

relief under Chapter 11 of the United States Bankruptcy Code on January 8, 1992.<sup>5</sup> At present, approximately fifteen funds and accounts managed by Fidelity hold, in the aggregate, outstanding lease obligation bonds and secured lease obligation bonds of El Paso with face value of approximately \$224 million and approximately \$83 million of El Paso's unsecured debt. Fidelity states that these debt securities were acquired for investment purposes, continue to be held exclusively for such purposes and, at current market value, represent approximately six one hundredths of a percent (0.06%) of the assets under its management and have produced a comparable percentage of its income since their acquisition.

Applicant states that negotiations between El Paso and its creditors, including Fidelity, have produced a Fourth Amended Plan of Reorganization, dated October 27, 1995 ("Fourth Plan of Reorganization"),<sup>6</sup> pursuant to which, among other things, eighty-five percent (85%) of the common stock or reorganized El Paso would be distributed to these creditors in exchange for the debt they now hold of the existing El Paso. In the event of such a distribution, the various funds and accounts managed by Fidelity would receive, in the aggregate, up to thirty percent (30%) of the common stock of reorganized El Paso. Applicant states that Fidelity would hold these El Paso voting securities for investment purposes only and would reduce its aggregate interest to less than ten percent (10%) of the outstanding voting securities of reorganized El Paso as soon as it is financially reasonable to do so, consistent with its fiduciary obligations to its investors.

Applicant anticipates confirmation of the Fourth Plan of Reorganization on January 9, 1996, and states that it is a condition precedent to confirmation that Fidelity not be required to register as a holding company under the Act and reorganized El Paso not be deemed to be a subsidiary company of a registered holding company.

Applicant states that the voting securities of El Paso that would be distributed to Fidelity's various funds and accounts pursuant to the Fourth Plan of Reorganization would be held by

approximately fifteen (15) separate entities, none of which would hold ten percent (10%) or more of such voting securities. It asserts that Fidelity would not be a holding company within the meaning of section 2(a)(7) of the Act unless such interests are aggregated and contends that Fidelity will not exercise such a controlling influence over the management or policies of reorganized El Paso as to make it necessary or appropriate to aggregate and so subject Fidelity to regulation as a holding company.<sup>7</sup>

Positioning solely for purposes of this application that the voting interests should be aggregated so as to render Fidelity a holding company, Fidelity states that it would nonetheless be entitled to an exemption under section 3(a)(4) or section 3(a)(3) of the Act. Applicant asserts that it is temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona fide debt previously contracted. Fidelity requests an exemption under section 3(a)(4) for a period of up to three years from the date of acquisition of the El Paso voting securities to enable it to reduce its holdings in reorganized El Paso in an orderly fashion, consistent with market conditions and its fiduciary obligations to its investors.<sup>8</sup> Applicant also asserts that it is only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company and not deriving, directly or indirectly, any material part of its income from any one or more subsidiary companies, the principal business of which is that of a public-

<sup>7</sup> As a member of the Official Committee of Unsecured Creditors (the "Creditors' Committee") in the El Paso Chapter 11 proceeding, Fidelity has participated in the negotiation of the Fourth Plan of Reorganization. As one of three co-chairs of the Creditors' Committee, Fidelity serves on a five member committee that will nominate nine new members of the Board of Directors of reorganized El Paso, and recommend one of those new members for the position of Chief Executive Officer of the reorganized El Paso. The other four members will be existing members of the current Board. All of these selections will be subject to the approval of the Current Board of Directors of El Paso. The Creditors' Committee will be dissolved at the close of business on the effective date of the Fourth Plan of Reorganization. Thereafter, Fidelity will vote to protect its interests as a shareholder, but it will not be represented on the Board by any of its directors, officers, or other employees. As a large shareholder, Fidelity may be invited to attend meetings of reorganized El Paso's Board of Directors as an observer, on a non-voting basis.

<sup>8</sup> Fidelity states that, if despite its good faith efforts, it is unable to reduce its holdings in reorganized El Paso voting securities to an aggregate of less than ten percent (10%), in a manner that is consistent with its fiduciary obligations, it will seek an order extending the period of the exemption.

utility company. Applicant further asserts that granting Fidelity an exemption under section 3(a)(4) or 3(a)(3) will not result in detriment to the public interest or the interest of investors or consumers.

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

Margaret H. McFarland,  
*Deputy Secretary.*

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[Rel. No. IC-21501A; 812-9678]

**Fortis Advantage Portfolios, Inc., et al.;  
Extension of Notice Period**

November 21, 1995.

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

**ACTION:** Application for exemption under the Investment Company Act of 1940 (the "Act"); extension of notice period.

**APPLICANTS:** Fortis Advantage Portfolios, Inc., Fortis Equity Portfolios, Inc., Fortis Fiduciary Fund, Inc., Fortis Worldwide Portfolios, Inc., Fortis Growth Fund, Inc., Fortis Money Portfolios, Inc., Fortis Securities, Inc., Fortis Series Fund, Inc., Fortis Tax-Free Portfolios, Inc., Fortis Income Portfolios, Inc., Special Portfolios, Inc., and Lazard Frères & Co. LLC.

**FOR FURTHER INFORMATION CONTACT:** Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

On November 13, 1995, a notice was issued giving interested persons until December 8, 1995 to request a hearing on an application filed by applicants (Investment Company Act Release No. 21501). The notice was assigned a release number under the Act on November 13, 1995 but was not published in the Federal Register at that time. Since the notice is now being published, the period for interested persons to request a hearing on the matter is being extended to December 18, 1995.

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

Margaret H. McFarland,  
*Deputy Secretary.*

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<sup>5</sup> El Paso generates and distributes electricity in El Paso, Texas and in an area of the Rio Grande Valley in western Texas and southern New Mexico. It also sells electricity to wholesale customers in southern California, New Mexico, Texas, and Mexico. Its interconnected system serves approximately 271,000 customers and covers an estimated population of 818,000. El Paso had revenues of approximately \$550 million in 1994.

<sup>6</sup> Previous efforts to structure three different plans of reorganization were unsuccessful.