS presently serves 13 clients. The majority of UBS' clients are municipally-owned and operated water utilities across the United States. UBS' top three clients in terms of revenue generation are United Water, NUI

Utilities and Middlesex Water. Over the past nine months, NUI Utilities has provided approximately 36% of UBS' revenues. Applicants state that UBS has been profitable in every year since 1995.

Applicants state that UBS' operating revenues and operating margins were \$6.1 million and \$3.6 million, respectively, in fiscal year 2003. UBS provides customer information systems and services to investor-owned and municipal utilities, as well as third party providers in the water, wastewater and gas markets. A customer information system developed and maintained by UBS is presently serving 13 clients in support of more than 1.5 million customers. UBS provides billing and payment processing services to NUI Utilities under a service agreement approved by the NJBPU. In June 2003, NUI approved a plan to sell UBS. Applicants state, however, that the September 2003 decision to sell NUI reduced the probability that a sale of UBS would occur, given that there was no guarantee that UBS' largest customer, NUI Utilities, would maintain a long-term relationship with UBS after the sale. After the acquisition, Applicants expect that the activities of UBS would be folded into NUI Utilities or replaced.

(b) VGC

VGC is a natural gas storage, pipeline and distribution company with principal operations in Southwestern Virginia. In addition to owning VGDC, a gas utility described above, VGC operates two storage facilities; one a high-deliverability salt cavern facility in Saltville, Virginia ("Saltville Storage Project") and the other a depleted reservoir facility in Early Grove, Virginia. Combined, the facilities have approximately 2.6 Bcf of working gas capacity. VGC also owns and operates a 72-mile 8" intrastate pipeline and serves as the construction and operations manager for the Saltville Storage Project as discussed below. All of VGC's businesses are regulated by the VSCC, and the Saltville Storage Project is regulated by the Federal Energy Regulatory Commission ("FERC"). VGC, which was acquired by NUI in March 2001, had operating margins of \$8.7 million in fiscal year 2003.

(c) NUISS

NUI's wholly owned subsidiary, NUISS, is a fifty-percent member of SLLC. SLLC is a joint venture

between subsidiaries of NUI and Duke Energy Gas Transmission ("DEGT") that is developing a natural gas storage facility in Saltville, Virginia. SLLC plans to expand the present Saltville Storage Project from its current capacity of 1 Bcf to approximately 12 Bcf in several phases. The Saltville Storage Project connects to DEGT's East Tennessee Natural Gas interstate system and its Patriot pipeline. SLLC is subject to regulation by FERC under the Natural Gas Act.

In conjunction with the development of the Saltville Storage Project, NUI Energy Brokers entered into a twenty-year agreement with DEGT for the firm transportation of natural gas in the Patriot pipeline and a twenty-year agreement with SLLC for the firm storage of natural gas. NUI is not using the Patriot pipeline transportation capacity at this time since it has discontinued its trading operations.

(d) NUI Storage

NUI Storage is a wholly owned subsidiary of NUI. Through its wholly owned subsidiaries, NUI Storage has acquired options on the land and mineral rights for property located in Richton, Perry County, Mississippi that the company plans to develop into a natural gas storage facility to help serve the Southeast United States. Like its companion storage facility in Saltville, Applicants expect Richton to offer the high-deliverability capabilities of salt dome storage for natural gas and will have access to a number of major interstate pipelines, including Destin Pipeline and its connections to Gulf South, Gulfstream, Florida Gas Transmission, SONAT, Tennessee Natural Gas and Transco. Through its connection to Destin Pipeline, Richton will have direct access to the gas supplies in the Gulf of Mexico, as well as supplies from the interconnected interstate pipelines referenced above. Richton can also serve as a potential storage facility for the various proposed liquefied natural gas projects in the Gulf Coast. Applicants anticipate that Richton will be subject to FERC regulation.

3. NUI and NUI Utilities' Capital Structure

The capital structures of NUI, VGDC and NUI Utilities as of June 30, 2004 are shown in the tables below.

	NUI		NUI utilities	
	(\$MM)	Percent of total cap	(\$MM)	Percent of total cap
Long-term debt	199	28.4	199	39.1
Short-term debt	¹ 294	42.0	² 86	16.9
Common stock	207	29.6	224	44.0
Total capitalization	\$70	100.0	\$501	100.0

	VGDC	
	(\$MM)	Percent of total cap
Long-term debt	0	0
Short-term debt	³ (1)	50
Common stock equity	(1)	50
Total capitalization	(1)	100.0

NUI and NUI Utilities state that they have the following ratings. Applicants state that VGDC has no rated debt.

	NUI	NUI utilities
Moody's debt rating	Caa-1	B-1.
Moody's outlook	Negative	Negative.
S&P corporate credit rating		BB.
S&P outlook		Credit Watch with developing implications.

Description of the Transaction

A. The Merger

Applicants state that, on September 26, 2003, the Board of Directors of NUI announced its intention to pursue the sale of the company. Applicants have entered into an Agreement and Plan of Merger by and among AGL Resources Inc., Cougar Corporation and NUI Corporation, dated as of July 14, 2004 ("Merger Agreement"), under which AGL Resources has agreed to acquire all the outstanding shares of NUI for \$13.70 per share in cash, or \$220 million in the aggregate based on approximately 16 million shares currently outstanding. AGL Resources will assume the outstanding indebtedness of NUI at closing. As of March 31, 2004, NUI had approximately \$607 million in debt and \$136 million of cash on its balance sheet, bringing the current net value of the acquisition to \$691 million. AGL Resources anticipates that the amount of NUI debt and cash will change prior to the time of closing. Applicants state that NUI will register as a holding company under the Act by filing a Notification of Registration on Form U5A upon the consummation of the Merger.

B. Financing the Merger

By order dated April 1, 2004 (HCAR No. 27828) ("Financing Order"), the Commission authorized AGL Resources, the AGL Utilities and the AGL Nonutilities to engage in various financing transactions in an aggregate amount outstanding at any one time not to exceed \$5 billion through March 31, 2007. AGL Resources is not requesting additional financing authorization to finance the purchase of NUI. AGL Resources may elect to finance the cash portion of the purchase price through the issuance of common stock at or prior to closing if market conditions are favorable. AGL Resources also must refinance a substantial portion of NUI and NUI Utilities' outstanding debt upon closing, due to "change in control" provisions included in these financings. AGL Resources expects to maintain its strong investment-grade rating and its current dividend policy post-acquisition. After the Merger, AGL Resources states that its' ratio of equity to total capitalization will remain well above 30%.

Applicants state that the Financing Order provides sufficient authority for AGL Resources to proceed in this fashion because, in the unlikely event

that AGL Resources were to sell common stock and not close the NUI acquisition, the proceeds of the stock issuance would be used only for permitted corporate purposes.

C. Conditions

The transaction is subject to the approval of NUI's shareholders, the Federal Communications Commission, and the state regulatory agencies of New Jersey, Maryland and Virginia. Applicants state that the consummation of the transaction is subject to the following conditions: (i) NUI shall have received orders approving the transaction from the above referenced state utility commissions that contain certain terms specified by AGL Resources, except as would not have a material adverse effect on NUI, NUI Utilities, or AGL Resources; (ii) neither NUI nor any of its subsidiaries shall have been indicted or criminally charged for a felony criminal offense by any governmental entity (with the express exception of NUI and NUI Energy Brokers with respect to the matters specified in a settlement ("NJAGO Settlement") with the New Jersey Attorney General's Office ("NJAGO")) relating to the matters that are the subject of the New Jersey Board

¹ Applicants state that this figure is net of \$111 million of cash at June 30, 2004.

² Applicants state that this figure is net of \$66 million of cash at June 30, 2004.

³ Applicants state that this figure includes current maturities of long-term debt. Applicants further state that this figure is net of \$1 million of cash at June 30, 2004.

of Public Utilities Settlement Order ("Settlement Order") and the stipulation and agreement ("Stipulation and Agreement") referred to in the Settlement Order, the NJAGO Settlement or the Stier Anderson Report (as those terms are defined in the Merger Agreement), and NUI and its subsidiaries shall not have received any notice of non-compliance in any material respect with the NJAGO Settlement, and there shall have been no revocation of or material changes to the terms of the NJAGO Settlement; (iii) neither NUI or the NUI Subsidiaries shall be the subject of an active investigation with respect to the matters that are the subject of the Settlement Order and the Stipulation Agreement referred to therein, the NJAGO Settlement or the Stier Anderson Report, which, individually or in the aggregate, would reasonably be expected to have a material adverse effect on NUI or NUI Utilities and (iv) no other material adverse effect as defined in the Merger Agreement has occurred.

Applicants state that AGL Resources has the right to terminate the Merger Agreement if NUI does not have necessary interim financing in place by September 30, 2004. On September 29, 2004, NUI announced that it and NUI Utilities had obtained credit facilities aggregating \$95 million. AGL Resources has reviewed the terms of the credit facilities and currently believes that the credit facilities conform with the terms and requirements of the Merger Agreement. AGL Resources may also terminate the agreement if NUI and NUI Utilities do not have certain other financing facilities in place or drawn, or there is a payment default or an acceleration of indebtedness. Lastly, Applicants state that the Merger Agreement may be terminated: (i) By NUI in order for NUI to pursue a superior acquisition proposal; (ii) by AGL Resources based upon the board of directors of NUI withdrawing its recommendation of the Merger Agreement or recommending a superior acquisition proposal to the shareholders of NUI; (iii) by either party due to the consummation of the merger not occurring by April 13, 2005 (which is subject to a 90 day extension to obtain regulatory approvals); (iv) by either party due to the shareholders of NUI failing to approve the Merger Agreement or (v) by AGL Resources based upon the existence of a material, uncured breach of the Merger Agreement by NUI, provided that in the cases of clauses (iii)–(v) above, a termination fee (as described below) is payable only if and when NUI enters into a definitive

agreement with respect to an alternative acquisition proposal within 12 months of the termination. In the event of a termination of the Merger Agreement under the circumstances provided in (i) and (ii), NUI will have to pay AGL Resources a termination fee of \$7.5 million. The Merger Agreement also contains other customary termination rights, which do not result in the payment of a termination fee.

D. Management and Operations Following the Merger

Applicants state that under the Merger Agreement, AGL Resources has agreed to acquire NUI in a reverse triangular merger in which, at closing, a newly created subsidiary of AGL Resources will merge with and into NUI. Upon the consummation of the Merger, NUI will be a wholly owned direct subsidiary of AGL Resources. Applicants state that, upon closing NUI's current CEO, will leave the company. AGL Resources is evaluating the appropriate composition of NUI's senior management after closing as a part of the work of a combined AGL Resources and NUI transition team. The members of the NUI and NUI Utilities Boards of Directors will resign and new directors will be selected from the management of AGL Resources and its subsidiaries. The AGL Resources Board of Directors intends to add a New Jersey resident of significant professional stature and business qualification to the AGL Resources Board and AGL Resources has sought to have at least one Virginian business leader on its Board.

AGL Resources states that it is still evaluating personnel to fill key management positions and roles at NUI. AGL Resources intends to manage and govern NUI and NUI Utilities in the same manner in which it currently manages AGLC, CGC and VNG. At the corporate level, it is clear that there is some overlap among employees at AGL Resources, NUI and NUI Utilities, particularly in the "corporate services" area, including accounting, finance, legal, and public relations. AGL Resources and NUI have established an integration team that will identify redundancies that should be addressed as AGL Resources integrates NUI's corporate management into AGL Resources' existing management structure.

III. Affiliate Transactions

In the AGL Merger Order, the Commission approved the formation of AGL's system service company, AGL Services, and authorized certain intrasystem transactions. Applicants

propose that NUI and the NUI Subsidiaries enter into a services agreement with AGL Services under the same form of services agreement in the AGL Merger Order.

A. AGL Services

Applicants state that AGL Services is a service company established in accordance with section 13(b) of the Act. AGL Services provides business services to AGL Resources and its subsidiaries including: rates and regulatory services, internal auditing, strategic planning, external affairs, gas supply and capacity management, legal services and risk management, marketing, financial services, information systems and technology, corporate services, investor relations, customer services, purchasing, employee services, engineering, business support, facilities management and other services, such as business development, that may be agreed upon by the subsidiaries and AGL Services. As compensation for services, the services agreement between the subsidiaries and AGL Services provides for client companies to pay to AGL Services the cost of these services, computed in accordance with the applicable rules and regulations under the Act and appropriate accounting standards.

Applicants propose that AGL Services provide business services to NUI and the NUI Subsidiaries under the same terms and conditions as AGL Services serves the companies currently within the AGL Resources registered holding company system, as approved by the Commission.

B. Gas Procurement and Asset Management Arrangement

NUI Utilities also proposes to enter into a three year gas procurement and asset management arrangement with a subsidiary of AGL Resources, Sequent Energy Management ("Sequent"). Sequent provides gas procurement and transportation and storage capacity asset management services to AGLC, VNG and CGC under arrangements with the respective state commissions with jurisdiction over AGLC, VNG and CGC.⁴ Under these arrangements, Sequent provides commodity gas, including related procurement services, and also acts as agent for AGLC, VNG and CGC in connection with transactions for gas transportation and storage capacity. Sequent proposes to provide similar services to NUI Utilities and VGDC

⁴ Applicants assert that these transactions are exempt from regulation under section 13(b) of the Act by virtue of rules 80 and 81.

subject to the approval of the NJBPU and Virginia State Corporation Commission.

The asset management model that Sequent employs provides for revenue sharing between the asset manager and AGLC, VNG and CGC's ratepayers. Applicants state that under its current arrangements with AGLC, VNG and CGC, Sequent contributed approximately \$9.9 million to customers in 2003.

C. Billing Services

NUI Utilities currently has an Agreement for Billing Services, dated February 18, 2004, with UBS under which UBS provides NUI Utilities with certain billing related services using NUI Utilities' customer information system and certain other data center services on UBS' mainframe computer, including operating systems related to NUI Utilities' work order management, leak management, meter management, time entry and field services. The agreement is effective until March 31, 2007, but may be terminated by NUI Utilities with 180 days prior written notice. This agreement has been approved by the NJBPU.

Applicants state that UBS charges NUI Utilities market rates for the provision of these services, however, after closing, AGL Resources proposes to cause UBS and NUI Utilities to amend the agreement to require the services to be provided to NUI Utilities at UBS' cost. Prior to implementing such amendment, however, AGL Resources must determine whether a change in the pricing standard to terms more favorable to NUI Utilities would trigger contractual obligations to provide cost-based pricing to UBS' unaffiliated customers. In addition, if NJBPU approval of the amended contract is required, AGL Resources must seek this authorization before restructuring the contract between UBS and NUI Utilities. As a result, AGL Resources requests a temporary exception to the "at cost" provisions of section 13(b) of the Act and the applicable rules for two years to provide adequate time to restructure this contract. Applicants state that it is possible that at the end of the two-year period AGL Resources will be able to restructure all of UBS' existing contracts so that it may consolidate UBS with NUI Utilities.

D. Construction and Management Services

VGC provides construction and operations management services to SLLC through its wholly owned subsidiary, Virginia Gas Pipeline

Company ("VGPC"). Applicants state that VGPC serves as the construction and operations manager to SLLC, under an agreement ("Operating Agreement"), dated August 15, 2001. Under the terms of the Operating Agreement, SLLC reimburses VGPC for the costs it incurs to construct, maintain and operate SLLC's facilities, including VGPC's administration and labor costs.

Applicants request that the Commission exempt these services from section 13(b) and the applicable rules in conjunction with Applicant's request that SLLC be exempted under rule 16 (described below).

IV. Tax Allocation Agreement

By order dated December 23, 2003 (HCAR No. 27781), the Commission authorized AGL Resources' tax allocation agreement. AGL Resources proposes to add NUI and the NUI Subsidiaries to the existing tax allocation arrangements for the AGL Resources system.

V. Rule 16 Exemption

SLLC, a 50% joint venture between NUI Saltville Storage and Duke Energy Gas Transmission, is developing a natural gas storage facility in Saltville, Virginia. SLLC will not have more than 50% of its voting securities controlled by a registered holding company. Applicants assert that SLLC is entitled to an exemption from the obligations, duties and liabilities imposed upon it under rule 16 under the Act as a subsidiary or affiliate of a registered holding company. Applicants request that the Commission authorize AGL Resources to acquire NUI's interest in SLLC under sections 9(a)(1) and 10. The exemption under rule 16 will permit SLLC to continue to operate in accordance with its usual practice without the need for additional authorization under the Act.

VGC provides construction and operations management services to SLLC. Applicants request that the Commission exempt these services from section 13(b) and the rules thereunder because SLLC will be exempt under rule 16, upon the issuance of the authorization requested herein, and, accordingly, will not be treated as a subsidiary of a registered holding company under the Act.

VI. Section 3(a)(1) Exemption Request for VGC

Applicants state that VGC and its only utility subsidiary, VGDC, carry on their utility operations exclusively within Virginia where each company is incorporated. Applicants state that after

the Merger, VGC and VGDC, will remain predominantly intrastate in character and carry on their business substantially within Virginia. Applicants request that the Commission issue an order under section 3(a)(1) of the Act providing that VGC and each of its subsidiary companies, will be exempt from all provisions of the Act, except section 9(a)(2). VGC will remain jurisdictional as a subsidiary of a registered holding company. Applicants state that the VSCC will continue to have jurisdiction and authority over all of VGDC's rates, services and operations following the acquisition.

VII. Financing Authority

Applicants request authority for NUI and the NUI Subsidiaries, after the consummation of the Merger, to engage in the various financing transactions described below through March 31, 2007 ("Authorization Period"). Applicants state that financings by NUI and the NUI Subsidiaries will be subject to the following limitations ("Financing Limitations"):

A. Financing Limitations

1. Use of Proceeds

Applicants state that the proceeds from the sale of securities in these financing transactions will be used for general corporate purposes, including the financing, in part, of the capital expenditures and working capital requirements of NUI and its subsidiaries, for the acquisition, retirement or redemption of securities previously issued by NUI or the NUI Subsidiaries, and for authorized investments in companies organized in accordance with rule 58 under the Act, and for other lawful purposes.

2. Effective Cost of Money

The effective cost of money on long-term debt borrowings in accordance with authorizations granted under the Application will not exceed the greater of (i) 500 basis points over the comparable-term U.S. Treasury securities or (ii) a gross spread over U.S. Treasuries that is consistent with similar securities of comparable credit quality and maturities issued by other companies. The effective cost of money on short-term debt borrowings in accordance with the authorizations granted in the Application will not exceed the greater of (i) 500 basis points over the comparable-term London Interbank Offered Rate ("LIBOR") or (ii) a gross spread over LIBOR that is consistent with similar securities of comparable credit quality and maturities issued by other companies.

3. Maturity

The maturity of long-term debt will be between one and 50 years. Short-term debt will mature within one year.

4. Issuance Expenses

The underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of securities issued in accordance with this Application will not exceed the greater of (i) 5% of the principal or total amount of the securities being issued or (ii) issuance expenses that are generally paid at the time of the pricing for sales of the particular issuance, having the same or reasonably similar terms and conditions issued by similar companies of reasonably comparable credit quality.

5. Common Equity Ratio

NUI Utilities and VGDC, on an individual basis, will maintain common stock equity of at least 30% of total capitalization as shown in its most recent quarterly balance sheet.

6. Investment Grade Ratings

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 under 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 AGL Resources 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 ("NRSRO"), as that term is used in paragraphs (c)(2)(vi)(E), (F) and (H) of Rule 15c3-1 under the Securities Exchange Act of 1934, as amended ("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 in reliance upon the authorization granted by the Commission under this Application at any time that the conditions set forth in clauses (i) through (iii) above are not satisfied. A security issued prior to the consummation of the Merger, under the Act or in accordance with any applicable rule, regulation or order of the Commission under the Act, would remain validly issued notwithstanding a

change, subsequent to the issuance, in the rating of that security or other securities issued by any company in the AGL Resources system.

B. NUI Securities

NUI requests authorization to issue and sell debt and equity securities to AGL Resources and/or AGL Resources' financing subsidiaries as necessary to finance the authorized and permitted businesses of NUI and the NUI Subsidiaries. In particular, NUI requests authorization to issue Intercompany Notes to AGL Resources or AGL Resources' financing subsidiaries in connection with the refinancing of NUI's pre-Merger indebtedness. A form of Intercompany Note, containing the applicable terms and conditions is attached to the Application in Exhibit L-2. NUI states that Intercompany Notes would be issued by NUI in an amount at any one time outstanding of up to \$285 million. NUI states that it would not issue debt or equity securities to third-party, unaffiliated entities post-Merger without seeking subsequent Commission authorization. NUI also requests authorization to acquire the securities of its direct and indirect subsidiaries and to extend credit thereto for purposes of financing these companies' authorized and permitted businesses in an aggregate amount outstanding during the Authorization Period not to exceed \$300 million.

C. NUI Utilities and VGDC Debt Securities

Applicants request authorization for NUI Utilities and VGDC to issue intercompany debt, commercial paper, secured or unsecured bank loans and borrowings under the Utility Money Pool ("Utility Short-Term Debt"), all with terms of less than a year, in an aggregate amount of up to \$600 million and \$250 million, respectively, during the Authorization Period. Applicants state that all Utility Short-Term Debt will be subject to the Financing Limitations. Applicants request authorization for NUI Utilities and VGDC to issue unsecured and secured short-term debt to meet the companies' working capital needs. Applicants state that NUI Utilities and VGDC would issue secured short-term debt only in circumstances when the issuer can expect a savings in costs over the issuance of unsecured short-term debt or when unsecured credit is unavailable, except at a higher cost than secured short-term debt. Applicants anticipate that the collateral offered as security would generally be limited to short-term assets such as the issuer's inventory and/or accounts receivable.

If NUI Utilities or VGDC elect to issue commercial paper, either under rule 52 of the Act or under an applicable Commission order, NUI Utilities and VGDC request authorization to be made a party to any AGL Resources' credit facility as back-up to the commercial paper.⁵

VIII. NUI Utilities' Intercompany Note

NUI Utilities requests authorization to issue Intercompany Notes to AGL Resources or a financing subsidiary of AGL Resources in connection with the refinancing of NUI Utilities pre-Merger indebtedness. Applicants state that NUI Utilities would issue Intercompany Notes in an amount at any one time outstanding of up to \$275 million. Applicants request that the Intercompany Notes issued by NUI Utilities be for terms longer than one year and accordingly the Intercompany Note would not count against the NUI Utilities' Short-Term Debt stated above.

A. Authorization and Operation of the Money Pools

Applicants request authorization for NUI Utilities and VGDC to participate in AGL Resources' Utility Money Pool and to make unsecured short-term borrowings from the Utility Money Pool, to contribute surplus funds to the Utility Money Pool, lend and extend credit to, and acquire promissory notes from, one another through the Utility Money Pool subject to the Financing Limitations.

Specifically, Applicants state that the Utility Money Pool funds are available for short-term loans to the Utility Money Pool participants from time to time through: (i) Surplus funds in the treasuries of participants and (ii) proceeds received by the Utility Money Pool participants from the sale of commercial paper and borrowings from banks ("External Funds"). Funds are made available from sources in the order that AGL Services, as the administrator under the Utility Money Pool Agreement, determines would result in a lower cost of borrowing compared to the cost that would be incurred by the borrowing participants individually in connection with external short-term borrowings, consistent with the individual borrowing needs and financial standing of Utility Money Pool participants that invest funds in the Utility Money Pool.

Each Utility Money Pool borrower ("Utility Borrower") which borrows through the Utility Money Pool will

⁵ Applicants state that financing by VGDC would generally be subject to the jurisdiction of the VSCC and, except as authorized under this Application or other Commission rule or order, would be conducted on an exempt basis under rule 52(a).

borrow *pro rata* from each Utility Money Pool participant that invests surplus funds, in the proportion that the total amount invested by the Utility Money Pool participant bears to the total amount then invested in the Utility Money Pool. The interest rate charged to Utility Borrowers on borrowings under the Utility Money Pool is equal to AGL Resources' actual cost of external short-term borrowings and the interest rate paid on loans to the Utility Money Pool is a weighted average of the interest rate earned on loans made by the Utility Money Pool and the return on excess funds earned from the investments described below. The interest income and investment income earned on loans and investments of surplus funds is allocated among those Utility Money Pool participants that have invested funds in accordance with the proportion each participant's investment of funds bears to the total amount of funds invested in the Utility Money Pool. Applicants state that borrowings through the Utility Money Pool by NUI Utilities would be limited to \$600 million and borrowings by VGDC would be limited to \$250 million at any one time outstanding.

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) are ordinarily invested in one or more short-term investments, including: (i) Obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities; (ii) commercial paper; (iii) certificates of deposit; (iv) bankers' acceptances; (v) repurchase agreements; (vi) tax exempt notes; (vii) tax exempt bonds; (viii) tax exempt preferred stock and (ix) other investments that are permitted by section 9(c) of the Act and rule 40.

Each Utility Borrower receiving a loan through the Utility Money Pool is required to repay the principal amount of the loan, together with all interest accrued, on demand and in any event within one year after the date of the loan. All loans made through the Utility Money Pool may be prepaid by the borrower without premium or penalty and without prior notice.

In the Financing Order, AGL Resources and the AGL Nonutility Subsidiaries were granted authorization to operate a nonutility money pool ("Nonutility Money Pool"), and the AGL Nonutility Subsidiaries were authorized to make unsecured short-term borrowings from the Nonutility Money Pool, to contribute surplus funds to the Nonutility Money Pool, and to lend and extend credit to, and to acquire promissory notes from, one another

through the Nonutility Money Pool subject to the terms and conditions set forth in the Financing Order. Applicants request that, following the Merger, the NUI Nonutilities be authorized to participate in the Nonutility Money Pool under the same terms and conditions as the AGL Nonutility Subsidiaries.

AGL Resources and NUI would continue to contribute surplus funds and to lend and extend credit to the Utility Money Pool and the Nonutility Money Pool. AGL Resources and NUI will not borrow from either the Utility Money Pool or the Nonutility Money Pool. AGL Services will continue to serve as administrator for both the Utility Money Pool and the Nonutility Money Pool and will provide the administrative services at cost.

B. Guarantees

Applicants request authorization for AGL Resources to guarantee the obligations of NUI and the NUI Subsidiaries. In addition, Applicants request authority for NUI, NUI Utilities, VGC and VGDC to enter into guarantees, obtain letters of credit, enter into expense agreements or provide credit support with respect to obligations of their subsidiaries ("Guarantees") subject to the Financing Limitations in the amount of \$150 million and \$100 million, with respect to NUI Utilities and VGDC, and in the amount of \$300 million and \$75 million with respect to NUI and VGC. These Guarantees may take the form of, among others, direct guarantees, reimbursement undertakings under letters of credit, "keep well" undertakings, agreements to indemnify, expense reimbursement agreements, and credit support with respect to the obligations of the subsidiary companies as may be appropriate to enable the system companies to carry on their respective authorized or permitted businesses. Applicants state that any Guarantee that is outstanding at the end of the Authorization Period will remain in force until it expires or terminates in accordance with its terms. Certain Guarantees may be in support of obligations that are not capable of exact quantification. In these cases, for purposes of measuring compliance with the appropriate Guarantee limit the exposure under a Guarantee would be determined by appropriate means, including estimation of exposure based on potential payment amounts. Applicants request that NUI and the NUI Subsidiaries be charged a fee for any Guarantee provided on its behalf that is not greater than the cost, if any, incurred by the guarantor in obtaining the liquidity necessary to perform the

Guarantee for the period of time the Guarantee remains outstanding.

C. Hedges

Applicants request authorization for NUI, NUI Utilities, VGC and VGDC to enter into, perform, purchase and sell financial instruments intended to manage the volatility of interest rates, including but not limited to interest rate swaps, caps, floors, collars and forward agreements or any other similar agreements ("Hedging Instruments"). Hedging Instruments, in addition to the foregoing sentence, may also include the 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.*, Federal National Mortgage Association) obligations or LIBOR-based swap instruments. These companies would employ Hedging Instruments as a means of prudently managing the risk associated with any of its outstanding debt 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) providing an option to enter into interest rate swap transactions in future periods for planned issuances of debt securities. Applicants state that, in no case will the notional principal amount of any Hedging Instrument exceed that of the underlying debt instrument and related interest rate exposure and these companies will not engage in "leveraged" or "speculative" transactions. The underlying interest rate indices of the Hedging Instruments will closely correspond to the underlying interest rate indices of the companies' debt to which the Hedging Instrument relates. Off-exchange Hedging Instruments would be entered into only with counterparties whose senior debt ratings are investment grade as determined by any one of Standard & Poor's, Moody's Investors Service, Inc. or Fitch IBCA, Inc. ("Approved Counterparties").

In addition, Applicants request authorization for NUI, NUI Utilities, VGC and VGDC to enter into Hedging Instruments with respect to anticipated debt offerings ("Anticipatory Hedges"), subject to certain limitations and restrictions. Anticipatory Hedges would only be entered into with Approved Counterparties, and would be used to fix and/or limit the interest rate risk associated with any new issuance through: (i) A forward sale of exchange-

traded Hedging Instruments ("Forward Sale"); (ii) the purchase of put options on Hedging Instruments ("Put Options Purchase"); (iii) a Put Options Purchase in combination with the sale of call options on Hedging Instruments ("Zero Cost Collar"); (iv) transactions involving the purchase or sale, including short sales, of Hedging Instruments or (v) some combination of a Forward Sale, Put Options Purchase, Zero Cost Collar and/or other derivative or cash transactions, including, but not limited to structured notes, caps and collars appropriate for the Anticipatory Hedges.

Hedging Instruments 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. The companies will determine the optimal structure of each Hedging Instrument transaction at the time of execution.

D. Changes in Capital Stock of Wholly-Owned Subsidiaries

Applicants request authorization to change the terms of the authorized capital stock of NUI and any wholly owned subsidiary of NUI authorized capital stock by an amount deemed appropriate by AGL Resources or other intermediate parent company subject to the following conditions. A subsidiary will be able to change the par value, or change between par value and no-par stock, without additional Commission approval. Any action by NUI Utilities or VGDC 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. In addition, NUI Utilities and VGDC will maintain, during the Authorization Period, a common equity capitalization of at least 30%.

E. Payment of Dividends Out of Capital or Unearned Surplus

Applicants request authorization for NUI and the NUI Nonutilities to pay dividends from time to time through the Authorization Period, out of capital and unearned surplus. Applicants state that NUI and the NUI Nonutilities will not declare or pay any dividend out of capital or unearned surplus unless it: (i) Has received excess cash as a result of the sale of some or all of its assets; (ii) has engaged in a restructuring or reorganization and/or (iii) is returning capital to an associate company. In

addition, NUI or an NUI Nonutility would only declare or pay dividends to the extent permitted under applicable corporate law and state or national law applicable in the jurisdiction where each company is organized, and any applicable financing covenants.

Applicants request that the Commission reserve jurisdiction over NUI Utilities' payment of dividends out of capital and unearned surplus in an amount up to its pre-merger retained earnings and out of post-merger earnings without regard to any deductions attributable to the impairment of goodwill pending the completion of the record.

Applicants represent that NUI Utilities will not declare or pay any dividend out of capital or unearned surplus in contravention of any law restricting the payment of dividends. NUI Utilities also will comply with the terms of any credit agreements and indentures that restrict the amount and timing of distributions to shareholders. NUI Utilities would not pay dividends out of capital or unearned surplus if to do so would cause its equity to decline to less than 30% of total capitalization.

F. Financing Entities

Applicants request authorization for NUI Utilities to organize new corporations, trusts, partnerships or other entities ("Financing Entities"), or to use existing AGL Resources' Financing Entities that will facilitate financings by issuing short-term debt, long-term debt, preferred securities, equity securities or other securities to third parties and transfer the proceeds of these financings to their respective parents.

Applicants also request authorization for NUI Utilities to: (i) Issue debentures or other evidences of indebtedness to Financing Entities in return for the proceeds of the financing; (ii) acquire voting interests or equity securities issued by the Financing Entities to establish ownership of the Financing Entities (the equity portion of the entity generally being created through a capital contribution or the purchase of equity securities, ranging from one to three percent of the capitalization of the Financing Entities) and (iii) guarantee a Financing Entity's obligations in connection with a financing transaction. Any amounts issued by Financing Entities to a third party under this authorization will be included in the overall external financing limitation authorized herein for the immediate parent of the Financing Entity. However, the underlying intra-system mirror debt and parent guarantee shall not be so included. NUI Utilities also

requests authorization to enter into support or expense agreements ("Expense Agreement") with Financing Entities to pay the expenses of any Financing Entity. In cases where it is necessary or desirable to ensure legal separation for purposes of isolating a Financing Entity from its parent or another subsidiary for bankruptcy purposes, the ratings agencies require that any Expense Agreement whereby the parent or subsidiary provides services related to the financing to the Financing Entity be at a price, not to exceed a market price, consistent with similar services for parties with comparable credit quality and terms entered into by other companies so that a successor service provider could assume the duties of the parent or subsidiary, in the event of the bankruptcy of the parent or subsidiary, without interruption or an increase of fees. Applicants request authorization for NUI Utilities, under section 13(b) of the Act and rules 87 and 90, to provide such services at a charge not to exceed a market price but only for so long as the Expense Agreement established by the Financing Entity is in place.

G. Intermediate Subsidiaries

Applicants request authorization for NUI to acquire, directly or indirectly, the securities of one or more entities ("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 wholesale generators, as that term is defined in section 32 of the Act ("EWGs"), foreign utility companies as that term is defined in section 33 of the Act ("FUCOs"), companies exempt under rule 58 ("Rule 58 Companies"), exempt telecommunications companies, as that term is defined under section 34 of the Act, ("ETCs") or other non-exempt nonutility subsidiaries. These Intermediate Subsidiaries may also engage in certain administrative activities ("Administrative Activities") and development activities ("Development Activities").

Administrative Activities include ongoing personnel, accounting, engineering, legal, financial and other support activities necessary to manage investments in nonutility subsidiaries. Development Activities are 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, and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and other preliminary activities that may be required in connection with the purchase, acquisition, financing or construction of facilities, or the acquisition of securities of or interests in new businesses.

An Intermediate Subsidiary may be organized, among other things: (i) To facilitate the making of bids or proposals to develop or acquire an interest in any EWG, FUCO, Rule 58 Company, ETC or other nonutility subsidiary; (ii) after the award of such a bid proposal, to facilitate closing on the purchase or financing of an acquired company; (iii) at any time subsequent to the consummation of an acquisition of an interest in any such company to, among other things, effect an adjustment in the respective ownership interests in such business held by NUI and non-affiliated investors; (iv) to facilitate the sale of ownership interests in one or more acquired non-utility companies; (v) to comply with applicable laws of foreign jurisdictions limiting or otherwise relating to the ownership of domestic companies by foreign nationals; (vi) as a part of tax planning in order to limit NUI's exposure to taxes; (vii) to further insulate NUI, NUI Utilities and VGDC from operational or other business risks that may be associated with investments in non-utility companies or (viii) for other lawful business purposes.

Investments in Intermediate Subsidiaries may take the form of any combination of the following: (i) Purchases of capital shares, partnership interests, member interests in limited liability companies, trust certificates or other forms of equity interests; (ii) capital contributions; (iii) open account advances with or without interest; (iv) loans and (v) guarantees issued, provided or arranged in respect of the securities or other obligations of any Intermediate Subsidiaries. Funds for any direct or indirect investment in any Intermediate Subsidiary will be derived from: (i) Financings authorized in this proceeding; (ii) any appropriate future debt or equity securities issuance authorization obtained by NUI from the Commission and (iii) other available cash resources, including proceeds of securities sales by the NUI Nonutilities under rule 52. To the extent that NUI provides funds or Guarantees directly or indirectly to an Intermediate Subsidiary that are used for the purpose of making

an investment in any EWG, FUCO or Rule 58 Company, the amount of the funds or Guarantees are included in NUI's "aggregate investment" in these entities, as calculated in accordance with rule 53 or rule 58, as applicable.

AGL Resources requests that its authorization, in the Financing Order, to make expenditures on Development Activities, as defined above, in an aggregate amount of up to \$600 million be extended to include the NUI Nonutilities.⁶

Neither AGL Resources nor any of its subsidiaries presently has an interest in any EWG or FUCO.

IX. Reorganization

AGL Resources and NUI request authorization to consolidate or otherwise reorganize all or any part of its direct and indirect ownership interests in the NUI Nonutilities, and the activities and functions related to these investments. To effect any consolidation or other reorganization, AGL Resources or NUI may wish to merge or contribute the equity securities of one NUI Nonutility to another NUI Nonutility (including a newly formed Intermediate Subsidiary) or sell (or cause a nonutility subsidiary to sell) the equity securities or all or part of the assets of one nonutility subsidiary to another one. To the extent that these transactions are not otherwise exempt under the Act or rules thereunder, AGL Resources and NUI request authorization to consolidate or otherwise reorganize under one or more direct or indirect Intermediate Subsidiaries, their ownership interests in existing and future NUI Nonutility. These transactions may take the form of a nonutility subsidiary selling, contributing, or transferring the equity securities of a subsidiary or all or part of a subsidiary's assets as a dividend to an Intermediate Subsidiary or to another nonutility subsidiary, and the acquisition, directly or indirectly, of the equity securities or assets of the subsidiary, either by purchase or by receipt of a dividend. The purchasing nonutility subsidiary in any transaction structured as an intrasystem sale of equity securities or assets may execute and deliver its promissory note evidencing all or a portion of the

⁶ The Commission authorized AGL Resources to follow a "revolving fund" concept for permitted expenditures on Development Activities. Thus, to the extent a nonutility subsidiary in respect of which expenditures for Development Activities were made subsequently becomes an EWG, FUCO or Rule 58 Company, the amount so expended will cease to be considered an expenditure for Development Activities, but will instead be considered as part of the "aggregate investment" in the entity under rule 53 or 58, as applicable.

consideration given. Each transaction would be carried out in compliance with all applicable laws and accounting requirements.

X. Retention of Nonutility Subsidiaries

Applicants state that Exhibit J-1 to the Application describes AGL Resources' current plans for retaining or divesting each of the NUI Nonutilities and discusses the legal basis for retention where applicable. Applicants state that numerous NUI Nonutilities referenced in Exhibit J-1 will be wound down, liquidated or dissolved. AGL Resources will endeavor to exit these investments as soon as is prudent, giving due regard for the need to insulate the rest of the AGL Resources group from any liabilities or obligations that may be associated with these companies.

In addition, AGL Resources seeks authorization to retain UBS and for UBS to continue to provide services to NUI Utilities under its current arrangement for no less than two years after the date of the order in this matter. During that time, AGL Resources will endeavor to either restructure the existing UBS services agreements with NUI Utilities so that these services may be provided at cost (provided that the modification is practicable given UBS' other contractual arrangements), or would otherwise endeavor to consolidate the applicable portions of UBS's current operations into NUI Utilities.

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

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E4-3004 Filed 11-3-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50607; File No. SR-FICC-2004-15]

Self-Regulatory Organizations; the Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Trade Submission Requirements and Pre-Netting

October 29, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 30, 2004, The Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in

¹ 15 U.S.C. 78s(b)(1).